

May 29, 1998

**UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT
PROCUREMENT POLICY DIVISION
AGAR ADVISORY NO. 21**

Implementing Procedures for Streamlining the 8(a) Contracting Process

INTRODUCTION: This Agriculture Acquisition Regulation (AGAR) Advisory has been prepared to provide information regarding procedures to implement the Memorandum of Understanding between the United States Small Business Administration (SBA) and the United States Department of Agriculture (USDA) eliminating the use of tripartite agreements. A class deviation has been approved by Senior Procurement Executive pending FAR changes. (See [AGAR Advisory No. 22](#))

SUMMARY: Level I, II and III Contracting Officers have the authority to award contracts/purchase orders to the 8(a) firms without the signature of an SBA Contracting Officer.

APPLICABILITY: The procedures outlined below implement and supplement the Memorandum of Understanding (MOU) between the SBA and USDA. The MOU is applicable to all offices within SBA and USDA throughout the United States. These guidelines apply to new contract/purchase orders awards under the 8(a) program effective May 6, 1998 through the term of the MOU.

WARRANTS: Level I, II, and III warranted Contracting Officers (CO's) have concurrent authority to make direct contracts/purchase order awards to 8(a) firms under the 8(a) program. The Office of Procurement and Property Management, Procurement Policy Division will periodically forward a list of the names and amount of delegated authority to SBA.

COVER PAGE: Solicitations for requirements offered to the 8(a) program under the MOU must contain a cover sheet, similar to Attachment 1, with notification to potential offerors of the revised procedures. The request for quotes (RFQ) and Purchase Orders (PO) must indicate that the acquisition is being processed pursuant to the MOU between SBA and USDA.

OFFERING LETTERS: Offering letters for requirements over \$100,000 identified for the 8(a) program should contain the information outlined in Attachment 2.

FAR DEVIATION: Changes to the Federal Acquisition Regulation (FAR) are outlined in AGAR Advisory No. 22 "FAR Part 19 Deviation-Small Business Program."

STREAMLINED 8(a) CONTRACTING PROCEDURES: The following procedures will apply to all requirements using simplified acquisition procedures and to formal contracts above the simplified acquisition threshold:

OFFERING LETTER: The opening paragraph of the offering letter for requirements over \$100,000 must state that the requirements are being offered under the MOU between USDA and SBA.

FOR SIMPLIFIED ACQUISITION NOT EXCEEDING \$100,000, AN OFFERING LETTER IS NOT REQUIRED: The award of a purchase order or contract constitutes an offer by the Government to the contractor to perform. Once an 8(a) firm has been identified, the CO will perform all acquisition activities up to and including signing and issuing the purchase order/contract. The CO shall incorporate the appropriate 8(a) clauses as prescribed in [AGAR ADVISORY NO. 22](#), FAR Part 19 Deviation "Small Business Program." Such awards should be included on the SF281/279 as 8(a) set-asides.

FOR SOLE SOURCE REQUIREMENTS OVER THE SIMPLIFIED ACQUISITION THRESHOLD: If an 8(a) firm has been selected, the CO will send an offering letter to the SBA District Office's Business Opportunity Specialist (BOS) responsible for the specified 8(a) participant. When an 8(a) company has not been identified, the CO will send an "open" offering letter to the SBA field office that services the geographical area where the procuring office is located.

FOR COMPETITIVE REQUIREMENTS OVER \$100,000 THAT MEET THE REQUIREMENTS OF FAR 19.805: The CO will send the offering letter to the SBA field office that services the geographical area where the procuring office is located; EXCEPT for construction, the CO will send the offering letter to the SBA field office located in the geographic area where the work will be performed.

PREPARING THE SOLICITATION: The solicitation shall be prepared in accordance with agency procedures and include the required 8(a) clauses contained in [AGAR Advisory No. 22](#) FAR Part 19 Deviation "Small Business Program."

PREPARING THE CONTRACT: Tripartite agreements are not required. Contracting activities shall use a single award document. The contract document is to be prepared in accordance with agency procedures, using the agency contract number and the appropriate forms (AD-838 [Purchase Order], SF-26[Contract Award], SF-30 [Amendment to Solicitation/Modification to Contracts], SF-1441[Construction], or SF-1449 [Commercial Item Award]).

CONTRACT ADMINISTRATION: Only in those cases where modifications are "beyond the scope" of the initial contract award will an SBA determination of current eligibility of the 8(a) contractor be required prior to proceeding with modification, as prescribed in 13 CFR 124.318(c). The CO shall use SBA's PRO-Net database on the Internet or request an eligibility determination from the SBA BOS. The PRO-Net database is available on the Acquisition Toolkit at www.usda/da/procure.html. SBA BOS will respond to the agency via telephone, Fax or E-mail within 2 working days as to the status of the 8(a)'s continued eligibility. If the firm is determined ineligible, the CO shall not issue the modification. A determination of eligibility from SBA is not required for modifications within the scope of the contract.

DISTRIBUTION OF PURCHASE ORDERS, CONTRACTS AND MODIFICATONS: The CO shall provide the cognizant SBA office with a copy of all purchase orders, contracts, and modifications within 5 working days after execution.

If you have questions regarding this advisory, please contact Todd Repass, Chief, PPD via email at Todd.Repass@da.usda.gov or by phone at (202) 690-1060; or send an email to procurement.policy@da.usda.gov.

This AGAR Advisory will appear on the USDA world wide web site at the following URL:
<http://www.usda.gov/da/procure/agaradv.htm>.

EXPIRATION DATE: This advisory is effective until canceled.

Distribution Code: 76025

[END]

Notice

This attached solicitation is being processed pursuant to a Memorandum of Understanding (MOU) between the U.S. Department of Agriculture (USDA) and the U.S. Small Business Administration (SBA). SBA has delegated USDA authority to contract directly with eligible 8(a) firms. The MOU implements a USDA initiative designed to streamline the procurement process for awards under the 8(a) program.

Under the terms of the MOU, the SBA will not be a signatory to the award resulting from the solicitation. The SBA will, however, retain responsibility for 8(a) certification, administering other eligibility related issues under the 8(a) program, and be available to 8(a) firms for counseling and assistance.

If you have any questions pertaining to this solicitation or program, please contact _____ [name of Contracting Officer] at _____ [telephone, fax and e-mail numbers].

(For Competitive Procurements to facilitate communications, it is requested that the 8(a) participant submitting this offer/bid provide the following information regarding the cognizant servicing Small Business Administration (SBA) office for the firm.)

Servicing SBA Office _____

Address _____

Cognizant Business Opportunity Specialist's Name _____

Phone Number _____

(Sample offering letter to SBA for Sole Source 8(a) contract award)

M [name]
Business Opportunity Specialist
U.S. Small Business Administration
Address _____

Dear M [name] :

The USDA, [name of Acquisition Agency] has a requirement for [contract requirement]
As described in the enclosed statement of work. We propose to set-aside this requirement for an
award under the 8(a) program, and to solicit a [contract type] proposal from:

[Name and Address of 8(a) Participant]

The applicable SIC code for the proposed work is _____. The estimated cost is \$_____ to be
expended [period of performance].

***This requirement is being processed pursuant to a Memorandum of Understanding (MOU)
between the USDA and SBA, under which procedural changes to the customary 8(a) process
have been made. Upon SBA acceptance of this offer, the USDA Contracting Officer will
contract directly with the 8(a) firm pursuant to the procedures developed under the MOU.***

It is a new requirement, and no public announcement regarding it being a small business set-
aside has been made. We do not believe an eligible 8(a) concern could reasonably be expected to
obtain the award under normal competitive conditions. Please provide me with the current 8 (a)
eligibility status of this firm to receive the above referenced requirement.

Should you have any questions concerning the requirement, please contact me at telephone
number _____. Alternately, I may be reached by FAX at _____, or E-mail at _____.

Sincerely,

Name & Agency of Contracting Officer

Enclosure

Note: This letter can be tailored for competitive 8(a) acquisitions.