



January 29, 2021

CAAC Letter 2021-01

MEMORANDUM FOR CIVILIAN AGENCIES

FROM: WILLIAM CLARK
CHAIR
CIVILIAN AGENCY ACQUISITION COUNCIL (CAAC)

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

This CAAC letter is being issued to serve as consultation in accordance with FAR 1.404, authorizing agencies to issue a class deviation to implement 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).

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).

Additionally, in the SBA regulations contracting officers are provided procedures to follow when a concern has a pending certification application status in DSBS.

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:

1. 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 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.

The procedures outlined in this CAAC letter should be followed until FAR case 2020-013, Certification of Women-Owned Small Businesses is effective.

This CAAC letter constitutes consultation with the Chair of the CAAC required by FAR 1.404(a)(1). Agencies are advised to review any relevant clauses in their supplement and take any action that is appropriate. Once processed, agencies are requested to share the deviation widely among their workforces to ensure full awareness of and compliance with the revisions to the WOSB and EDWOSB certification process under the WOSB Program.

Agencies are reminded that FAR 1.404 requires agencies to furnish a copy of each approved class deviation to the FAR Secretariat, General Services Administration, by emailing the deviation to GSARegSec@gsa.gov. Please include whether or not the document can be posted on acquisition.gov.

If you have any questions or require additional information about this letter, please contact Malissa Jones at (703) 605-2815 or at malissa.jones@gsa.gov.