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leaving or has left the 8(a) BD program the opportunity to compete for the requirement outside the 8(a) BD program.

(1) SBA will consider release only where:

(i) The procurement awarded through the 8(a) BD program is being or was performed by either a Participant whose program term will expire prior to contract completion, or, by a former Participant whose program term expired within one year of the date of the offering letter;

(ii) The concern requests in writing that SBA decline to accept the offer prior to SBA's acceptance of the requirement for award as an 8(a) contract; and

(iii) The concern qualifies as a small business for the requirement now offered to the 8(a) BD program.

(2) In considering release, SBA will balance the importance of the requirement to the concern's business development needs against the business development needs of other Participants that are qualified to perform the requirement. This determination will include consideration of whether rejection of the requirement would seriously reduce the pool of similar types of contracts available for award as 8(a) contracts. SBA will seek the views of the procuring activity.

(3) If SBA declines to accept the offer and releases the requirement, it will recommend to the procuring activity that the requirement be procured as a small business or, if authorized, an SDB set-aside.

[63 FR 35739, 35772, June 30, 1998, as amended at 74 FR 45753, Sept. 4, 2009]

§ 124.505 When will SBA appeal the terms or conditions of a particular 8(a) contract or a procuring activity decision not to reserve a requirement for the 8(a) BD program?

(a) *What SBA may appeal.* The Administrator of SBA may appeal the following matters to the head of the procuring agency:

(1) A contracting officer's decision not to make a particular procurement available for award as an 8(a) contract;

(2) A contracting officer's decision to reject a specific Participant for award of an 8(a) contract after SBA's acceptance of the requirement for the 8(a) BD program; and

(3) The terms and conditions of a proposed 8(a) contract, including the procuring activity's SIC code designation and estimate of the fair market price.

(b) *Procedures for appeal.* (1) SBA must notify the contracting officer of the SBA Administrator's intent to appeal an adverse decision within 5 working days of SBA's receipt of the decision.

(2) Upon receipt of the notice of intent to appeal, the procuring activity must suspend further action regarding the procurement until the head of the procuring agency issues a written decision on the appeal, unless the head of the procuring agency makes a written determination that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for a consideration of the appeal.

(3) The SBA Administrator must send a written appeal of the adverse decision to the head of the procuring agency within 15 working days of SBA's notification of intent to appeal or the appeal may be considered withdrawn.

(4) By statute (15 U.S.C. 637(a)(1)(A)), the procuring agency head must specify in writing the reasons for a denial of an appeal brought by the Administrator under this section.

§ 124.506 At what dollar threshold must an 8(a) procurement be competed among eligible Participants?

(a) *Competitive thresholds.* (1) The Federal Acquisition Regulatory Council (FAR Council) has the responsibility of adjusting each acquisition-related dollar threshold on October 1, of each year that is evenly divisible by five. Acquisition-related dollar thresholds are defined as dollar thresholds that are specified in law as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law to the procurement of property or services by an executive agency as determined by the FAR Council. 41 U.S.C. 431a(c). Part 124, Subpart A, 8(a) Business Development, contains acquisition-related dollar thresholds subject to inflationary adjustments. The FAR Council shall publish a notice of the adjusted dollar