

19.811-2

contract is between the SBA and the 8(a) contractor.

(3) The following items shall be inserted by the SBA—

(i) The SBA contract number.

(ii) The effective date.

(iii) The typed name of the SBA's contracting officer.

(iv) The signature of the SBA's contracting officer.

(v) The date signed.

(4) The SBA will obtain the signature of the 8(a) contractor prior to signing and returning the prime contract to the contracting officer for signature. The SBA will make every effort to obtain signatures and return the contract, and any subsequent bilateral modification, to the contracting officer within a maximum of 10 working days.

(c) Except in procurements where the SBA will make advance payments to its 8(a) contractor, the agency contracting officer may, as an alternative to the procedures in paragraphs (a) and (b) of this subsection, use a single contract document for both the prime contract between the agency and the SBA and its 8(a) contractor. The single contract document shall contain the information in paragraphs (b) (1), (2), and (3) of this subsection. Appropriate blocks on the Standard Form (SF) 26 or 1442 will be asterisked and a continuation sheet appended as a tripartite agreement which includes the following:

(1) Agency acquisition office, prime contract number, name of agency contracting officer and lines for signature, date signed, and effective date.

(2) The SBA office, the SBA contract number, name of the SBA contracting officer, and lines for signature and date signed.

(3) Name and lines for the 8(a) contractor's signature and date signed.

(d) For acquisitions not exceeding the simplified acquisition threshold, the contracting officer may use the alternative procedures in paragraph (c) of this subsection with the appropriate simplified acquisition forms.

[54 FR 46005, Oct. 31, 1989, as amended at 55 FR 3883, Feb. 5, 1990; 61 FR 67421, Dec. 20, 1996; 62 FR 233, Jan. 2, 1997; 62 FR 64940, Dec. 9, 1997; 64 FR 32745, June 17, 1999; 69 FR 59699, Oct. 5, 2004; 79 FR 24202, Apr. 29, 2014; 82 FR 4729, Jan. 13, 2017]

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19.811-2 Competitive.

(a) The contract will be prepared in accordance with 14.408-1(d), except that appropriate blocks on the Standard Form 26 or 1442 will be asterisked and a continuation sheet appended as a tripartite agreement which includes the following:

(1) The agency contracting activity, prime contract number, name of agency contracting officer, and lines for signature, date signed, and effective date.

(2) The SBA office, the SBA sub-contract number, name of the SBA contracting officer and lines for signature and date signed.

(b) The process for obtaining signatures shall be as specified in 19.811-1(b)(4).

[54 FR 46005, Oct. 31, 1989, as amended at 60 FR 34739, July 3, 1995; 62 FR 233, Jan. 2, 1997; 64 FR 32745, June 17, 1999]

19.811-3 Contract clauses.

(a) The contracting officer shall insert the clause at 52.219-11, Special 8(a) Contract Conditions, in contracts between the SBA and the agency when the acquisition is accomplished using the procedures of 19.811-1(a) and (b).

(b) The contracting officer shall insert the clause at 52.219-12, Special 8(a) Subcontract Conditions, in contracts between the SBA and its 8(a) contractor when the acquisition is accomplished using the procedures of 19.811-1(a) and (b).

(c) The contracting officer shall insert the clause at 52.219-17, Section 8(a) Award, in competitive solicitations and contracts when the acquisition is accomplished using the procedures of 19.805 and in sole source awards which utilize the alternative procedure in 19.811-1(c).

(d) The contracting officer shall insert the clause at 52.219-18, Notification of Competition Limited to Eligible 8(a) Participants, in competitive solicitations and contracts when the acquisition is accomplished using the procedures of 19.805. Use the clause at 52.219-18 with its Alternate I when competition is to be limited to 8(a) participants within one or more specific SBA districts pursuant to 19.804-2.

(e) For contracts or orders resulting from this subpart, see 19.507(e) for use of 52.219-14, Limitations on Subcontracting, and 19.507(h) for use of 52.219-33, Nonmanufacturer Rule.

[54 FR 46005, Oct. 31, 1989, as amended at 55 FR 3883, Feb. 5, 1990; 55 FR 25529, June 21, 1990; 60 FR 48263, Sept. 18, 1995; 61 FR 39209, July 26, 1996; 61 FR 67421, Dec. 20, 1996; 76 FR 68035, Nov. 2, 2011; 82 FR 4730, Jan. 13, 2017; 85 FR 11766, Feb. 27, 2020; 86 FR 44243, Aug. 11, 2021]

19.812 Contract administration.

(a) The contracting officer shall assign contract administration functions, as required, based on the location of the 8(a) contractor (see Federal Directory of Contract Administration Services Components (available via the Internet at <https://piee.eb.mil/pcm/xhtml/unauth/index.xhtml>))

(b) The agency shall distribute copies of the contract(s) in accordance with part 4. All contracts and modifications, if any, shall be distributed to both the SBA and the 8(a) contractor in accordance with the timeframes set forth in 4.201.

(c) To the extent consistent with the contracting activity's capability and resources, 8(a) contractors furnishing requirements shall be afforded production and technical assistance, including, when appropriate, identification of causes of deficiencies in their products and suggested corrective action to make such products acceptable.

(d) An 8(a) contract, whether in the base or an option year, must be terminated for convenience if the 8(a) contractor to which it was awarded transfers ownership or control of the firm or if the contract is transferred or novated for any reason to another firm, unless the Administrator of the SBA waives the requirement for contract termination (13 CFR 124.515). The Administrator may waive the termination requirement only if certain conditions exist. Moreover, a waiver of the requirement for termination is permitted only if the 8(a) contractor's request for waiver is made to the SBA prior to the actual relinquishment of ownership or control, except in the case of death or incapacity where the waiver must be submitted within 60 calendar days after such an occurrence. The clauses in the

contract entitled "Special 8(a) Contract Conditions" and "Special 8(a) Subcontract Conditions" require the SBA and the 8(a) subcontractor to notify the contracting officer when ownership of the firm is being transferred. When the contracting officer receives information that an 8(a) contractor is planning to transfer ownership or control to another firm, the contracting officer shall take action immediately to preserve the option of waiving the termination requirement. The contracting officer shall determine the timing of the proposed transfer and its effect on contract performance and mission support. If the contracting officer determines that the SBA does not intend to waive the termination requirement, and termination of the contract would severely impair attainment of the agency's program objectives or mission, the contracting officer shall immediately notify the SBA in writing that the agency is requesting a waiver. Within 15 business days thereafter, or such longer period as agreed to by the agency and the SBA, the agency head must either confirm or withdraw the request for waiver. Unless a waiver is approved by the SBA, the contracting officer must terminate the contract for convenience upon receipt of a written request by the SBA. This requirement for a convenience termination does not affect the Government's right to terminate for default if the cause for termination of an 8(a) contract is other than the transfer of ownership or control.

[54 FR 46005, Oct. 31, 1989, as amended at 56 FR 15151, Apr. 15, 1991; 64 FR 32745, June 17, 1999; 66 FR 2141, Jan. 10, 2001; 77 FR 12949, Mar. 2, 2012; 82 FR 4730, Jan. 13, 2017; 86 FR 31074, June 10, 2021]

19.813 Protesting an 8(a) participant's eligibility or size status.

(a) The eligibility of an 8(a) participant for a sole source or competitive 8(a) requirement may not be challenged by another 8(a) participant or any other party, either to SBA or any administrative forum as part of a bid or other contract protest (see 13 CFR 124.517).

(b) The size status of an 8(a) participant nominated for an 8(a) sole source