

Date: July 25, 2016

From: Acting Deputy Senior Procurement Executive

Subj: Class Deviation—Implementation of the Veterans First Contracting Program as a Result of the U.S. Supreme Court Decision (Class Deviation—Veterans First Contracting Program (VFCP 2016))

To: VA Heads of Contracting Activities (HCAs)

1. **Purpose:** This class deviation includes changes to the Veterans Affairs Acquisition Regulation (VAAR) to amend the implementation of the Veterans First Contracting Program consistent with the decision of the United States Supreme Court in *Kingdomware Technologies, Inc. v. United States*, June 16, 2016.

2. **VAAR Parts Impacted:** VAAR 802, 804, 806, 808, 810, 812, 813, 817, 819, 852, and 873. This class deviation supersedes Class Deviation—VAAR 808 dated May 5, 2016.

3. **Effective Date/Expiration Date:** Effective immediately and expires when incorporated in the VAAR or the VA Acquisition Manual (VAAM) or is otherwise rescinded.

4. **Applicability:** This class deviation applies to all VA contracts (see definition of contract at FAR 2.101). Additionally, this deviation applies to contracts conducted by VA or on behalf of VA, using interagency acquisitions in accordance with FAR subpart 17.5, VAAR subpart 817.5, and FAR 8.404(b)(2), and any other arrangement with any governmental entity to acquire goods and services by contract on behalf of the VA.

5. **Background:** On June 16, 2016 the Supreme Court held that 38 U.S.C. 8127(d) applies to all contracts including Blanket Purchase Agreements (BPAs) and orders placed against the Federal Supply Schedule (FSS) contracts. The Court also held the “rule of two” contracting procedures in section 8127(d) are not limited to those contracts necessary to fulfill the Secretary’s goals.

6. **Need for Deviation:** Full implementation of the Supreme Court’s decision in *Kingdomware* requires a class deviation, in accordance with FAR 1.404 and VAAR 801.404, to revise affected parts of the VAAR. Attachments 1 - 11 include revised VAAR parts 802, 804, 806, 808, 810, 812, 813, 817, 819, 852, and 873.

**7. Current and New Policy:** This section provides highlights of current and new policy for affected VAAR parts and sections.

**a. Definitions of Words and Terms. (Attachment 1—VAAR part 802)**

1) **Current Policy:** Definition section of VAAR excludes some definitions necessary to implement the Veterans First Contracting Program. In addition, some definitions need revisions in order to reflect the Veterans First Contracting Program.

2) **New Policy:** New definitions were added and some definitions are revised to define words and phrases unique to the Veterans First Contracting Program. Therefore, this class deviation changes VAAR 802.101 as follows:

- Adds the definition for *Public Law (Pub. L.) 109-461*;
- Replaces the definition for *Service-disabled veteran-owned small business (SDVOSB)*;
- Adds the definition for *VA Rule of Two*;
- Replaces the definition for *Vendor Information Pages (VIP)*;
- Adds the definition for *Veterans First Contracting Program*; and
- Replaces the definition for *Veteran-owned small business (VOSB)*.

**b. Administrative Matters. (Attachment 2—VAAR part 804)**

1) **Current Policy:** VAAR 804.1102 is deleted and replaced by VAAR 804.1103-70 Vendor Information Pages (VIP) database to align with FAR 4.1103.

2) **New Policy:** Requires service-disabled veteran-owned small businesses and veteran-owned small businesses to be listed as verified in the Vendor Information Pages (VIP) database to receive awards under the Veterans First Contracting Program. Therefore, this class deviation adds VAAR 804.1103-70.

**c. Competition Requirements. (Attachment 3—VAAR part 806)**

1) **Current Policy:** Use of multiple award schedules for the multiple award schedule program of the General Services Administration (GSA) is a competitive procedure.

2) **New Policy:** Awards made using the multiple award schedules program of the GSA, including the VA Federal Supply Schedule Program, are competitive. When a set-aside is restricted to verified SDVOSBs or VOSBs according to the authorities of 819.7005 and 819.7006, such awards constitute full and open competition, after exclusion of sources pursuant to 38 U.S.C. 8127. Therefore, this class deviation adds the following sections to VAAR part 806:

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- VAAR 806.102;
- VAAR 806.203-70; and
- VAAR 806.302-5-70.

**d. Required Sources of Supplies and Services. (Attachment 4—VAAR part 808)**

1) **Current Policy:** VAAR 808-002-70, per class deviation dated May 5, 2016, includes VA prime-vendor, national and VA FSS contracts as mandatory sources. There is no VAAR 808.004 to address non-mandatory sources. There is no current VAAR subpart 808.4 language implementing the Veterans First Contracting Program to the Federal Supply Schedules.

2) **New Policy:** This class deviation 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, 808.405-70, 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.

**e. Market Research. (Attachment 5—VAAR part 810)**

1) **Current Policy:** When conducting market research, VA contracting teams shall use the VIP database, at <http://www.VetBiz.gov>, in addition to other sources of information.

2) **New Policy:** The Veterans First Contracting Program applies to all VA contracts and takes precedence over other small business programs. This class deviation also provides an updated website for the VIP database. This class deviation adds this new policy at VAAR 810.001-70.

**f. Acquisition of Commercial Items. (Attachment 6—VAAR part 812)**

1) **Current Policy:** When a policy in another part of the VAAR differs from a policy in VAAR part 812, part 812 applies to the acquisition of commercial items.

2) **New Policy:** If the policy in VAAR part 812 differs from the policy in VAAR subpart 819.70, the policies in VAAR subpart 819.70 apply. This class deviation adds this new policy at VAAR 812.102-70.

**g. Simplified Acquisition Procedures. (Attachment 7—VAAR part 813)**

1) **Current Policy:** Agencies shall use simplified acquisition procedures to the maximum extent practicable for all purchases of supplies or services not exceeding the simplified acquisition threshold (including purchases at or below the micro-purchase threshold).

2) **New Policy:** The Veterans First Contracting Program in VAAR subpart 819.70 applies to VA contract actions under VAAR part 813 and has precedence over other small business programs in FAR part 19. Therefore, this class deviation changes VAAR part 813 as follows:

- Adds VAAR 813.003-70;
- Adds VAAR 813.102;
- Replaces VAAR 813.106-70; and
- Replaces VAAR 813.203.

**h. Special Contracting Methods. (Attachment 8—VAAR part 817)**

1) **Current Policy:** Any contract, memorandum of understanding, agreement, or other arrangement with any governmental entity to acquire goods and services, shall include in such contract, memorandum, agreement, or other arrangement a requirement that the entity will comply, to the maximum extent feasible, with the provisions of 38 U.S.C. 8127 and 8128. Nothing in VAAR 817.501 shall be construed to supersede or otherwise affect the authorities provided under the Small Business Act.

2) **New Policy:** As a result of updates to FAR subpart 17.5, VAAR 817.502 is not aligned with FAR 17.502. Any agreement or other arrangement with any governmental entity to acquire goods and services on behalf of VA by contract, shall comply with the Veterans First Contracting Program. Contracting officers shall award contracts to verified and qualified SDVOSBs and VOSBs included in the VIP database. This class deviation replaces the language in VAAR 817.502 in its entirety and renumbers this section as 817.501.

**i. Small Business Programs. (Attachment 9—VAAR part 819)**

1) **Current Policy:** VAAR subpart 819.70 implements 38 U.S.C. 8127 and 8128 as the Veterans First Contracting Program.

2) **New Policy:** Amends implementation of the Veterans First Contracting Program to include emphasizing attainment of the Secretary's annual goals for SDVOSBs/VOSBs does not limit the applicability of the Veterans First Contracting Program. Additionally, VAAR part 819 details full implementation of

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the Veterans First Contracting Program to give preference to SDVOSBs and VOSBs for all VA contracts and contracts on behalf of VA. This class deviation revises VAAR subpart 819.70 to fully implement the Veterans First Contracting Program to comply with 38 U.S.C. 8127 and 8128 and the Supreme Court decision.

**j. Solicitation Provisions and Contract Clauses. (Attachment 10—VAAR part 852)**

1) **Current Policy:** SDVOSBs and VOSBs must be listed in the VIP database, available at <http://www.VetBiz.gov>, and also must be registered in the Central Contractor Registration (CCR).

2) **New Policy:** All SDVOSBs and VOSBs participating in the Veterans First Contracting Program must be listed as verified in the VIP database at <https://www.vip.vetbiz.gov/> to receive contract awards under the Veterans First Contracting Program as implemented in VAAR subpart 819.70. This class deviation revises provisions and clauses at VAAR 852.215-70, 852.219-10 and 852.219-11 to update the web address for the VIP database and to adjust the limitations on subcontracting to comply with Small Business regulations.

**k. Simplified Acquisition Procedures for Health-Care Resources. (Attachment 11—VAAR part 873)**

1) **Current Policy:** The simplified acquisition procedures in VAAR part 873 apply to the acquisition of health-care resources consisting of commercial services or the use of medical equipment or space. When a policy or procedure in the FAR or another part of the VAAR differs from the policy in VAAR part 873, part 873 shall apply.

2) **New Policy:** To the extent not otherwise excluded by law, the Veterans First Contracting Program in VAAR subpart 819.70 applies to VA contracts under VAAR part 873 and has precedence over other small business programs. Therefore, this class deviation revises VAAR 873.101 and VAAR 873.103 to reflect this policy.

**8. Attachments:** Attachments 1- 11 detail the revisions to each VAAR part. **Note:** The symbol \*\*\*\*\* is used in the attachments for context, as applicable, to denote remaining text in the FAR and VAAR are unchanged.

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**9. Additional Information:** Direct questions regarding this class deviation to the Procurement Policy and Warrant Management Service via email at [vacovaproc@va.gov](mailto:vacovaproc@va.gov) or (202) 632-5288.

/s/

Sheila P. Darrell

Attachments:

1. Attachment 1 — VAAR 802, Definitions of Words and Terms
2. Attachment 2 — VAAR 804, Administrative Matters
3. Attachment 3 — VAAR 806, Competition Requirements
4. Attachment 4 — VAAR 808, Required Sources of Supplies and Services
5. Attachment 5 — VAAR 810, Market Research
6. Attachment 6 — VAAR 812, Acquisition of Commercial Items
7. Attachment 7 — VAAR 813, Simplified Acquisition Procedures
8. Attachment 8 — VAAR 817, Special Contracting Methods
9. Attachment 9 — VAAR 819, Small Business Programs
10. Attachment 10—VAAR 852, Solicitation Provisions and Contract Clauses
11. Attachment 11—VAAR 873, Simplified Acquisition Procedures for Health-Care Resources

**ATTACHMENT 1**  
**CLASS DEVIATION – VETERANS FIRST CONTRACTING PROGRAM TO**  
**DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION**

**PART 802—DEFINITIONS OF WORDS AND TERMS**

**802.101 Definitions.**

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*Public Law (Pub. L.) 109-461* means the Veterans Benefits, Health Care and Information Technology Act of 2006, as amended and codified in 38 U.S.C. 8127 and 8128.

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*Service-disabled veteran-owned small business (SDVOSB)* has the same meaning as *service-disabled veteran-owned small business concern* defined in FAR 2.101, except for acquisitions authorized by 38 U.S.C. 8127 and 8128 for the Veterans First Contracting Program. These businesses must be listed as verified in the VIP database. In addition, some of the SDVOSB businesses listed in the VIP database may be owned and controlled by a surviving spouse. See definition of *surviving spouse* in 802.101.

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*VA Rule of Two* means the process in 38 U.S.C. 8127(d) whereby a contracting officer of the Department “shall award contracts on the basis of competition restricted to small business concerns owned and controlled by veterans if the contracting officer has a reasonable expectation that two or more small business concerns owned and controlled by veterans will submit offers and that the award can be made at a fair and reasonable price that offers best value to the United States.” For purposes of this VA specific rule, a service-disabled veteran-owned small business (SDVOSB) or a veteran-owned small business (VOSB), must meet the eligibility requirements in 38 U.S.C. 8127(e), (f) and VAAR 819.7003 and be listed as verified in the Vendor Information Pages (VIP) database.

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*Vendor Information Pages (VIP) database* means the Department of Veterans Affairs Office of Small and Disadvantaged Business Utilization (OSDBU) Vendor Information Pages (VIP) database at <https://www.vip.vetbiz.gov>. This site's database lists businesses that the VA Center for Verification and Evaluation (CVE) has determined eligible for the Veterans First Contracting Program.

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*Veterans First Contracting Program* means the program authorized by 38 U.S.C. 8127 and 8128 (Pub. L. 109-461, as amended), implemented under subpart 819.70. This program applies to all VA contracts (see FAR 2.101 for the definition of contracts) including Blanket Purchase Agreements (BPAs) and orders against the Federal Supply Schedules (FSS), unless otherwise excluded by law.

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*Veteran-owned small business (VOSB)* has the same meaning as *veteran-owned small business concern* defined in FAR 2.101, except for acquisitions authorized by 38 U.S.C. 8127 and 8128 for the Veterans First Contracting Program. These businesses must be listed as verified in the VIP database. A business whose SDVOSB status derives from ownership and control by a surviving spouse shall also be considered a VOSB.



**ATTACHMENT 2**  
**CLASS DEVIATION – VETERANS FIRST CONTRACTING PROGRAM TO**  
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**PART 804—ADMINISTRATIVE MATTERS**

**804.1103-70 Vendor Information Pages database.**

All service-disabled veteran-owned small businesses (SDVOSBs) and veteran-owned small businesses (VOSBs) participating in the Veterans First Contracting Program must be listed as verified in the Vendor Information Pages (VIP) database at <https://www.vip.vetbiz.gov/> at the time of submission of offer/quote to receive contract awards under the Veterans First Contracting Program. Contracting officers shall check the VIP database before evaluating offers or quotes and before making awards to confirm an offeror's status as a verified SDVOSB or VOSB. Contracting officers shall continue to consult the System for Award Management (SAM) to verify the contractor has represented it meets the size standard for the North American Industry Classification System (NAICS) code applicable to the acquisition, per FAR 4.1103.

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**PART 806—COMPETITION REQUIREMENTS**

**806.102 Use of competitive procedures.**

(d)(3) Awards made using General Services Administration (GSA) or Department of Veterans Affairs (VA) Federal Supply Schedules (FSS) are considered competitive. When set-aside for competition restricted to verified service-disabled veteran-owned small businesses (SDVOSBs) and veteran-owned small businesses (VOSBs) according to 819.7005 and 819.7006, such awards constitute full and open competition after exclusion of sources pursuant to 38 U.S.C. 8127.

**806.203-70 VA set-asides for verified veteran-owned small businesses using the VA Rule of Two.**

(a) To fulfill the statutory requirements relating to Public Law 109-461, the Veterans Benefits, Health Care and Information Technology Act of 2006 (38 U.S.C. 8127 and 8128), contracting officers shall set aside solicitations for veteran-owned small businesses (see 819.7005 and 819.7006) whenever market research provides the contracting officer with a reasonable expectation of receiving two or more offers/quotes from verified SDVOSBs or VOSBs at fair and reasonable prices that offer best value to the Government (see 819.7005 and 7006).

(b) This requirement applies to all contracts under this subpart, including orders under interagency acquisition vehicles such as FSS, Governmentwide acquisition contracts (GWACs), and multi-agency contracts (MACs).

(c) No separate justification or determination and findings are required under this subpart to set aside contracts for SDVOSBs or VOSBs listed as verified in the VIP database.

(d) Contracting officers shall utilize the authority in paragraph (a) over other set-asides authorized in FAR subpart 6.2 whenever market research supports the decision. A set-aside restricted to verified SDVOSBs or VOSBs satisfies competition as well as the fair opportunity requirements (see FAR 16.505(b)(2)(i)(F)).

(e) Subparts 819.5 and 819.70 prescribe policies and procedures that shall be followed with respect to verified SDVOSB and VOSB set-asides.

**806.302-5-70 Noncompetitive procedures for verified small business concerns owned and controlled by veterans.**

(a) Full and open competition need not be provided for when awarding a sole source contract with a verified SDVOSB or a verified VOSB in accordance with 819.7007 or 819.7008 as authorized. Pursuant to FAR 6.302-5(c)(2)(ii), the justification and approval requirements of FAR 6.303 and 6.304 apply.

(b) *Noncompetitive procedures for contracts below the Simplified Acquisition Threshold.* When entering into a contract with a verified small business concern owned and controlled by veterans for an amount less than the simplified acquisition threshold, a contracting officer may use procedures other than competitive procedures. (Cite: 41 U.S.C. 3304(a)(5), as authorized by 38 U.S.C. 8127(b)).

(c) *Sole source contracts above the Simplified Acquisition Threshold.* (Cite: 41 U.S.C. 3304(a)(5), as authorized by 38 U.S.C. 8127(c)). A contracting officer may award a contract to a verified small business concern owned and controlled by veterans using procedures other than competitive procedures if—

12. Such concern is determined to be a responsible source with respect to performance of such contract opportunity;
  - (1) The anticipated award price of the contract (including options) will exceed the simplified acquisition threshold, but will not exceed \$5 million; and
  - (2) In the estimation of the contracting officer, the contract award can be made at a fair and reasonable price that offers best value to the United States.

**ATTACHMENT 4**  
**CLASS DEVIATION – VETERANS FIRST CONTRACTING PROGRAM TO**  
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**PART 808—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

**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).

(iv) *Supplies or services that are 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), are mandatory sources. However, VA contracting officers shall, prior to adding any new VA requirements to the Procurement List, conduct market research, apply the *VA Rule of Two* to consider Vendor Information Pages (VIP) verified service-disabled veteran-owned small businesses (SDVOSBs) and veteran-owned small businesses (VOSBs) as required in 38 U.S.C. 8127 and implemented in subpart 819.70. All new VA requirements must be approved by the Chief Acquisition Officer, via the Senior Procurement Executive, before contacting the Committee for adding to the Procurement List.

(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), the Department of Veterans Affairs (see 41 CFR 101-26.704), and military inventory control points.

(2) *Services*. Services that are on the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled (see FAR subpart 8.7).

(b) *Unusual and compelling urgency*. The contracting officer may use a source lower in priority than as specified in FAR 8.002 and 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.

**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.

**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).

**808.405-70 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.

(c) The SDVOSB and VOSB eligibility requirements in 819.7003 apply, including verification of the SDVOSB and VOSB status at the time of submission of offer/quote and prior to award. The offeror must also represent that it meets the small business size standard for the assigned NAICS and other small business requirements (e.g. non-manufacturer rule and limitations on subcontracting).

#### **808.405-2 Ordering procedures 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.

**ATTACHMENT 5**  
**CLASS DEVIATION – VETERANS FIRST CONTRACTING PROGRAM TO**  
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**PART 810—MARKET RESEARCH**

**810.001-70 Market research policy.**

When performing market research, contracting officers shall review the Vendor Information Pages (VIP) database at <https://www.vip.vetbiz.gov> as required by subpart 819.70. The contracting officer will search the VIP database by applicable North American Industry Classification System (NAICS) codes to determine if two or more verified service-disabled veteran-owned small businesses (SDVOSBs) and veteran-owned small businesses (VOSBs), in the appropriate NAICS code, are listed as verified in the VIP database. The contracting officer will 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. If so, the contracting officer shall set-aside the requirement in the contracting order of priority (see 819.7005 and 819.7006).



**ATTACHMENT 6**  
**CLASS DEVIATION – VETERANS FIRST CONTRACTING PROGRAM TO**  
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**PART 812—ACQUISITION OF COMMERCIAL ITEMS**

**812.102-70 Applicability of veterans preferences**

Based on the authority under 38 U.S.C. 8127 and 8128, the Veterans First Contracting Program in subpart 819.70 applies to VA contracts under this part. When a policy in FAR part 12 or part 812 is inconsistent with a policy in subpart 819.70, the policy in subpart 819.70 takes precedence.

**ATTACHMENT 7**  
**CLASS DEVIATION – VETERANS FIRST CONTRACTING PROGRAM TO**  
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**PART 813—SIMPLIFIED ACQUISITION PROCEDURES**

**813.003-70 Policy**

(a) *General.* The Veterans First Contracting Program in subpart 819.70 applies to VA contracts (see FAR 2.101, Definitions) under this part and has precedence over other small business programs referenced in FAR part 19.

(b) Notwithstanding FAR 13.003(b)(2), the contracting officer shall make an award utilizing the priorities for veteran-owned small businesses as implemented within the VA hierarchy of small business program preferences, the Veterans First Contracting Program in subpart 819.70. Specifically, the contracting officer shall consider preferences for verified service-disabled veteran-owned small businesses (SDVOSBs) first, then preferences for verified veteran-owned small businesses (VOSBs). These priorities will be followed by preferences for other small businesses in accordance with FAR 19.203, 819.203-70 and 819.7004.

(c) When using competitive procedures, the preference for restricting competition to verified SDVOSBs or VOSBs is mandatory whenever market research provides a reasonable expectation of receiving two or more offers/quotes from eligible, capable and verified SDVOSBs or VOSBs at fair and reasonable prices that offer best value to the Government.

(1) Pursuant to 38 U.S.C. 8127, contracts under this part shall be set-aside for SDVOSBs or VOSBs, when supported by market research. Contracting officers shall use the applicable set-aside clause prescribed at 819.7009.

(2) 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 officer shall include evaluation factors as prescribed at 815.304 and the evaluation criteria clause prescribed at 815.304-71(a).

(d) The SDVOSB and VOSB eligibility requirements in part 819.7003 apply, including verification of the SDVOSB and VOSB status of an offeror or awardee at the time of submission of offer/quote and prior to award. The offeror must also represent that it meets the small business size standard for the assigned North American Industry Classification Code System (NAICS) code and other small business requirements in FAR part 19 (e.g. subcontracting limitations and non-manufacturer rule).

### **813.102 Source list.**

(a) Pursuant to 819.7002, contracting officers shall use the Vendor Information Pages (VIP) database to verify SDVOSB/VOSB status.

### **813.106-70 Soliciting competition, evaluation of quotations or offers, award and documentation – the Veterans First Contracting Program.**

(a) General. When using competitive procedures under this part, the contracting officer shall use the Veterans First Contracting Program in subpart 819.70 and the guidance set forth in 813.003-70.

(b) Pursuant to 38 U.S.C 8127(b), contracting officers may use other than competitive procedures to enter into a contract with a verified SDVOSB or VOSB for procurements under the simplified acquisition threshold.

(c) Under 38 U.S.C. 8127(c), contracting officers may also award a contract under this part to a firm verified under the Veterans First Contracting Program at subpart 819.70, using procedures other than competitive procedures if—

(1) Such concern is determined to be a responsible source with respect to performance of such contract opportunity;

(2) The anticipated award price of the contract (including options) will exceed the simplified acquisition threshold, but will not exceed \$5,000,000; and

(3) In the estimation of the contracting officer, the contract award can be made at a fair and reasonable price that offers overall best value to the government.

### **813.203 Purchase guidelines.**

(a)(1) Open market micro-purchases shall be equitably distributed among all verified SDVOSBs or VOSBs to the maximum extent practicable in keeping with the flexibilities inherent in purchases under the micro-purchase threshold.

**ATTACHMENT 8**  
**CLASS DEVIATION – VETERANS FIRST CONTRACTING PROGRAM TO**  
**DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION**

**PART 817—Special Contracting Methods**

**817.501 General**

(d) All contracts, agreements, or other arrangements with any governmental entity to acquire goods and services, including construction, that permits the governmental entity to award contracts on behalf of the Department of Veterans Affairs shall include a requirement that the entity will comply with the provisions of 38 U.S.C. 8127 and 8128 and the Veterans First Contracting Program as implemented at subpart 819.70. The governmental entity shall award contracts (see FAR 2.101 for the definition of contracts) to capable service-disabled veteran-owned small businesses (SDVOSBs) and veteran-owned small businesses (VOSBs) listed as verified in the Vendor Information Pages (VIP) database.

**ATTACHMENT 9**  
**CLASS DEVIATION – VETERANS FIRST CONTRACTING PROGRAM TO**  
**DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION**

**PART 819—SMALL BUSINESS PROGRAMS**

**819.201 General policy.**

(a) It is the Department of Veteran Affairs (VA) policy that small business concerns owned and controlled by veterans shall have maximum practicable opportunity to participate in VA acquisitions, consistent with efficient contract performance and the priorities and preferences established under 38 U.S.C. 8127 and 8128.

(1) To carry out this policy the Secretary establishes annual goals for service-disabled veteran-owned small business (SDVOSB) and veteran-owned small business (VOSB) participation in VA contracting. The VA SDVOSB goal shall be no less than the government-wide goal for SDVOSBs.

(2) In support of these goals, each administration and staff office shall in turn establish annual goals for each subordinate contracting activity that present, for that activity, the maximum practicable opportunity for small business concerns, and particularly SDVOSBs/VOSBs, to participate in the performance of the activity's contracts and subcontracts.

(3) The attainment of these goals or the use of interagency acquisition vehicles does not limit the applicability of the Veterans First Contracting Program and priorities in subpart 819.70.

(b) Each Head of the Contracting Activity (HCA) shall develop, in coordination with the Office of Small and Disadvantaged Business Utilization (OSDBU), an annual small business operating plan to increase the share of contracts and purchase orders awarded under the small business programs prescribed in FAR Part 19 and this part. The HCA shall also ensure that an annual procurement forecast of contracting opportunity is developed pursuant to Section 501 of Public Law 100-656.

(c) In addition to the duties and responsibilities in FAR 19.201(c), the OSDBU Director is also responsible for the implementation of the Veterans First Contracting Program in subpart 819.70.

(d) Each organization with contracting authority shall designate small business specialists/technical advisors in coordination with the OSDBU Director.

### **819.202 Specific policies.**

OSDBU is responsible for reviewing procurement strategies and making recommendations to assist contracting officers in the implementation of this part. These responsibilities shall be conducted within the VA hierarchy of small business program preferences established by 38 U.S.C. 8127(i) (see subpart 819.70), which requires VA to consider preferences for verified SDVOSBs first, then preferences for verified VOSBs. The attainment of contracting goals or the use of Governmentwide or multi-agency contract vehicles does not preclude the applicability of these preferences. Contracting officers shall use VA Form 2268, Small Business Program and Contract Bundling Review to document actions and recommendations. Searches and results of the Vendor Information Pages (VIP) database shall be saved and attached to the VA Form 2268 along with accompanying market research report or information.

### **819.203-70 Priority for service-disabled veteran-owned small business/veteran-owned small business contracting preferences.**

(a) 38 U.S.C. 8127 and 8128 require the VA to provide priority and establish special acquisition methods to increase contracting opportunities for SDVOSBs and VOSBs. These priorities and special acquisition methods are set forth in subpart 819.70 and shall be applied by VA contracting officers before other priorities and preferences in FAR 19.203.

(b) When using a contracting preference under FAR part 19 (for example, a women-owned small business set-aside), contracting officers shall give priority to small business concerns verified as owned and controlled by veterans pursuant to subpart 819.70, if such business concern(s) also meet the requirements of that contracting preference. Contracting officers shall include the provision and clause prescribed at 815.304-71 in solicitations.

(c) The attainment of goals or the use of interagency vehicles or Governmentwide contract vehicles (i.e., Federal Supply Schedules (FSS)) does not relieve the contracting officer from using SDVOSB/VOSB set-asides and other preferences as required by subpart 819.70. 38 U.S.C. 8127(j) requires that if the VA enters into a contract, agreement, or other arrangement with any governmental entity to acquire goods or services, the entity acting on behalf of the VA through such an interagency acquisition or other agreement will comply, to the maximum extent feasible, with the provisions of the program of preferences and priorities for verified SDVOSBs and VOSBs.

### **819.501-70 General principles for setting aside VA acquisitions.**

(a) The following principles apply to VA acquisitions under this subpart:

(1) Before setting aside or reserving an acquisition for small businesses under FAR subpart 19.5, contracting officers shall refer to 819.203-70 and subpart 819.70 for VA SDVOSB/VOSB priorities and preferences.

(2) Set-asides under the Veterans First Contracting Program in subpart 819.70 (see 819.7005 and 819.7006) have precedence over other small business set-asides referenced in FAR part 19, both above and below the simplified acquisition threshold (SAT). SDVOSB and VOSB set-asides also satisfy the requirement to reserve actions below the SAT for small business.

(3) Set-asides for verified SDVOSB and VOSB are mandatory whenever a contracting officer has a reasonable expectation of receiving two or more competitive offers/quotes at a fair and reasonable price that offers best value to the Government. Because only verified SDVOSBs and VOSBs can participate on such set-asides, the contracting officer should start by identifying firms listed as verified in the VIP database and then determine what acquisition strategy and priorities in 808.004(a), including FSS, is most appropriate.

(4) When a procurement requirement will not be set aside or otherwise awarded to verified SDVOSBs or VOSBs pursuant to subpart 819.70, the contracting officer shall document the file in accordance with OSDDBU guidance and include SDVOSB/VOSB evaluation preferences in the solicitation as set forth in 815.304.

(b) These principles apply even when a procuring activity is meeting its goals or is planning the use of an interagency or Governmentwide contract vehicle.

(c) Any reference to small business preferences/set-asides in FAR subpart 19.5 is to be construed to include verified SDVOSBs and VOSBs, unless it clearly conflicts with this subpart.

### **819.502-4 Multiple-award contracts and small business set-asides.**

(c) The requirements in subpart 819.70 apply to VA orders and BPAs under Federal Supply Schedules (FSS), Governmentwide Acquisition Contracts (GWACS) and Multi-Agency Contracts (MACs) awarded by another agency. A set-aside restricted to verified SDVOSBs or VOSBs pursuant to subpart 819.70 satisfies competition requirements in FAR part 6, as well as the fair opportunity requirements in FAR part 16.505 (see FAR 16.505(b)(2)(i)(F)).

### **819.7001 General.**

(a) Sections 502 and 503 of Public Law 109-461, the Veterans Benefits, Health Care, and Information Technology Act of 2006 as amended (38 U.S.C. 8127- 8128) directs a VA specific acquisition program for small business concerns owned and controlled by service-disabled veterans and those owned and controlled by veterans.

(b) The purpose of the program is to provide contracting assistance to verified SDVOSBs and VOSBs, so they can fully participate in the VA contracting process. The program as implemented in this subpart shall be referred to as the Veterans First Contracting Program.

(c) 38 U.S.C. 8127 (b), (c) and (d) provide the authority for VA contracting officers to make awards to verified SDVOSBs/VOSBs using set-asides, as well as other than full and open competition (sole source), when certain conditions are met.

(d) Contracting officers shall award contracts on the basis of competition restricted to small business concerns owned and controlled by veterans (see 819.7005 and 819.7006), to the maximum extent practicable. The contracting officer may also use other SDVOSB/VOSB preferences in this subpart as appropriate.

### **819.7002 Applicability.**

This subpart applies to VA contracting activities and to all contracts (see FAR 2.101, Definitions), including BPAs and orders, under FAR subpart 8.4 and FAR part 12 that are not otherwise excluded by law. In addition, this subpart applies to any government entity that has a contract, agreement, or other arrangement with the VA to acquire goods and services on behalf of the VA in accordance with 817.502.

### **819.7003 Eligibility.**

(a) Size eligibility of SDVOSBs/VOSBs continues to be governed by the Small Business Administration (SBA) regulations, 13 CFR subparts 125.8 through 125.13, as well as FAR part 19, except where expressly directed otherwise by this part, and 38 CFR 74 verification regulations for SDVOSBs /VOSBs.

(b) At the time of submission of offers/quotes, and prior to award of any contracts, the offeror must represent to the contracting officer that it is a—

(1) SDVOSB or VOSB eligible under this subpart;

(2) Small business concern under the North American Industry Classification System (NAICS) code assigned to the acquisition; and



(3) SDVOSB/VOSB listed as verified in VIP database at:  
<https://www.vip.vetbiz.gov>.

(c) A joint venture may be considered an SDVOSB/ VOSB concern if—

(1) At least one member of the joint venture is a verified SDVOSB or VOSB and makes the representations in paragraph (b) of this section;

(2) Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement;

(3) The joint venture meets the requirements of paragraph 7 of the size standard explanation of affiliates in FAR 19.101; and

(4) The joint venture meets the requirements of 13 CFR 125.15(b), modified to include VOSBs where this CFR section refers to SDVOSBs.

(d) Any SDVOSB/VOSB (non-manufacturer) must meet the requirements in FAR 19.102(f) to receive a benefit under this program.

(e) In some instances, SDVOSB eligibility may be extended to businesses owned and operated by surviving spouses, as set forth in 802.101;

(f) Pursuant to 38 USC 8127(g), any business concern that is determined by VA to have willfully and intentionally misrepresented its SDVOSB/VOSB status is subject to debarment from contracting with the Department for a period of not less than five years. This debarment includes all principals in the business. See 809.406, Debarment.

#### **819.7004 Contracting order of priority.**

In determining the acquisition strategy applicable to a procurement requirement the contracting officer shall consider, in the following order of priority, contracting preferences prescribed in this part for awarding VA contracts to:

(a) Eligible small business concerns owned and controlled by service-disabled veterans;

(b) Eligible small business concerns owned and controlled by veterans that are not covered by paragraph (1);

(c) Small business concerns using priorities and preferences in 819.203-70 and this subpart.

**819.7005 VA service-disabled veteran-owned small business set-aside procedures.**

(a) The contracting officer shall consider SDVOSB set-asides, before considering VOSB set-asides. Except as authorized by 813.106, 819.7007 and 819.7008, the contracting officer shall set-aside an acquisition for competition restricted to verified SDVOSB concerns upon a reasonable expectation based on market research that:

- (1) Offers/quotes will be received from two or more eligible SDVOSB; and
- (2) Award can be made at a fair and reasonable price that offers the best value to the government.

(b) When conducting SDVOSB set-asides, the contracting officer shall ensure that:

- (1) Businesses are registered and verified as eligible in the VIP database at the time of submission of offers/quotes, and prior to making an award; and
- (2) Offerors affirmatively represent their small business status based on the size standard corresponding to the North American Industrial Classification System (NAICS) code assigned to the solicitation/contract, as set forth in 819.7003(b) and/or (c).

(c) If the contracting officer receives only one acceptable offer at a fair and reasonable price from a verified SDVOSB in response to a SDVOSB set-aside, the contracting officer should make an award to that SDVOSB. If the contracting officer receives no acceptable offers/quotes from verified SDVOSBs, the set-aside shall be withdrawn and the requirement, if still valid, set aside for VOSB competition, or otherwise procured using the most appropriate strategy based on the results of market research.

**819.7006 VA veteran-owned small business set-aside procedures.**

(a) The contracting officer shall consider SDVOSB set-asides before considering VOSB set-asides. Except as authorized by 813.106, 819.7007 and 819.7008, the contracting officer shall set aside an acquisition for competition restricted to SDVOSBs or VOSBs upon a reasonable expectation, based on market research, that:

- (1) Offers/quotes will be received from two or more eligible SDVOSBs or VOSBs; and
- (2) Award can be made at a fair and reasonable price.

(b) When conducting SDVOSB or VOSB set-asides, the contracting officer shall ensure that:

(1) Businesses are listed as verified in the VIP database at the time of submission of offers/quotes and prior to making an award; and

(2) Offerors affirmatively represent their SDVOSB/VOSB and small business status based on the size standard corresponding to the North American Industrial Classification System (NAICS) code assigned to the solicitation/contract as set forth in 819.7003(b) and/or (c).

(c) If the contracting officer receives only one acceptable offer at a fair and reasonable price from a verified SDVOSB/VOSB in response to a SDVOSB or VOSB set-aside, the contracting officer should make an award to that SDVOSB or VOSB. If the contracting officer receives no acceptable offers/quotes from verified SDVOSBs or VOSBs, the SDVOSB or VOSB set-aside shall be withdrawn and the requirement, if still valid, set aside for other small business programs or otherwise procured using the most appropriate strategy based on the results of market research.

**819.7007 Sole source awards to a verified service-disabled veteran-owned small business.**

(a) A contracting officer may award a contract to a verified SDVOSB concern using procedures other than competitive procedures provided—

(1) The anticipated award price of the contract (including options) will not exceed \$5 million;

(2) The justification prepared pursuant to FAR 6.302-5(c)(2)(ii) is posted in accordance with FAR subpart 5.301(d);

(3) The SDVOSB concern has been determined to be a responsible source with respect to performance; and

(4) In the estimation of the contracting officer, contract award can be made at a fair and reasonable price that offers best value to the Government.

(b) The contracting officer's determination to make a sole source award is a business decision wholly within the discretion of the contracting officer. To ensure that opportunities are available to the broadest number of verified SDVOSBs, this authority is to be used judiciously and only when in the best interest of the Government.

(c) A determination that only one SDVOSB can meet the requirement is not required. However, in accordance with FAR 6.302-5(c)(2)(ii), contracts awarded using this authority shall be supported by a written justification and approval described in FAR 6.303 and 6.304, as applicable.

(d) When conducting a SDVOSB sole source acquisition, the contracting officer shall ensure the business meets eligibility requirements 819.7003.

(e) A procurement requirement estimated to exceed the legislative threshold of \$5 million shall not be split or subdivided to permit the use of this SDVOSB sole source authority.

**819.7008 Sole source awards to a verified veteran-owned small business.**

(a) A contracting officers may award a contract to a verified VOSB concern using procedures other than competitive procedures provided—

(1) The anticipated award price of the contract (including options) will not exceed \$5 million;

(2) The justification prepared pursuant to FAR 6.302-5(c)(2)(ii) is posted in accordance with FAR subpart 5.301(d);

(3) The VOSB concern has been determined to be a responsible source with respect to performance;

(4) In the estimation of the contracting officer, contract award can be made at a fair and reasonable price that offers best value to the government; and

(5) No responsible SDVOSB concern has been identified.

(b) The contracting officer's determination whether to make a sole source award is a business decision wholly within the discretion of the contracting officer. To ensure that opportunities are available to the broadest number of verified SDVOSB/VOSBs, this authority is to be used judiciously and only when in the best interest of the government.

(c) A determination that only one VOSB can meet the requirement is not required. However, in accordance with FAR 6.302-5(c)(2)(ii), contracts awarded using this authority shall be supported by a written justification and approval described in FAR 6.303 and 6.304, as applicable.

(d) When conducting a VOSB sole source acquisition, the contracting officer shall ensure the business meets eligibility requirements 819.7003.

(e) A procurement requirement estimated to exceed the legislative threshold of \$5 million shall not be split or subdivided to permit the use of this VOSB sole source authority.

**819.7009 Contract clauses.**

The contracting officer shall insert clause 852.219-10, VA Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside or clause 852.219-11, VA Notice of Total Veteran-Owned Small Business Set-Aside as applicable, in open market solicitations and contracts for acquisitions set-aside under this subpart.

**ATTACHMENT 10**  
**CLASS DEVIATION – VETERANS FIRST CONTRACTING PROGRAM TO**  
**DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION**

**PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**852.215-70 Service-disabled veteran-owned and veteran-owned small business evaluation factors.**

As prescribed in 815.304-71(a), insert the following provision:

**SERVICE-DISABLED VETERAN-OWNED AND VETERAN-OWNED**  
**SMALL BUSINESS EVALUATION FACTORS**  
**(JUL 2016) (DEVIATION)**

(a) In an effort to achieve socioeconomic small business goals, depending on the evaluation factors included in the solicitation, VA shall evaluate offerors based on their service-disabled veteran-owned or veteran-owned small business status and their proposed use of eligible service-disabled veteran-owned small businesses and veteran-owned small businesses as subcontractors.

(b) Eligible service-disabled veteran-owned offerors will receive full credit, and offerors qualifying as veteran-owned small businesses will receive partial credit for the Service-Disabled Veteran-Owned and Veteran-owned Small Business Status evaluation factor. To receive credit, an offeror must be registered and verified in Vendor Information Pages (VIP) database (<https://www.vip.vetbiz.gov>).

(c) Non-veteran offerors proposing to use service-disabled veteran-owned small businesses or veteran-owned small businesses as subcontractors will receive some consideration under this evaluation factor. Offerors must state in their proposals the names of the SDVOSBs and VOSBs with whom they intend to subcontract and provide a brief description of the proposed subcontracts and the approximate dollar values of the proposed subcontracts. In addition, the proposed subcontractors must be registered and verified in the VetBiz.gov VIP database (<https://www.vip.vetbiz.gov>).

(End of clause)

**852.219-10 VA Notice of total service-disabled veteran-owned small business set-aside.**

As prescribed in 819.7009, insert the following clause:

**VA NOTICE OF NOTICE OF TOTAL SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (JUL 2016) (DEVIATION)**

(a) *Definition.* For the Department of Veterans Affairs, “Service-disabled veteran-owned small business concern or SDVSOB”:

(1) Means a small business concern:

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans or eligible surviving spouses (see VAAR 802.201 Surviving Spouse definition);

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans (or eligible surviving spouses) or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran;

(iii) The business meets Federal small business size standards for the applicable North American Industry Classification System (NAICS) code identified in the solicitation document;

(iv) The business has been verified for ownership and control pursuant to 38 CFR 74 and is so listed in the Vendor Information Pages database, (<https://www.vip.vetbiz.gov>); and

(v) The business will comply with subcontracting limitations in 13 CFR 125.6, as applicable

(2) “Service-disabled veteran” means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

(b) *General.*

(1) Offers are solicited only from verified service-disabled veteran-owned small business concerns. Offers received from concerns that are not verified service-disabled veteran-owned small business concerns shall not be considered.

(2) Any award resulting from this solicitation shall be made to a verified service-disabled veteran-owned small business concern.

(c) *Agreement.* A service-disabled veteran-owned small business concern agrees that in the performance of the contract, the concern will comply with the limitation on subcontracting requirements in 13 CFR §125.6.

(d) A joint venture may be considered a service-disabled veteran owned small business concern if the joint venture complies with the requirements in 13 CFR 125.15, provided that any reference therein to SDVO SBC is to be construed to apply to a VA verified SDVOSB as appropriate.

(e) Any service-disabled veteran-owned small business concern (non-manufacturer) must meet the requirements in FAR 19.102(f) of the Federal Acquisition Regulation to receive a benefit under this program.

(End of clause)

**852.219-11 VA notice of total veteran-owned small business set-aside.**

As prescribed in 819.7009, insert the following clause:

**VA NOTICE OF TOTAL VETERAN-OWNED SMALL BUSINESS SET-ASIDE  
(JUL 2016) (DEVIATION)**

(a) *Definition.* For the Department of Veterans Affairs, “Veteran-owned small business or VOSB.”—

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans;

(ii) The management and daily business operations of which are controlled by one or more veterans;

(iii) The business meets Federal small business size standards for the applicable North American Industry Classification System (NAICS) code identified in the solicitation document;

(iv) The business has been verified for ownership and control pursuant to 38 CFR 74 and is so listed in the Vendor Information Pages database, (<https://www.vip.vetbiz.gov>): and



(v) The business will comply with subcontracting limitations in 13 CFR 125.6, as applicable

(2) "Veteran" is defined in 38 U.S.C. 101(2).

(b) *General.*

(1) Offers are solicited only from verified veteran-owned small business concerns. All service-disabled veteran-owned small businesses are also determined to be veteran-owned small businesses if they meet the criteria identified in paragraph (a)(1) of this section. Offers received from concerns that are not veteran-owned small business concerns shall not be considered.

(2) Any award resulting from this solicitation shall be made to a verified veteran-owned small business concern.

(c) *Agreement.* A veteran-owned small business concern agrees that in the performance of the contract, the concern will comply with the limitation on subcontracting requirements in 13 CFR §125.6.

(d) A joint venture may be considered a veteran-owned small business concern if the joint venture complies with the requirements in 13 CFR 125.15, provided that any reference therein to SDVO SBC is to be construed to apply to a VA verified SDVOSB and/or VOSB as appropriate..

(e) Any veteran-owned small business concern (non-manufacturer) must meet the requirements in 19.102(f) of the Federal Acquisition Regulation to receive a benefit under this program.

(End of Clause)

**ATTACHMENT 11**  
**CLASS DEVIATION – VETERANS FIRST CONTRACTING PROGRAM TO**  
**DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION**

**PART 873—SIMPLIFIED ACQUISITION PROCEDURES**  
**FOR HEALTH-CARE RESOURCES**

**873.101 Policy**

The simplified acquisition procedures set forth in this part apply to the acquisition of health-care resources consisting of commercial services or the use of medical equipment or space. These procedures shall be used in conjunction with the FAR and other parts of the VAAR. When a policy in the FAR or parts of the VAAR is inconsistent with a policy in this part, the policy in part 873 takes precedence. These procedures contain more flexibility than provided in the FAR or elsewhere in the VAAR. (38 U.S.C. 8151-8153)

(a) *General.* To the extent not otherwise excluded by law, the Veterans First Contracting Program in subpart 819.70 applies to contracts under this part and has precedence over other small business programs.

(b) The contracting officer shall ensure priorities for veteran-owned small businesses are implemented within the VA hierarchy of small business program preferences, established by section 38 U.S.C. 8127 and 8128, the Veterans First Contracting Program, as implemented in subpart 819.70. Specifically, the contracting officer shall consider preferences for verified service-disabled veteran-owned small businesses (SDVOSBs) first, then preferences for verified veteran-owned small businesses (VOSBs). These priorities will be followed by preferences for other small businesses in accordance with FAR 19.203, 819.203-70 and 819.7004.

(c) When there is need for a waiver, pursuant to 873.107, the OSDDBU Director will be notified.

**873.103 Priority sources**

Without regard to FAR 8.002(a)(2), except for the acquisition of services available from the Committee for Purchase From People Who Are Blind or Severely Disabled (AbilityOne) (see FAR subpart 8.7), there are no priority sources for the acquisition of health-care resources consisting of commercial services or the use of medical equipment or space. (38 U.S.C. 8151-8153) See 873.101 (a) – (b) for applicability of 38 U.S.C. 8127 and 8128.