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Part 808 - Required Sources of Supplies and Services

AUTHORITY: 38 U.S.C. 8127 and 8128; 40 U.S.C. 121(c) and (d); and 48 CFR 1.301-1.304.

[Deviation per [Class Deviation](#)—Veterans First Contracting Program (VFCP 2016), dated July 25, 2016, Attachment 4, rescinds class deviation—VAAR part 808 dated May 5, 2016, and deviates from the existing eCFR VAAR. It moves VA mandatory contract vehicles to VAAR 808.004-70 as non-mandatory, while retaining priority over other existing contract vehicles. This class deviation also adds VAAR 808.002, 808.004-70, 808.404-70, 808.405-2 and 808.405-70 to fully implement the Veterans First Contracting Program as it relates to VAAR part 808, Required Sources of Supplies and Services including the Federal Supply Schedules (see Attachment 4). This deviation is effective until incorporated in the VAAR or the VAAM or is otherwise rescinded.]

[Deviation per [Class Deviation](#) (Revised)—Implementation of the Veterans First Contracting Program (VFCP) as a Result of the U.S. Supreme Court Decision, dated 1 March 2017, Attachment 4, Amendment 01, amends “Attachment 4” of the previous deviation, VAAR 808.002, Priorities for use of mandatory Government sources, in relation to the VFCP, to provide further clarification, authority, and guidance to contracting officers pertaining to VAAR 808.002 only. The remainder of the VFCP 2016 Class Deviation, Attachment 4, remains in effect.]

808.002 Priorities for use of mandatory Government sources.

(a)(1) Supplies.

(i) VA inventories including the VA supply stock program (41 CFR 101-26.704) and VA excess.

(ii) Excess from other agencies (see [FAR subpart 8.1](#)).

(iii) Federal Prison Industries, Inc. (see [FAR subpart 8.6](#) and [VAAR 808.603](#)).

(iv) Supplies on the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled, known as AbilityOne ([FAR subpart 8.7](#)).

(A) Supplies on the Procurement List are mandatory only if:

(1) The supplies were added to the Procurement List prior to January 7, 2010, and the date the supplies were added is readily available; or

(2) The supplies were added to the Procurement List on or after January 7, 2010, the VA Rule of Two (see VAAR Class Deviation [802.101](#) definition) was applied prior to the addition of the supplies to the Procurement List, and that information is readily available.

(B) The VA Rule of Two must be applied prior to VA requesting addition of new supplies to the Procurement List. On or after January 7, 2010, if supplies were added to the Procurement List at the request of an agency other than the VA, the VA Rule of Two will be applied prior to VA purchasing the supplies from the Procurement List.

(C) When the VA Rule of Two is not satisfied and award to eligible SDVOSBs/VOSBs (pursuant to [VAAR subpart 819.70](#)) will not occur, the priority use of AbilityOne in accordance with [FAR 8.002](#) applies.

(v) Wholesale supply sources, such as stock programs of the General Services Administration (GSA) (see 41 CFR 101-26.3), the Defense Logistics Agency (see 41 CFR 101-26.6), and military inventory control points.

(2) Services. Services on the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled, known as AbilityOne ([FAR subpart 8.7](#)).

(A) Services on the Procurement List are mandatory only if:

(1) The services were added to the Procurement List prior to January 7, 2010, and the date the services were added is readily available; or

(2) The services were added to the Procurement List on or after January 7, 2010, the VA Rule of Two was applied prior to the addition of the services to the Procurement List, and that information is readily available.

(B) The VA Rule of Two must be applied prior to VA requesting addition of new services to the Procurement List. On or after January 7, 2010, if services were added to the Procurement List at the request of an agency other than the VA, the VA Rule of Two will be applied prior to VA purchasing the services from the Procurement List.

(C) When the VA Rule of Two is not satisfied and award to eligible SDVOSBs/VOSBs (pursuant to [VAAR subpart 819.70](#)) will not occur, the priority use of AbilityOne in accordance with [FAR 8.002](#)

applies.

(b) *Unusual and compelling urgency.* The contracting officer may use a source lower in priority than as specified in [FAR 8.002](#) and VAAR 808.002 when the need for supplies or services is of an unusual and compelling urgency (see [FAR 6.302-2](#) and [FAR 8.405-6](#)).

(c) The statutory obligation for Government agencies to satisfy their requirements for supplies or services available from the Committee for Purchase From People Who Are Blind or Severely Disabled also applies when contractors purchase the supplies or services for Government use.

[Deviation per [Class Deviation](#)—Veterans First Contracting Program (VFCP 2016), dated July 25, 2016, Attachment 4, rescinds class deviation—VAAR part 808 dated May 5, 2016, and deviates from the existing eCFR VAAR. It moves VA mandatory contract vehicles to VAAR 808.004-70 as non-mandatory, while retaining priority over other existing contract vehicles. This class deviation also adds VAAR 808.002, 808.004-70, 808.405-70, 808.405-2 and 808.405-70 to fully implement the Veterans First Contracting Program as it relates to VAAR part 808, Required Sources of Supplies and Services including the Federal Supply Schedules (see Attachment 4). This deviation is effective until incorporated in the VAAR or the VAAM or is otherwise rescinded.]

808.004-70 Use of non-mandatory sources by VA.

(a) In order to fulfill the requirements of 38 U.S.C. 8127 and 8128 (see subpart [819.70](#)), contracting officers shall award contracts (see [FAR 2.101](#) for the definition of contracts), including Blanket Purchase Agreements (BPAs) and orders against Federal Supply Schedules (FSS) and provide priority in the awarding of contracts to verified SDVOSBs or VOSBs. Contracting officers shall ensure priorities for Veteran-owned small businesses are implemented within the VA hierarchy of small business program preferences in subpart [819.70](#).

(b) *VA strategic sourcing priorities and application of the VA Rule of Two.* To provide medical supplies in Federal Supply Classification (FSC) groups 65 and 66 efficiently and effectively the VA, through previous reform initiatives, has implemented key strategic sourcing contract vehicles (prime-vendor and VA FSS). Contracting officers shall consider the prime-vendor and VA FSS contract vehicles before using other existing contract vehicles.

(c) When considering set-asides for verified SDVOSBs/VOSBs against existing contract vehicles, contracting officers shall-

(1) Search the VIP database by applicable North American Industry Classification System (NAICS) code(s);

(2) Determine if two or more verified SDVOSBs/VOSBs are listed by the NAICS code(s);

(3) Determine if identified SDVOSBs or VOSBs are capable of performing the work and likely to submit an offer/quote at a fair and reasonable price that offers best value to the Government.

(4) If criteria in (c)(1-3) are met, and if the existing contract vehicle represents, in the judgement of the contracting officer, the best business choice, the contracting officer shall set aside the requirement in the contracting order of priority (see [819.7005](#) and [819.7006](#)) using the applicable provision and clause at [819.7009](#).

(5) If the contracting officer determines existing contract vehicles are not suitable for award of a set-aside, an open market set-aside should be pursued.

Subpart 808.4 - Federal Supply Schedules

808.402 General.

The Executive Director and Chief Operating Officer, VA National Acquisition Center, advertises, negotiates, awards, administers, and issues the Federal Supply Schedules for Federal Supply Classification Groups 62, 65, and 89 and for cost-per-test services under Group 66.

[Deviation per [Class Deviation](#)-Veterans First Contracting Program (VFCP 2016), dated July 25, 2016, rescinds class deviation—VAAR part 808, dated May 5, 2016, and moves VA mandatory contract vehicles to VAAR 808.004-70 as non-mandatory, while retaining priority over other existing contract vehicles. This class deviation adds VAAR 808.002, 808.004-70, 808.404-70, 808.405-2, 808.405-70 and 808.405-5-70 to fully implement the Veterans First Contracting Program as it relates to VAAR part 808, Required Sources of Supplies and Services including the Federal Supply Schedules.]

808.404-70 Use of Federal Supply Schedules—the Veterans First Contracting Program.

(a) General. The Veterans First Contracting Program implemented in subpart [819.70](#) pursuant to 38 U.S.C 8127 and 8128 applies to VA contracts, BPAs, and orders under [FAR 8.4](#) and has precedence over other small business programs.

(b)(1) Contracting officers, when establishing a BPA or placing an order against the FSS, shall ensure that priorities for Veteran-owned small businesses are implemented within the VA hierarchy of small business program preferences in subpart [819.70](#). Specifically, the contracting officer will consider preferences for verified SDVOSBs first, then preferences for verified VOSBs. These priorities will be followed by preferences for other small businesses in accordance with [FAR 19.203](#), [819.203-70](#) and [819.7004](#).

(2) Set-asides for verified SDVOSBs and VOSBs are mandatory whenever a contracting officer has a reasonable expectation of receiving two or more offers at a fair and reasonable price that offers best value to the Government. This mandate applies to contracting officers issuing BPAs and placing orders against the FSS. Because only verified SDVOSBs and VOSBs can participate on such set-asides, the contracting officer should start by reviewing verified firms in the VIP database, then determine if there is an existing contract vehicle (with priority preference for VA prime-vendor, national and VA FSS contracts) that is most appropriate. The VA Rule of Two for SDVOSBs and VOSBs, in that order, shall be applied in all instances. A set-aside restricted to verified SDVOSBs or VOSBs under [819.70](#) satisfies the competition requirement in the [FAR](#).

(c) When the servicing agency will award contracts under an interagency agreement on behalf of the VA, the contracting officer shall ensure the interagency acquisition complies with [FAR subpart 17.5](#) and subpart [817.5](#) and includes terms requiring compliance with the VA Rule of Two (see [817.501](#)).

808.405-2 Ordering procedure for services requiring a statement of work.

See 808.405-70 for SDVOSB/VOSB set-aside requirements and the use of evaluation preferences when a set aside is not feasible.

808.405-5-70 Small business set-asides—the Veterans First Contracting Program.

When issuing BPAs or placing orders against the FSS, the contracting officer shall restrict competition to small businesses owned and controlled by Veterans, when market research provides the contracting officer with a reasonable expectation of receiving two or more offers/quotes from verified SDVOSBs or VOSBs and award can be made at a fair and reasonable price that offers best value to the Government.

808.405-70 VA Rule of Two ordering procedures for Federal Supply Schedules—the Veterans First Contracting Program.

Contracting officers shall use the supplemental ordering procedures of this section when establishing a BPA or placing an order for supplies or services. When a policy in another part of the FAR is inconsistent with a policy in this part and [FAR 8.405](#), this subpart 808.4 shall take precedence for acquisitions against the FSS.

(a) Pursuant to 38 U.S.C. 8127, contracting activities shall set aside BPAs and orders for SDVOSBs or VOSBs when indicated by market research. The set-aside authorities of [819.7005](#) and [819.7006](#) are mandatory whenever the contracting officer has a reasonable expectation of receiving two or more competitive offers/quotes at fair and reasonable prices that offer best value to the Government from SDVOSBs or VOSBs listed as verified in the VIP database.

(1) When setting aside BPAs and orders against the FSS, the eligibility requirements of [819.7003](#), [819.7005](#), and [819.7006](#) apply, including the requirement for offerors to be verified to submit offers/quotes or receive awards. To ensure fair and reasonable prices that offer best value to the Government and compliance with other requirements, the contracting officer shall-

(i) Notify potential offerors of the unique VA verification requirements by including the applicable set-aside clause prescribed at [819.7009](#).

(ii) Post the RFQ on e-Buy to afford all verified SDVOSB or VOSB schedule contractors, depending on the set-aside, offering the required supplies or services under the appropriate multiple award schedule(s) an opportunity to submit a quote; or

(iii) Provide the RFQ to as many verified SDVOSB or VOSB schedule contractors as practicable, depending on the set-aside, consistent with market research appropriate to the circumstances. The requirements in [FAR 8.405-1](#), [8.405-2](#) and [8.405-3](#), apply, except only verified SDVOSBs or VOSBs, will be considered.

(b) Pursuant to 38 U.S.C. 8128 and to the extent that market research does not support an SDVOSB or VOSB set-aside, the contracting activity shall give priority to SDVOSBs/VOSBs through the use of evaluation preferences, as provided in [815.304](#). The contracting activity, when developing a statement of work and any evaluation criteria in addition to price, shall adhere to and apply the evaluation factor commitments at [815.304-70](#).

Subpart 808.6 - Acquisition From Federal Prison Industries, Inc. (FPI)

808.603 Purchase Priorities.

Contracting officers may purchase supplies and services produced or provided by FPI from eligible

servicedisabled veteran-owned small businesses and veteran-owned small businesses, in accordance with procedures set forth in subpart [819.70](#), without seeking a waiver from FPI, in accordance with 38 U.S.C. 8128, Small business concerns owned and controlled by veterans: Contracting priority.

Subpart 808.8 - Acquisition of Printing and Related Supplies

808.802 Policy.

The Director, Publications Staff, Office of Acquisition and Materiel Management, VA Central Office, is the Central Printing Authority for VA (see [FAR 8.802\(b\)](#)).