

**DEPARTMENT OF THE NAVY**

NAVAL SEA SYSTEMS COMMAND
1333 ISAAC HULL AVE SE
WASHINGTON NAVY YARD DC 20376-0001

IN REPLY TO

**MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF THE NAVY (DoN)
AND THE SMALL BUSINESS ADMINISTRATION (SBA)
REGARDING THE USE OF
SeaPort-e AND 8(a) CONCERNS**

This memorandum of agreement (MOA) between the DoN and SBA defines the procedures to be used in competing and awarding task orders to eligible 8(a) concerns via the SeaPort-e acquisition vehicle. Further, this agreement provides the SBA's concurrence for the DoN to compete a requirement below the competitive dollar threshold among eligible 8(a) SeaPort-e participants.

I. Background:

"SeaPort-e" is a Naval Sea Systems (NAVSEA) Command contracting initiative; it is a web-based services acquisition tool containing Multiple Award Contracts (MAC). Each MAC contains a 5-year base ordering period and up to two 5-year award terms. There is an annual rolling admissions period to allow additional business concerns to become MAC awardees within SeaPort-e. Additionally, during rolling admissions, existing prime contractors are given an opportunity to re-certify their size status. Task orders are competed among SeaPort-e MAC awardees within the corresponding geographical zone where performance will occur.

There are currently seven geographical zones (see-Encl (1) map) and 22 general areas of scope for services including, but not limited to, research and development support, engineering, and acquisition logistics support. SeaPort-e, an innovative tool, has been designated as the preferred acquisition method for procuring services within the DoN. The DoN wishes to add eligible 8(a) Business Development (BD) Program Participants to the existing MAC awardees through the Rolling Admissions process. Once an 8(a) BD Program participant becomes a MAC holder, they will then be eligible to compete on task orders that may or may not be restricted specifically for 8(a) BD Program Participants. However, only those task orders that are set-aside for competition among 8(a) BD participants may be accepted into the 8(a) BD Program.

The minimum quantity and contract value for all orders issued against SeaPort-e MAC awards shall not be less than the minimum quantity and contract value stated in the basic MAC awards.

The SBA 8(a) BD Program received its name from Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) which authorizes the SBA to enter into all types of contracts with other Federal Agencies and to contract the performance of these contracts to qualified Participants. The Act further states the SBA shall arrange for the performance of such procurement contracts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns to enable the SBA to perform such contracts. Participants in

the 8(a) BD Program are referred to as "8(a) contractors". Eligible 8(a) contractors may remain in the Program for up to 9 years from the date of their approved certification by the SBA.

The Department of Defense (DoD) and SBA executed a Memorandum of Understanding (MOU), termed Partnership Agreement (PA), to allow DoD agencies to award contracts directly to 8(a) concerns. Although SBA delegates its contract execution authority to DoD, the SBA remains the prime contractor on all 8(a) contracts or task orders; continues to determine program eligibility of the participants, and retains appeal rights under Federal Acquisition Regulation (FAR) 19.810. (See also DoD FAR Supplement (DFARS) 219.800.) Procuring activities must report all 8(a) contract awards, and modifications to the SBA. (See also 13 C.F.R. § 124.501(a).)

II. Purpose:

The purpose of this agreement is to establish procedures whereby selected task order requirements are competed among qualified 8(a) SeaPort-e MAC awardees. This MOA establishes procedures for competing and awarding task orders to eligible 8(a) participants with a basic MAC in SeaPort-e and the responsibilities of both the DoN and SBA in that regard. Accordingly, the aforementioned parties heretofore agree to the procedures outlined in this MOA.

III. Procedures:

- a. The DoN, as the principle procurement agency, shall:
 - (1) Require from the 8(a) Offerors, upon submission of a proposal for award of a basic MAC in SeaPort-e, proof of 8(a) certification to determine status within the 8(a) BD Program including approved certification date and the awardee's SBA district office.
 - (2) Provide a list of the 8(a) Offerors, containing contract number, award date/anticipated award date, certification date and district office to the SBA HQ for verification of eligibility to be included in the 8(a) Program. SBA HQ will provide the listing to the respective SBA district offices, who will verify eligibility to be included in the Program. The DoN will presume agreement or acceptance by SBA and proceed with award of the MACs, unless a negative response is received within 10 workdays from the notification of intent to award or unless SBA requests an extension. For the purposes of SeaPort-e, firms certified as 8(a) will continue to be eligible participants until recertification, which in no event will be longer than 5 years from the date of award of the MAC, unless the DoN is notified by the SBA that the firm has been terminated from the Program.
 - (3) The procuring activity's cognizant SeaPort Director, Small Business (DSB) representative shall provide electronic notification of the 8(a) SB offering letter to

the SBA district office serving the geographical area in which the procuring activity is located prior to the issuance of a SeaPort-e Task Order solicitation. The offer letter will be clearly annotated with the letters NAVY/SBA MOA in the upper right section of the letter. The DoN will presume agreement or acceptance by SBA unless a negative response is received within 3 workdays from the offer letter or unless SBA requests an extension. If the activity cannot allow additional time, the contracting officer, after notifying SBA, may proceed with the acquisition from other sources. (See attached 8(a) offering letter.)

- (4) Require the 8(a) firms that win a 8(a) set-aside competition to provide the cognizant SBA district office with copies of all executed Task Orders and Modifications within 5 workdays of receipt.

b. The SBA, as the Prime Contractor and Agency responsible for administration of the 8(a) BD Program shall:

- (1) Notify the DoN electronically of the 8(a) eligibility status of the firms identified as 8(a) BD Program Participants within 10 workdays of the DoN e-mail notification of a basic MAC award unless SBA requests an extension.
- (2) Notify the DoN of any 8(a) concern that has been terminated from the Program.
- (3) Notify the procuring activity's cognizant SeaPort DSB representative of the acceptance of the offer letter within 3 workdays of receipt.
- (4) Approve, in accordance with 13 C.F.R. § 124.506(c), the DoN's use of competitive 8(a) contracting procedures for task orders awarded to 8(a) BD Program participants under this MOA when the anticipated award price is under the established \$3.5 million competitive threshold.

IV. Amendment

This MOA may be amended, in writing, at any time by mutual agreement of the parties.

V. Term

This MOA will take effect as soon as the DoN and SBA have signed it. It shall remain in effect for not less than 5 years.

VI. Termination

Either the SBA or the DoN may terminate this MOA upon written mutual agreement with the other party, subject to the below conditions:

VII. Conditions

a. Contracts that have not been offered to and accepted by the SBA into the 8(a) BD Program cannot be used for the DoN's 8(a) negotiated goals.

b. The SBA reserves the option to suspend or rescind the authority of this MOA with the DoN for failure to adequately monitor 8(a) contract compliance requirements or if the DoN otherwise fails to follow the terms of this MOA.

VIII. AdministrationFor the DoN:

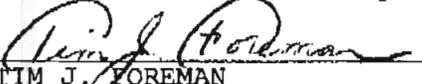
Patricia Obey
Assistant Director, Program Development
Office of Small Business Programs
720 Kennon Avenue SE, Bldg 36 Rm 207
Washington Navy Yard, DC 20374
Tel: (202) 685-6485
Fax: (202) 685-6865

For SBA:

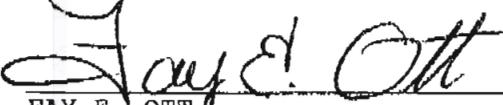
Cherina Hughes
Acting Director
Office of Management and
Technical Assistance
409 3rd Street, SW, 8th Floor
Washington, DC 20416
Tel: (202) 205-7344
Fax: (202) 481-0750

IX. Acceptance

The parties heretofore agree that eligible 8(a) SeaPort-e awards made under this MOA shall be prepared in accordance with the above procedures.


 TIM J. FOREMAN
 Director
 Office of the Secretary of the Navy
 Office of Small Business Programs

7/2/2008
 Date


 FAY E. OTT
 Associate Administrator
 Office of Government Contracting
 and Business Development
 U. S. Small Business Administration

7/2/08
 Date


 CAROL I. LITTEL
 Director
 Office of Strategic Alliances
 U. S. Small Business Administration
July 2, 2008
 Date

Encl:

- (1) SeaPort-e Zone Map
- (2) Sample Offering Letter


 JOSEPH R. LODDO
 Associate Administrator
 Office of Business
 Development
 U. S. Small Business
 Administration

7/1/08
 Date


 JEROME F. PUNDERSON
 Program Manager, SeaPort-e
 Naval Sea Systems Command

7/2/08
 Date

MOA Between DoN and SBA
RE: SeaPort-e and 8(A) concerns

NOTE: This Offering letter will be submitted to the SBA district office serving the geographical area in which the procuring activity is located via electronic notification by the procuring activity's cognizant SeaPort DSB representative. The e-mail notification will be automatically generated in SeaPort-e when the procurement is reserved for 8(a). The e-mail will be populated with the below content and may not appear in this exact form.

8(a) NOTIFICATION OFFERING LETTER
For
SeaPort-e Procurements

4380
Code: <insert CODE>

U.S. SMALL BUSINESS ADMINISTRATION
District Office
Attn: 8(a) Business Development Program

To Whom It May Concern:

Pursuant to the Memorandum of Agreement (MOA) between the Department of the Navy (DoN) and the Small Business Administration (SBA) dated DD MMM YYYY, the following requirement is being reserved exclusively for solicitation from certified 8(a) concerns currently in the SeaPort-e Program. Accordingly, the <insert COMMAND NAME> has a requirement for <insert DESCRIPTION>. A copy of the work statement is enclosed.

The following is furnished for your information:

- a. Description of the work to be performed <insert/attach DESCRIPTION>
- b. The estimated Period of Performance including any Option periods is <insert PoP>
- c. The North American Industry Classification System (NAICS) Code that applies to the principal nature of the proposed acquisition is 541330
- d. The total estimated dollar value of the anticipated Task Order including any options is <insert VALUE>
- e. The requirement will be solicited in the <insert SeaPort-e ZONE> of SeaPort-e

In accordance with the MOA between the DoN and SBA, this offering will be considered as accepted and the solicitation will be released within 3 days unless the below Contracting Officer is notified otherwise.

<insert CONTRACTING OFFICER NAME>
CONTRACTING OFFICER
<insert PHONE NUMBER>
<insert E-MAIL ADDRESS>

MOA Between DoN and SBA
RE: SeaPort-e and 8(A) concerns



VS SeaPort-e Zones

