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.

Parent topic: Subpart 19.15 - Women-Owned Small Business Program.