

1480.401 Requirement to give preference to Indian Economic Enterprises.

- (a) IA must use the negotiation authority of the Buy Indian Act to give preference to Indians or Federally Recognized Tribes whenever the use of that authority is practicable. The Buy Indian Act provides that so far as may be practicable, Indian labor shall be employed, and purchases of the products (including, but not limited to printing, notwithstanding any other law) of Indian industry may be made in open market at the discretion of the Secretary of the Interior. Thus, IA may use the Buy Indian Act to give preference to IEEs through set-asides when acquiring supplies, general services, A&E services, or construction to meet IA needs and requirements. All other FAR and DIAR requirements that do not conflict with this part, such as requirements applicable to the acquisition of A&E and construction services, remain applicable.
- (b) The Buy Indian Act does not apply when a supply requirement can be met by existing inventories of the requiring agency or excess from other agencies.
- (c) The CO will give priority to ISBEEs for all purchases, regardless of dollar value. COs when prioritizing ISBEEs may consider either:
 - (1) A set-aside for ISBEEs; or
 - (2) A sole source award to an ISBEE, as authorized under the FAR.
- (d) If the CO determines after market research that there is no reasonable expectation of obtaining offers that will be competitive in terms of market price, quality, and delivery, the CO may consider either:
 - (1) A set-aside for IEEs; or
 - (2) A sole source award to an IEE, as authorized under the FAR.
- (e) If the CO determines after market research that there is no reasonable expectation of obtaining offers that will be competitive in terms of market price, quality, and delivery from ISBEEs or IEEs, then the CO must follow the Deviation process under 1480.403.
- (f) When only one offer is received from a responsible IEE in response to an acquisition set-aside or direct negotiation under paragraph (c)
 - (1) or (d)
 - (1) of this section:
 - (1) If the offer is not at a reasonable and fair market price, then the CO may negotiate with that enterprise for a reasonable and fair market price.
 - (2) If the offer is at a reasonable and fair market price, then the CO must:
 - (i) Make an award to that enterprise;
 - (ii) Document the reason only one offer was considered; and

- (iii) Initiate action to increase competition in future solicitations.
- (g) If the offers received from one or more responsible IEEs in response to an acquisition set-aside under paragraph (c)
 - (1) or (d)
 - (1) of this section are not reasonable or otherwise unacceptable, then the CO must follow the deviation process under 1480.403. The CO must document in the deviation determination the reasons why the IEE offeror(s) were not reasonable or otherwise unacceptable.
 - (1) If a deviation determination is approved, the CO must cancel the set-aside solicitation and inform all offerors in writing.
 - (2) When the solicitation of the same requirement is posted, the CO must inform all previous offerors in writing of the solicitation number.

Parent topic: [Subpart 1480.4 - Policy](#)