

819.709

Senior Procurement Executive (SPE) within 5 working days. The SPE shall have 15 working days to respond and that decision shall be final.

819.709 Contract clause.

The contracting officer shall insert VAAR clause 852.219-9, Small Business Subcontracting Plan Minimum Requirements, in solicitations and contracts that include FAR clause 52.219-9, Small Business Subcontracting Plan.

Subpart 819.8—Contracting With the Small Business Administration (The 8(a) Program)

819.800 General.

(a) No contract will be entered into with SBA under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) unless a certification is made by the Administrator of that agency, or designee, that SBA is competent to perform the contract.

(b) When it is determined that the requirements of VA are appropriate for inclusion in this program, the contracting officer will make this fact known to proper officials of the SBA regional office servicing his/her area. However, when projects funded from minor construction appropriation (between \$400,000 and \$2 million) are proposed for 8(a) acquisition, the Director, OSDDBU (00SB), shall be contacted by telephone or notified in writing in order to afford the OSDDBU an opportunity to identify possible 8(a) sources prior to apprising SBA officials. If the certification required by paragraph (a) of this section is received, the VA contracting officer will secure from SBA the name(s) and location(s) of their subcontractor(s) and the unit price(s) to be paid. Should these prices be within a range acceptable to VA, the contracting officer will notify SBA of acceptance.

(c) The contract will be made between VA and SBA and will be administered by VA.

48 CFR Ch. 8 (10-1-14 Edition)

Subpart 819.70—Service-Disabled Veteran-Owned and Veteran-Owned Small Business Acquisition Program

SOURCE: 74 FR 64632, Dec. 8, 2009, unless otherwise noted.

819.7001 General.

(a) Sections 502 and 503 of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (38 U.S.C. 8127-8128), created an acquisition program for small business concerns owned and controlled by service-disabled veterans and those owned and controlled by veterans for VA.

(b) The purpose of the program is to provide contracting assistance to SDVOSBs and VOSBs.

819.7002 Applicability.

This subpart applies to VA contracting activities and to its prime contractors. Also, this subpart applies to any government entity that has a contract, memorandum of understanding, agreement, or other arrangement with VA to acquire goods and services for VA in accordance with 817.502.

819.7003 Eligibility.

(a) Eligibility of SDVOSBs and VOSBs continues to be governed by the Small Business Administration regulations, 13 CFR subparts 125.8 through 125.13, as well as the FAR, except where expressly directed otherwise by the VAAR, and 38 CFR verification regulations for SDVOSBs and VOSBs.

(b) At the time of submission of offer, the offeror must represent to the contracting officer that it is a—

(1) SDVOSB concern or VOSB concern;

(2) Small business concern under the North American Industry Classification System (NAICS) code assigned to the acquisition; and

(3) Verified for eligibility in the VIP database.

(c) A joint venture may be considered an SDVOSB or VOSB concern if

(1) At least one member of the joint venture is an SDVOSB or VOSB concern, and makes the representations in paragraph (b) of this section;

(2) Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement;

(3) The joint venture meets the requirements of paragraph 7 of the size standard explanation of affiliates in FAR 19.101; and

(4) The joint venture meets the requirements of 13 CFR 125.15(b), modified to include veteran-owned small businesses where this CFR section refers to SDVOSB concerns.

(d) Any SDVOSB or VOSB concern (nonmanufacturer) must meet the requirements in FAR 19.102(f) to receive a benefit under this program.

819.7004 Contracting Order of Priority.

In determining the acquisition strategy applicable to an acquisition, the contracting officer shall consider, in the following order of priority, contracting preferences that ensure contracts will be awarded:

- (a) To SDVOSBs;
- (b) To VOSB, including but not limited to SDVOSBs;
- (c) Pursuant to—
 - (1) Section 8(a) of the Small Business Act (15 U.S.C. 637(a)); or
 - (2) The Historically-Underutilized Business Zone (HUBZone) Program (15 U.S.C. 657a); and
 - (d) Pursuant to any other small business contracting preference.

819.7005 Service-disabled veteran-owned small business set-aside procedures.

(a) The contracting officer shall consider SDVOSB set-asides before considering VOSB set-asides. Except as authorized by 813.106, 819.7007 and 819.7008, the contracting officer shall set-aside an acquisition for competition restricted to SDVOSB concerns upon a reasonable expectation that,

- (1) Offers will be received from two or more eligible SDVOSB concerns; and
- (2) Award will be made at a fair and reasonable price.
- (b) When conducting SDVOSB set-asides, the contracting officer shall ensure:
 - (1) Eligibility is extended to businesses owned and operated by surviving spouses; and

(2) Businesses are registered and verified as eligible in the VIP database prior to making an award.

(c) If the contracting officer receives only one acceptable offer at a fair and reasonable price from an eligible SDVOSB concern in response to a SDVOSB set-aside, the contracting officer should make an award to that concern. If the contracting officer receives no acceptable offers from eligible SDVOSB concerns, the set-aside shall be withdrawn and the requirement, if still valid, set aside for VOSB competition, if appropriate.

819.7006 Veteran-owned small business set-aside procedures.

(a) The contracting officer shall consider SDVOSB set-asides before considering VOSB set-asides. Except as authorized by 813.106, 819.7007 and 819.7008, the contracting officer shall set aside an acquisition for competition restricted to VOSB concerns upon a reasonable expectation that:

- (1) Offers will be received from two or more eligible VOSB concerns; and
- (2) Award will be made at a fair and reasonable price.
- (b) If the contracting officer receives only one acceptable offer at a fair and reasonable price from an eligible VOSB concern in response to a VOSB set-aside, the contracting officer should make an award to that concern. If the contracting officer receives no acceptable offers from eligible VOSB concerns, the set-aside shall be withdrawn and the requirement, if still valid, set aside for other small business programs, as appropriate.

(c) When conducting VOSB set-asides, the contracting officer shall ensure the business is registered and verified as eligible in the VIP database prior to making an award.

819.7007 Sole source awards to service-disabled veteran-owned small business concerns.

(a) A contracting officer may award contracts to SDVOSB concerns on a sole source basis provided:

- (1) The anticipated award price of the contract (including options) will not exceed \$5 million;
- (2) The requirement is synopsisized in accordance with FAR part 5;