

CHANGE REQUEST COVER SHEET

Change Request Number: 12-01

Date Received: 10/3/2011

Title: Service Disabled Veteran Owned Small Business Set Asides

Name: Eugene Scott

Phone: 202-493-4639

Policy OR Guidance: Guidance

Section/Text Location Affected: T3.6.1

Summary of Change: The change adds the express requirement that a joint venture that submits an offer for a Service Disabled Veteran Owned Small Business (SDVOSB) set aside acquisition must be identified as an SDVOSB by the Department of Veterans Affairs.

Reason for Change: To ensure that only legitimate SDVOSB entities are awarded contracts under a SDVOSB acquisition. This change is consistent with GAO protest decisions that interpret the Department of Veterans Affairs regulations.

Development, Review, and/or Concurrence: The document was reviewed by the Procurement Policy Team, Acquisition Program Specialist, Manager of Acquisition Policy and Office of Chief Counsel and ARC.

Target Audience: FAA Acquisition Workforce

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)

Links for New/Modified Forms (or) Documents (LINK 2)

Links for New/Modified Forms (or) Documents (LINK 3)

SECTIONS EDITED:

Procurement Guidance:

T3.6.1 - Small Business Development Program

Small Business Development

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

Procurement Guidance:

T3.6.1 - Small Business Development Program

Small Business Development

Section 9 : Joint Ventures [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

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, small businesses owned and controlled by socially and economically disadvantaged individuals, and service-disabled veteran owned small businesses:

(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. The CO must confirm with the responsible Business Opportunity Specialist at SBA that the offeror is in good standing with the 8(a) Program at the time of award. The CO should obtain Small Business Specialist contact information from the 8(a) offeror. There is no requirement for 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. The CO must verify the self-certification at: <http://www.vip.vetbiz.gov/>

(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.

(9) 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 <https://www.bpn.gov/ccr> 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.

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T3.6.1 - Small Business Development Program

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verify the self-certification at the Vendor Information pages, available from the [Small Business Development Office](#) website.

(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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Section 9 : Joint Ventures

Old Content: Procurement Guidance:

T3.6.1 - Small Business Development Program

Small Business Development

Section 9 : Joint Ventures

a. *Small Business Exception to Affiliation.* A joint venture of two or more business concerns may submit an offer as a small business without regard to affiliation provided that each concern is small under the size standard corresponding to the NAICS code assigned to the contract, provided:

(1) The procurement qualifies as a “bundled” requirement; or

(2) The procurement does not qualify as a “bundled” requirement, and:

(a) For a procurement having a receipts based size standard, the dollar value of the procurement, including options, exceeds half the size standard corresponding to the NAICS code assigned to the contract; or

(b) For a procurement having an employee-based size standard, the dollar value of the procurement, including options, exceeds \$10 million.

b. *Mentor-Protégé Exception to Affiliation.* A joint venture between a protégé firm and its approved mentor will be deemed small provided the protégé qualifies as small for the size standard corresponding to the NAIC code assigned to the procurement. SBA approved Mentor-Protégé joint ventures are not acceptable. However, FAA approved Mentor-Protégé Program joint ventures are acceptable.

c. *Subcontracting Limitations.* The subcontracting limitations specified in AMS Clause 3.6.1-7, Limitations on Subcontracting, are applicable to Small Business Joint Ventures. A joint venture awarded a contract as a prime contractor must perform work according to the conditions and percentages detailed in AMS Clause 3.6.1-7.

d. *Socially and Economically Disadvantaged Businesses (SEDB(8(a)) Exception to Affiliation.*

(1) If approved by the Small Business Administration (SBA), 8(a) participants may enter into joint venture agreement with one or more small business concerns, whether they be 8(a) participants or not, for the purpose of performing a specific 8(a) contract.

(2) A joint venture of at least one 8(a) concerns and one or more other business concerns may submit an offer as a small business for a competitive 8(a) procurement as long as each are considered small under the size standard corresponding to the NAIC code assigned to the SIR, provided:

(a) The size of at least one 8(a) Participant to the joint venture is less than one half the size standard corresponding to the NAIC code assigned to the contract; and

(b) For a procurement:

(i) Having a revenue-based size standard, the procurement exceeds half the size standard corresponding to the NAIC code assigned to the contract; or

(ii) Having an employee-based size standard, the procurement exceeds \$10 million.

(3) For single source and competitive 8(a) procurements that do not exceed the dollar levels identified above, an 8(a) Participant entering into a joint venture agreement with another concern is considered to be affiliated for size purposes with the other concern with respect to performance of the 8(a) contract. The combined annual receipts or employees of the concerns entering into the joint venture must meet the size standard for the NAIC code assigned to the 8(a) SIR or contract.

(e) Service-Disabled Veteran Owned Small Businesses (SDVOSB) Exception to Affiliation.

(1) An SDVOSB may enter into a joint venture agreement with one or more other small business concerns for the purpose of performing an SDVOSB contract.

(2) A joint venture of at least one SDVOSB and one or more other business concerns may enter submit an offer as a small business for a competitive SDVOSB procurement, so long as each concern is small under the size standard corresponding to the NAICS code assigned to the SIR, provided:

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(b) For a procurement having an employee-based size standard, the procurement exceeds \$10 million.

(3) For noncompetitive and competitive SDVOSB procurement that does not exceed the dollar level identified above, an SDVOSB entering into a joint venture agreement with another concern is considered to be affiliated for size purposes with the other concern with respect to performance of the SDVOSB contract. The combined annual receipts or

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New Content: Procurement Guidance:

T3.6.1 - Small Business Development Program

Small Business Development

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c. *Subcontracting Limitations.* The subcontracting limitations specified in AMS Clauses 3.6.1-7, Limitations on Subcontracting and 3.6.1-12 Notice of Service-Disabled Veteran Owned Small Business Set-Aside, are applicable to Small Business Joint Ventures. A joint venture awarded a contract as a prime contractor must perform work according to the conditions and percentages detailed in AMS Clause 3.6.1-7 or 3.6.1-12 as applicable.

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c. *Subcontracting ~~Limitations~~**Limitations**.* The subcontracting limitations specified in AMS ~~Clause~~**Clauses** 3.6.1-7, Limitations on Subcontracting **and 3.6.1-12 Notice of Service-Disabled Veteran Owned Small Business Set-Aside**, are applicable to Small Business Joint Ventures. A joint venture awarded a contract as a prime contractor must perform work according to the conditions and percentages detailed in AMS Clause 3.6.1-7 **or 3.6.1-12 as applicable**.

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