PARTNERSHIP AGREEMENT
Between
The U.S. Small Business Administration
And
The Department of Defense

I. PURPOSE

The purpose of this Partnership Agreement (PA) between the U.S. Small Business Administration (SBA) and the Department of Defense (DoD) is to establish basic procedures for expediting the award of requirements pursuant to section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)) (the Act), and the SBA's regulations. This PA replaces all terms and conditions of any previously executed Memorandum of Understanding (MOU).

II. OBJECTIVES

a. To delineate the responsibilities regarding 8(a) contracts between the SBA and the DoD;
b. To establish the procedures for offer and acceptance between the SBA and the DoD:
c. To reduce the interval between the time DoD contracting offices send an offering letter to the SBA and receive an SBA decision on the offering to a maximum of 5 workdays;
d. To emphasize that the SBA delegates only the authority to sign contracts on their behalf. The SBA remains the prime contractor on all 8(a) contracts and continues to determine eligibility of concerns for contract award;
e. To eliminate SBA review of contracts and purchase orders executed under the authority of this PA; and
f. To establish uniform policy and procedures regarding application of purchase orders to the 8(a) contracting process, when applicable.

III. SCOPE

This PA provides for the award of both contracts and purchase orders under the provisions of section 8(a) of the Act as implemented by the Federal Acquisition Regulation (FAR) (48 C.F.R.) and the SBA's 8(a) Business Development program regulations.

This PA encompasses all competitive and non-competitive acquisitions of requirements offered by the DoD contracting offices and accepted by the SBA into the 8(a) program.

This PA applies to all SBA offices and all DoD contracting offices (as defined in FAR 2.101, Definitions) deemed appropriate by the head of the agency (as defined in FAR 2.101, Definitions) for the DoD.

IV. RESPONSIBILITIES

a. The SBA:

1. delegates to the Under Secretary of Defense for Acquisition, Technology, and Logistics (AT&L), for redelegation to all warranted DoD contracting officers, its authority under section 8(a)(1)(A) of the Act to enter into 8(a) prime contracts, and its authority under section 8(a)(1)(B) of the Act to arrange for the performance of such procurement contracts by eligible 8(a) program participants. In accordance with 13 C.F.R. 124.501(a), the SBA delegates only the contract execution function. The SBA remains the prime contractor on all 8(a) contracts, and the 8(a) participant remains the SBA's subcontractor;

2. will implement its responsibilities under this PA through uniform procedures for use by all SBA offices;

3. shall continue to review the DoD's offering letters, issue acceptance or rejection letters, and make eligibility determinations;

   (a) Sole source procurements. The SBA will issue an acceptance letter or notification of rejection within 5 working days of receipt of an offering letter. Acceptance shall include a size verification and determinations with respect to all elements of eligibility (e.g., determinations of adverse impact, North American Industry Classification System (NAICS) code appropriateness and program eligibility);

   (b) Competitive acquisitions. The SBA will issue an acceptance letter or notification of rejection within 5 working days of receipt of an offering letter. Following receipt of bids, and within 2 working days after a request from the contracting officer, the SBA shall issue an eligibility determination with respect to the apparent awardee. In the case of a negotiated procurement following receipt of initial offers including price, and within 2 working days after a request from the contracting officer, the SBA shall issue an eligibility determination for all firms in the competitive range, if discussions are to be conducted.

   The SBA will issue an eligibility determination for all firms with a realistic chance of award within 2 working days after a request from the contracting officer, if no discussions are to be conducted;

(c) Requirements under the simplified acquisition threshold (FAR 2.101). The SBA will review the eligibility of the 8(a) participant within 2 working days after receipt of a copy of the signed purchase order document. The purchase order document may be delivered by any means acceptable to the SBA district office. The SBA shall provide a copy of any negative eligibility determination to the contracting activity and the 8(a) participant. Absent receipt of a negative eligibility determination from the SBA within 2 working days, the 8(a) contractor will be authorized to begin performance. No offering or acceptance letter is required for procurements processed under the simplified acquisition procedures threshold.

4. shall review all proposed joint ventures involving 8(a) participants for approval before contract award;

5. shall provide 8(a) Participants with assistance in contract negotiations when requested by either the 8(a) firm or the DoD contracting officer;

6. shall retain its appeal authority in accordance with FAR 19.810;

7. shall retain the right to perform on-site contract surveillance reviews;

8. shall retain the responsibility for compliance with all applicable provisions of 13 C.F.R. Part 124, including determining eligibility;

9. shall select an appropriate 8(a) participant when the DoD submits an open offering letter for a sole source requirement; and

10. will issue a letter to the DoD Office of Small and Disadvantaged Business Utilization, with a copy to the appropriate senior procurement executive (FAR 2.101 and DFARS 202.101) of the military departments or defense agencies, on a quarterly basis identifying accepted requirements for which award documents have not been received by the SBA district office.

b. The Department of Defense:

1. shall submit to the SBA, not later than April 1, 2002, copies of any procedures developed to implement this PA that are in addition to guidance provided by the FAR and DFARS, if any;

2. shall determine which requirements are suitable for offering to the 8(a) program in accordance with FAR Subpart 19.8, and, where appropriate, identify, in conjunction with the appropriate SBA servicing offices, 8(a) participants capable of performing these requirements;

3. shall submit the offering letter for sole source requirements to the SBA's district office responsible for servicing the selected 8(a) participant, when an 8(a) firm has been identified;

4. shall submit an open offering letter for sole source requirements to the SBA district office that services the geographical area where the DoD contracting activity is located, when the DoD has not identified a specific 8(a) participant for a requirement;

5. shall submit the offering letter for competitive 8(a) procurements to the SBA district office that services the geographical area where the DoD's contracting activity is located, except that offering letters for construction work will be sent to the SBA district office located in the geographical area where the work will be performed, or, in the case of construction contracts to be performed overseas, to the SBA Headquarters;

6. shall retain responsibility for compliance with all applicable provisions of the FAR and DFARS unless a deviation is obtained;

7. shall provide a copy of any contract, as defined in FAR 2.101, including basic contracts, orders, modifications, and purchase orders, executed under this PA to the SBA servicing district office within 15 working days of the date of award. Systemic failure to timely provide the required documents to the SBA may result in suspension or rescission of this PA for that particular military department or defense agency;

8. shall retain the option to use tripartite procedures to award 8(a) contracts and purchase orders to 8(a) participants as specified in FAR Part 19;

9. shall ensure that all contracts awarded pursuant to this PA contain provisions that:

   (a) require the SBA's approval of novation agreements submitted by the 8(a) participant; and

   (b) require advance notice to the SBA (as the prime contractor) prior to issuance of a final notice terminating the contract in whole or in part;

10. shall ensure that all NAICS codes for all 8(a) Business Development contracts are applied in accordance with FAR 19.102;

11. shall ensure that all contracts comply with the work performance requirements, in accordance with FAR 19.811-3(e);

12 shall add language to every contract stating that, even though the SBA may not be identified in section A of the contract, it is still the prime contractor on the contract;

13. shall provide all proposed joint ventures involving 8(a) participants to SBA for approval before contract(s) award; and

14. cannot use contracts that have not been offered to and accepted by the SBA into the 8(a) Business Development program for the DoD's 8(a) negotiated goals. DoD orders from 8(a) firms under the GSA Multiple Award Schedules (MAS) program may be counted toward DoD's 8(a) negotiated goals provided they satisfy the conditions for 8(a) credit identified in the Office of Federal Procurement Policy's memorandum of October 2, 2000.

V. CONTRACT EXECUTION

The cognizant DoD contracting officer may make direct award of a contract to the 8(a) participant, but only after the requirement has been offered to and accepted by the SBA. Acquisitions that employ the simplified acquisition procedures authorized by FAR Part 13, limited to the simplified acquisition threshold (FAR 2.101), require no offer or acceptance. Contract execution shall be on the appropriate form specified in the FAR or DFARS. The "Issued by" block shall identify the awarding DoD office. The cognizant SBA district office for the 8(a) program participant shall be identified in the award document. The 8(a) participant's name and address shall be listed as the contractor. The DoD's contracting activities are responsible for issuing procurement instrument identification numbers; the SBA will not issue subcontract numbers.

VI. TERM

This PA will take effect as soon as both the SBA Administrator and the Under Secretary of Defense (AT&L) have signed it. It will remain in effect until September 30, 2004.

VII. AMENDMENT

This PA may be amended, in writing, at any time by mutual agreement of the SBA's Associate Deputy Administrator for Government Contracts and Business Development and the Directors of OSD/Defense Procurement and Small and Disadvantaged Business Utilization.

VIII. TERMINATION

Either SBA or DoD may terminate this PA upon 90 days advance written notice to the other party.

IX. PENALTIES –

a. Contracts that have not been offered to and accepted by the SBA into the 8(a) Business Development program cannot be used for the DoD's 8(a) negotiated goals.

b. The SBA reserves the option to suspend or rescind the authority of this PA for a particular military department or defense agency that systemically fails to submit copies to the SBA of award documents within 15 working days of award.

X. ADMINISTRATION

<u>For the Department of Defense:</u>

Director, Defense Procurement
Room 3E 1044
3060 Defense Pentagon
Washington, DC 20301-3060
(202) 695-7145

Director, Small and Disadvantaged Business Utilization
1777 North Kent Street, Suite 9100
Arlington, VA. 22209
(703) 588-8620

For the SBA:

Associate Deputy Administrator for
Government Contracting and Business Development
409 3rd Street, SW
Washington, DC 20416
(202) 205-6459

XI. ACCEPTANCE

As provided under the authority of the Partnership Agreement, the undersigned parties hereby accept the terms and conditions of this agreement.

E. C. ALDRIDGE, JR.
Under Secretary of Defense (AT&L)
Department of Defense

HECTOR V. BARRETO, JR.
Administrator
U.S. Small Business Administration