

Advocacy Comments on SBA's Women-Owned Small Business Federal Contract Assistance Procedures Proposed Rule

SBA proposed regulations that establish Women-Owned Small Business (WOSB) federal contract procedures on December 27, 2007. The Office of Advocacy acts as an independent voice for small business and submits comments to government agencies on compliance with the Regulatory Flexibility Act. On February 20, 2007, the Office of Advocacy submitted a comment letter to SBA recommending additional analysis that would benefit the agency's publication of the final rule.

Background:

In June of 2006, the Small Business Administration (SBA) proposed regulations to implement Section 811 of the Small Business Reauthorization Act of 2000. Section 811 allowed the SBA to move forward on a procurement program for women-owned small business concerns.

Advocacy submitted a comment letter to SBA on July 17, 2006 regarding the proposed regulation. On December 27, 2007, SBA published a new set of proposed regulations that establish Women-Owned Small Business (WOSB) federal contract assistance procedures. The proposed regulation combines findings from a report conducted by RAND with a requirement that agencies must find discrimination on the part of their agency before a WOSB set-aside program may be established.

Advocacy's Comment Letter:

Advocacy's letter compliments SBA for including small entity impact analysis in the proposal as required by the Regulatory Flexibility Act and for including several suggestions recommended by Advocacy in the prior rulemaking (July 2006).

Advocacy's letter expresses concern that, in SBA's proposal, the requirement for agencies to make a finding of discrimination prior to using a set-aside process for WOSB contracts may actually shift the burden onto the WOSB community to compel agency action on research, analysis, and ultimately, a finding of discrimination.

Advocacy's letter recommends that the Final Regulatory Flexibility Analysis (FRFA), published with the final rule, should provide cost data on the effort required by WOSBs and Economically Disadvantaged Women-Owned Small Businesses (EDWOSB) if they are expected to play a role in compelling agencies to determine evidence of discrimination. For more information about the rule, please visit Advocacy's web page at www.sba.gov/advo or contact Major L. Clark, III, Assistant Chief Counsel for Procurement, at 202-205-7150, or major.clark@sba.gov.