

## 19.1405 Set-aside procedures.

(a) The *contracting officer*—

- (1) *Shall* comply with [19.203](#) before deciding to set aside an *acquisition* under the SDVOSB Program;
- (2) *May* set-aside *acquisitions* exceeding the *micro-purchase threshold* for competition restricted to SDVOSB *concerns* when the requirements of paragraph (b) of this section can be satisfied; and
- (3) *Shall* consider SDVOSB set-asides before considering SDVOSB sole source awards (see [19.1406](#)) or small business set-asides (see subpart [19.5](#)).

(b) A *contracting officer* *may* restrict competition to SDVOSB *concerns* eligible under the SDVOSB Program if there is a reasonable expectation based on *market research* that—

- (1) Two or more SDVOSB *concerns* eligible under the SDVOSB Program will submit *offers*; and
- (2) Award will be made at a *fair market price*.

(c) Effective January 1, 2024, the *contracting officer* *shall*—

- (1) Verify that *offers* received are eligible for consideration for award by checking if the *offeror*—
  - (i) Is designated in SAM as an SDVOSB *concern* certified by SBA; or
  - (ii) Has represented that it is an SDVOSB *concern* in SAM and submitted an application for certification to SBA on or before December 31, 2023. Pending applications for certification are in the SBA Veteran Small Business Certification database at <https://veterans.certify.sba.gov>;
- (2) Proceed with the *offer* evaluation, if the *offeror* meets the criteria in paragraph (c)(1)(i) or (ii) of this section; or
- (3) Remove the *offeror* from consideration, if the *offeror* does not meet the criteria in paragraph (c)(1)(i) or (ii) of this section, as the *offeror* is not eligible for award.

(d) If the *contracting officer* receives only one acceptable *offer* from an SDVOSB *concern* eligible under the SDVOSB Program in response to a set-aside, the *contracting officer* *should* make an award to that *concern*. If the *contracting officer* receives no acceptable *offers* from SDVOSB *concerns* eligible under the SDVOSB Program, the SDVOSB set-aside *shall* be withdrawn and the requirement, if still valid, set aside for small business *concerns*, as appropriate (see [19.203](#)).

(e) The procedures at [19.202-1](#) and, except for *acquisitions* not exceeding the *simplified acquisition threshold*, at [19.402](#) apply to this section. When the SBA intends to appeal a *contracting officer's* decision to reject a recommendation of the SBA *procurement* center representative (or, if a *procurement* center representative is not assigned, see [19.402\(a\)](#)) to set aside an *acquisition* for competition restricted to SDVOSB *concerns*, the SBA *procurement* center representative *shall* notify the *contracting officer*, *in writing*, of its intent within 5 working days of receiving the *contracting officer's* notice of rejection. Upon receipt of notice of SBA's intent to appeal, the *contracting officer* *shall* suspend action on the *acquisition* unless the *head of the contracting activity* makes a written

determination that urgent and compelling circumstances, which significantly affect the interests of the Government, exist. Within 15 working days of SBA's notification to the *contracting officer*, SBA *shall* file its formal appeal with the *head of the contracting activity*, or that agency *may* consider the appeal withdrawn. The *head of the contracting activity shall* reply to SBA within 15 working days of receiving the appeal. The decision of the *head of the contracting activity shall* be final.

**Parent topic:** Subpart 19.14 - Service-Disabled Veteran-Owned Small Business Program