



WOMEN-OWNED SMALL BUSINESS (WOSB) CONTRACTING RULE

The Obama Administration has placed a high priority on drafting a new proposed Women-Owned Small business (WOSB) Rule as part of its overall commitment to expanding opportunities for small businesses to compete for federal contracts. This proposed Rule is aimed at leveling the playing field for women-owned small businesses to compete for and win federal contracts, while also achieving the existing statutory goal that 5 percent of federal contracting dollars go to women-owned small businesses.

How the Proposed WOSB Rule Works:

- To be eligible, a firm must be 51 percent owned and controlled by one or more women, and primarily managed by one or more women.
- The proposed Rule identifies 83 industries (identified by four-digit “NAICS” codes¹) in which women-owned small businesses are under-represented or substantially under-represented in federal procurement.
- Eligible industries are based on a combination of analyses of both the “share of contracting dollars” and the “share of number of contracts awarded,” according to a RAND study commissioned by the SBA. An earlier proposed version of the Rule proposed to identify only 4 industries in which women-owned small businesses were under-represented. This earlier version proposed to identify eligible industries based solely on the “share of contracting dollars” analysis used in the RAND study.
- The proposed Rule, in accordance with statute, authorizes a set-aside of federal contracts for WOSB’s where the anticipated contract price does not exceed \$5 million in the case of manufacturing contracts and \$3 million in the case of other contracts. Contracts with values in excess of these limits are not subject to set-aside under this program.
- The proposed Rule does not include the requirement set forth in a prior version of the Rule that each federal agency certify that it had engaged in discrimination against women-owned small businesses in order for the program to apply to contracting by that Agency.

Preventing Waste, Fraud and Abuse:

- The proposed Rule allows women-owned small businesses to self-certify as “WOSB’s” or to be certified by third party entities, including government agencies and private certification groups.
- The proposed Rule requires WOSB’s which self-certify to submit a robust certification at the federal ORCA (“Online Representations and Certifications Application”) website and also to submit a core set of eligibility-related documents to an online “document repository” to be maintained by the SBA. Each agency’s contracting officers will have full access to this repository.
- The SBA intends to engage in a significant number of program examinations to confirm eligibility of individual WOSB’s.
- In the event of a contract protest or program review, the SBA will be entitled to request substantial additional documentation from the WOSB to establish eligibility.
- SBA intends to vigorously pursue ineligible firms which seek to take advantage of this Program and in so doing to deny its benefits to the intended legitimate WOSB’s.

Public Comment:

The public may submit comments to this proposed rule on or before May 3, 2010, to www.regulations.gov, where they will be posted or mailing them to Dean Koppel, Assistant Director, Office of Policy and Research, Office of Government Contracting, U.S. Small Business Administration, 409 3rd St. SW, Washington, DC 20416. Please reference RIN 3245-AG06 when submitting comments.

¹ National American Industry Classification System.