


MAY 10 2013



Homeland
Security

MEMORANDUM FOR: Department of Homeland Security
Heads of the Contracting Activities

FROM: Daniel L. Clever 
Deputy Chief Procurement Officer

SUBJECT: Federal Acquisition Regulation Class Deviation (Number 13-03);
Removal of Dollar Limitation for Set-asides under the
Women-Owned Small Business Program

Purpose: This class deviation is issued in accordance with Federal Acquisition Regulation (FAR) 1.404 and Civilian Agency Acquisition Council letter 2013-03 dated May 7, 2013.

Effective Date: Immediately.

Background: Section 1697 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013, Public Law 112-239, amended section 8(m) of the Small Business Act, (15 U.S.C. 637(m)) by removing the dollar limitations for set-asides to an Economically Disadvantaged Women-Owned Small Business (EDWOSB) or Women-Owned Small Business (WOSB) eligible under the Small Business Administration's (SBA) WOSB Federal Contract Program. Section 1697 became effective January 2, 2013. SBA issued its interim final rule on May 7, 2013, 78 FR 26504, conforming SBA regulations to section 1697, by revising 13 C.F.R. 127.503(a)(2) and 127.503(b)(2).

FAR case 2013-010, implementing Section 1697 of the NDAA for FY 2013, is in the final stages of processing and will be included in the next Federal Acquisition Circular anticipated to be issued within the next 30 days.

Deviation: This DHS FAR class deviation implements Section 1697 of the NDAA for FY 2013 by removing the dollar limitations at FAR 19.505(b) and (c). The revised FAR language is provided on the attachment. As a result of this class deviation, contracting officers may restrict competition under the WOSB Program at any dollar level, provided the other requirements for a set-aside under the WOSB Program are met.

Expiration Date: This deviation remains in effect until the necessary changes are incorporated into the FAR.

Additional Information: Questions about this class deviation may be directed to Candace Lightfoot, who may be reached at (202)-447-0882, or by email at Candace.Lightfoot@hq.dhs.gov.

Attachment

Distribution

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**Change to FAR 19.505(b) and (c) – DHS Class Deviation Number 13-03
Pursuant to CAAC Letter 2013-03 dated May 7, 2013**

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) May set aside acquisitions exceeding the micro-purchase threshold for competition restricted to EDWOSB concerns or WOSB concerns eligible under the WOSB Program in those NAICS codes in which SBA has determined that WOSB concerns eligible under the WOSB program 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; and

~~(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;~~

~~(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 eligible under the WOSB Program (including EDWOSB concerns), will submit offers; and

~~(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 manufacturing, or \$4 million for all other contracts;~~

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