



National Aeronautics and
Space Administration
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Procurement Information Circular

PIC 17-05B

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Achieving Parity in Contract Awards Among Small Business Programs in Furtherance of Agency Goals

NFS Case 2017-N018

PURPOSE: Interim guidance to contracting officers to achieve parity among small business programs in furtherance of Agency goals.

BACKGROUND: The Agency has consistently failed to achieve its small business goals in: Historically Underutilized Business Zone (HUBZone) Program (FAR subpart 19.13); Service-Disabled Veteran-Owned Small Business (SDVOSB) Procurement Program (FAR subpart 19.14); and the Women-Owned Small Business (WOSB) Program (FAR subpart 19.15). In contrast, the Agency has consistently exceeded its goals for contracts awarded under the 8(a) Business Development (BD) Program (8(a) Program).

Centers have expressed concerns over Agency policy and procedures to request the Small Business Administration (SBA) to release contract requirements from the 8(a) Program when market research concludes that other small business programs are qualified to perform the requirements. Centers state they could have re-competed the requirements amongst other non-8(a) small businesses increasing the Agency's performance in the other small business goals, if the SBA released the requirements from the 8(a) Program.

This guidance provides further detail to NASA FAR Supplement 1819.804-70, *Release for non-8(a) competition*, which prescribes the conditions and procedures for considering a release of a requirement from the 8(a) Program.

GUIDANCE: There is a misconception across Federal Government that once a requirement is accepted into the 8(a) Program it must remain in the 8(a) Program. To the contrary, SBA regulation 13 CFR 124.504 provides that a follow-on procurement to an 8(a) contract remains in the 8(a) Program, unless the SBA Associate Administrator of the Office of Business Development (AA/BD) agrees with an agency's written request to release it from the 8(a) Program. In determining whether to release a contract from the 8(a) Program, SBA will consider whether—

1. The agency met its SDB goal;
2. The agency is achieving its HUBZone, SDVOSB, WOSB, or small business goal, as appropriate;
3. The requirement is critical to the 8(a) participant currently performing the contract;
4. The concern previously awarded the contract that is leaving or has left the 8(a) Program has the opportunity to compete for the requirement outside of the 8(a) Program; and
5. The procuring activity agrees to procure as a HUBZone, SDVOSB, WOSB or small business set-aside, where the Agency is not meeting its goal.

The Agency/Centers routinely meet the conditions for removing requirements from the 8(a) Program. Therefore, contracting officers are highly-encouraged to consider requesting the SBA remove the requirements from the 8(a) Program so the Agency may re-compete the follow-on requirement in under another small business program. Such requests should be based upon market research prior to determining the final acquisition strategy.

Contracting officers should consider set-asides in one of the small business programs where the Agency/Center is not meeting its small business goals for new requirements not previously procured by the Agency. Notably, the SBA considers a requirement to be a "new" requirement free from the 8(a) Program when:

The expansion or modification of an existing requirement in the 8(a) Program where the magnitude of change is significant enough to cause a price adjustment of at least 25 percent (adjusted for inflation) or to require significant additional or different types of capabilities or work.

The procedures outlined below shall be followed when submitting a request to SBA to release a requirement from the 8(a) Program:

1. The contracting officer, in consultation with the Center Small Business Specialist; the SBA Procurement Center Representative (PCR) assigned to the Center; and the Associate Administrator for the Office of Small Business Programs, will prepare and submit its written request for release of a requirement from the 8(a) Program to the appropriate SBA District Office (Refer to 13 CFR 124.502(b)).
2. The contracting officer shall provide an email notification of its intent to request a release of a requirement from the 8(a) Program to the cognizant OSBP program manager, prior to formally submitting the request to the SBA.

3. The Center's request to the SBA should include the following—
 - a. The procurement history;
 - b. The NAICS Code assigned to the requirement;
 - c. If the procurement was previously offered to SBA under the 8(a) program, include the following—
 - i. The Center's Offer Letter;
 - ii. The SBA's Acceptance Letter; and
 - iii. A brief summary describing the effect on the 8(a) participant currently performing the contract and/or a statement as to whether the concern previously awarded the contract that is leaving or has left the 8(a) Program has the opportunity to compete for the requirement outside of the 8(a) Program.
 - d. The results of the market research conducted by the Center;
 - e. The Agency's willingness to offer SBA another requirement to offset the loss of the instant requirement (if possible, include the Offer Letter for the new 8(a) requirement along with the request for release);
 - f. The Agency's written commitment to continue to support the 8(a) Program. This explanation must include—
 - i. The last two fiscal years' 8(a) contract dollars that were awarded by the Agency to 8(a) Program participants (**to be provided by OSBP**); and
 - ii. The Agency's current fiscal year's forecast to award contracts to the 8(a) BD Program (**to be provided by the OSBP**).
4. Any additional supporting documentation that may impact this requirement.
5. The cognizant SBA District Office will advise the Center of the SBA AA/BD's final decision.

Contracting officers are encouraged to start the process early enough in the acquisition planning stages to allow the SBA sufficient time to consider the merits of the request and to render a final decision. The SBA AA/BD's determination to release a requirement from the 8(a) Program is a firm requirement necessary to conducting a different type of set-aside and the Agency's request is not subject to any time period. Additionally, contracting officers should tailor market research sufficiently to identify and to assess the capabilities of other, non-8(a) small businesses in programs where the Agency/Center is not achieving its small business goals.

EFFECTIVE DATE: This PIC is effective as dated and shall remain in effect until **January 31, 2020**, or until such time the guidance is added to NFS 1819, whichever occurs first.

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