SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

PART 808—REQUIRED SOURCES OF SUPPLIES AND SERVICES

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808.802 Policy.

AUTHORITY: 38 U.S.C. 8127 and 8128; 40 U.S.C. 121(c) and (d); and 48 CFR 1.301–1.304.
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[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 VFCP 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 This deviation is effective until incorporated in the VAAR or the VAAM or is otherwise rescinded.]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 from VAAR 808.002, Priorities for Use of mandatory Government sources, dated February 9, 2018, supersedes Attachment 4 – Amendment 1 (VFCP FEB 2017), dated March 1, 2017, and revises VAAR 808.002 to revert to the language and policy originally set forth in Class Deviation—Veterans First Contracting Program – Attachment 4 (VFCP 2016), dated July 25, 2016. This Class Deviation is needed to clarify that all 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.]

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 VAAR subpart 808.603).

(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.
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(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.

**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. This deviation is effective until incorporated in the VAAR or the VAAM or is otherwise rescinded.]

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,
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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 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.

808.405-70 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).

808.405-5-70 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
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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.

**SUBPART 808.6 – ACQUISITIONS FROM FEDERAL PRISON INDUSTRIES, INC. (FPI)**

**808.603 Purchase priorities.**

Contracting officers may purchase supplies and services produced or provided by FPI from eligible service-disabled 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)).