



**Federal Aviation
Administration**

Memorandum

Date of Issuance: January 26, 2023

To: AAQ, AAP, APM, and AFN

From: Nathan Tash, Deputy Assistant Administrator for Acquisition and Business Services, FAA Acquisition Executive (ACQ-1)

Subject: **INTERIM CHANGES TO AMS – Remove requirement that contractors be verified by the Department of Veterans Affairs and appear on the Veteran Affairs website for Service Disabled Veteran Owned Small Business (SDVOSB) set-asides and noncompetitive awards.**

1. **PURPOSE.** This Memorandum implements interim changes in the Federal Aviation Administration (FAA) Acquisition Management System (AMS) to support the FAA in continuing to utilize Service-Disabled Veteran-Owned Small Business (SDVOSB) competitive set-asides and noncompetitive awards and meet its SDVOSB prime contract goals.
2. **APPLICABILITY.** These interim changes to AMS affect contract awards and solicitations for acquisitions that may be awarded noncompetitively or set-aside competitively for award among SDVOSBs.

3. BACKGROUND. On January 1, 2023, the Small Business Administration (SBA) assumed responsibility for certification of SDVOSBs, transitioning the certification program from the Veteran Affairs (VA) Center for Verification and Evaluation (CVE).

In order to afford small businesses the time to amply submit applications to the SBA's new program and to allow time for resultant certifications to be completed, the SBA has effected a grace period. The grace period allows companies not yet certified under the newly implemented SBA program but self-certified in SAM.gov as SDVOSBs to remain eligible for set-asides through 2023.

While pursuant to 49 U.S.C. §40110(d), the FAA's AMS is exempt from and not subject to the SBA's new certification program, in order to maximize procurement flexibilities under the AMS, maintain the ability to set-aside opportunities and make noncompetitive awards to SDVOSBs, and to avoid potential concerns associated with

SDVOSB eligibility verification and reporting, the FAA will establish a similar grace period, where SDVOSBs may self-certify in SAM to remain eligible for set-asides through 2023.

Following this grace period, the FAA will review the SDVOSB certification process for potential revision to ensure appropriate eligibility for SDVOSB companies.

- 4. AMS INTERIM CHANGES AND EFFECTIVE DATE.** Interim changes to effect the aforementioned grace period to the AMS are contained in Attachment 1 of this Memorandum. **These changes are effective immediately and continue through calendar year 2023.** Interim changes are made to the following AMS sections and clauses:

AMS Guidance T3.6.1A.2 The FAA Small Business Program Liaison Representative Involvement (INTERIM-1/2023)

AMS Guidance T3.6.1A.3 Prime Subcontracting with Small Business (INTERIM-1/2023)

AMS Guidance T3.6.1.A.5 Size Standard Verification (INTERIM-1/2023)

AMS 3.2.2.7-7 Certification Regarding Responsibility Matters (INTERIM-1/2023)

AMS 3.3.1-33 System for Award Management (INTERIM-1/2023)

AMS 3.6.1-12 Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (INTERIM-1/2023)

AMS 3.6.1-16 Notice of Combined Set-Aside (INTERIM-1/2023)

As provided in Attachment 1, changes to Guidance and clauses are denoted by a yellow highlight. Note the text of Attachment 1 is limited to include only language affected by these interim changes. Non-applicable, unchanged Guidance subsections and paragraphs and unchanged clause paragraphs are omitted for clarity.

- 5. CONTACT FOR QUESTIONS.** Contracting Officers (COs), may forward questions to their management, who will respond or consult with AAQ/AAP management, as needed.

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Attachment 1: Interim Changes to AMS

ATTACHMENT 1: INTERIM CHANGES TO AMS

INTERIM REVISIONS TO AMS GUIDANCE

- **AMS Guidance T3.6.1.A.2 The FAA Small Business Program (AAP-20) and Liaison Representative Involvement (INTERIM-1/2023)**

j. Reviews annual representations and certifications and accompanying documentation using official records found on the System for Award Management (SAM);

- **AMS Guidance T3.6.1.A.3 Prime Contracting with Small Business (INTERIM-1/2023)**

b. Conducting set-asides with small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals (8(a) Certified), service-disabled veteran owned small businesses, Historically Underutilized Business Zone (HUBZone) small businesses, small disadvantaged businesses, and Women Owned Small Businesses:

[...]

(5) 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 complete the electronic annual representations and certifications via SAM at <https://www.sam.gov> to self-certify its eligibility;

(6) There is no requirement to obtain the SBA's or Veteran Administration's approval to make award to the selected SDVOSB;

- **AMS Guidance T3.6.1.A.3 Prime Contracting with Small Business (INTERIM-1/2023)**

c. Noncompetitive Awards to SEDB (8(a)), SDVOSB, HUBZone, WOSB, and EDWOSB Firms (see AMS Policy Section 3.6.1.3 for applicable thresholds). In addition to meeting eligibility requirements described above, a rational basis for the decision to award a noncompetitive SEDB (8(a)), SDVOSB, HUBZone, WOSB, or EDWOSB procurement must be documented. Procurement decision makers should consider potential SEDB (8(a)), SDVOSB, HUBZone, WOSB, or EDWOSB sources of supply contained in the Dynamic Small Business Search (DSBS), System for Award Management (SAM). The public announcement requirements of the AMS Section 3.2.1.3.11 are not applicable to noncompetitive awards to SEDB (8(a)), SDVOSB, HUBZone, WOSB, or EDWOSB firms if the product being procured is not available

from Federal Prison Industries.

There is no requirement to obtain the SBA's or Veteran Administration's approval to make award to the selected SDVOSB.

- **AMS Guidance T3.6.1.A.5 Size Standards Verification (INTERIM-1/2023)**

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, small business owned and controlled by a socially and economically disadvantaged individual (8(a) certified), service-disabled veteran-owned small business, HUBZone small business, economically disadvantaged women-owned small businesses, or women owned small business must be required to provide evidence of eligibility prior to award. Prospective contractors must complete electronic annual representations and certifications via SAM at <https://www.sam.gov> and as directed in Guidance subparagraph T3.6.1A3(b). 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 System (NAICS) code size standards, it will not qualify as a small business.

For set-asides restricted to small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals (8(a) certified), service-disabled veteran owned small businesses, HUBZone small businesses, economically disadvantaged women-owned small businesses, and/or women owned small businesses, verification will be performed using SAM. The contracting officer will reference the date of verification in the contract file. For agreements, the contractor retains eligible status for the term of the agreement. The contractor must recertify their business size prior to any extensions of the agreement including exercising an option period.

INTERIM REVISIONS TO AMS GUIDANCE

- **AMS Clause 3.2.2.7-7 Certification Regarding Responsibility Matters (INTERIM-1/2023)**

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that

(i) All representations and certifications, as reflected in the System for Award Management (SAM) are current and accurate as of the date the proposal/offer is submitted. The offeror must provide immediate written notice to the Contracting Officer if at any time prior to award the Offeror and/or any of its Principals learns that any certification or representation in SAM was erroneous when this proposal/offer was submitted or has become erroneous by reason of changed circumstances.

- **AMS Clause 3.3.1-33 System for Award Management (INTERIM-1/2023)**

(f) The Contractor is responsible for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document. If self-certified and registered in SAM as a Service-Disabled Veteran-Owned Small Business, by submission of an offer, the offeror represents that their self-certified status is current and accurate as of the date the proposal/offer is submitted.

- **AMS Clause 3.6.1-12 Notice of Service-Disabled Veteran Owned Small Business Set-Aside (INTERIM-1/2023)**

(d) A joint venture may be considered a service-disabled veteran owned small business concern if:

- (1) At least one member of the joint venture is a service-disabled veteran-owned small business concern, and makes the following representations: That it is a service-disabled veteran-owned small business concern, and that it is a small business concern under the North American Industry Classification Systems (NAICS) code assigned to the procurement;
- (2) Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement; and
- (3) The joint venture meets the Affiliation requirements of AMS.

- **AMS Clause 3.6.1-16 Notice of Combined Set-Aside (INTERIM-1/2023)**

(5) A joint venture may be considered to be both an eligible SDB and a SDVOSB concern if:

- (i) At least one member of the joint venture is a service-disabled veteran-owned small business concern, and makes the following representations: That it is a service-disabled veteran-owned small business concern, and that it is a small business concern under the North American Industry Classification Systems (NAICS) code assigned to the procurement;
- (ii) Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement;
- (iii) The joint venture is certified by the SBA for participation in the SBA's 8(a) program; and
- (iv) The joint venture meets the affiliation requirements of AMS.