



Billing Code:

U. S. SMALL BUSINESS ADMINISTRATION

13 CFR Part 125

RIN 3245- AH14

Regulatory Reform Initiative: Government Contracting Programs

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: With this deregulatory action, the U.S. Small Business Administration (SBA) is removing from the Code of Federal Regulations (CFR) four regulations in the Service-Disabled Veteran-Owned (SDVO) Small Business Concern (SBC) Program that are no longer necessary because they are unnecessary or redundant. The removal of these regulations assists the public by simplifying SBA's regulations in the CFR.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Khem Sharma, Chief, Office of Size Standards, (202) 205-7189 or khem.sharma@sba.gov.

SUPPLEMENTARY INFORMATION:

I. Background Information

On February 4, 2020, SBA published a proposed rule with request for comments in the *Federal Register* to remove four regulations from the SDVO SBC program. 85 FR 6106. This program allows agencies to set aside contracts for SDVO SBCs. Under this program, Federal Agencies may also award sole source contracts to SDVO SBCs so long as the award can be made at a fair and reasonable price and the anticipated total value of

the contract, including any options, is below \$4 million (\$6.5 million for manufacturing contracts). For purposes of this program, veterans and service-related disabilities are defined as they are under the statutes governing veterans' affairs, 38 USC 101.

SBA received no comments to the proposed rule. As such, SBA is finalizing the rule by removing four regulations that are unnecessary or covered elsewhere in the CFR.

II. Section-by-Section Analysis

§ 125.15 May an SDVO SBC have affiliates?

Section 125.15 provides that an SDVO SBC may have affiliates. This rule is redundant because whether an SDVO SBC can have an affiliate is addressed in 13 CFR 121.103, the general rules of affiliation.

§ 125.16 May 8(a) Program participants, HUBZone SBCs, Small and Disadvantaged Businesses, or Women-Owned Small Businesses qualify as SDVO SBCs?

Section 125.16 states that an SDVO SBC may qualify for other SBA contracting programs. This regulation is unnecessary because the requirements for an SDVO SBC to qualify for other programs are addressed in the rules on eligibility for those specific programs.

§ 125.19 Does SDVO SBC status guarantee receipt of a contract?

Section 125.19 states that an SDVO SBC is not guaranteed receipt of a contract. This provision is unnecessary because nothing in SBA's regulations indicates that qualifying as an SDVO SBC entitles a firm to a contract.

§ 125.20 Who decides if a contract opportunity for SDVO competition exists?

Section 125.20 is redundant because 13 CFR 125.22 and 125.23 already provide that contracting officers make SDVO SBC competition decisions.

III. Compliance with Executive Orders 12866, 13771, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C., Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601-612)

A. Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule does not constitute a significant regulatory action for purposes of Executive Order 12866 and is not a major rule under the Congressional Review Act, 5 U.S.C. 801, et seq.

B. Executive Order 13771

This rule is expected to be an Executive Order 13771 deregulatory action with an annualized net savings of \$33,669 and a net present value of \$480,986, both in 2016 dollars.

The four regulations in the SDVO program are either unnecessary or redundant. Their removal will assist the public by simplifying the SBA's regulations in the CFR and reduce the time spent reviewing them. The cost saving calculation assumes 2 percent of the 21,750 SDVO small businesses per year (or about 435) will save 30 minutes from not reading this removed information. This time is valued at a rate of \$118.22 per hour—the median hourly wage of \$59.11 for an attorney according to 2019 Bureau of Labor Statistics (BLS) data¹ plus 100 percent more for benefits and overhead. This produces savings to SDVO small businesses per year of \$25,713 in current dollars.

The cost savings also includes a savings to the government, assuming that 2 percent of the 38,000 Federal contracting officers per year (or about 760) will save 30

¹ <https://www.bls.gov/ooh/legal/lawyers.htm>, retrieved July 31, 2020.

minutes from not reading this removed information. This time is valued at a rate of \$82.74—assuming the average Federal contracting officer is a GS-12 step 1 (DC locality in 2020 of \$41.37)² and adding 100 percent more for benefits and overhead, for annual savings of \$31,441. This produces total savings per year of \$57,287 in current dollars.

The annual savings to SDVO small businesses and to the government totals to \$57,154 in current dollars.

In the first year, it is assumed that 5 percent of SDVO small businesses (about 1,088) and 5 percent of Federal contracting officers (about 1,900) would read this *Federal Register* notice which is estimated to take 30 minutes per SDVO small business at \$118.22 per hour and \$82.74 per hour per Federal contracting officer, producing cost in the first year of \$142,915 (\$64,312 for SDVO small businesses and \$78,603 for the Federal Government). This cost is not expected to continue in subsequent years.

Table 1 displays the costs and savings of this rule over the first 2 years it is published, with the savings and costs in the second year expected to continue into perpetuity. Table 2 presents the annualized net savings in 2016 dollars.

Table 1. Schedule of Costs/(Savings) Over 2 Year Horizon, Current Dollars

	Savings	Costs
Year 1	598 hours	1,494 hours
	(\$57,154)	\$142,915
Year 2	598 hours	0 hours
	(\$57,154)	\$0

Table 2: Annualized Savings in Perpetuity with 7% Discount Rate, 2016 Dollars

	Estimate
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² https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf, retrieved July 31, 2020.

Annualized Savings	(\$40,254)
Annualized Costs	\$6,585
Annualized Net Savings	(\$33,669)

C. Executive Order 12988

This action meets applicable standards set forth in Sec. 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

D. Executive Order 13132

This rule does not have federalism implications as defined in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Executive Order. As such, it does not warrant the preparation of a Federalism Assessment.

E. Paperwork Reduction Act, (5 U.S.C. 601-612)

SBA has determined that this final rule will not impose new, or modify existing, recordkeeping or reporting requirements under the Paperwork Reduction Act.

F. Regulatory Flexibility Act, 5 U.S.C. 601-612

The Regulatory Flexibility Act (RFA) requires administrative agencies to consider the effect of their actions on small entities, small non-profit businesses, and small local governments. Pursuant to the RFA, when an agency issues a rule, the agency must prepare an analysis that describes whether the impact of the rule will have a significant economic impact on a substantial number of small entities. If not, the RFA permits agencies to certify to that effect.

There are approximately 21,750 SDVO small businesses and all can be affected by this rule. However, this rule removes regulations that are unnecessary or redundant,

saving these entities time in reading the regulations. The annualized net savings to SDVO small businesses³ is \$15,147 in current dollars, or less than a dollar per SDVO small business, as detailed in the Executive Order 13771 discussion above.

SBA certified this rule at the proposed rule stage and received no comments on the certification. Accordingly, SBA therefore certifies that this rule has “no significant impact upon a substantial number of small entities” within the meaning of the RFA.

List of Subjects

13 CFR Part 125

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small businesses, Technical assistance, Veterans.

Accordingly, for the reasons stated in the preamble, SBA is amending 13 CFR part 125 as follows:

PART 125 – GOVERNMENT CONTRACTING PROGRAMS

1. The authority citation for part 125 is revised to read as follows:

Authority: 15 U.S.C. 632(p), (q), 634(b)(6), 637, 644, 657f, 657q, 657r, and 657s; 38 U.S.C. 501 and 8127.

§§ 125.15, 125.16, 125.19, and 125.20 [Removed and Reserved]

2. Remove and reserve §§ 125.15, 125.16, 125.19, and 125.20.

Jovita Carranza,
Administrator.

³ From annualized savings of \$18,110 per SDVO small businesses minus the one-time cost to SDVO small businesses annualized to \$2,963, both in 2016 dollars.

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