

**FAR Class Deviation - Verification of Eligibility for the Women-Owned Small Business**

**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, or reserve.

**Authority:** This class deviation is issued under the authority of the FAR 1.404 and through consultation with the Chair of the Civilian Agency Acquisition Council (CAAC) via the [CAAC Letter 2021-01](#).

**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, the eligibility of a WOSB concern or EDWOSB for the WOSB Program in the Dynamic Small Business Search (DSBS) until SBA certification status is implemented within the System for Award Management (SAM).

**Action:** Contracting officers shall use the following procedures 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 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 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 at [https://web.sba.gov/pro-net/search/dsp\\_dsbs.cfm](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 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 concern in the DSBS at [https://web.sba.gov/pro-net/search/dsp\\_dsbs.cfm](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](mailto:WOSBpendingcertification@sba.gov). SBA will complete a determination within 15 calendar days or 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 offer.

- 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 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>

**Effective Date:** This deviation is effective immediately and remains in effect until FAR Case 2020-013 is incorporated into the FAR.

**Point of Contact:** Questions regarding this deviation may be directed to [Procurement.Policy@usda.gov](mailto:Procurement.Policy@usda.gov).