



Federal Aviation Administration

Memorandum

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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 – Requiring Veteran Small Business Certification Program (VetCert) Certification for Service-Disabled Veteran-Owned Small Businesses**

1. **PURPOSE.** This Memorandum implements Interim Changes to the Acquisition Management System (AMS) to require Service-Disabled Veteran-Owned Small Businesses (SDVOSBs) to be certified by the Small Business Administration's (SBA's) Veteran Small Business Certification Program (VetCert) in order to be eligible for FAA procurements awarded noncompetitively or set-aside competitively for award among SDVOSBs.
2. **APPLICABILITY.** These Interim Changes to AMS apply to all Screening Information Requests (SIRs) for acquisitions that may be awarded noncompetitively or set-aside competitively for award among SDVOSBs, of which:
 - Are released on or after January 1, 2024; or
 - Are open and have not received proposals as of January 1, 2024.
3. **BACKGROUND.** On January 1, 2023, the SBA assumed responsibility for certifying SDVOSBs, transitioning the certification program from the Veteran Affairs (VA) Center for Verification and Evaluation.

In order to afford small businesses the time to submit applications to the SBA's new program and to allow time for resultant certifications to be completed, the SBA effected a grace period. The one-year grace period allowed firms not yet certified under the newly implemented SBA program but self-certified in the System for Award Management (SAM) as SDVOSBs, to remain eligible for set-asides through the 2023 calendar year.

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. However, notwithstanding this independent acquisition authority, in order to maximize procurement flexibilities under the AMS, make noncompetitive awards to SDVOSBs and maintain the ability to set-aside opportunities to SDVOSBs, and to avoid potential concerns associated with SDVOSB eligibility verification and reporting, the FAA determined it would begin verifying SDVOSBs using

VetCert. In making this determination, via an FAA Acquisition Executive (FAE) Memorandum dated January 26, 2023, the FAA likewise implemented a one-year grace period that allowed SDVOSBs to self-certify in SAM to remain eligible for FAA procurements awarded noncompetitively or set-aside competitively for award among SDVOSBs.

4. **LAPSE OF GRACE PERIOD AND VetCert REQUIREMENT.** As the one-year grace period will lapse with the conclusion of the 2023 calendar year, beginning January 1, 2024, only SDVOSBs who are certified under VetCert will be eligible for FAA procurements awarded noncompetitively or set-aside competitively for award among SDVOSBs. Firms not yet certified under the VetCert program and seeking eligibility for such FAA contracting opportunities should access <https://veterans.certify.sba.gov/> to submit an application.
5. **INTERIM CHANGES.** This requirement is implemented to the AMS via the Interim Changes set forth in Attachment 1 of this Memorandum. The following AMS Guidance subsections and clauses are revised accordingly:

AMS Guidance (INTERIM 1/2024)

T3.6.1A.2	The FAA Small Business Program Liaison Representative Involvement
T3.6.1A.3	Prime Contracting with Small Business
T3.6.1A.5	Size Standard Verification

AMS Clauses (INTERIM 1/2024)

3.2.2.7-7	Certification Regarding Responsibility Matters
3.3.1-33	System for Award Management
3.6.1-12	Notice of Service-Disabled Veteran-Owned Small Business Set-Aside
3.6.1-16	Notice of Combined Set-Aside

6. **EFFECTIVE DATE and EXPIRATION.** These Interim Changes, effective January 1, 2024, exist until their permanent implementation to the AMS or they are otherwise rescinded.
7. **CONTACT FOR QUESTIONS.** Contracting Officers 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

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INTERIM REVISIONS TO AMS GUIDANCE (INTERIM-1/2024)

1. ***AMS Guidance T3.6.1A.2 The FAA Small Business Program (AAP-20) and Liaison Representative Involvement, paragraph j. is revised to read as follows:***

j. Reviews annual representations and certifications and accompanying documentation using official records found on registries including the System for Award Management (SAM) and the Small Business Administration's Veteran Small Business Certification Program (VetCert);

2. ***AMS Guidance T3.6.1A.3 Prime Contracting with Small Business, paragraph b. is revised to read as follows:***

b. The process of 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 (SDVOSBs), Historically Underutilized Business Zone (HUBZone) small businesses, small disadvantaged businesses (SDBs), and Women Owned Small Businesses (WOSBs) is subject to the following criteria:

[...]

(5) Procurements may be set-aside exclusively for competitive award among SDVOSBs as defined by 38 U.S.C. 101. Each firm claiming SDVOSB status must be certified under the Small Business Administration's Veteran Small Business Certification Program (VetCert) at the time of offer;

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

[...]

3. ***AMS Guidance T3.6.1A.3 Prime Contracting with Small Business, paragraph c. is revised to read as follows:***

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), and System for Award Management (SAM). The public announcement requirements of AMS Policy 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 approval to make a noncompetitive award to a selected SDVOSB. However, such awards may only be made if the offeror was certified under the VetCert program at the time of offer.

4. *AMS Guidance T3.6.1A.5 Size Standards Verification, paragraph a. is revised to read as follows:*

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 applicable electronic annual representations and certifications as described in T3.6.1A.3.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), HUBZone small businesses, economically disadvantaged women-owned small businesses, and/or women owned small businesses, verification will be performed using SAM. For set-asides restricted to service-disabled veteran-owned small businesses, verification will be performed using Small Business Administration's Veteran Small Business Certification Program (VetCert). 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 extensions made pursuant to the exercising of an option period.

INTERIM REVISIONS TO AMS CLAUSES (INTERIM-1/2024)

5. *AMS Clause 3.2.2.7-7 Certification Regarding Responsibility Matters, paragraph a. is revised to read as follows:*

(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. If the Offeror

represents itself as an SDVOSB, the Offeror certifies it is certified as an SDVOSB under the Small Business Administration's Veteran Small Business Certification Program (VetCert) at the time of offer. 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 or on VetCert was erroneous when this proposal/offer was submitted or has become erroneous by reason of changed circumstances.

[...]

6. AMS Clause 3.3.1-33 System for Award Management, paragraph f. is revised to read as follows:

(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 registered in SAM as a Service-Disabled Veteran-Owned Small Business (SDVOSB), by submission of an offer, the offeror acknowledges that they are certified as an SDVOSB under the Small Business Administration's Veteran Small Business Certification Program (VetCert).

7. AMS Clause 3.6.1-12 Notice of Service-Disabled Veteran-Owned Small Business Set-Aside paragraph d. is revised to read as follows:

(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 certified as a service-disabled veteran-owned small business concern under the Small Business Administration's Veteran Small Business Certification Program (VetCert), and the respective firm 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.

8. AMS Clause 3.6.1-16 Notice of Combined Set-Aside, paragraph c. is revised to read as follows:

(c) For all combined set-asides having SDVOSBs as one of the specified categories, the SDVOSB agrees that in the performance of the contract, in the case of a contract for:

[...]

(5) A joint venture, that the joint venture may be considered to be both an eligible SDB and an SDVOSB if:

(i) At least one member of the joint venture is certified by the Small Business Administration's Veteran Small Business Certification Program (VetCert) as an SDVOSB, and the respective member represents 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.