

## **Service-Disabled Veteran-Owned Small Business Concern (SDVO SBC)**

### **Frequently Asked Questions and Answers**

#### **Q1. What is the purpose of the service-disabled veteran-owned small business program?**

A1. The purpose of the service-disabled veteran-owned small business concern procurement program is to provide procuring agencies with the authority to set acquisitions aside for exclusive competition among service-disabled veteran-owned small business concerns, as well as the authority to make sole source awards to service-disabled veteran-owned small business concerns if certain conditions are met. (See Code of Federal Regulations (CFR) 13 C.F.R. § 125.8-125.10).

#### **Q2. What defines a SDVO SBC?**

A2. The Small Business Act defines an SDVO SBC as a concern that is (1) at least 51% owned directly and unconditionally by a service-disabled veteran and (2) managed and controlled by a service-disabled veteran, or spouse or permanent caregiver of a service-disabled veteran with a permanent and severe disability. (See 13 C.F.R. § 125.8-125.10).

#### **Q3. What agency is responsible for size and SDVO protests?**

A3. All questions about a firm's service-disabled veteran-owned or size status must be referred to the U.S. Small Business Administration (SBA) for resolution (see Federal Acquisition Regulation (FAR) §19.307(h)). Size protests are decided by the SBA's Government Contracting Area Office serving the geographical area where the protested firm is located (See 13 C.F.R.) §121.1002 and FAR

§19.302(c) (1). SDVO status protests are decided by the SBA Director for Government Contracting, (See 13 C.F.R. §125.24(e) and FAR 19.307(c). Any questions concerning an apparent successful offeror's representation that it qualifies as an SDVO SBC including a challenge from a Contracting Officer must be forwarded to the SBA. (See 13 C.F.R. §125.8).

**Q4. What differentiates a size and service-disabled veteran-owned protest?**

A4. A size protest is a challenge to an offeror's representation that it does not exceed the size standard assigned to a solicitation. A service-disabled veteran-owned status protest involves an allegation that an offeror does not qualify as an SDVO SBC.

**Q5. When will SBA accept an SDVO SBC protest?**

A5. SBA will consider an SDVO SBC protest only if the protester presents credible evidence that the concern is not fifty-one percent (51%) owned/controlled, by a veteran with a service connected disability. (See 13 C.F.R. §125.26).

**Q6. What is SBA's timeline for processing an SDVO SBC protest?**

A6. SBA has fifteen (15) working days to render a decision after receipt of a protest. The SBA may request an extension from the Contracting Officer if more time is needed. See 13 C.F.R. §125.127 (c)).

**Q7. When is a SDVO SBC eligible for an award?**

A7. In order to be eligible for award of an SDVO SBC set-aside contract, a firm must represent at the time of its offer that it is an eligible SDVO SBC. (See FAR §52.219-1 and §52.219-27).

**Q.8. How does a joint venture qualify as a SDVO SBC?**

A8. A joint venture's ability to qualify as an SDVO SBC primarily centers on control of the joint venture. The SDVO SBC must be the managing venturer, an employee of the SDVO SBC must be the project manager, 51% of the net profits of the joint venture must go to the SDVO SBC, and the SDVO SBC must retain the joint venture's original records. A joint venture of at least one SDVO SBC and one more other business concerns may submit an offer as a small business for a competitive SDVO SBC procurement so long as each concern is small under the size standard corresponding to the North American Industry Classification System code assigned to the contract. (See 13 C.F.R. §125.15).

**Q9. Is a Contracting Officer (CO) an interested party?**

A9. A Contracting Officer is an interested party for purposes of filing SDVO status protests. (See 13 C.F.R. § 125.25(e)).

**Q10. Does the Contracting Officer have the authority to reject an SDVO offeror?**

A10. No Contracting Officer has the authority to reject an offeror based on his or her own SDVO status determination. SDVO status protests are decided by the SBA Director for Government Contracting. However, a solicitation may require bidders to provide proof that the veteran owner possesses a service-connected disability that has been recognized by a cognizant authority (e.g., a copy of the veteran's DD-214 or a claim adjudication letter from the Department of Veterans Affairs) along with their proposals. When a bidder fails to provide such proof, a Contracting Officer may reject a bid as non-responsive. (See 13 C.F.R. § 125.8. and 13 C.F.R. §125.8-125.10).

**Q11. Can a SDVO SBC decision be appealed?**

A11. Yes, but all appeals must be submitted to SBA's Office of Hearings and Appeals in writing within ten business days of the date of receipt of a determination. (See 13 C.F.R. §125.27).