

Date: 01/14/2013

From: Deputy Assistant Secretary for Acquisition and Logistics (003A)

Subj: VA PROCUREMENT POLICY MEMORANDUM (PPM) (2013-01) Sole Source Contracting under Title 38, U.S.C. Sections 8127 and 8128, enacted as part of the Veterans Benefits, Health Care and Information Technology Act of 2006 (VAIQ #7247308)

To: See Distribution

1. **Purpose.** This Procurement Policy Memorandum (PPM) promotes source competition when awarding actions under Title 38, United States Code (U.S.C.) Sections 8127 and 8128, the Veterans Benefits, Health Care and Information Technology Act of 2006.
2. **Background.** Title 38 U.S.C. 8127 (b), (c) and (d) provide the authority for Department of Veterans Affairs (VA) contracting officers (COs) to make awards to service-disabled Veteran-owned small business (SDVOSB) and Veteran-owned small business (VOSB) firms using other than full and open competition when certain conditions are met. Since the law's passage, VA COs have successfully awarded actions to these entities and a robust cadre of SDVOSB and VOSB firms exist in numerous business categories. Accordingly, the existence of many sources provides VA opportunities to compete requirements among SDVOSBs and VOSBs resulting in significant cost and price savings.
3. **Applicability.** This applies to all acquisitions procured under Title 38, U.S.C. Sections 8127 and 8128, enacted as part of the Veterans Benefits, Health Care and Information Technology Act of 2006.
4. **Action.** To promote competition among SDVOSB and VOSB firms:
 - a. COs shall obtain competition to the maximum extent practicable when contracting with SDVOSBs and VOSBs. While COs may use other than full and open competition when awarding to SDVOSB and VOSB firms under this authority, the focus should be on competing requirements among SDVOSBs and VOSBs to achieve a fair and reasonable price. For all requirements in excess of the simplified acquisition threshold, VA COs shall consider using the competitive set-aside procedures in VA Acquisition Regulation (VAAR) 819.7005 or 819.7006, as appropriate, if the market research required by VAAR Part 810 shows a reasonable expectation that offers will be received from two or more eligible firms and award will be made at a fair and reasonable price.

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- b. COs may use the sole source procedures authorized in VAAR 819.7007 or 819.7008 up to \$5,000,000, as appropriate, subject to the review and approval of the designated procurement official outlined in Table 806.304-1 at VAAR 806.304.

The sole source justification must comply with the format requirements at FAR 6.303-2.

Specific attention should be given to the requirements outlined in FAR 6.303-2 subparagraphs (b)(5), (b)(6), (b)(7), (b)(8), (b)(10) and (b)(11) to maximize efforts to increase competition. The justification shall include:

- (1) the number of SDVOSBs and VOSBs reviewed;
- (2) an explanation why only one of the firms can accomplish the requirement;
- (3) documentation of the basis of price reasonableness;
- (4) an explanation for finding the sole source procurement is in the best interest of the government; and
- (5) an explanation for selection of the contractor, which will allow the approving official to make a reasonable determination regarding whether a sole source procurement is appropriate.

Table 806.304-1 provides the approval authorities:

(Note: Partial table is included because sole source authority under the Veterans First program is limited to procurements up to \$5,000,000.)

Proposed contract amount (Dollar values based on revised values in FAR 6.304)	Approving authority	Alternate approving authority
(1) Up to simplified acquisition threshold (SAT)	The contracting officer, as provided in FAR 6.304(a)(1)	Not applicable
(2) SAT to \$650,000	One level above the contracting officer (refer to Deviation – FAR 6.304(a)(1) and VAAR 819.7007(b) and 819.7008(b))	Not applicable
(3) Over \$650,000 but not exceeding \$12.5 million	Contracting Activity Competition Advocate (see 806.501(b) and (c)) unless that Advocate is the contracting officer.	The Agency Competition Advocate (see 806.501(a))

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In addition to the sole source justification, the CO must document the description of supplies or services required (including the estimated value) and requisite information from the sole source justification on VA Form 2268, Procurement Request for the Small Business Program and Contract Bundling. COs submit the completed VA Form 2268 to the VA Office of Small and Disadvantaged Business Utilization for review and approval. The CO shall make the justification publically available in accordance with FAR 6.305(d), by posting the justification at the Government Point of Entry.

5. Questions and concerns should be addressed to the Office of Acquisition and Logistics (003A), Procurement Policy and Warrant Management Service (003A2A), at 202-461-6918, or via email at: VA.Procurement.Policy@va.gov.

/s/Jan R. Frye

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