

\*\*\*\* (USE BELOW IN CONTRACTS AS APPROPRIATE.) \*\*\*\*

#### **ARTICLE I.5. SMALL BUSINESS ADMINISTRATION - 8(a) PROGRAM**

This contract has been awarded in accordance with the program established in Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and the Partnership Agreement (PA) between the U.S. Small Business Administration (SBA) and the U.S. Department of Health and Human Services (HHS) effective October 23, 2012 until amended. The following clauses are hereby incorporated and made a part of this contract. All clauses incorporated by reference have the same force and effect as if they were given full text. Upon request, the Contracting Officer will make their full text available.

\*\*\*\*(USE BELOW IN ALL COMPETITIVE 8(a) SOLICITATIONS AND CONTRACTS.)\*\*\*\*

NOTE: The clauses below are those prescribed by the "Direct 8(a) Contracting Model Coverage" developed by the CAAC under CAAC Letter 98-3 to implement and supplement the Partnership Agreement between SBA and DHHS effective October 23, 2012 until amended.

- a. FAR Clause **52.219-18, Notification Of Competition Limited To Eligible 8(a) Participants** (Oct 2022) **with Alternate For Acquisitions Under FAR 19.800 (Deviation)** (HHS/SBA PA - October 23, 2012 until amended)
  - (a) Offers are solicited only from -
    - (1) Small business concerns expressly certified by the Small Business Administration (SBA) for participation in the SBA's 8(a) Program and which meet the following criteria at the time of submission of offer--
      - (i) The Offeror is in conformance with the 8(a) support limitation set forth in its approved business plan; and
      - (ii) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by SBA.
    - (2) A joint venture, in which at least one of the 8(a) program participants that is a party to the joint venture complies with the criteria set forth in paragraph (a)(1) of this clause, that complies with 13 CFR 124-513(c); or
    - (3) A joint venture -

(i) That is comprised of a mentor and an 8(a) protégé with an approved mentor-protégé agreement under the 8(a) program;

(ii) In which at least one of the 8(a) program participants that is a party to the joint venture complies with the criteria set forth in paragraph (a)(1) of this clause; and

(iii) That complies with 13 CFR 124-513(c)

(b) By submission of its offer, the Offeror represents that it meets the applicable criteria set forth in paragraph (a) of this clause.

(c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

(d) The \_\_\_\_\_ [ *insert name of SBA's contractor* ] will notify the \_\_\_\_\_ [ *insert name of contracting agency* ] Contracting Officer in writing immediately upon entering an agreement (either oral or written) to transfer all or part of its stock. A Contracting Officer may consider a joint venture for contract award. SBA does not approve joint ventures for competitive awards, but see 13 CFR 124-501(g) for SBA's determination of participant eligibility.

(End of clause).

642

\*\*\*\* (USE BELOW WHEN COMPETITION IS LIMITED TO 8(a) PARTICIPANTS WITHIN ONE OR MORE SPECIFIC SBA DISTRICT(S)/REGION(S) PURSUANT TO 19.804-3.) \*\*\*\*

- b. **Alternate I**, (Oct 2022) is added to FAR Clause **52.219-18, Notification of Competition Limited to Eligible 8(a) Participants** (Oct 2022) as follows:

If the competition is to be limited to 8(a) participants within one or more specific SBA regions or districts, add the following paragraph (a)(1)(iii) to paragraph (a) of the clause:

(iii) The offeror's approved business plan is on the file and serviced by \_\_\_\_\_ [Contracting Officer completes by inserting the appropriate SBA District and/or Area Office(s) as identified by the SBA].

\*\*\*\* (USE BELOW IN ALL 8(a) CONTRACTS.) \*\*\*\*

- c. FAR Clause **52.219-70XX, Section 8(a) Direct Award** (HHS/SBA PA-October 23, 2012 until amended)

(a) This contract is issued as a direct award between the contracting activity and the 8(a) contractor pursuant to the Partnership Agreement between the Small Business Administration (SBA) and the \_\_\_\_\_ [INSERT AGENCY NAME]. SBA does retain responsibility for 8(a) certification, 8(a) eligibility determinations and related issues, and providing counseling and assistance to the 8(a) contractor under the 8(a) program. The cognizant SBA district office is: \_\_\_\_\_ [INSERT APPROPRIATE COGNIZANT SBA DISTRICT OFFICE.].

(b) The contracting activity is responsible for administering the contract and taking any action on behalf of the Government under the terms and conditions of the contract. However, the contracting activity shall give advance notice to the SBA before it issues a final notice terminating performance, either in whole or in part, under the contract. The contracting activity shall also coordinate with SBA prior to processing any novation agreement. The contracting activity may assign contract administration functions to a contract administration office.

(c) The Contractor agrees:

(1) to notify the Contracting Officer, simultaneous with its notification to SBA (as required by SBA's 8(a) regulations), when the owner or owners upon whom 8(a) eligibility is based plan to relinquish ownership or control of the concern. Consistent with 15 U.S.C. 637 (a)(21), transfer of ownership or controls shall result in termination of the contract for convenience, unless SBA waives the requirement for termination prior to the actual relinquishing of ownership and control.

(2) it will adhere to the requirements of 52.219-14, Limitations on Subcontracting.