

SDVOSB Challenges: The Basics

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SDVOSB Challenges are administered under 48 CFR 819.307 - SDVOSB/VOSB small business status protests which states that:

819.307 SDVOSB/VOSB small business status protests.

(a) All protests relating to whether an eligible VOSB or SDVOSB is a “small” business for the purposes of any Federal program are subject to 13 CFR part 121 and must be filed in accordance with that part. For acquisitions under the authority of subpart 819.70, upon execution of an interagency agreement between VA and the SBA pursuant to the Economy Act (31 U.S.C. 1535), regarding service-disabled veteran-owned or veteran-owned small business status, contracting officers shall forward all status protests to the Director, Office of Government Contracting (D/GC), U.S. Small Business Administration (ATTN: VAAR Part 819 SDVOSB/VOSB Small Business Status Protests), 409 3rd Street, SW., Washington, DC 20416, for disposition. Except for ownership and control issues to be determined in accordance with 38 CFR part 74, protests shall follow the procedures set forth in FAR 19.307 for both service-disabled veteran-owned and veteran-owned small business status. However, contracting officers shall be solely responsible for determining VOSB and SDVOSB compliance with VAAR 804.1102.

(b) If SBA sustains a service-disabled veteran-owned or veteran-owned small business status protest and the contract has already been awarded, then the contracting officer cannot count the award as an award to a VOSB or

SDVOSB and the concern cannot submit another offer as a VOSB or SDVOSB on a future VOSB or SDVOSB procurement under this part, as applicable, unless it demonstrates to VA that it has overcome the reasons for the determination of ineligibility.

(c) Until execution of the interagency agreement referenced in subsection (a), for acquisitions under the authority of subpart 819.70, the Executive Director, VA Office of Small and Disadvantaged Business Utilization (OSDBU) shall decide all protests on service-disabled veteran-owned or veteran-owned small business status whether raised by the contracting officer or an offeror. Ownership and control shall be determined in accordance with 38 CFR part 74. The Executive Director's decision shall be final.

(1) All protests must be in writing and must state all specific grounds for the protest. Assertions that a protested concern is not a service-disabled veteran-owned or veteran-owned small business concern, without setting forth specific facts or allegations, are insufficient. An offeror must submit its protest to the contracting officer. An offeror must deliver their protest in person, by facsimile, by express delivery service, or by the U.S. Postal Service within the applicable time period to the contracting officer.

(2) An offeror's protest must be received by close of business on the fifth business day after bid opening (in sealed bid acquisitions) or by close of business on the fifth business day after notification by the contracting officer of the apparently successful offeror (in negotiated acquisitions). Any protest received after these time limits is untimely. Any protest received prior to bid opening or notification of intended

award, whichever applies, is premature and shall be returned to the protester.

(3) If the Executive Director sustains a service-disabled veteran-owned or veteran-owned small business status protest and the contract has already been awarded, then the contracting officer cannot count the award as an award to a VOSB or SDVOSB and the concern cannot submit another offer as a VOSB or SDVOSB on a future VOSB or SDVOSB procurement under this part, as applicable, unless it demonstrates to VA that it has overcome the reasons for the determination of ineligibility.

ABOUT THE AUTHOR

Frank V. Reilly is a [Martindale - Hubbell Peer Reviewed Attorney](#) with a perfect 5.0/5.0 Peer Rating. Martindale-Hubbell® Peer Review Ratings™ are the gold standard in attorney ratings, and have been for more than a century.

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