

Subpart 19.15 - Women-Owned Small Business Program.

Parent topic: [Part 19 - Small Business Programs](#)

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 women-owned small business participation goals (see 13 part CFR 127).
- (c) An *economically disadvantaged women-owned small business (EDWOSB) concern* and a WOSB *concern* eligible under the WOSB Program are subcategories of “*women-owned small business concern*” as defined in section [2.101](#).

19.1501 [Reserved]

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 EDWOSB *concern* or WOSB *concern* eligible under the WOSB Program is determined by the Small Business Administration in accordance with [13 CFR part 127](#).
- (b) For a WOSB that seeks a WOSB or EDWOSB set-aside or sole-source contract, the *contracting officer shall* verify that the *offeror*—
 - (1) Is *registered in the System for Award Management (SAM)*; and
 - (2) Is designated as a certified EDWOSB or WOSB *concern* in SAM (see 19.1505(d) for set aside procedures). Pending applications for certification are only in the Dynamic Small Business Search (DSBS) at https://web.sba.gov/pro-net/search/dsp_dsbs.cfm.
- (c) If there is a decision issued by SBA as a result of a current eligibility examination finding that the *concern* did not qualify as an EDWOSB *concern* or WOSB *concern* eligible under the WOSB Program, the *contracting officer may* terminate the contract, and *shall not* exercise any *option*, or award further task or *delivery orders*. Agencies *shall not* count or include the award toward the small business goals for an EDWOSB *concern* or WOSB *concern* eligible under the WOSB Program

and *must* update FPDS from the date of award to reflect the final SBA decision.

(d) A joint venture *may* be considered an EDWOSB *concern* or WOSB *concern* eligible under the WOSB Program if the EDWOSB or WOSB participant is certified in SAM (see section 19.1505(d) for set-aside procedures) and the joint venture meets the requirements of [13 CFR 127.506](#).

19.1504 Exclusions.

This subpart does not apply to-

- (a) Requirements that an 8(a) contractor 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 consented to release the requirements from the 8(a) program;
- (b) Requirements that can be satisfied through award to mandatory Government sources (see section [8.002](#));
- (c) Orders under indefinite-delivery contracts (see subpart [16.5](#)). (But see [16.505\(b\)\(2\)\(i\)\(F\)](#) for discretionary set-asides of orders); or
- (d) Orders against Federal Supply Schedules (see subpart [8.4](#)). (But see [8.405-5](#) for discretionary set-asides of orders.)

19.1505 Set-aside procedures.

(a) The *contracting officer*-

(1) *Shall* comply with [19.203](#) before deciding to set aside an *acquisition* under the WOSB Program;

(2)

(i) *May* set aside *acquisitions* exceeding the *micro-purchase threshold* for competition restricted to EDWOSB *concerns* when the *acquisition* is assigned a NAICS code in which SBA has determined that WOSB *concerns* are underrepresented in Federal *procurement*; or

(ii) Is assigned a NAICS code in which SBA has determined that WOSB *concerns* are 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 and;
- (2) 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* eligible under the WOSB Program (including EDWOSB *concerns*), will submit *offers* and;

(2) Contract award *may* be made at a fair and reasonable price.

(d) An EDWOSB or WOSB *concern* *may* submit an *offer* under an EDWOSB or WOSB set-aside when the *offeror*—

(1) Qualifies as a small business *concern* under the size standard corresponding to the NAICS code assigned to the contract; and

(2)

(i) For an EDWOSB set-aside, is certified pursuant to 13 CFR 127.300 as an EDWOSB or has a pending application for EDWOSB certification in the DSBS (see 13 CFR 127.504(a)); or

(ii) For a WOSB set-aside, is certified pursuant to 13 CFR 127.300 as an EDWOSB or WOSB, or has a pending application for EDWOSB or WOSB certification in the DSBS (see 13 CFR 127.504(a)).

(e) The *contracting officer* shall verify that *offers* received are eligible for consideration for award by checking SAM to see if the EDWOSB or WOSB *concern* is designated as a certified *concern* or checking DSBS for a pending application for certification.

(1) If the *offeror* is designated as certified in SAM or has a pending application for certification in DSBS, proceed with the *offer* evaluation.

(2) Unless the *offeror* is designated as certified in SAM or has a pending application for certification in DSBS, the *offer* is not eligible for award and *shall* be removed from consideration.

(f) Prior to award, the *contracting officer* shall verify the apparently successful *offeror* is certified in SAM, or has a pending application for certification in DSBS. If the apparently successful *offeror*'s EDWOSB or WOSB certification is pending in DSBS, the *contracting officer* shall notify SBA's Director/Government *Contracting* by email at WOSBpendingcertification@sba.gov, and request SBA's status determination. The *contracting officer* shall provide SBA with the *offeror*'s name, *unique entity identifier*, type of set-aside, NAICS code, and *solicitation* number.

(1) Within 15 calendar days from the date of the *contracting officer*'s notification, SBA will make a determination regarding the *offeror*'s status as an EDWOSB or WOSB eligible under the WOSB program.

(2) If the *contracting officer* does not receive a determination from SBA within 15 calendar days, the *contracting officer* at their discretion, *may* provide SBA additional time to make a determination, or *may* proceed with award to the next highest evaluated *offeror*.

(3) The *contracting officer* shall not make award to an *offeror* who is not a certified EDWOSB or WOSB *concern* eligible under the WOSB program.

(g) The *contracting officer* *may* make an award, if only one acceptable *offer* is received from a

qualified EDWOSB *concern* or WOSB *concern* eligible under the WOSB Program.

(h) If no acceptable *offers* are received from an EDWOSB *concern* or WOSB *concern* eligible under the WOSB Program, the set-aside *shall* be withdrawn and the requirement, if still valid, *must* be considered for set aside in accordance with [19.203](#) and subpart [19.5](#).

(i) The SBA *procurement center* representative (PCR) *may* recommend use of the WOSB Program. If the *contracting officer* rejects a recommendation by SBA's PCR—

(1) The *contracting officer* *shall* notify the PCR as soon as practicable;

(2) SBA *shall* notify the *contracting officer* of its intent to appeal the *contracting officer's* decision no later than five business days after receiving notice of the *contracting officer's* decision;

(3) The *contracting officer* *shall* suspend further action regarding the *procurement* until the *head of the agency* issues a written decision on the appeal, unless the *head of the agency* makes a written determination that urgent and compelling circumstances which significantly affect the interests of the *United States* compel award of the contract;

(4) Within 15 business days of SBA's notification to the *head of the contracting activity*, SBA *shall* file a formal appeal to the *head of the agency*, or the appeal will be determined withdrawn; and

(5) The *head of the agency*, or designee, *shall* specify *in writing* the reasons for a denial of an appeal brought under this section.

19.1506 Women-Owned Small Business Program sole-source awards.

(a) A *contracting officer* *shall* consider a contract award to an EDWOSB *concern* on a sole-source basis (see [6.302-5\(b\)\(7\)](#)) before considering small business set-asides (see [19.203](#) and [subpart 19.5](#)) provided none of the exclusions at [19.1504](#) apply and—

(1) The *acquisition* is assigned a NAICS code in which SBA has determined that WOSB *concerns* are underrepresented in Federal *procurement*;

(2) The *contracting officer* does not have a reasonable expectation that *offers* would be received from two or more EDWOSB *concerns*; and

(3) The conditions in paragraph (c) of this section exist.

(b) A *contracting officer* *shall* consider a contract award to a WOSB *concern* (including EDWOSB *concerns*) eligible under the WOSB Program on a sole-source basis (see [6.302-5\(b\)\(7\)](#)) before considering small business set-asides (see [19.203](#) and [subpart 19.5](#)) provided none of the exclusions at [19.1504](#) apply and—

(1) The *acquisition* is assigned a NAICS code in which SBA has determined that WOSB *concerns* are substantially underrepresented in Federal *procurement*;

(2) The *contracting officer* does not have a reasonable expectation that *offers* would be received from two or more WOSB *concerns* (including EDWOSB *concerns*); and

(3) The conditions in paragraph (c) of this section exist.

(c)

(1) The anticipated award price of the contract, including *options*, will not exceed-

(i) \$8.5 million for a requirement within the NAICS codes for manufacturing; or

(ii) \$5.5 million for a requirement within any other NAICS codes.

(2) The EDWOSB *concern* or WOSB *concern* has been determined to be a responsible contractor with respect to performance.

(3) The award can be made at a fair and reasonable price.

(d) A *contracting officer shall* only award a sole-source contract to a *concern* that has been certified pursuant to 13 CFR 127.300 as an EDWOSB or WOSB eligible under the WOSB program.

Contracting officers shall not request a status determination from SBA on pending applications for certification for EDWOSB or WOSB sole-source awards.

(e) The SBA has the right to appeal the *contracting officer's* decision not to make a sole-source award to either an EDWOSB *concern* or WOSB *concern* eligible under the WOSB program.

19.1507 [Reserved]

19.1508 Contract clauses.

(a) The *contracting officer shall* insert the clause at 52.219-29, Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged *Women-owned Small Business Concerns*, in *solicitations* and contracts for *acquisitions* that are set aside or awarded on a sole-source basis to, EDWOSB *concerns* under 19.1505(b) or 19.1506(a). This includes *multiple-award contracts* when orders *may* be set aside for EDWOSB *concerns* as described in 8.405-5 and 16.505(b)(2)(i)(F) or when orders *may* be issued directly to one EDWOSB contractor in accordance with 19.504(c)(1)(ii).

(b) The *contracting officer shall* insert the clause at 52.219-30, Notice of Set-Aside for, or Sole-Source Award to, *Women-Owned Small Business Concerns* Eligible Under the Women-Owned Small Business Program, in *solicitations* and contracts for *acquisitions* that are set aside or awarded on a sole-source basis to WOSB *concerns* under 19.1505(c) or 19.1506(b). This includes *multiple-award contracts* when orders *may* be set aside for WOSB *concerns* eligible under the WOSB Program as described in 8.405-5 and 16.505(b)(2)(i)(F) or when orders *may* be issued directly to one WOSB contractor in accordance with 19.504(c)(1)(ii).

(c) For use of clause 52.219-14, Limitations on Subcontracting, see the prescription at 19.507(e).

(d) For use of clause 52.219-33, Nonmanufacturer Rule, see the prescription at 19.507(h).