

§ 124.507 What procedures apply to competitive 8(a) procurements?

(a) *FAR procedures.* Procuring activities will conduct competitions among and evaluate offers received from Participants in accordance with the Federal Acquisition Regulation (48 CFR, chapter 1).

(b) *Eligibility determination by SBA.* In either a negotiated or sealed bid competitive 8(a) acquisition, the procuring activity will request that the SBA district office servicing the apparent successful offeror determine that firm's eligibility for award.

(1) Within 5 working days after receipt of a procuring activity's request for an eligibility determination, SBA will determine whether the firm identified by the procuring activity is eligible for award.

(2) Eligibility is based on 8(a) BD program criteria, including whether the Participant is:

(i) A small business under the SIC code assigned to the requirement;

(ii) In compliance with any applicable competitive business mix target established or remedial measure imposed by § 124.509 that does not include the denial of future 8(a) contracts;

(iii) In the developmental stage of program participation if the solicitation restricts offerors to the developmental stage of participation; and

(iv) A concern with a bona fide place of business in the applicable geographic area if the procurement is for construction.

(3) If SBA determines that the apparent successful offeror is ineligible, SBA will notify the procuring activity. The procuring activity will then send to SBA the identity of the next highest evaluated firm for an eligibility determination. The process is repeated until SBA determines that an identified offeror is eligible for award.

(4) Except to the extent set forth in paragraph (d) of this section, SBA determines whether a Participant is eligible for a specific 8(a) competitive requirement as of the date that the Participant submitted its initial offer which includes price.

(5) If the procuring activity contracting officer believes that the apparent successful offeror is not responsible to perform the contract, he or she

must refer the concern to SBA for a possible Certificate of Competency in accord with § 125.5 of this title.

(c) *Restricted competition*—(1) *Competition within stages of program participation.* SBA may accept a competitive 8(a) requirement that is limited to Participants in the developmental stage of program participation, or may accept a requirement to be competed among firms both in the developmental and transitional stages of program participation.

(2) *Construction competitions.* Based on its knowledge of the 8(a) BD portfolio, SBA will determine whether a competitive 8(a) construction requirement should be competed among only those Participants having a bona fide place of business within the geographical boundaries of one or more SBA district offices, within a state, or within the state and nearby areas. Only those Participants with bona fide places of business within the appropriate geographical boundaries are eligible to submit offers.

(3) *Competition for all non-construction requirements.* Except for construction requirements, all eligible Participants regardless of location may submit offers in response to competitive 8(a) solicitations. The only geographic restrictions pertaining to 8(a) competitive requirements, other than those for construction requirements, are any imposed by the solicitations themselves.

(d) *Award to firms whose program terms have expired.* A concern that has completed its term of participation in the 8(a) BD program may be awarded a competitive 8(a) contract if it was a Participant eligible for award of the contract on the initial date specified for receipt of offers contained in the contract solicitation, and if it continues to meet all other applicable eligibility criteria.

(1) Amendments to the solicitation extending the date for submissions of offers will be disregarded.

(2) For a negotiated procurement, a Participant may submit revised offers, including a best and final offer, and be awarded a competitive 8(a) contract if it was eligible as of the initial date specified for the receipt of offers in the solicitation, even though its program term may expire after that date.