



GSA Office of Governmentwide Policy

Class Deviation CD-2021-06
February 2, 2021

MEMORANDUM FOR GSA CONTRACTING ACTIVITIES

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SUBJECT: FAR Class Deviation - Guidance on Certification of Women Owned Small Businesses

1. Purpose.

This memorandum approves a class deviation from the Federal Acquisition Regulation (FAR) to revise the requirements for contracting officers to verify the eligibility of a Women-Owned Small Business (WOSB) or Economically Disadvantaged Women-Owned Small Business (EDWOSB) concern for a set-aside, sole-source award, or reserve.

This class deviation is issued to immediately implement the change until the FAR is amended by FAR Case 2020-013, Certification of Women-Owned Small Businesses.

2. Background.

Effective October 15, 2020, a Small Business Administration (SBA) final rule (85 FR 27650) replaced the WOSB Program Repository with SBA certification of WOSBs and EDWOSBs. SBA no longer requires concerns to upload documents to the WOSB Program Repository. Instead, SBA certifies, or an approved third party certifies, a WOSB concern or EDWOSB as eligible for the WOSB Program in the Dynamic Small Business Search (DSBS) until SBA certification status is implemented within the System for Award Management (SAM).

The Civilian Agency Acquisition Council (CAAC) issued a consultation letter (CAAC Letter 2021-01) on January 29, 2021 to authorize agencies to issue a class deviation to implement the SBA final rule, providing alternate procedures for contracting officers to follow. The deviation procedures no longer require contracting officers to check SAM, or the WOSB Repository. The contracting officers will now, prior to award, verify in DSBS that the WOSB concern or EDWOSB concern is either certified or has a pending application for certification.

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3. Requirements.

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-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."

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 time frame, 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.

Contracting officers are reminded that in order to do a set-aside under WOSB or EDWOSB, the NAICS code for the acquisition must be one of the qualifying NAICS for the WOSB Program. The list can be found at <https://www.sba.gov/document/support--qualifying-naics-women-owned-small-business-federal-contracting-program>.

4. Authority.

This class deviation is issued under the authority of FAR 1.404 and General Services Administration Acquisition Manual (GSAM) 501.404.

This deviation is issued following consultation with the Chair of the Civilian Agency Acquisition Council (CAAC) in accordance with FAR 1.404(a) and GSAM 501.404(a).

5. Effective Date.

This deviation is effective immediately and remains in effect until FAR Case 2020-013, Certification of Women-Owned Small Businesses is effective.

6. Point of Contact.

Any questions regarding this deviation may be directed to GSARPolicy@gsa.gov.