



Homeland  
Security

MEMORANDUM FOR: Heads of Contracting Activity  
SORAYA  
FROM: Soraya Correa CORREA  
Chief Procurement Officer

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SORAYA CORREA  
Date: 2021.03.17  
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SUBJECT: Federal Acquisition Regulation Class Deviation (Number 21-01) –  
Certification of Women-Owned Small Businesses

**Purpose:** This class deviation is issued in accordance with Federal Acquisition Regulation (FAR) 1.404. The purpose of this deviation is to implement the Small Business Administration (SBA) final rule published May 11, 2020 (85 FR 27650).

**Effective Date:** Immediately.

**Background:** On January 29, 2021, Civilian Agency Acquisition Council (CAAC) Letter 2021-01: CAAC Consultation to Issue a Class Deviation from the FAR Regarding Certification of Women-Owned Small Businesses (WOSBs), was issued and served as consultation to agencies in accordance with FAR 1.404. CAAC Letter 2021-01 authorizes the Department of Homeland Security (DHS) to issue this class deviation.

The SBA final rule 85 FR 27650 revised 13 CFR 127 concerning status as a WOSB and Economically Disadvantaged Women-Owned Small Business (EDWOSB) to be eligible under the WOSB Program.

**Requirement:** As of October 15, 2020, the WOSB Program Repository is no longer the source for WOSB and EDWOSB representation status. The SBA 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. Additionally, in the SBA regulations contracting officers are provided procedures to follow when a concern has a pending certification application status in DSBS.

DHS 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.

- A. For Set-Aside awards for WOSB concerns or EDWOSB concerns eligible under the WOSB Program contracting officers shall use the following Section L solicitation language:

*(1) "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 Women-Owned Small Business (WOSB) or Economically Disadvantaged Women-Owned Small Business (EDWOSB) concern designated as certified as a WOSB or EDWOSB concern in the DSBS. The DSBS website is located 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.”*

*(End)*

- B. For Sole-Source awards for WOSB concerns or EDWOSB concerns eligible under the WOSB Program contracting officers shall use the following Section L solicitation language:

*(1) “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 Women-Owned Small Business (WOSB) or Economically Disadvantaged Women-Owned Small Business (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](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.”*

*(End)*

- C. For a WOSB or EDWOSB set-aside, if the concern becomes the apparent 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 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.
- D. For a WOSB or EDWOSB set-aside or sole-source procurement, contracting officers shall only make an award to a concern that is designated as certified as a WOSB or EDWOSB in DSBS.

**Applicability:** This class deviation applies to all solicitations and contracts (see definition of contract at FAR 2.101) awarded on or after the issuance date of this class deviation.

**Expiration:** This class deviation will remain in effect until it is incorporated into the FAR or is otherwise rescinded.

**Attachment:**

- Attachment 1: CAAC Letter 2021-01, CAAC Consultation to Issue a Class Deviation from the FAR Regarding Certification of WOSBs

**Additional Information:** DHS Component contracting activities should update their contract writing systems (CWS) to include the solicitation language found at sections A(1) and B(1) of this deviation. In order to provide access to the solicitation language in Component CWS, Component Acquisition Policy Chiefs should coordinate with the appropriate Component CWS personnel to determine if the addition of the solicitation language to their CWS is possible.

Questions or comments about this class deviation may be directed to Candace Lightfoot at [Candace.Lightfoot@hq.dhs.gov](mailto:Candace.Lightfoot@hq.dhs.gov).