



March 23, 2021

MEMORANDUM FOR: Heads of Contracting Activity

FROM: David R. Dasher //s//
Deputy Assistant Secretary for the Office of Acquisitions
Senior Procurement Executive

SUBJECT: Federal Acquisition Regulation (FAR) Class Deviation (2021-01) - Certification of Women-Owned Small Businesses

EFFECTIVE DATE: Immediately

EXPIRATION DATE: This class deviation is effective upon signature and remains in effect until the statutory change is incorporated in the FAR or this deviation is rescinded.

AUTHORITY: This class deviation is issued under the authority of the Federal Acquisition Regulation (FAR) FAR 1.404. CAAC Letter 2021-01, CAAC Consultation to Issue a Class Deviation from the Federal Acquisition Regulation (FAR) Regarding Certification of Women-Owned Small Businesses, issued January 29, 2021 (Attachment 1) by the Chair of the Civilian Agency Acquisition Council (CAAC), constitutes consultation with the Chair of the CAAC as required by FAR 1.404(a)(1). The procedures outlined in this CAAC letter should be followed until FAR Case 2020-013, Certification of Women-Owned Small Businesses is effective.

BACKGROUND: This memorandum approves a class deviation from the Federal Acquisition Regulation (FAR) under Civilian Agency Acquisition Council (CAAC) Letter 2021-01, CAAC Consultation to Issue a Class Deviation from the Federal Acquisition Regulation (FAR) Regarding Certification of Women-Owned Small Businesses, which implements the Small Business Administration (SBA) final rule published May 11, 2020 (85 FR 27650). The SBA rule revised 13 CFR 127 concerning status as a Women-Owned Small Business (WOSB) and Economically Disadvantaged Women-Owned Small Business (EDWOSB) to be eligible under the Women-Owned Small Business Program (WOSB Program). This class deviation outlines new procedures contracting officers (COs) must take to verify the eligibility of an entity for a set-aside or sole-source award under the WOSB program.

DEVIATION: The certification process for Women-Owned Small Businesses (WOSBs) and Economically Disadvantaged WOSBs (EDWOSBs) has changed. SBA has implemented Congress' changes to the Women-Owned Small Business Federal Contracting Program (WOSB Federal Contracting Program), as put forth in the 2015 National Defense Authorization Act (NDAA).

As of October 15, 2020, the WOSB Program Repository is no longer the source for WOSB and EDWOSB representation status. SBA's Dynamic Small Business Search (DSBS) will serve as the point of reference to determine the status of WOSB or EDWOSB concerns until SBA certification status is implemented within the System for Award Management (SAM). Prior to award, contracting officers shall now use the DSBS to verify that a WOSB or EDWOSB concern is either certified or has a pending application for certification.

The following procedures are for contracting officers to use in lieu of the procedures at FAR 19.1503(b) through (d) to verify the eligibility of a concern for a set-aside or sole-source award under the WOSB Program.

1) Contracting officers shall make clear in their solicitation the inclusion of these new procedures by providing a statement in the solicitation information section similar to the statements below:

(a) For Set-Aside awards for WOSB concerns or EDWOSB concerns eligible under the WOSB program:

“If the offeror is not designated as certified or does not have a pending application for certification in the Dynamic Small Business Search (DSBS) at the time of the submission of the offer, its offer is not eligible for award and will be removed from consideration. Any award resulting from this solicitation will be made to a WOSB or EDWOSB concern designated as certified as a WOSB or EDWOSB concern in DSBS. The DSBS website is located at https://web.sba.gov/pro-et/search/dsp_dsbs.cfm . The WOSB and EDWOSB representations completed in response to FAR provisions 52.212-3, 52.219-1, or 52.219-28 will not be used for this award.”

(b) For Sole-Source awards for WOSB concerns or EDWOSB concerns eligible under the WOSB program:

“A concern must already be certified at the time of submission of the offer. Any award resulting from this solicitation will be made to a WOSB or EDWOSB concern designated as certified as a WOSB concern eligible under the WOSB program or EDWOSB concerns in the Dynamic Small Business Search (DSBS). The DSBS website is located at https://web.sba.gov/pro-net/search/dsp_dsbs.cfm. The WOSB and EDWOSB representations completed in response to FAR provisions 52.212-3, 52.219-1, or 52.219-28 will not be used for this award.”

2) For WOSB or EDWOSB set-asides, if the concern becomes the apparently successful offeror while its WOSB or EDWOSB application is pending, the contracting officer shall email the SBA's Director of Government Contracting at WOSBpendingcertification@sba.gov . SBA will complete a determination within 15 calendar days of receipt of the email. If a determination is not provided to the contracting officer within that timeframe, the contracting officer may either grant SBA an extension, or presume the concern is not an eligible WOSB or EDWOSB and

make award to the next highest evaluated offeror.

3) For WOSB or EDWOSB set-aside or sole-source procurements, contracting officers shall only make an award to a concern that is designated as certified as a WOSB or EDWOSB in DSBS.

ATTACHMENTS:

Attachment 1: CAAC Letter 2021-01 - CAAC Consultation to Issue a Class Deviation from the Federal Acquisition Regulation (FAR) Regarding Certification of Women-Owned Small Businesses

RESOURCES: [Women-Owned Small Business Federal Contracting Program](#)

(Class Deviation 2021-01)