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*** CURRENT THROUGH PL 110-460, APPROVED 12/23/2008 ***

TITLE 15. COMMERCE AND TRADE
 CHAPTER 14A. AID TO SMALL BUSINESS

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15 USCS § 657f

§ 657f. Procurement program for small business concerns owned and controlled by service-disabled veterans.

(a) Sole source contracts. In accordance with this section, a contracting officer may award a sole source contract to any small business concern owned and controlled by service-disabled veterans if--

(1) such concern is determined to be a responsible contractor with respect to performance of such contract opportunity and the contracting officer does not have a reasonable expectation that 2 or more small business concerns owned and controlled by service-disabled veterans will submit offers for the contracting opportunity;

(2) the anticipated award price of the contract (including options) will not exceed--

(A) \$ 5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

(B) \$ 3,000,000, in the case of any other contract opportunity; and

(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

(b) Restricted competition. In accordance with this section, a contracting officer may award contracts on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if the contracting officer has a reasonable expectation that not less than 2 small business concerns owned and controlled by service-disabled veterans will submit offers and that the award can be made at a fair market price.

(c) Relationship to other contracting preferences. A procurement may not be made from a source on the basis of a preference provided under subsection (a) or (b) if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (*41 U.S.C. 46 et seq.*).

(d) Enforcement; penalties. Rules similar to the rules of paragraphs (5) and (6) of section 8(m) [*15 USCS § 637(m)*] shall apply for purposes of this section.

(e) Contracting officer. For purposes of this section, the term "contracting officer" has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (*41 U.S.C. 423(f)(5)*).

HISTORY:

(July 18, 1958, P.L. 85-536, § 2 [36], as added Dec. 16, 2003, P.L. 108-183, Title III, § 308, 117 Stat. 2662.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

A prior § 36 of Act July 18, 1958, P.L. 85-536, which appears as *15 USCS § 631* note, was redesignated § 37 of such Act by § 308 of Act Dec. 16, 2003, P.L. 108-183.

Interpretive Notes and Decisions:

Language of *15 USCS § 657f* is clearly discretionary; as such, it permits, but does not require, contracting officer to restrict competition to service-disabled veteran-owned small business concerns if certain conditions are satisfied. *DAV Prime, Inc. (5/1/08) Comp. Gen. Dec. No. B-311420, 2008 US Comp Gen LEXIS 73*.

Bid protest by interested party was remanded, to General Services Administration, where administrative record was unclear as to whether tiered system for evaluating past experience penalized bid protestor for not having wide breadth of prior work, and violation of condition of executive agent determination. *Knowledge Connections Travel, Inc. v United States (2007) 76 Fed Cl 6*.

Solicitation for government-wide acquisition contract for information technology services properly utilized evaluation criteria based on broad range of prior work, since government properly focused on broad experience to meet broad requirements and service-disabled, veteran-owned small business was properly encouraged to use team approach. *Knowledge Connections, Inc. v United States (2007) 79 Fed Cl 750*.