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Title 13 - Business Credit and Assistance

Chapter I - Small Business Administration

Part 124 - 8(a) Business Development/Small Disadvantaged Business Status Determinations

Subpart A - 8(a) Business Development

Contractual Assistance

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d), 644, 42 U.S.C. 9815; and Pub. L. 99-661, 100 Stat. 3816; Sec. 1207, Pub. L. 100-656, 102 Stat. 3853; Pub. L. 101-37, 103 Stat. 70; Pub. L. 101-574, 104 Stat. 2814; Sec. 8021, Pub. L. 108-87, 117 Stat. 1054; and Sec. 330, Pub. L. 116-260.

Source: 63 FR 35739, June 30, 1998, unless otherwise noted.

Editorial Note: Nomenclature changes to part 124 appear at 72 FR 50040, Aug. 30, 2007, and 76 FR 8253, Feb. 11, 2011.

§ 124.502 How does an agency offer a procurement to SBA for award through the 8(a) BD program?

(a) A procuring activity contracting officer indicates his or her formal intent to award a procurement requirement as an 8(a) contract by submitting a written offering letter to SBA. The procuring activity may transmit the offering letter to SBA by electronic mail, if available, or by facsimile transmission, as well as by mail or commercial delivery service.

(b) Contracting officers must submit offering letters to the following locations:

- (1) For competitive 8(a) requirements and those sole source requirements for which no specific Participant is nominated (i.e., open requirements) other than construction requirements, to the SBA district office serving the geographical area in which the procuring activity is located;
- (2) For competitive and open construction requirements, to the SBA district office serving the geographical area in which the work is to be performed or, in the case of such contracts to be performed overseas, to the Office of 8(a) BD located in SBA Headquarters;
- (3) For sole source requirements offered on behalf of a specific Participant, to the SBA district office servicing that concern.

(c) An offering letter must contain the following information:

- (1) A description of the work to be performed;
- (2) The estimated period of performance;
- (3) The NAICS code that applies to the principal nature of the acquisition;
- (4) The anticipated dollar value of the requirement, including options, if any;
- (5) Any special restrictions or geographical limitations on the requirement;
- (6) The location of the work to be performed for construction procurements;
- (7) Any special capabilities or disciplines needed for contract performance;

- (8) The type of contract to be awarded, such as firm fixed price, cost reimbursement, or time and materials;
- (9) The acquisition history, if any, of the requirement, including specifically whether the requirement is a follow-on requirement, and whether any portion of the contract was previously performed by a small business outside of the 8(a) BD program;
- (10) The names and addresses of any small business contractors which have performed on this requirement during the previous 24 months;
- (11) A statement that prior to the offering no solicitation for the specific acquisition has been issued as a small business set-aside, or as a small disadvantaged business set-aside if applicable, and that no other public communication (such as a notice in the Commerce Business Daily) has been made showing the procuring activity's clear intent to use any of these means of procurement;
- (12) Identification of any specific Participant that the procuring activity contracting officer nominates for award of a sole source 8(a) contract, if appropriate, including a brief justification for the nomination, such as one of the following:
 - (i) The Participant, through its own efforts, marketed the requirement and caused it to be reserved for the 8(a) BD program; or
 - (ii) The acquisition is a follow-on or renewal contract and the nominated concern is the incumbent;
- (13) Bonding requirements, if applicable;
- (14) Identification of all Participants which have expressed an interest in being considered for the acquisition;
- (15) Identification of all SBA field offices which have requested that the requirement be awarded through the 8(a) BD program;
- (16) A request, if appropriate, that a requirement whose estimated contract value is under the applicable competitive threshold be awarded as an 8(a) competitive contract;
- (17) A statement that the necessary justification and approval under the Federal Acquisition Regulation has occurred where a requirement whose estimated contract value exceeds \$25,000,000, or \$100,000,000 in the case of Department of Defense contracts, is offered to SBA as a sole source requirement on behalf of a specific Participant; and
- (18) Any other information that the procuring activity deems relevant or which SBA requests.

[63 FR 35739, June 30, 1998, as amended at 81 FR 48582, July 25, 2016; 86 FR 61672, Nov. 8, 2021]