

## 219.804

### 219.804 Evaluation, offering, and acceptance.

When processing requirements under the PA, follow the procedures at PGI 219.804.

[72 FR 20762, Apr. 26, 2007]

#### 219.804-1 Agency evaluation.

(f) The 8(a) firms should be offered the opportunity to give a technical presentation.

[63 FR 41974, Aug. 6, 1998]

### 219.805 Competitive 8(a).

#### 219.805-1 General.

(b)(2)(A) For acquisitions that exceed the competitive threshold, the SBA also may accept the requirement for a sole source 8(a) award on behalf of a small business concern owned by a Native Hawaiian Organization (Section 8020 of Pub. L. 109-148).

(B) *Native Hawaiian Organization*, as used in this subsection and as defined by 15 U.S.C. 637(a)(15) and 13 CFR 124.3, means any community service organization serving Native Hawaiians in the State of Hawaii—

(1) That is a not-for-profit organization chartered by the State of Hawaii;

(2) That is controlled by Native Hawaiians; and

(3) Whose business activities will principally benefit such Native Hawaiians.

[70 FR 43073, July 26, 2005, as amended at 71 FR 34832, June 16, 2006]

#### 219.805-2 Procedures.

When processing requirements under the PA, follow the procedures at PGI 219.805-2 for requesting eligibility determinations.

[72 FR 20762, Apr. 26, 2007]

#### 219.806 Pricing the 8(a) contract.

For requirements processed under the PA cited in 219.800—

(1) The contracting officer shall obtain certified cost or pricing data from the 8(a) contractor, if required by FAR subpart 15.4; and

(2) SBA concurrence in the negotiated price is not required. However, except for purchase orders not exceeding the simplified acquisition thresh-

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old, the contracting officer shall notify the SBA prior to withdrawing a requirement from the 8(a) Program due to failure to agree on price or other terms and conditions.

[63 FR 33588, June 19, 1998, as amended at 67 FR 11437, Mar. 14, 2002; 67 FR 49256, July 30, 2002; 77 FR 76940, Dec. 31, 2012]

### 219.808 Contract negotiation.

#### 219.808-1 Sole source.

For sole source requirements processed under the PA, follow the procedures at PGI 219.808-1.

(a) In lieu of the threshold at FAR 19.808-1(a), the SBA may not accept for negotiation a DoD sole-source 8(a) contract exceeding \$100 million unless DoD has completed a justification in accordance with FAR 6.303 and 206.303-1(b).

[72 FR 20762, Apr. 26, 2007, as amended at 85 FR 34530, June 5, 2020]

#### 219.811 Preparing the contracts.

When preparing awards under the PA, follow the procedures at PGI 219.811.

[72 FR 20762, Apr. 26, 2007]

#### 219.811-3 Contract clauses.

(1) Use the clause at 252.219-7009, Section 8(a) Direct Award, instead of the clauses at FAR 52.219-11, Special 8(a) Contract Conditions, FAR 52.219-12, Special 8(a) Subcontract Conditions, and FAR 52.219-17, Section 8(a) Award, in solicitations and contracts processed in accordance with the PA cited in 219.800.

(2) Use the clause at 252.219-7010, Notification of Competition Limited to Eligible 8(a) Participants—Partnership Agreement, in lieu of the clause at FAR 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 FAR 19.805 and processed in accordance with the PA cited in 219.800.