19.1305 HUBZone set-aside procedures.

(a) The *contracting officer*-

(1) *Shall* comply with 19.203 before deciding to set aside an *acquisition* under the *HUBZone* Program;

(2) *May* set aside *acquisitions* exceeding the *micro-purchase threshold* for competition restricted to *HUBZone* small business *concerns* when the requirements of paragraph (b) of this section can be satisfied; and

(3) *Shall* consider *HUBZone* set-asides before considering *HUBZone* sole-source awards (see 19.1306) or small business set-asides (see subpart 19.5).

(b) To set aside an *acquisition* for competition restricted to *HUBZone* small business *concerns*, the *contracting officer must* have a reasonable expectation that-

(1) *Offers* will be received from two or more *HUBZone* small business *concerns*; and

(2) Award will be made at a *fair market price*.

(c) If the *contracting officer* receives only one acceptable *offer* from a *HUBZone* small business *concern* in response to a set aside, the *contracting officer should* make an award to that *concern*. If the *contracting officer* receives no acceptable *offers* from *HUBZone* small business *concerns*, the *HUBZone* set-aside *shall* be withdrawn and the requirement, if still valid, set aside for small business *concerns*, as appropriate (see 19.203).

(d) The procedures at 19.202-1 and, at 19.402 apply to this section.

(1) When the SBA intends to appeal a *contracting officer*'s decision to reject a recommendation of the SBA *procurement* center representative (or, if a *procurement* center representative is not assigned, see 19.402(a)) to set aside an *acquisition* for competition restricted to *HUBZone* small business *concerns*, the SBA *procurement* center representative *shall* notify the *contracting officer*, *in writing*, of its intent within 5 business days of receiving the *contracting officer*'s notice of rejection.

(2) Upon receipt of notice of SBA's intent to appeal, the *contracting officer shall* suspend action on the *acquisition* until the *head of the contracting activity* issues a written decision on the appeal, unless the *head of the contracting activity* makes a written determination that urgent and compelling circumstances, which significantly affect the interests of the Government, exist.

(3) Within 15 business days of SBA's notification to the *contracting officer*, SBA *must* file its formal appeal with the *head of the agency*, or the appeal will be deemed withdrawn. The *head of the agency shall* reply to SBA within 15 business days of receiving the appeal. The decision of the *head of the agency shall* be final.

Parent topic: Subpart 19.13 - Historically Underutilized Business Zone (HUBZone) Program