

19.1407

to make a service-disabled veteran-owned small business sole source award.

[69 FR 25278, May 5, 2004, as amended at 71 FR 57367, Sept. 28, 2006; 75 FR 38688, July 2, 2010; 75 FR 53133, Aug. 30, 2010; 76 FR 14568, Mar. 16, 2011]

19.1407 Contract clauses.

The contracting officer shall insert the clause 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside, in solicitations and contracts for acquisitions under 19.1405 and 19.1406.

Subpart 19.15—Women-Owned Small Business (WOSB) Program

SOURCE: 76 FR 18311, Apr. 1, 2011, unless otherwise noted.

19.1500 General.

(a) Section 8(m) of the Small Business Act (15 U.S.C. 637(m)) created the Women-Owned Small Business (WOSB) Program.

(b) The purpose of the WOSB Program is to ensure women-owned small business concerns have an equal opportunity to participate in Federal contracting and to assist agencies in achieving their WOSB participation goals (see 13 CFR part 127).

19.1501 Definition.

WOSB Program Repository means a secure, Web-based application that collects, stores, and disseminates documents to the contracting community and SBA, which verify the eligibility of a business concern for a contract to be awarded under the WOSB Program.

19.1502 Applicability.

The procedures in this subpart apply to all Federal agencies that employ one or more contracting officers.

19.1503 Status.

(a) Status as an economically disadvantaged women-owned small business (EDWOSB) or WOSB concern is determined in accordance with 13 CFR part 127.

(b) The contracting officer shall verify that the offeror—

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(1) Is registered in Central Contractor Registration (CCR);

(2) Is self-certified in the Online Representation and Certifications Application (ORCA); and

(3) Has submitted documents verifying its eligibility at the time of initial offer to the WOSB Program Repository. The contract shall not be awarded until all required documents are received.

(c)(1) An EDWOSB or WOSB concern that has been certified by an SBA approved third party certifier, (which includes SBA certification under the 8(a) Program), must provide the following eligibility requirement documents—

(i) The third-party certification;

(ii) SBA's WOSB Program Certification form (SBA Form 2413); and

(iii) The joint venture agreement, if applicable.

(2) An EDWOSB or WOSB concern that has not been certified by an SBA approved third party certifier or by SBA under the 8(a) Program, must provide the following documents:

(i) The U.S. birth certificate, naturalization documentation, or unexpired U.S. passport for each woman owner.

(ii) The joint venture agreement, if applicable.

(iii) For limited liability companies, Articles of organization (also referred to as certificate of organization or articles of formation) and any amendments, and the operating agreement and any amendments.

(iv) For corporations, articles of incorporation and any amendments, by-laws and any amendments, all issued stock certificates, including the front and back copies, signed in accord with the by-laws, stock ledger, and voting agreements, if any.

(v) For partnerships, the partnership agreement and any amendments.

(vi) For sole proprietorships, corporations, limited liability companies and partnerships if applicable, the assumed/fictitious name certificate(s).

(vii) SBA's WOSB Program Certification form (SBA Form 2413).

(viii) For EDWOSB concerns, in addition to the above, the SBA Form 413, Personal Financial Statement, available to the public at <http://www.sba.gov/tools/Forms/index.html>, for each woman claiming economic disadvantage.

Federal Acquisition Regulation

19.1505

(d)(1) A contracting officer may accept a concern's self-certification as accurate for a specific procurement reserved for award under this subpart if—

(i) The apparent successful WOSB or EDWOSB offeror provided the required documents;

(ii) There has been no protest or other credible information that calls into question the concern's eligibility as an EDWOSB or WOSB concern; and

(iii) There has been no decision issued by SBA as a result of a current eligibility examination finding the concern did not qualify as an EDWOSB or WOSB concern at the time it submitted its initial offer for an EDWOSB or WOSB requirement.

(2) The contracting officer shall file a status protest in accordance with FAR 19.308 if—

(i) There is information that questions the eligibility of a concern; or

(ii) The concern fails to provide all of the required documents to verify its eligibility.

(e) If there is a decision issued by SBA as a result of a current eligibility examination finding the concern did not qualify as an EDWOSB or WOSB concern, the contracting officer may terminate the contract, and shall not exercise any option nor award further task or delivery orders. The contracting officer shall not count or include the award toward the small business accomplishments for an EDWOSB or WOSB concern and must update FPDS from the date of award.

(f) A joint venture may be considered an EDWOSB concern or WOSB concern if it meets the requirements of 13 CFR 127.506.

(g) An EDWOSB or WOSB concern that is a non-manufacturer, as defined in 13 CFR 121.406(b), may submit an offer on an EDWOSB or WOSB requirement with a NAICS code for supplies, if it meets the requirements under the non-manufacturer rule set forth in that regulation.

19.1504 Exclusions.

This subpart does not apply to—

(a) Requirements that an 8(a) concern is currently performing under the 8(a) Program or that SBA has accepted for performance under the authority of the 8(a) Program, unless SBA has con-

sent to release the requirements from the 8(a) Program;

(b) Requirements that can be satisfied through award to—

(1) Federal Prison Industries, Inc. (see subpart 8.6); or

(2) Javits-Wagner-O'Day Act participating non-profit agencies for the blind or severely disabled (see subpart 8.7);

(c) Orders against indefinite delivery contracts (see subpart 16.5); or

(d) Orders against Federal Supply Schedules (see subpart 8.4).

19.1505 Set-aside procedures.

(a) The contracting officer may set-aside acquisitions exceeding the micro-purchase threshold for competition restricted to EDWOSB or WOSB concerns eligible under the WOSB Program in those NAICS codes in which SBA has determined that women-owned small business concerns are underrepresented or substantially underrepresented in Federal procurement, as specified on SBA's Web site at <http://www.sba.gov/WOSB>.

(b) For requirements in NAICS codes designated by SBA as underrepresented, a contracting officer may restrict competition to EDWOSB concerns if the contracting officer has a reasonable expectation based on market research that—

(1) Two or more EDWOSB concerns will submit offers for the contract;

(2) The anticipated award price of the contract (including options) does not exceed \$6.5 million, in the case of a contract assigned an NAICS code for manufacturing; or \$4 million, for all other contracts; and

(3) Contract award will be made at a fair and reasonable price.

(c) A contracting officer may restrict competition to WOSB concerns eligible under the WOSB Program (including EDWOSB concerns), for requirements in NAICS codes designated by SBA as substantially underrepresented if there is a reasonable expectation based on market research that—

(1) Two or more WOSB concerns (including EDWOSB concerns), will submit offers;

(2) The anticipated award price of the contract (including options) will not exceed \$6.5 million, in the case of a contract assigned an NAICS code for