

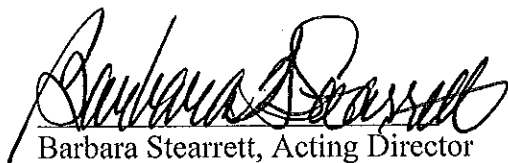
**CLASS DEVIATION
FINDINGS AND DETERMINATION
CERTIFICATIONS REGARDING THE FEDERAL ACQUISITION
REGULATION (FAR) SUBPART 19.15, WOMEN-OWNED SMALL
BUSINESS (WOSB) PROGRAM**

Findings

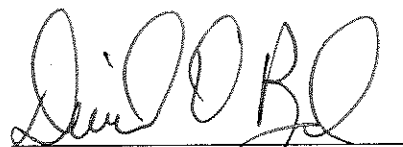
1. Under FAR 19.1505(b) and (c), a contracting officer may restrict competition to economically disadvantaged women-owned small business (EDWOSB) and WOSB concerns eligible under the WOSB Program, if there is a reasonable expectation based on market research that (1) Two or more WOSB concerns eligible under the WOSB Program (including EDWOSB concerns), will submit offers; (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; and (3) Contract award may be made at a fair and reasonable price.
2. 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 EDWOSB or WOSB eligible under the Small Business Administration's (SBA) Women-owned Small Business Federal Contract Program. Section 1697 became effective January 2, 2013. SBA issued its interim final rule on May 07, 2013, at 78 FR 26504, conforming SBA regulations to section 1697, by revising 13 C.F.R. 127.503(a)(2) and 127.503(b)(2).
3. The above authority applies to any Executive Federal agency utilizing the FAR, which includes the Department of Energy.
4. The Civilian Agency Acquisition Council (CAAC) issued Civilian Agency Acquisition Letter (CAAL) 2013-03 on May 7, 2013; authorizing covered agencies to approve a Class Deviation to implement the requirements of the Act until such time as the FAR is formally amended. An interim FAR rule will be issued in the next Federal Acquisition Circular, as FAR Case 2013-010, amending FAR 19.1505(b) and (c) to remove the dollar limitations on the anticipated award price of a contract to an EDWOSB or WOSB concern eligible under the WOSB Program. As a result, 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. Pending issuance of the interim FAR rule, agencies may authorize a class deviation in accordance with FAR 1.404 to authorize set-asides in accordance with the change to FAR 19.1505(b) and (c). The CAAL will serve as the CAAC consult required of the agency official approving the class deviation in accordance with FAR 1.404(a)(1).

Determination

It is hereby determined that a class deviation from FAR 19.1505(b) and (c) is appropriate to implement the authority contained in Section 1697 of the National Defense Authorization Act for Fiscal Year 2013.



Barbara Stearrett, Acting Director
Office of Acquisition
Management, NNSA



Paul Bosco, Director
Office of Acquisition and
Project Management, DOE

JUN 06 2013

Effective Date

Attachments: CAAC Letter 2013-03
Section 1697 of the National Defense Authorization Act for Fiscal Year
2013, Public Law 112-239
FAR 19.15 – Women-Owned Small Business (WOSB) Program
FAR 1.4 – Deviations from the FAR