

FEDERAL CONTRACTS PERSPECTIVE

Federal Acquisition Developments, Guidance, and Opinions

Vol. XXII, No. 3

March 2021

CAAC AUTHORIZES FAR DEVIATION REGARDING VERIFICATION OF WOSB AND EDWOSB ELIGIBILITY

The Civilian Agency Acquisition Council (CAAC) has issued a memorandum to all civilian agencies authorizing them to issue class deviations from the Federal Acquisition Regulation (FAR) 19.1503, Status [as a Women-Owned Small Business (WOSB) and Economically Disadvantaged Women-Owned Small Business (EDWOSB)], to implement the Small Business Administration (SBA)

rule that revised Title 13 of the Code of Federal Regulations (CFR), Part 127 Women-Owned Small Business Federal Contract Program (13 CFR Part 127). The rule implemented a requirement in the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015 (Public

Law 113-291), Section 825, Sole Source Contracts for Small Business Concerns Owned and Controlled by Women, that WOSBs and EDWOSBs participating in the Women-Owned Small Business Contract Program have their eligibility verified and certified. (EDITOR'S NOTE: Though they are civilian agencies, the CAAC memorandum does not apply to the National Aeronautics and Space Administration [NASA] and the Coast Guard, which are members of the Defense Acquisition Regulations Council [DAR Council]).

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FAR 19.1503(b), (c), and (d) address actions contracting officers must take to verify the status of an offeror as a WOSB or EDWOSB eligible to participate in the WOSB program. FAR 19.1503(b) requires that the contracting officer “verify that the offeror: (1) is registered in the System for Award Management (SAM – <https://www.sam.gov>); (2) is self-certified as an EDWOSB or WOSB concern in SAM; and (3) has submitted documents verifying its eligibility at the time of initial offer to the WOSB Program Repository.” FAR 19.1503(c) addresses WOSB and EDWOSB certification by third-party certifier. FAR 19.1503(d) states that “a contracting officer may accept a concern’s self-certification as accurate for a specific procurement reserved for award [to a WOSB or EDWOSB under certain conditions].”

However, Section 825 amended Title 15 of the U.S. Code, Section 637 (15 USC 637), Additional Powers, to require that offerors seeking to participate in an acquisition restricted to WOSBs must “be certified by a federal agency, a state government, the administrator [of the SBA], or a national certifying entity approved by the administrator as a small business concern owned and controlled by women.” This eliminated the ability of a firm to self-certify its status as a WOSB or EDWOSB.

In addition, the WOSB Program Repository is no longer the source for WOSB and EDWOSB representation status. Instead, SBA will be certifying (or an approved third-party

certifying) a WOSB or EDWOSB as eligible for the WOSB contract program in the Dynamic Small Business Search (DSBS – https://web.sba.gov/pro-net/search/dsp_dsbs.cfm) until SBA certification status is implemented in the SAM.

Therefore, the CAAC decided to issue the memorandum to the CAAC membership authorizing them to ignore the procedures in FAR 19.1503(b), (c), and (d), and instead use language in their WOSB and EDWOSB set-asides and WOSB and EDWOSB sole source awards that “if the offeror is not designated as certified or does not have a pending application for certification in the Dynamic Small Business Search (DSBS) at the time of the submission of the offer, its offer is not eligible for award and will be removed from consideration.” In addition, “the WOSB and EDWOSB representations completed in response to FAR 52.212-3 [Offeror Representations and Certifications – Commercial Items, [FAR] 52.219-1 [Small Business Program Representations], or [FAR] 52.219-28 [Post-Award Small Business Program Rerepresentation] will not be used for this award” is to be included as well.

In response to the CAAC memorandum, the Department of Labor, the General Services Administration, and the Social Security Administration have issued FAR deviations adopting the CAAC memorandum for their acquisition workforces. In addition, the Department of Defense has issued a FAR class deviation on its own that is very similar to the CAAC memorandum.

For more on the SBA final rule, see “Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business Certification” in the June 2020 *Federal Contracts Perspective* article “Two Socio-Economic Programs’ Regulations Amended.” For more on Section 825 of the NDAA for FY 2015, see the January 2015 *Federal Contracts Perspective* article “Authority to Use Simplified Procedures for Commercial Items Up to \$6,500,000 Made Permanent.”

FEDMALL COVID NON-MEDICAL PPE PROCEDURES UPDATED

The Department of Defense (DOD) Pricing and Contracting Directorate has issued a memorandum that updates the procedures that contracting officers and small business contractors may use to request a DOD Activity Address Code (DODAAC) to use FedMall (<https://www.fedmall.mil/>) to acquire non-medical personal protective equipment (PPE) if the contractor does not already have a DODAAC.

FedMall is an e-commerce ordering system for DOD, federal, state, and authorized local agencies to search for and acquire products from government reserves and commercial sources. Buyers have access to tens of millions of individual items of supply from centrally managed DOD and General Service Administration (GSA) assets to commercial off-the-shelf (COTS) products.

In response to the COVID-19 pandemic, the Defense Logistics Agency (DLA) created a Contingency Corridor within FedMall to allow DOD small business contractors to purchase non-medical PPE and similar material offered by commercial vendors to maintain a safe workplace

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The *Federal Contracts Perspective* is published monthly by Panoptic Enterprises, 6055 Ridge Ford Drive, Burke, VA 22015.

and ensure continued performance under DOD contracts. The restricted corridor permits small DOD contractors to order directly against non-DLA supplier catalogs that are posted on FedMall without a government contract. Currently, the corridor has vendor catalogs offering over 200 items such as non-medical masks, hand sanitizer, temperature devices, disinfectant wipes, and materials to support social distancing such as Plexiglass. Purchases on FedMall are limited to \$10,000.

For a DOD contractor to be able to use this corridor, its contracting officer must authorize the use of government supply sources in their contract in accordance with FAR subpart 51.1, Contractor Use of Government Supply Sources, and Defense FAR Supplement (DFARS) 251.102, Authorization to Use Government Supply Sources. As a part of the authorization, the contractor must be assigned a DODAAC with requisitioning authority for use at FedMall. This memorandum supersedes the July 2020 memorandum and provides the following new procedures for obtaining a DODAAC:

“If the contractor does not already have a DODAAC, either the contracting officer or the contractor may request one through the Contractor DODAAC Request Tool within the Procurement Integrated Enterprise Environment (PIEE) Purpose Code Management module (<https://piee.eb.mil/pcm/xhtml/unauth/index.xhtml>) or by contacting the relevant Component Central Service Point (CSP). CSP contact information can be found at <https://www.transactionservices.dla.mil/eDoDAAD/csp.asp>. Purpose Code Management module web based training is available at: <https://pieetraining.eb.mil/wbt/xhtml/wbt/pcm/index.xhtml>. If the contractor initiates the request, contracting officer approval of the DODAAC request will subsequently be required.”

For more on the previous FedMall memorandum, see “Department of Defense (DOD) Memorandum ‘FedMall COVID-19 Non-Medical Personal Protective Equipment Contingency Corridor for Small Business’” in the August 2020 *Federal Contract Perspectives* article “COVID-19 Persists, Precipitates More Actions.”

GSA WAIVES MAS EXPERIENCE, FINANCIAL REQUIREMENTS

The General Services Administration (GSA) Senior Procurement Executive Jeffrey Koses issued a memorandum temporarily waiving the minimum corporate experience, relevant project experience, and annual financial statement requirements in Multiple Award Schedule (MAS) solicitation provision SCP-FSS-001, Instructions Applicable to All Offerors, to facilitate America’s response to the COVID-19.

“The COVID-19 pandemic has caused great disruption in supply chains and has caused an unprecedented level of demand for supplies, services, and solutions to support American’s response to COVID-19.” wrote Mr. Koses. “Realizing the importance of GSA’s responsibility to its customers and their efforts to support America’s response to COVID-19, GSA continues to seek ways to leverage industry capacity and innovation.”

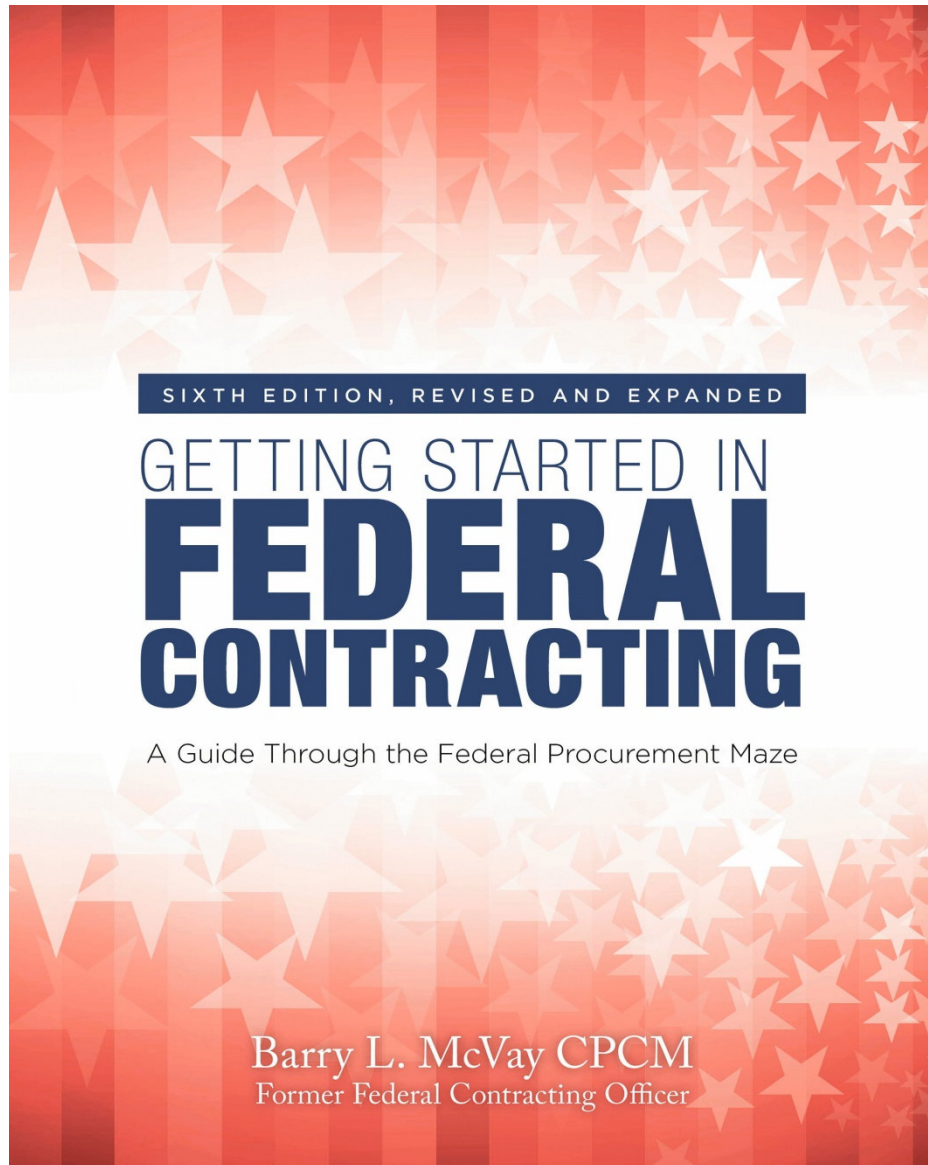
SCP-FSS-001 requires offerors to have a minimum of two (2) years of corporate experience (paragraph (j)(2)(i)(A)); one relevant project experience per Special Item Number (SIN)

(paragraph (j)(2)(iv)); and to submit annual financial statements for the previous two years for purposes of being considered for award (paragraph (j)(1)(v)).

Mr. Koses has determined there is a need to temporarily waive these SCP-FSS-001 solicitation requirements in order to support America's response to COVID-19. "Offerors that are able to provide supplies, services, or solutions that support America's response to COVID-19 may not be able to meet these requirements."

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468 pages, 2017, ISBN: 978-0-912481-27-2, \$39.95
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