

CHANGE REQUEST COVER SHEET

Change Request Number: 11-30

Date Received: 3/7/2011

Title: Service-Disabled Veteran Owned Small Business and 8(a) certification procedures

Name: Larry Wyborski

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Policy OR Guidance: Guidance

Section/Text Location Affected: T3.6.1.A.3 and T3.6.1.A.6

Summary of Change: This change requires the CO to check the VA website, and to verify with a VA representative if necessary, the offeror's self-certification as an SDVOSB. The change also adds a requirement for CO confirmation that 8(a) offerors are in good standing with the Small Business Administration.

Reason for Change: To strengthen FAA procedures for contracting with small business.

Development, Review, and/or Concurrence: AGC, AJA-8, and FAA contracting offices.

Target Audience: FAA contracting offices.

Potential Links within FAST for the Change: None.

Briefing Planned: No

ASAG Responsibilities: None

Potential Links within FAST for the Change: None.

Links for New/Modified Forms (or) Documents (LINK 1) [null](#)

Links for New/Modified Forms (or) Documents (LINK 2) [null](#)

Links for New/Modified Forms (or) Documents (LINK 3) [null](#)

SECTIONS EDITED:

Procurement Guidance:

T3.6.1 - Small Business Development Program

Small Business Development

Section 3 : Prime Contracting with Small Business [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

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Section 6 : Business Declaration [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

SECTIONS EDITED:

Section 3 : Prime Contracting with Small Business

Old Content: Procurement Guidance:

T3.6.1 - Small Business Development Program

Small Business Development

Section 3 : Prime Contracting with Small Business

a. While the use of small business set-asides as a method of procurement is not mandatory, small businesses must be afforded reasonable opportunities to compete for all procurements. All procurements must first be considered for set-aside before procuring the product or service on an unrestricted basis. Thus, procurement teams should take the following actions when appropriate:

- (1) Set-aside procurements competitively in accordance with the policies and guidance contained in Acquisition Management System (AMS) Section 3.2.2 Source Selection;
- (2) Consider the capabilities of small businesses and small businesses owned and controlled by a socially and economically disadvantaged individuals during the screening phase of each procurement;
- (3) Breakout large requirements (if severable) into smaller sized requirements to provide for greater small business participation;
- (4) Plan procurements of supplies and services so that more than one small business firm may perform the work (if the work exceeds the amount that a single small business can handle);
- (5) Ensure that delivery schedules are established on a realistic basis to encourage small business participation to the extent consistent with actual requirements of FAA;
- (6) Encourage teaming relationships among small and large businesses to enhance competition; and

(7) Utilize small businesses on qualified vendor lists on a rotational basis to increase opportunities to the greatest number of small businesses.

b. Conducting set-asides with small businesses, very small businesses, and small businesses owned and controlled by socially and economically disadvantaged individuals:

(1) All set-asides are to be conducted directly with small businesses independent of the Small Business Administration (SBA);

(2) Procurements may be set-aside exclusively for small businesses and very small businesses;

(3) Procurements may also be set-aside exclusively for competitive award among socially and economically disadvantaged businesses (SEDBs) that are expressly certified by the Small Business Administration (SBA) for participation in the SBA's 8(a) program. Each firm claiming 8(a) status is required to provide a copy of its SBA 8(a) certification letter to the Contracting Officer (CO) as evidence of eligibility. There is no requirement to obtain the SBA's approval to make award to the selected socially and economically disadvantaged business (SEDB).

(4) Procurements may not be exclusively set-aside for women-owned businesses

(5) Industry should be notified of the applicable North American Industry Classification (NAIC) System code representing the predominant portion of the overall requirement in the public announcement to ensure small business size eligibility requirements are timely known; and

(6) The service team will state the date when the firm must be 8(a) certified.

(7) Procurements may be set-aside exclusively for competitive award among service-disabled veteran owned small businesses (SDVOSB) as defined by 38 U.S.C. 101. Each firm claiming SDVOSB status is required to provide a completed Business Declaration Form to self-certify its eligibility. There is no requirement to obtain the SBA's or Veteran Administration's approval to make award to the selected SDVOSB.

(8) A procurement may not be set-aside if:

(a) there is no reasonable expectation of obtaining offers from two or more responsible SEDB(8(a)) concerns, small business concerns, very small business concerns or service-disabled veteran owned small business concerns that are competitive in terms of market prices, quality and delivery; or

(b) it is in the best interest of the FAA to contract with a single source and the rational basis is documented; or

(c) extension of the current services.

c. *Noncompetitive Awards to SEDB (8(a)) and SDVOSB Firms.* A rational basis for the decision to award a noncompetitive SEDB (8(a)) or SDVOSB procurement should be documented. Procurement decision makers should consider potential SEDB (8(a)) or SDVOSB sources of supply contained in "Source-Net" located at <http://www.sbo.faa.gov/sbo> and/or "CCR Web" site located at <http://www.ccr.gov> and click on "Dynamic Small Business Search." The Center for Veterans Enterprise website (<http://www.vetbiz.gov/>) may also be reviewed for potential SDVOSB sources. The ownership and control of the sources on this website have been verified by Veterans Affairs (VA). The public announcement requirements of the AMS Section 3.2.1.3.12 are not applicable to noncompetitive awards to SEDB (8(a)) or SDVOSB firms if the product being procured is not available from Federal Prison Industries.

New Content: Procurement Guidance:

T3.6.1 - Small Business Development Program

Small Business Development

Section 3 : Prime Contracting with Small Business

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(8) There is no requirement to obtain the SBA's or Veteran Administration's approval to make award to the selected SDVOSB. However, unless the firm is designated as a SDVOSB on the VA website, the CO must not make an award to the firm as a SDVOSB.

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T3.6.1 - Small Business Development Program

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Section 6 : Business Declaration

Old Content: Procurement Guidance:

T3.6.1 - Small Business Development Program

Small Business Development

Section 6 : Business Declaration

a. To preserve the integrity and foster the objectives of the small business program, FAA must satisfy itself that the ownership, control, and day-to-day management requirements of the program are fulfilled. Each business claiming eligibility as a small business or small business owned and controlled by a socially and economically disadvantaged individual must be required to provide evidence of eligibility prior to award. The FAA reserves the right to review and verify each firm's program eligibility. If the firm is not a small business as defined by the North American Industry Classification (NAIC) code size standards, it will not qualify as a small business.

- b. For set-asides restricted to small businesses, very small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals (8(a) certified) and/or service-disabled veteran owned small businesses, the Business Declaration Form must be included in the SIR, and completed by each offeror.
- c. For unrestricted procurements, the successful offeror must complete and submit the Business Declaration Form to the CO.
- d. When subcontracting goals are established for small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals, small businesses owned and controlled by women, and service-disabled veteran owned small businesses, the prime contractor must obtain a completed Business Declaration Form for such small businesses counted toward the successful offeror's subcontracting goals.
- e. A successful small business program rests with FAA's ability to limit participation to bona fide small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals for they are the intended recipients of the agency's procurement dollars earmarked for small business set-asides.
- f. To that end, the business declaration is:
- (1) A tool used to ensure that the small business program benefits only those businesses that are bona fide small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals by establishing a basis for determining a firm's eligibility to participate in a small business set-aside;
 - (2) A tool used internally by contracting personnel, Small Business Development Program Group (SBDPG) and Small Business Liaison Representatives to accurately report awards made to small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals on the Major Procurement Program Goal (Accomplishments) Report; and
 - (3) A tool used to periodically conduct recertification of compliance with small business size standards on short-term contracts (not more than five years duration) in the event of a merger, acquisition, or novation and long-term contracts (more than five years duration). A contractor must rerepresent its size status according to the size standard in effect at the time of its rerepresentation that corresponds to the NAICS code that was initially assigned to the contract. The purpose of the rerepresentation is to improve the accuracy of small business size status reporting. If the contractor rerepresents that it is other than small, FAA may no longer include the value of options exercised or orders issued against the contract in its small business prime contracting goal achievements beginning October 1 of the fiscal year following the rerepresentation by amending the FDPS to reflect the new size status. It is the CO's discretion to exercise the option or terminate the contract taking into account the Government's need for continuity of operations,

potential costs of disrupting operations, and the impact on small business. A contractor's change in size status as a result of a rerepresentation requirement will have no effect on subcontracting plan requirements that were imposed, or not imposed, at the time of contract award. The rerepresentation should have no effect on the terms and conditions of a contract and a contracting officer is not required to terminate the contract when, as a result of a protest, the concern is found to be other than small. Blanket purchase agreements (BPAs) are not contracts and the representation of size status for purposes of options on BPA Orders and multi-year BPA orders is not required.

g. For the owner of the firm to be found to have controlling interest in the company, the following must exist:

- (1) The eligible owner holds the position of chairperson of the board, president or chief executive officer;
- (2) The eligible owner has the right to vote his or her shares or other equity interest to elect the majority of voting members of the board of directors or other governing body;
- (3) The eligible owner holds at least 51% unconditionally ownership and control of the operation;
- (4) The eligible owner has direct full-time responsibility for the day-to-day management of the business, as evidenced by all of the following:
 - (a) Directly related managerial or technical experience and competency;
 - (b) Establishment of company policies;
 - (c) Determination and selection of business opportunities;
 - (d) Supervision and coordination of projects;
 - (e) Control of major expenditures;
 - (f) Hiring and dismissing key personnel;
 - (g) Marketing and sales decisions; and
 - (h) Signature on major business documents.

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T3.6.1 - Small Business Development Program

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(3) A tool used to periodically conduct recertification of compliance with small business size standards on short-term contracts (not more than five years duration) in the event of a merger, acquisition, or novation and long-term contracts (more than five years duration). A contractor must rerepresent its size status according to the size standard in effect at the time of its rerepresentation that corresponds to the NAICS code that was initially assigned to the contract. The purpose of the rerepresentation is to improve the accuracy of small business size status reporting. If the contractor rerepresents that it is other than small, FAA may no longer include the value of options exercised or orders issued against the contract in its small business prime contracting goal achievements beginning October 1 of the fiscal year following the rerepresentation by amending the FDPS to reflect the new size status. It is the CO's discretion to exercise the option or terminate the contract taking into account the Government's need for continuity of operations, potential costs of disrupting operations, and the impact on small business. A contractor's change in size status as a result of a rerepresentation requirement will have no effect on subcontracting plan requirements that were imposed, or not imposed, at the time of contract award. The rerepresentation should have no effect on the terms and conditions of a contract and a contracting officer is not required to terminate the contract when, as a result of a protest, the concern is found to be other than small. Blanket purchase agreements (BPAs) are not contracts and the representation of size status for purposes of options on BPA Orders and multi-year BPA orders is not required.

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