

SBA's Final Rule on Women-Owned Businesses

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Women-Owned Businesses

- October 7, 2010 – The Small Business Administration (SBA) published a long-awaited final rule laying out the framework for the treatment of women-owned businesses in the Federal marketplace.
- The rule took effect on February 4, 2011.
- This new program took 10 years to develop, and it will have a significant impact on the government contracting community.

Summary of the New Rule

- Two new kinds of favored entities in Federal contracting – Women-Owned Small Businesses (WOSB) and Economically Disadvantaged Women-Owned Small Businesses (EDWOSB).
- In the eyes of the contracting officers, WOSBs and EDWOSBs are to receive roughly the same treatment as 8(a), HUBZone and Small Disadvantaged Veteran-Owned Business (SDVOB) concerns.



Summary of the New Rule

- Skeptical competitors will be able to challenge both the size and the eligibility of a firm claiming either status, and the SBA has the ability to conduct “examinations” to confirm the validity of a firm’s status.
- When procurements are set aside for either WOSBs or EDWOSBs, large businesses may still participate as subcontractors or joint venturers, just as they currently do with 8(a), HUBZone or SDVOB prime contractors.



Contracting Opportunities

- Under the existing regulations, contracting officers already have certain obligations to satisfy in terms of set-aside possibilities, and one option available is to designate certain procurements for 8(a), HUBZone and SDVOB concerns under appropriate circumstances.
- WOSBs and EDWOSBs were added to the mix, and there is no order of precedence among the various programs.



Contracting Opportunities

- The WOSB Program identifies 300 six-digit North American Industry Classification Systems (NAICS) codes where WOSBs are underrepresented or substantially underrepresented.
- The anticipated award price of the contract may not exceed \$6.5 million in the case of manufacturing contracts and \$4 million in the case of all other contracts.



Contracting Opportunities

- Contracting officers may set aside contracts in these industries if the contract can be awarded at a fair and reasonable price and the contracting officer has a reasonable expectation that two or more WOSBs or EDWOSBs will submit offers for the contract
- A contracting officer may not restrict competition to WOSBs or EDWOSBs if an 8(a) participant is currently performing the requirement under the 8(a) program or if the SBA already has accepted the requirement for that program.



Eligibility

- To qualify as a WOSB, a firm must demonstrate that:
 - it is a "small business" under SBA's size standards for its primary industry classification, and
 - it is at least 51 percent owned and controlled ("unconditional and direct") by one or more women, and primarily managed by one or more women who are U.S. citizens.



Eligibility

- To qualify as an EDWOSB, an applicant must meet the same two tests, and the owners must be "economically disadvantaged"; she must demonstrate that:
 - "her ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business."
 - In addition, the woman's: personal net worth must be less than \$750,000, excluding her ownership interest in the concern and her equity interest in her primary personal residence; adjusted gross yearly income must average less than \$350,000; and the fmV of all her assets must be less than \$6 million .



Certification as a WOSB or an EDWOSB

- To participate in the Program, a WOSB or EDWOSB must meet the eligibility requirements, submit supporting documentation and either
 - self-certify their business **OR**
 - be certified by an SBA-approved Third-Party Certifier
- In addition, the SBA will honor certifications issued by the SBA under its 8(a) Business Development Program as long as the Participant is 51 percent owned and controlled by one or more women and the business is currently in the BD Program.



Getting Started

- **Steps to participate in the WOSB program:**
 - Become familiar with the WOSB Federal Contract program regulations and companion rule in the FAR.
 - Register in Central Contractor Registration (CCR) as WOSB or EDWOSB*.
 - Log onto SBA's General Login System (GLS).
 - Go to the WOSB program repository (through GLS) and upload/categorize all required documents.
 - Represent your status in Online Representations and Certifications Application (ORCA)*.

*Obtain an account now if you don't already have one.



Implementation

- First contracts expected to be awarded by the fourth quarter of fiscal year 2011
- Top priority of the Obama Administration
