



WOMEN-OWNED SMALL BUSINESS (WOSB) PROGRAM

Small Entity Compliance Guide to the WOSB Program

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U.S. Small Business Administration

A handbook for small businesses interested in learning about the WOSB Program, including eligibility requirements, Federal contracting opportunities, and how the program works in general.

This document is published by the U.S. Small Business Administration as the official compliance guide for small entities, as required by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

SBREFA requires that agencies publish compliance guides for all rules with a significant small business impact. These guides must explain in plain language how the firms can comply with the regulations.

This guide has no legal effect and does not create any legal rights. Compliance with the procedures described in this guide does not establish compliance with the rule or establish a presumption or inference of compliance. The legal requirements that apply are governed by SBA's Women-Owned Small Business Federal Contract Assistance Procedures regulations, which control if there is any inconsistency between the rule and the information in this guide.

Who Should Read this Guide?

All small businesses that believe they may be eligible to qualify as a woman owned small business or economically disadvantaged woman owned small business should read this guide.

What is the purpose of this Guide?

The purpose of the guide is to provide an easy to use summary of the purpose and requirements of the WOSB Program. However, to ensure compliance with the program requirements, you should also read the complete rule on which the program is based. While SBA has summarized the provisions of the rule in this guide, the legal requirements that apply to the program are governed by 13 C.F.R. part 127, "The Women-Owned Small Business Federal Contract Assistance Procedures." A copy of the rule is available on the U.S. Small Business Administration's (SBA's) website at www.sba.gov/wosb.

A companion guide will be prepared for distribution to procurement personnel.

The guide may be photocopied for distribution as long as the text and graphics are readable.

Who can I contact about this guide or the WOSB Program?

For more information on this guide or the program, please contact: Director, Office of Government Contracting, U.S. Small Business Administration, 409 – 3rd Street, S.W., Washington, DC 20416.

Your feedback is important. Please review this guide and contact us with any comments regarding its usefulness and readability, and improvements you think are needed.

Table of Contents

WOMEN-OWNED SMALL BUSINESS (WOSB) PROGRAM	1
SMALL ENTITY COMPLIANCE GUIDE TO THE WOSB PROGRAM	1
<i>BACKGROUND ON THE PROGRAM</i>	4
<i>WOSB AND EDWOSB CONTRACTING.....</i>	5
<i>CERTIFICATION.....</i>	10
<i>ELIGIBILITY - WOSBS</i>	16
<i>ELIGIBILITY - EDWOSBS</i>	22
<i>CONTRACT REQUIREMENTS</i>	31
<i>ELIGIBILITY EXAMINATIONS</i>	34
<i>PROTESTS AND APPEALS.....</i>	38
<i>PENALTIES FOR MISREPRESENTATION</i>	45
APPENDIX A.....	46
APPENDIX B	50
APPENDIX C	55

BACKGROUND ON THE PROGRAM

What is the WOSB Program?

The WOSB Program is a program that authorizes contracting officers to specifically limiting, or setting aside, certain requirements for competition solely amongst women-owned small businesses (WOSBs) or economically disadvantaged women-owned small businesses (EDWOSBs).

What is the purpose of the WOSB Program?

The Federal government has both prime contracting and subcontracting goals for small businesses. More specifically, 23% of Federal prime contracts dollars shall be awarded to small businesses, with individual prime and subcontracting goals for certain identified small business groups. The Federal government must award 5% of its prime and subcontract dollars to women-owned small businesses. In addition, each Federal agency negotiates annual small business goals with the Small Business Administration (SBA) that presents, for that agency, the maximum practicable opportunity for small businesses. The goal attained by the individual agency is then used to calculate the Government-wide small business goal, including the individual prime and subcontracting goals for the identified small business groups, such as women-owned small businesses.

One purpose of this program is to enable contracting officers to meet these goals by specifically limiting, or setting aside, certain requirements for competition solely amongst WOSBs or EDWOSBs and ensure a level playing field on which such small businesses can compete for Federal contracting opportunities.

Who runs the program?

The SBA is charged with implementing and administering the program. This means that SBA publishes regulations that provide the framework for the program, conducts eligibility examinations of WOSB and EDWOSBs, decides protests, conducts studies to determine eligible industries, and works with other Federal agencies in assisting WOSBs and EDWOSBs.

In addition, the Federal Acquisition Regulatory Council is responsible for implementing procedures for procurement programs in the Federal Acquisition Regulations (FAR).

Although the SBA has issued a final rule on the WOSB program, the rule will not be effective for several months so that SBA can work with the Federal Acquisition Regulatory Council and others in implementing the rule in the FAR and systems.

WOSB AND EDWOSB CONTRACTING

BASIC FACTS:

- *There are set asides for WOSBs or EDWOSBs.*
- *The set asides must be in industries designated by SBA as underrepresented or substantially underrepresented.*
- *If the contract will be for services, the estimated value cannot exceed \$3 million.*
- *If the contract will be for manufacturing, the estimated value cannot exceed \$5 million.*
- *There are no sole source awards for WOSBs or EDWOSBs under this program.*
- *The WOSB or EDWOSB must meet certain limitations on subcontracting.*
- *Joint ventures are permitted if certain requirements are met.*

What requirements can be set aside under the WOSB Program?

1. A contracting officer may set aside a requirement for WOSBs if:
 - The North American Industry Classification Systems (NAICS) code assigned to the solicitation, invitation for bid, or quote is in an industry in which SBA has designated that WOSBs are substantially underrepresented.
 - The contracting officer has a reasonable expectation that two or more WOSBs will submit offers. This is sometimes referred to as the “rule of two.”
 - The anticipated award price of the contract does not exceed \$5 million in the case of manufacturing contracts and \$3 million in the case of all other contracts.
 - In the estimation of the contracting officer, the contract can be awarded at a fair and reasonable price.
2. A contracting officer may set aside a requirement for EDWOSBs if:
 - The NAICS code assigned to the solicitation, invitation for bid, or quote is in an industry in which SBA has designated that WOSBs are underrepresented.
 - The contracting officer has a reasonable expectation that two or more EDWOSBs will submit offers. This is sometimes referred to as the “rule of two.”
 - The anticipated award price of the contract does not exceed \$5 million in the case of manufacturing contracts and \$3 million in the case of all other contracts.
 - In the estimation of the contracting officer, the contract can be awarded at a fair and reasonable price.

How does SBA designate industries as underrepresented or substantially underrepresented?

SBA awarded a contract to the Kauffman-RAND Institute for Entrepreneurship Public Policy (RAND) to complete a study of the underrepresentation of WOSBs in Federal prime contracts by industry code. The resulting study—the RAND Report—was published in April 2007 and is available to the public at http://www.RAND.org/pubs/technical_reports/TR442.

Underrepresentation is typically expressed as a disparity ratio. A “disparity ratio” is calculated by comparing the utilization of WOSBs in Federal contracting in a particular NAICS code to their availability for such contracts in a particular NAICS code. An industry is not underrepresented if it has a disparity ratio of 1.0 because this suggests that there is no disparity since firms of a particular type are awarded contracts in the same proportion as their representation in the industry. An industry is substantially underrepresented if the disparity ratio is less than 0.5. And an industry is underrepresented if the disparity ratio is between 0.5 and 0.8.

Using the RAND Report, the SBA has designated 83 industries as either underrepresented or substantially underrepresented. A list of these can be found in Appendix A to this guide.

Can I submit an appeal to SBA to get my NAICS code designated as an underrepresented or substantially underrepresented industry?

No. The statute (15 USC § 637(m)), requires that SBA conduct a study to identify these industries (NAICS codes). So, there is no appeal process.

Can you provide some examples of how this works? What contracts can be set aside under this program?

- The SBA study that identified the 83 industry sectors that WOSBs are underrepresented or substantially underrepresented uses 4 digit NAICS codes. Federal procurements use 6 digit NAICS codes to identify the appropriate industry applicable to the contract. Generally, for every 4 digit NAICS code, there are several 6 digit NAICS codes that identify the detailed industry that is specific to the requirement for a particular procurement. The second example below references NAICS 8129 – Other Personal Services. Six digit NAICS codes that would apply to procurements conducted under NAICS 8129 would include: 812921- Photofinishing Laboratories (except One-Hour); 812922 One-Hour Photofinishing; 812930 Parking Lots and Garages; 812990 All Other Personal Services. Please refer to the NAICS code descriptions available at <http://www.sba.gov/size>
- If the requirement is assigned a six digit NAICS code under NAICS 5313 - Activities Related to Real Estate, the contracting officer may not set aside the procurement under the WOSB

Program. NAICS 5313 is not an industry SBA has designated as underrepresented or substantially underrepresented.

- If the requirement is assigned a six digit NAICS code under NAICS 8129 - Other Personal Services, then, assuming all other requirements are met, the contracting officer may set aside the procurement under the WOSB Program to all eligible WOSBs. NAICS 8129 is an industry in which WOSBs are substantially underrepresented.
- If the requirement is assigned a six digit NAICS code under a contract in NAICS 5614- Business Support Services, then, assuming all other requirements are met, the contracting officer may set aside the procurement under the WOSB Program to all eligible EDWOSBs. NAICS 5614 is an industry in which WOSBs are underrepresented.
- If the requirement is assigned a six digit NAICS code under a contract in NAICS 5614- Business Support Services, and the government estimate is \$10 million, the contracting officer may not set aside the procurement under the WOSB Program. Although NAICS 5614 is an industry in which WOSBs are underrepresented, the estimated value of the contract is above the statutory limit of \$3 million.

Does the \$3 million and \$5 million anticipated award price of the contract include all options?

Yes. So if the estimated price of the base year of a requirement for services is \$2 million and there are four one-year options with an estimated price of \$2 million, the anticipated award price of the contract would exceed the \$3 million statutory threshold.

Why are the thresholds for this program different than for SBA's other programs?

The statute authorizing the WOSB Program sets forth these specific thresholds. These thresholds are also subject to periodic inflationary adjustment by the FAR Council.

How will I know if a requirement is set aside for WOSBs or EDWOSBs?

You can look on the Federal Business Opportunities web site (www.fbo.gov) to find Federal government solicitations that may be set aside for WOSB or EDWOSBs. The announcement and solicitation will state that the agency is limiting competition to either EDWOSBs or WOSBs eligible for the program. In addition, the solicitation should contain certain FAR clauses, which explain that it is set aside for competition.

Can an EDWOSB submit an offer on a requirement set aside for WOSBs or can they only submit an offer on a requirement set aside for EDWOSBs?

An EDWOSB is by definition also a WOSB and therefore can submit an offer and receive a WOSB contract in addition to an EDWOSB contract.

Does the contracting officer have to offer the requirement to SBA before setting it aside for WOSBs or EDWOSBs?

No.

Can a contracting officer issue a sole source award to a WOSB or EDWOSB under this program?

No. The statute does not authorize sole source awards to WOSBs or EDWOSBs under this program, like it does for 8(a) Business Development (BD) Participants, HUBZone small businesses and Service Disabled Veteran Owned (SDVO) small businesses.

Is there a mentor protégé program?

Not at this time. The President recently enacted Public Law 111-240, which authorizes a Mentor-Protégé Program for SBA's small business programs. Because the SBA did not propose guidance for such a program in the WOSB proposed rule, and is in the process of reviewing the statutory language and determining guidance on this for its programs, the final WOSB Program rule did not establish a Mentor-Protégé Program for the WOSB Program.

However, those EDWOSBs that are also in the 8(a) BD Program may participate in that mentor protégé program as long as it does not affect the businesses' eligibility for this program. In addition, other Federal agencies, such as the Department of Defense, Department of Energy, Department of Homeland Security, Department of Veterans Affairs, Department of Treasury, Environmental Protection Agency, National Aeronautics and Space Administration, General Services Administration, Environmental Protection Agency and U.S. Agency for International Development have established Mentor-Protégé programs that include WOSBs (EDWOSBs are also WOSBs), HUBZone Small Businesses and Service-Disabled Veteran-Owned Small Businesses. WOSB's should contact or visit these agency web sites for more information.

How can I get some help – Federal contracting can be confusing?

There are many resources currently available nationwide to help women-owned small businesses find and procure contracts at Federal agencies, including Small Business Development Centers (www.sba.gov/sbdc), Women's Business Centers, SCORE (www.score.org), and Procurement Technical Assistance Centers (<http://www.dla.mil/db/procurem.asp>). In addition, Women's business ownership representatives in every SBA district office coordinate services for women, helping them access appropriate training, counseling, mentoring, federal contracting

opportunities, financing, and more. SBA's district offices provide counseling on government contracting to women-owned small businesses. To locate the SBA district office nearest to you, go to www.sba.gov/localresources.

There is also the SBA's Small Business Training Network, which is a virtual campus complete with courses and programs to help the small business owner. Entrepreneurs interested in government contracting should take the free course, "Business Opportunities: A Guide to Winning Federal Contracts" which outlines how to participate in federal contract programs. The 30-minute program focuses on the contracting process and includes links to more than 40 Web sites. View this, and other small business courses, at www.sba.gov/training. The Center for Acquisition Excellence offers an online training course, "How to Become a Contractor—GSA Schedules Program," providing valuable information for prospective contractors. For more information, visit the General Services Administration Web site: <http://www.gsa.gov/portal/content/103487>.

CERTIFICATION

Does SBA certify my business into the program?

The SBA does not certify companies into the program like it does for the 8(a) BD and HUBZone programs.

Is this a self certification program?

Yes, in part. A WOSB or EDWOSB must: (1) be certified by a Federal agency, a State government, or a national certifying entity approved by the Administrator, as a small business concern owned and controlled by one or more women (referred to as a Third Party Certifier); or, (2) certify to the contracting officer that it is a small business concern owned and controlled by women and provide adequate documentation, in accordance with standards established by SBA, to support such certification.

So, the WOSB or EDWOSB can receive a certification from a Third Party Certifier or self certify its status. Although a WOSB or EDWOSB can self certify its status in its offer and contract, they must also provide documents to support this self certification. This is different from the other self certification programs like the small business and SDVO programs.

What is a Third Party Certifier?

A Third Party Certifier is a Federal agency, a State government, or a national certifying entity approved by the Administrator to provide certifications of WOSBs or EDWOSBs. The SBA will maintain a list of approved Third Party Certifiers at www.sba.gov/WOSB.

In the regulations, the SBA has stated that it will accept certifications by SBA of a 8(a) BD Participants as long as the 8(a) BD Participant is 51% owned and controlled by one or more women and the business is currently in the 8(a) BD Program.

I just graduated from the 8(a) BD Program because my term expired, but I still meet the eligibility requirements of the WOSB Program. Will you accept my 8(a) certification or most recent annual review as proof of my eligibility for the WOSB Program?

No. Because you have graduated from the 8(a) BD Program, you must either self certify or provide evidence that you have a current, valid Third Party Certification from another approved Third Party Certifier.

Why can't you accept my certification from the U.S. Department of Transportation's (DOT) Disadvantaged Business Enterprise (DBE) Program? Why do I need to receive yet another certification that I am woman-owned?

The SBA researched the DOT DBE program and spoke with officials from DOT. Under DOT's DBE Program, recipients are state or local entities and they actually perform the certifications. These certifiers must submit to DOT for approval an agreement establishing a Unified Certification Program (UCP), which identifies a plan for certification as a certifier for the DOT DBE Program. Once the UCP is approved by DOT, the certifier can certify participants for the DBE Program. In other words, the certification for the DOT DBE Program is done by various state and local certifiers.

Although there is a unified certification, not all state and local certifiers have the same requirements. Therefore, SBA must examine each state or local entity's UCP to determine whether it will satisfy all the requirements of the WOSB Program regulations. For example, SBA's WOSB Program regulation at 13 C.F.R. § 127.201(f) states that in determining unconditional ownership of the concern, any unexercised stock options or similar agreements held by a woman will be disregarded. DOT DBE regulations do not discuss how unexercised stock options or similar agreements will be treated under the DBE Program so we will have to look and determine how each state treats such unexercised stock options.

SBA will maintain a list of approved state and local entities from which it will accept DOT DBE certifications on SBA's Internet Web site at <http://www.sba.gov/wosb>.

How do I self certify my status as a WOSB or EDWOSB?

The EDWOSB or WOSB must register in the Central Contractor Registration (CCR) first. Next, it must provide documents supporting its EDWOSB or WOSB status to an online document repository, called that the WOSB Program Repository, that SBA is planning to establish.

The EDWOSB or WOSB must also submit a copy of a certification to the WOSB Program Repository (the certification is pending approval by the Office of Management and Budget under the Paperwork Reduction Act). This certification requires the owner of the WOSB or EDWOSB to verify its eligibility and state that all of the documents and information provided are true and accurate. The certification must be signed. See Appendix B for the WOSB Program Certification - WOSBs and Appendix C for the WOSB Program Certification - EDWOSBs. An EDWOSB need only submit a copy of the WOSB Program Certification - EDWOSBs and does not need to submit a copy of the WOSB Program Certification - WOSBs.

Finally, after registering in CCR and submitting the required documents, including the certification, to the repository, the EDWOSB or WOSB must represent its status in the Online

Representations and Certifications Application (ORCA) at <https://orca.bpn.gov> prior to submitting an offer on a WOSB or EDWOSB requirement.

What is CCR?

CCR is an online government-maintained database of companies wanting to do business with the Federal government available at <https://www.bpn.gov/ccr/default.aspx>.

It is also used as a site to collect and house secure financial data for each registrant and is used by agencies to make contract payments to contractor's bank accounts through electronic funds transfer.

The FAR at 48 CFR § 4.1102(a) requires that most prospective contractors be registered in the CCR database prior to award of a contract or agreement, with certain exceptions. Agencies search the database for prospective vendors. After registering, you may enter your small business profile information on the Dynamic Small Business Search page. Creating a profile in CCR and the Dynamic Small Business Search, and keeping it current, helps provide access to Federal contracting opportunities.

What is the WOSB Program Repository?

The WOSB Program Repository is a document repository maintained by SBA to house the documents submitted by EDWOSBs and WOSBs that would verify the concern's eligibility, to include copies of Third Party Certifications. The WOSB Program Repository is a secure, web-based environment that is accessible to the individual WOSBs and EDWOSBs, the contracting officer community and SBA. The contracting officer will be able to access the documents prior to contract award to review the submitted documents.

What is ORCA?

The FAR at 48 CFR § 2.101 explains that ORCA is the primary Government repository for contractor submitted representations and certifications required for the conduct of business with the Government. This database does not collect documents, but collects the representations and certifications required for Federal contracts.

What documents must I submit to the WOSB Program Repository?

That depends. All WOSBs and EDWOSBs must submit some documents to the repository, regardless of whether they have received a Third Party Certification or are self certifying prior to submitting an offer in response to a WOSB or EDWOSB requirement. In addition, after submitting these initial documents, you may be required to submit additional documents if a protest is filed or SBA conducts an eligibility examination on your small business.

The following is a list of documents you must submit to the WOSB Program Repository prior to submitting an offer on a WOSB or EDWOSB Requirement.

1. Third Party Certifications

- The WOSB or EDWOSB must provide a copy of the Third Party Certification to the WOSB Program Repository prior to initial offer.
- The WOSB or EDWOSB must also provide a copy of the joint venture agreement, if applicable to the requirement.
- The EDWOSB or WOSB must also provide a signed copy of the Women-Owned Small Business Program Certification (WOSB or EDWOSB).
- The WOSB or EDWOSB must also provide any additional documents as requested by SBA in writing that are necessary to satisfy the WOSB Program requirements in the event of a program examination or protest.

2. Self Certification

- Copies of birth certificates, Naturalization papers, or unexpired passports for owners who are women;
- Copy of the joint venture agreement, if applicable;
- For limited liability companies:
 - Articles of organization (also referred to as certificate of organization or articles of formation) and any amendments; and
 - Operating agreement, and any amendments;
- For corporations:
 - Articles of incorporation and any amendments;
 - By-laws and any amendments;
 - All issued stock certificates, including the front and back copies, signed in accord with the by-laws;
 - Stock ledger; and
 - Voting agreements, if any;
- For partnerships, the partnership agreement and any amendments;

- The assumed/fictitious name (doing business as) certificate(s); and
- A copy of the WOSB Program Certification – WOSBs only.
- For EDWOSBs, in addition to the above, SBA Form 413, Personal Financial Statement, available to the public at <http://www.sba.gov/tools/Forms/index.html>, for each woman claiming economic disadvantage and a copy of the WOSB Program Certification – EDWOSBs instead of the WOSB Program Certification -WOSBs.

I don't understand how this repository works. Help.

The SBA is creating a system that provides document management capabilities for the purpose of managing documents for the WOSB Program. All WOSBs will have to first register in CCR. Next, the WOSB must register in SBA's Global Log-In System (GLS). WOSBs can obtain this registration form via a link on www.sba.gov/wosb. The WOSB will need to provide their DUNS and EIN number as part of their registration.

After registration is complete, the WOSB will begin uploading the required documents. The repository will have a drop down menu of documents that the WOSB can use to tag the uploaded documents and attach them to her businesses profile.

If selected as the apparent successful offeror, the WOSB will log into GLS and select the Federal Agency and contracting officer for that requirement from a drop down menu to then authorize that individual to have access to the business' documents. The WOSB will also have to enter the solicitation number. Government contracting officers will be authorized access by the WOSB for a 90 day period. The WOSB will have to repeat these steps each time additional access needs to be authorized for a contracting officer. For example, if the contracting officer for the requirement changes after the WOSB has selected a contracting officer, but before award, the WOSB will need to grant the new contracting officer access to the uploaded documents.

WOSBs must upload the documents in a PDF or ZIP format and must verify that the transferred files will unzip correctly. It is recommended that documents be in a ZIP format to reduce size.

The SBA estimates that the system will be available in December 2010. At that time, you can find out more information on the repository at www.sba.gov/wosb.

How often do I need to put documents into the WOSB Program Repository?

That depends. You are required to upload certain documents into the repository prior to submitting an initial offer for a WOSB or EDWOSB requirement. If the documents provided are updated or amended (e.g., amendments to the By-Laws) you will need to provide those updated or amended documents. In addition, you will be required to provide additional documents in the event of a protest or during an eligibility examination.

What if the WOSB Program Repository is not up and I have an offer I need to submit tomorrow for a contract?

If the WOSB Program Repository is not available, the WOSB or EDWOSB must provide current, accurate and complete documents to the contracting officer prior to contract award. Within 30 days of the WOSB Program Repository becoming available, the WOSB or EDWOSB must provide the same documents to the WOSB Program Repository.

I received a Third Party Certification. Why do I have to put documents into the WOSB Program Repository? Do I have to register in CCR?

You will need to put a copy of the Third Party Certification into the repository, at a minimum, prior to submitting an initial offer for a WOSB or EDWOSB requirement in order to verify eligibility. In addition, SBA has been charged with ensuring that eligible small businesses receive the WOSB contracts. Therefore, SBA will need to verify eligibility in the event of a protest or eligibility examination and this will mean SBA will need to review documents to show that the WOSB or EDWOSB is eligible.

In addition, you must register in CCR to gain access to SBA's GLS. You must register in GLS to access the WOSB Program Repository.

Once I put the documents into the repository, can I throw them away or shred them?

Most of the documents you place in the repository are business documents that you would need to maintain in the normal course of business. In addition, the WOSB Program regulations require that you keep all documents for a period of 6 years from the date of certification (initial and any subsequent certifications) and provide any such documents to SBA in response to a status protest or eligibility examination or agency investigation or audit. For example, the certification form must be signed and notarized and will be posted on the repository. However, you must retain the original copy in your records and SBA may request a copy of the original.

This is the same requirement for those WOSBs/EDWOSBs that have received a Third Party Certification. The SBA and other Federal Government authorities may need to review these documents during a protest, eligibility examination or other audit or investigation.

How long can my company participate in the WOSB Program?

There is no term limit on program participation like there is in the 8(a) BD Program. You can receive WOSB Program contracts as long as you are eligible for the program and have met all of the requirements set forth in the regulations.

ELIGIBILITY - WOSBs

Basic Facts:

A WOSB is a small business that is at least 51% owned and controlled by one or more women who are U.S. citizens.

- *The ownership must be direct.*
- *The ownership cannot be subject to conditions.*
- *The woman must manage the day-to-day operations of the business.*
- *The woman must make the long term decisions for the business.*
- *The woman must be able to provide documents demonstrating she meets these requirements.*

What is a WOSB?

A WOSB is:

- (1) A small business; and
- (2) Not less than 51% unconditionally and directly owned and controlled by one or more women who are United States citizens.

How do I know if I am a small business?

You must meet the size standard corresponding to the North American Industry Classification System (NAICS) code that is your business' primary industry classification. The primary industry classification is a six-digit NAICS code that best describes the primary business activity of the concern. The NAICS code designations are described in the NAICS manual available via the Internet at <http://www.census.gov/NAICS>.

What if my husband owns 49.2% and I own 50.8%, am I eligible?

No. A woman or women must own at least 51% of the small business.

What if I own 100% of a holding company, which owns 100% of the small business? Is that small business 100% owned by a woman?

No. The small business is owned by another company and is not directly owned by a woman. Therefore, it would not be eligible for the program.

What if my company is 100% owned by an employee stock ownership plan and 51% of those employees are female? Does it qualify as WOSB?

No. The small business is not directly owned at least 51% by a woman or women.

What if the small business is owned by a trust, for tax reasons?

SBA will treat ownership by a trust, such as a living trust, as the functional equivalent of ownership by a woman where the trust is revocable, and the woman is the grantor, the trustee, and the sole current beneficiary of the trust.

What is a U.S. citizen?

It is a person born or naturalized in the United States. Resident aliens and holders of permanent visas are not considered to be citizens.

What if I live in a community property state, does this mean you consider my husband to own 50% of the small business?

By statute, the SBA will not consider community property laws when determining ownership.

What does it mean the business has to be at least 51% unconditionally owned by one or more women? What does unconditional mean?

To be considered unconditional, the ownership must not be subject to any conditions, executory agreements, voting trusts, or other arrangements that cause or potentially cause ownership benefits to go to another. The pledge or encumbrance of stock or other ownership interest as collateral, including seller-financed transactions, does not affect the unconditional nature of ownership if the terms follow normal commercial practices and the owner retains control absent violations of the terms.

Can you provide examples of when you might find there is not unconditional ownership?

Example: An operating agreement provides that the company may be terminated in the event of any of four conditions: the sale of all the company's assets, the unanimous agreement of the members, the entry of a decree of judicial dissolution, and at the direction of one of the male members. Thus, only the male member possesses the unilateral ability to terminate the company. The fact that he may do so without the woman owner's consent is a restriction on the woman's ownership rights.

Example: The by-laws state that if the majority shareholder (the woman) wants to sell her shares in the business concern, she must find a buyer for the minority (male) shareholder and the minority shareholder must approve the buyer. This places a condition on the ownership of the business concern.

Example: A transfer of ownership agreement shows that the 51% woman owner of a company must give right of first refusal to a male if she decided to sell her shares. The agreement also stated that the sale price to the male could not exceed the amount she paid for the shares initially. This is not unconditional ownership; instead, her rights are conditional and encumbered.

What if my small business is a partnership, how do I know it meets the ownership requirement?

The partnership agreement must evidence that at least 51% of each class of partnership interest is unconditionally owned by one or more women. SBA treats general and limited partnership interests as different classes of partnership interest.

What if my small business is a limited liability company, how do I know it meets the ownership requirements?

The articles of organization and any amendments, and the operating agreement and any amendments must evidence that at least 51% of each class of member interest is unconditionally owned by one or more women.

What if my small business is a corporation, how do I know it meets the ownership requirements?

The stock ledger and stock certificates must evidence that at least 51% of each class of voting stock outstanding and 51% of the aggregate of all stock outstanding is unconditionally owned by one or more women. In determining unconditional ownership of the concern, any unexercised stock options or similar agreements held by a woman will be disregarded. However, any unexercised stock option or other agreement, including the right to convert non-voting stock or debentures into voting stock, held by any other individual or entity will be treated as having been exercised.

What if I am not very good with updating my stock ledger or do not have one?

The SBA may draw an adverse inference when the WOSB or EDWOSB fails to provide the required documents to verify eligibility.

So, I'm a woman who has 300 shares of stock of a small business and a male has 300 shares of stock. I have 100 shares of unexercised stock options and he only has 50 shares. Is my company eligible?

No. SBA would disregard the 100 shares of unexercised stock options you hold and would treat as having been exercised the 50 shares that the male owns. That would mean he owns 53% of the small business (350/650).

How do I know if a woman or women controls my small business?

The management and daily business operations of the concern must be controlled by one or more women. Control means that both the long-term decision making and the day-to-day management and administration of the business operations must be conducted by one or more women.

Can you provide examples of when you might find that a woman does not control a small business?

Example: Provisions of the business concern’s operating agreement state the following: “Submission of Bids, Negotiation, and Execution of the Contracts,” provides that “an authorized representative of each Member on behalf of the Company will sign the Contracts, all modifications to the Contracts which require the signature of the contractor, and all certifications of claims where certifications are required”; “Labor Issues,” provides that “neither member has the authority to sign a labor agreement on behalf of the Company related to any activities related to the Contracts without the written authorization of the other Member”; “Bank Account,” provides that “all withdrawals and transfers from the account will require the signature of at least one appointed signatory from each Member”; and “Restricted Activities,” provides a list of activities that “no Member, without the written consent of the other Member shall” undertake, including releasing company debts, engaging in transactions outside the ordinary course of business, and selling or otherwise disposing of company assets.

These provisions would undoubtedly allow the minority member to limit some level of the majority member woman’s control over the company.

Example: The articles of organization state that management is vested in all the members. In addition, it also states that 80% of the membership interest must agree to the member’s compensation, spending more than \$10,000, and borrowing any money. The woman that owns 51% of the LLC would not be deemed to control the company.

Does it matter what position in the company the woman holds? I make the day-to-day management decisions as the Vice President, even though the President is a male.

Yes, it matters. You are not eligible for the program. A woman must hold the highest officer position in the concern.

What kind of experience do I need to show to prove I run this WOSB?

The woman or women must have managerial experience of the extent and complexity needed to run the concern. The woman manager need not have the technical expertise or possess the required license to be found to control the concern if she can demonstrate that she has ultimate managerial and supervisory control over those who possess the required licenses or technical expertise. However, if a man possesses the required license and has an equity interest in the concern, he may be found to control the concern.

I used to be a travel agent, but now I run and own an auto body with my husband. My husband also works in the shop and has been a mechanic there for the last 18 years. Am I eligible?

Probably not. You would need to demonstrate that you have the ultimate management and supervisory control over your husband and the other mechanics, despite the fact you have no experience in this line of business. Since your husband possesses the required licenses, has an equity interest in the company, and has experience in this line of work, we would probably find that he controls the small business.

What if I work at another job but manage my WOSB? I am a woman starting a small architecture business while I work full-time at my current job at an architecture firm. I spend all my nights and weekends working on my small business. Is my small business eligible?

No. The woman who holds the highest officer position of the concern must manage it on a full-time basis and devote full-time to the business concern during the normal working hours of business concerns in the same or similar line of business. The woman who holds the highest officer position may not engage in outside employment that prevents her from devoting sufficient time and attention to the daily affairs of the concern to control its management and daily business operations.

In this case, the normal working hours of your small business are the same hours that you spend working at your full-time job. You are not managing your small business on a full-time basis and devoting full-time to the business concern during its normal working hours and your outside job is preventing you from devoting sufficient time and attention to the daily affairs of the concern to control its management and daily business operations.

What if my small business is a partnership, how do I know it meets the control requirement?

The partnership agreement must show that one or more women must serve as general partners, with control over all partnership decisions.

What if my small business is a limited liability company, how do I know it meets the control requirement?

The articles of organization and any amendments, and operating agreement and any amendments, must show that one or more women serve as management members, with control over all decisions of the limited liability company.

What if my small business is a corporation, how do I know it meets the control requirement?

The articles of incorporation and any amendments, articles of conversion, by-laws and amendments, shareholder meeting minutes showing director elections, shareholder meeting minutes showing officer elections, organizational meeting minutes, all issued stock certificates, stock ledger, buy-sell agreements, stock transfer agreements, voter agreements, and documents relating to stock options, including the right to convert non-voting stock or debentures into voting stock evidence that one or more women control the Board of Directors of the concern.

What does it mean to “control the Board of Directors”?

Women control the Board of Directors if:

- (1) One or more women own at least 51% of all voting stock of the concern, are on the Board of Directors and have the percentage of voting stock necessary to overcome any super majority voting requirements; or
- (2) Women comprise the majority of voting directors through actual numbers or, where permitted by state law, through weighted voting.

My husband and I own the small business together, but I run it and own 51% of the shares of stock. Does he have to give up his share in the small business for it to meet the program’s requirements?

Not necessarily. Men or other entities may be involved in the management of the concern and may be stockholders, partners or limited liability members of the concern. However, no males or other entity may exercise actual control or have the power to control the concern.

Is there a minimum amount of time I must be in business?

No.

ELIGIBILITY - EDWOSBs

Basic Facts:

An EDWOSB is a small business that is at least 51% owned and controlled by one or more women who are U.S. citizens and economically disadvantaged.

- *The ownership must be direct and not subject to conditions.*
- *The economically disadvantaged woman must manage the day-to-day operations of the business.*
- *The economically disadvantaged woman must make the long term decisions for the business.*
- *The woman must meet certain thresholds for personal net worth, adjusted gross income, and fair market value of all assets to be considered economically disadvantaged.*
- *The economically disadvantaged woman must be able to provide documents demonstrating she meets these requirements.*

What is an EDWOSB?

An EDWOSB is:

- (1) A small business; and
- (2) Not less than 51% unconditionally and directly owned and controlled by one or more women who are United States citizens and are economically disadvantaged.

If I am an EDWOSB am I also considered a WOSB under this program?

Yes.

What if my husband owns 49.2% and I own 50.8%, am I eligible?

No. An economically disadvantaged woman or women must own at least 51% of the small business.

What if I own 100% of a holding company, which owns 100% of the small business? Is that small business 100% owned by an economically disadvantaged woman?

No. The small business is owned by another company and is not directly owned by an economically disadvantaged woman. Therefore, it would not be eligible for the program.

What if my company is 100% owned by an employee stock ownership plan and 51% of those employees are female? Does it qualify as WOSB?

No. The small business is not directly owned at least 51% by an economically disadvantaged woman or women.

What if the small business is owned by a trust, for tax reasons?

SBA will treat ownership by a trust, such as a living trust, as the functional equivalent of ownership by an economically

disadvantaged woman where the trust is revocable, and the economically disadvantaged woman is the grantor, the trustee, and the sole current beneficiary of the trust.

What if I live in a community property state, does this mean you consider my husband to own 50% of the small business?

By statute, the SBA will not consider community property laws when determining ownership.

What does it mean the business has to be at least 51% unconditionally owned by one or more economically disadvantaged women? What does unconditional mean?

To be considered unconditional, the ownership must not be subject to any conditions, executory agreements, voting trusts, or other arrangements that cause or potentially cause ownership benefits to go to another. The pledge or encumbrance of stock or other ownership interest as collateral, including seller-financed transactions, does not affect the unconditional nature of ownership if the terms follow normal commercial practices and the owner retains control absent violations of the terms.

Can you provide examples of when you might find there is not unconditional ownership?

Example: An operating agreement provides that the company may be terminated in the event of any of four conditions: the sale of all the company's assets, the unanimous agreement of the members, the entry of a decree of judicial dissolution, and at the direction of one of the male members. Thus, only the male member possesses the unilateral ability to terminate the company. The fact that he may do so without the woman owner's consent is a restriction on the woman's ownership rights.

Example: The by-laws state that if the majority shareholder (the woman) wants to sell her shares in the business concern, she must find a buyer for the minority (male) shareholder and the minority shareholder must approve the buyer. This places a condition on the ownership of the business concern.

Example: A transfer of ownership agreement shows that the 51% woman owner of a company must give right of first refusal to a male if she decided to sell her shares. The agreement also stated that the sale price to the male could not exceed the amount she paid for the shares initially. This is not unconditional ownership; instead, her rights are conditional and encumbered.

What if my small business is a partnership, how do I know it meets the ownership requirement?

The partnership agreement must evidence that at least 51% of each class of partnership interest is unconditionally owned by one or more economically disadvantaged women. SBA treats general and limited partnership interests as different classes of partnership interest.

What if my small business is a limited liability company, how do I know it meets the ownership requirements?

The articles of organization and any amendments, and the operating agreement and any amendments must evidence that at least 51% of each class of member interest is unconditionally owned by one or more economically disadvantaged women.

What if my small business is a corporation, how do I know it meets the ownership requirements?

The stock ledger and stock certificates must evidence that at least 51% of each class of voting stock outstanding and 51% of the aggregate of all stock outstanding is unconditionally owned by one or more economically disadvantaged women. In determining unconditional ownership of the concern, any unexercised stock options or similar agreements held by economically disadvantaged women will be disregarded. However, any unexercised stock option or other agreement, including the right to convert non-voting stock or debentures into voting stock, held by any other individual or entity will be treated as having been exercised.

What if I am not very good with updating my stock ledger or do not have one?

The SBA may draw an adverse inference when the WOSB or EDWOSB fails to provide the required documents to verify eligibility.

So, I'm an economically disadvantaged woman who has 300 shares of stock of a small business and a male has 300 shares of stock. I have 100 shares of unexercised stock options and he only has 50 shares. Is my company eligible?

No. SBA would disregard the 100 shares of unexercised stock options you hold and would treat as having been exercised the 50 shares that the male owns. That would mean he owns 53% of the small business (350/650).

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representative of each Member on behalf of the Company will sign the Contracts, all modifications to the Contracts which require the signature of the contractor, and all certifications of claims where certifications are required”; “Labor Issues,” provides that “neither member has the authority to sign a labor agreement on behalf of the Company related to any activities related to the Contracts without the written authorization of the other Member”; “Bank Account,” provides that “all withdrawals and transfers from the account will require the signature of at least one appointed signatory from each Member”; and “Restricted Activities,” provides a list of activities that “no Member, without the written consent of the other Member shall” undertake, including releasing company debts, engaging in transactions outside the ordinary course of business, and selling or otherwise disposing of company assets.

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Does it matter what position in the company the woman holds? I’m a woman who owns a majority in the company and make the day-to-day management decisions as the Vice President, even though the President is a male.

Yes, it matters. You are not eligible for the program. An economically disadvantaged woman must hold the highest officer position in the concern.

What kind of experience do I need to show to prove I run this WOSB?

The economically disadvantaged woman or women must have managerial experience of the extent and complexity needed to run the concern. The economically disadvantaged woman manager need not have the technical expertise or possess the required license to be found to control the concern if she can demonstrate that she has ultimate managerial and supervisory control over those who possess the required licenses or technical expertise. However, if a man possesses the required license and has an equity interest in the concern, he may be found to control the concern.

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voting stock evidence that one or more economically disadvantaged women control the Board of Directors of the concern.

What does it mean to “control the Board of Directors”?

Economically disadvantaged women control the Board of Directors if:

- (1) One or more economically disadvantaged women own at least 51% of all voting stock of the concern, are on the Board of Directors and have the percentage of voting stock necessary to overcome any super majority voting requirements; or
- (2) Economically disadvantaged women comprise the majority of voting directors through actual numbers or, where permitted by state law, through weighted voting.

My husband and I have owned the small business together, but I run it and I’m economically disadvantaged. Does he have to give up his share in the small business for it to meet the program’s requirements?

Not necessarily. Men or other entities may be involved in the management of the concern and may be stockholders, partners or limited liability members of the concern. However, no males or other entity may exercise actual control or have the power to control the concern.

Is there a minimum amount of time I must be in business?

No.

What do you look at to determine economic disadvantage?

We look at personal net worth, adjusted gross income, and the fair market value of all of your assets.

What is economic disadvantage?

A woman is presumed economically disadvantaged if she has a personal net worth of less than \$750,000, her adjusted gross yearly income averaged over the three years preceding the certification does not exceed \$350,000, and the fair market value of all her assets (including her primary residence and the value of the business concern) does not exceed \$6 million.

Do community property laws affect my economic disadvantage status?

SBA does not take into consideration community property laws when determining economic disadvantage when the woman has no direct, individual or separate ownership interest in her spouse’s property.

What is personal net worth?

Personal net worth includes all of a woman's assets minus her liabilities.

Is anything excluded when I calculate my personal net worth?

Yes. Do not include:

- your ownership interest in the WOSB/EDWOSB
- your equity interest in your primary personal residence
- any income received from the EDWOSB that is an S corporation, LLC or partnership if you can provide documents showing that the income was reinvested in the WOSB/EDWOSB or the distribution was solely for the purposes of paying taxes arising in the normal course of operations of the business.
- Funds invested in an Individual Retirement Account (IRA) or other official retirement account that are unavailable until retirement age without a significant penalty if you can provide information about the terms and restrictions of the account to SBA and certify that the retirement account is legitimate.

You cannot count losses from the S corporation, LLC or partnership, however, as a personal liability because they are losses to the EDWOSB only, not losses to the individual.

What do you look at when determining my income? Do you exclude anything?

We look at your personal income for the past three years. This includes bonuses and the value of company stock given in lieu of cash. However, you can exclude any income received by your EDWOSB that is an S corporation, LLC, or partnership if you can provide document demonstrating that the income was reinvested in the EDWOSB or the distribution was solely for the purposes of paying taxes arising in the normal course of operations of the business concern. You cannot count losses from the S corporation, LLC or partnership, to reduce your personal income since these are losses to the EDWOSB only, not losses to the individual.

If the adjusted gross yearly income averaged over the three years preceding the certification exceeds \$350,000, SBA will presume that you are not economically disadvantaged.

So if I make more than \$350,000 a year, I'm automatically not eligible?

Not necessarily. You can show that this income level was unusual and not likely to occur in the future, that losses commensurate with and directly related to the earnings were suffered, or by evidence that the income is not indicative of lack of economic disadvantage.

For example, you may have just won the lottery and that is why the three year average income is higher than normal. However, you may exceed the thresholds for personal net worth.

What about fair market value -- what do you look at and what can I exclude in the calculation?

The fair market value of all your assets cannot exceed \$6 million. This includes your primary residence and the value of the business concern. You can only exclude your IRA or other official retirement account if they are unavailable until retirement age without a significant penalty and you can provide information about the terms and restrictions of the account to SBA and certify that the retirement account is legitimate.

Does SBA look at my spouse's financial situation when determining my economic status?

Yes. SBA may consider a spouse's financial situation in determining a woman's access to credit and capital if the spouse has a role in the business (e.g., an officer, employee or director) or has lent money to, provided credit or financial support to, or guaranteed a loan of the business. SBA may also consider the spouse's financial condition if the spouse's business is in the same or similar line of business as the EDWOSB or WOSB and the spouse's business and WOSB share similar names, websites, equipment or employees.

So what does my spouse have to do? Does he have to provide any documents?

When married, you must submit separate financial information for your spouse, unless you are legally separated. Therefore, both of you must submit a Form 413, "Personal Financial Statement."

I just gave money to my husband to start a business. Can I exclude this amount from my assets (personal net worth)?

No. If you have transferred assets within two years of the WOSB's certification, it will be attributed to you (the woman claiming economic disadvantage) if the assets were transferred to an immediate family member, or to a trust that has as a beneficiary an immediate family member.

What is an immediate family member?

It is a father, mother, husband, wife, son, daughter, stepchild, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, and daughter-in-law.

What if I want to give money to my daughter for college? That should be excluded from my net worth and assets, shouldn't it?

Yes.

The SBA will exclude certain transferred assets within the two-year period as follows:

- Assets to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support; or
- Assets to an immediate family member in recognition of a special occasion, such as a birthday, graduation, anniversary, or retirement.

CONTRACT REQUIREMENTS

How will a contracting officer know that I am eligible for a WOSB or EDWOSB contract?

Prior to award of the contract, the contracting officer will check ORCA and ensure there is a representation that the business is a WOSB or EDWOSB. The contracting officer will then check the documents on the WOSB Program Repository to make sure they are all there and there is no question of eligibility.

What if I forgot to post one of my documents on the WOSB Program Repository? I had figured I could always add it later.

If the EDWOSB or WOSB fails to provide all of the required documents to verify its eligibility, the contracting officer has to file an EDWOSB or WOSB status protest with SBA. If the apparent successful offeror WOSB or EDWOSB fails to submit any of the required documents, the contracting officer cannot award a WOSB or EDWOSB contract to that business concern.

Do I have to perform any particular amount of work on a WOSB or EDWOSB contract or can I subcontract most of it out to this other WOSB that I know?

Yes, you have to perform a certain amount of the work. This is often referred to as the limitations on subcontracting because it limits how much work you can subcontract out. These limits are:

- For service contracts (that are not construction), you must perform at least 50% of the cost of the contract for personnel with its own employees.
- For supply contracts (if you are the manufacturer), you must perform at least 50% of the cost of manufacturing the supplies or products (not including the cost of materials).
- For general construction contracts, you must perform at least 15% of the cost of the contract with your own employees (not including cost of materials).
- For specialty construction contracts, you must perform at least 25% of the cost of the contract with your own employees (not including cost of materials).

What if I am a reseller, can I submit an offer for a supply contract that has been set aside for EDWOSB or WOSBs?

Yes, as long as you meet the requirements of 13 C.F.R. § 121.406(b). In other words, you must have less than 500 employees, be primarily engaged in the retail or wholesale trade and normally sell the type of item being supplied, and supply the end item of a small business manufacturer or processor made in the United States or obtain a waiver from the SBA.

Can I joint venture with another small business to submit an offer on a WOSB or EDWOSB requirement?

Yes, if the joint ventures meets all of the following requirements:

- Unless there is an exception to the affiliation rule set forth in 13 C.F.R. § 121.103(h)(3), the combined annual receipts or employees of the concerns entering into the joint venture must meet the applicable size standard corresponding to the NAICS code assigned to the contract;
- The EDWOSB or WOSB participant of the joint venture must be designated on the CCR and the ORCA as an EDWOSB or WOSB; and
- The parties to the joint venture must enter into a written joint venture agreement.

Does the written joint venture agreement have to contain any special conditions?

The joint venture agreement must contain a provision:

- Setting forth the purpose of the joint venture;
- Designating an EDWOSB or WOSB as the managing venturer of the joint venture, and an employee of the managing venturer as the project manager responsible for the performance of the contract;
- Stating that not less than 51% of the net profits earned by the joint venture will be distributed to the EDWOSB or WOSB;
- Specifying the responsibilities of the parties with regard to contract performance, sources of labor, and negotiation of the EDWOSB or WOSB contract; and
- Requiring the final original records be retained by the managing venturer upon completion of the EDWOSB or WOSB contract performed by the joint venture.

Does the joint venture have to be approved by SBA?

No. Unlike in the 8(a) BD Program, the joint venture does not have to be pre-approved by SBA.

Must the WOSB/EDWOSB meet the limitations on subcontracting itself or can the joint venture meet the requirement?

The joint venture can meet the limitations on subcontracting.

Whose name is on the contract – the WOSB or joint venture?

The procuring activity can execute the contract in the name of the EDWOSB or WOSB or joint venture.

How will the contracting officer know that I am submitting as a joint venture?

The WOSB or EDWOSB must provide a copy of the joint venture agreement to the contracting officer.

ELIGIBILITY EXAMINATIONS

What is an Eligibility Examination?

An eligibility examination is an investigation that verifies the accuracy of any certification made or information provided as part of the certification process (including third-party certifications), or in connection with an EDWOSB or WOSB contract. Eligibility examinations may verify that a concern meets the EDWOSB or WOSB eligibility requirements at the time of the examination.

What is the purpose of an Eligibility Examination?

It enables SBA to verify and monitor the accuracy of any certification made or information provided as part of the certification process or in connection with an EDWOSB or WOSB contract.

When will SBA perform an Eligibility Examination?

SBA may perform eligibility examinations at any time after a concern self certifies in CCR or ORCA that it is an EDWOSB or WOSB.

Where will SBA conduct the Eligibility Examination?

SBA may conduct the examination, or parts of the examination, at one or all of the concern's offices.

How will SBA decide to conduct an examination?

SBA may consider protest allegations set forth in a protest. SBA may also consider information provided by a third-party that questions the eligibility of a WOSB or EDWOSB that has certified its status in ORCA or CCR.

What is the difference between an eligibility examination and an EDWOSB or WOSB status protest? They sound like the same thing.

An EDWOSB or WOSB status protest is a challenging to the EDWOSB or WOSB status of a concern in connection with a specific EDWOSB or WOSB requirement or contract.

An eligibility examination is the formal process through which SBA verifies the accuracy of any certification made or information provided as part of the certification process or in connection with an EDWOSB or WOSB contract. An eligibility examination can be conducted at any time and is not tied to a particular solicitation or contract award.

How will I know when I am subject to an eligibility examination?

SBA will notify you within 5 business days before commencing an examination. However, SBA may conduct a site visit without prior notification.

What do I have to do during an examination?

SBA will request that you provide documents and information relating to your eligibility. SBA may request copies of proposals or bids submitted in response to an EDWOSB or WOSB solicitation. EDWOSBs will be required to submit signed copies of SBA Form 413, Personal Financial Statement, the three most recent personal income tax returns (including all schedules and W-2 forms) for the women claiming economic disadvantage and their spouses, unless the individuals and their spouses are legally separated, and SBA Form 4506-T, Request for Tax Transcript Form, available to the public at <http://www.sba.gov/tools/Forms/index.html>.

Do I have to do this? I'm pretty busy with work this week.

You may request an extension in providing the document or information to SBA. However, SBA is not required to grant the extension and may draw an adverse inference if you fail to cooperate in providing the requested information.

What happens if everything turns out ok?

If SBA determines that you satisfy the applicable EDWOSB or WOSB eligibility requirements, then the Director/Government Contracting (D/GC) will send you a written decision to that effect and will allow the concern's EDWOSB or WOSB designation in CCR and ORCA to stand. You can continue to self certify your EDWOSB or WOSB status.

What happens if something goes wrong?

If SBA is unable to verify that the concern qualifies as an EDWOSB or WOSB, then the D/GC will send you a written notice explaining the reasons SBA believes the concern did not qualify at the time of certification or does not qualify as an EDWOSB or WOSB.

You will then have 15 calendar days from the date of the notice to respond. After that, the D/GC will consider the reasons of proposed ineligibility and any information you submitted in response, and will send a written decision with the findings.

If SBA determines that you do not qualify as an EDWOSB or WOSB, then the D/GC will send the concern a written decision explaining the basis of ineligibility, and will require that the concern remove its EDWOSB or WOSB designation in the CCR and ORCA within 5 calendar days after the date of the decision.

What does it mean I do not qualify? Can't I just self certify again in CCR a few weeks later?

No. The D/GC's decision is effective immediately and remains in full force and effect unless a new examination verifies the concern is an eligible EDWOSB or WOSB or the concern is

certified by a Third Party Certifier. So, if you believe in good faith that you have cured the reasons for its ineligibility, you may request an examination.

What if the D/GC decides I am not eligible and I am waiting to hear if I am the apparent successful offeror?

You must immediately inform the officials responsible for the procurement of the adverse determination.

Will I lose the contract?

The contracting officer may terminate the contract, not exercise any option, or not award further task or delivery orders.

Whether or not a contracting officer decides to allow or not allow an ineligible concern to fully perform on the contract, the contracting officer cannot count the award as one to an EDWOSB or WOSB and must update the Federal Procurement Data System–Next Generation (FPDS–NG) and other databases from the date of award accordingly.

Can I appeal this decision to someone at SBA?

No. You can request that SBA conduct a new examination once you believe you are eligible.

How do I request a new eligibility examination?

Send a written request specifying the particular reasons you were determined not to qualify as an EDWOSB or WOSB to: Director for Government Contracting, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416, or by fax to (202) 205–6390, marked “Attn: Request for Women-Owned Small Business Eligibility Examination.”

What happens after I send in the request?

SBA will immediately notify you in writing once it receives the request and will ask you to provide documentation and information related to the concern's EDWOSB or WOSB eligibility. The D/GC will send you a written decision finding that your small business either qualifies or does not qualify as an EDWOSB or WOSB.

If the D/GC determines that the concern does not qualify again as an EDWOSB or WOSB, the decision will explain the specific reasons for the adverse determination and advise the concern that it is prohibited from self-certifying as an EDWOSB or WOSB. If the D/GC determines that the concern qualifies as an EDWOSB or WOSB, then the D/GC will send you a written decision to that effect and will advise the concern that it may self-certify as an EDWOSB or WOSB, as applicable.

Can I appeal this decision?

No. The D/GC's decision is effective immediately and remains in full force and effect unless a new examination verifies the concern is an eligible EDWOSB or WOSB or the concern is certified by a third-party certifier.

PROTESTS AND APPEALS

What is a protest?

An EDWOSB or WOSB status protest is a challenge to the EDWOSB or WOSB status of a concern in connection with a specific EDWOSB or WOSB requirement or contract.

Ok. I know that this WOSB is not eligible and the company is getting ready to get a contract. Can I protest?

It depends. Only an “interested party” may protest the EDWOSB or WOSB status of an apparent successful offeror on an EDWOSB or WOSB contract. An “interested party” is any concern that submits an offer for a specific EDWOSB or WOSB requirement, the contracting activity's contracting officer, or SBA.

What if I am not an interested party but I know the business is not eligible? What can I do?

You can submit information to the contracting officer or SBA in an effort to persuade them to initiate a protest or to persuade SBA to conduct an eligibility examination.

I want to protest the business' size, too. Is that ok?

Yes, but you must file two separate protests -- a size protest pursuant to 13 C.F.R. part 121 and a EDWOSB or WOSB status protest.

What do I have to say in my protest?

You must challenge the status of a particular concern as an EDWOSB or WOSB by setting forth specific and credible evidence showing that concern may not be owned and controlled by one or more women who are United States citizens. If you are protesting an EDWOSB, then the protest must set forth specific and credible evidence showing that the concern is not at least 51% owned and controlled by one or more women who are economically disadvantaged.

If a contracting officer files the protest, they can explain that the WOSB or EDWOSB apparent successful offeror has failed to provide all of the required documents, as set required by the regulations.

What do you mean specific and credible evidence?

This means that you cannot merely submit a protest stating that you think the WOSB is not eligible because it's your opinion the husband or another male runs the company. You would need to provide evidence that the husband or male runs the company.

Do I need to hire a private investigator or attorney to file a protest?

No. Most of the information contained in protests for other programs is information obtained from the internet.

Does my protest have to be in writing?

Yes.

Where do I file the protest?

You can file the protest with the contracting officer in person, by facsimile, by express delivery service, email, or by U.S. mail (received by the applicable date). The contracting officer or SBA must file the protest directly with the D/GC.

How much time do I have to file the protest?

If it was a negotiated acquisition, the contract officer must receive the protest prior to the close of business on the fifth business day after notification by the contracting officer of the apparent successful offeror or notification of award. For example, if you received notification from the contracting officer on Friday, August 20, 2010, you must file the protest by Friday, August 27, 2010.

If it was a sealed bid acquisition, the contracting officer must receive the protest prior to the close of business on the fifth business day after bid opening. For example, if the bid opening was Wednesday, September 1, 2010, you must file the protest by Thursday, September 9, 2010 (Labor Day holiday is not a business day).

What if I send my protest in a few hours after close of business?

It would be considered untimely, unless it is from SBA or the contracting officer. A contracting officer or SBA may file an EDWOSB or WOSB protest at any time after bid opening or notification of intended awardee, whichever applies.

What if I file the protest prior to bid opening or notification of the apparent successful offer? I mean, I think you should get a head start in gathering the documents in case they are awarded the contract.

The protest would be considered premature and we would dismiss the protest.

What does the contracting officer do with the protest once he or she received it?

The contracting officer will forward all protests to SBA, even if the contracting officer thinks it is premature, not sufficiently specific, or untimely.

The contracting officer also sends a referral letter that includes information pertaining to the solicitation that may be necessary for SBA to determine timeliness and standing.

How will I know that SBA received the protest?

Upon receipt of the protest, SBA will notify the contracting officer and the protestor of the date SBA received the protest and whether SBA will process the protest or dismiss it because it is premature, untimely or not specific.

If you dismiss a protest then an ineligible concern may continue to get WOSB contracts. What can SBA do?

SBA may consider the protest allegations in determining whether to conduct an examination of the protested concern or submit a protest itself.

Does the contracting officer have to stay performance or not issue the contract?

The contracting officer may award the contract after receipt of a protest if the contracting officer determines in writing that an award must be made to prevent significant harm to the public interest.

What if I am protested? What do I have to do?

SBA will notify you of the protest and request information and documents responding to the protest. You must provide the documents within 5 business days from the date of the notice. These documents will include those that verify the eligibility of the concern, respond to the protest allegations, and copies of proposals or bids submitted in response to an EDWOSB or WOSB requirement. In addition, EDWOSBs will be required to submit signed copies of SBA Form 413, Personal Financial Statement, the three most recent personal income tax returns (including all schedules and W-2 forms) for the women claiming economic disadvantage and their spouses, unless the individuals and their spouses are legally separated, and SBA Form 4506-T, Request for Tax Transcript Form.

I have already submitted documents to the WOSB Program Repository and I do not want to submit anymore to SBA. What now?

SBA may draw an adverse inference where a concern fails to cooperate in providing the requested information and documents.

How long will it take SBA to make a decision?

SBA will determine the EDWOSB or WOSB status of the protested concern within 15 business days after receipt of the protest, or within any extension of that time that the contracting officer may grant SBA.

What if SBA does not issue the decision within 15 business days or receive an extension?

The contracting officer must contact SBA to ascertain when SBA estimates that it will issue its decision. After contacting SBA, the contracting officer may award the contract if he or she determines in writing that there is an immediate need to award the contract and that waiting until SBA makes its determination will harm public interest. The determination must be included in the contract file and a written copy sent to the D/GC.

How will I know when a decision is made?

SBA will notify the contracting officer, the protestor, and the protested concern in writing of its determination.

What if I don't agree with the D/GC's decision, can I file an appeal?

Yes. The protested concern, the protestor, or the contracting officer may file an appeal of a WOSB or EDWOSB status protest determination with SBA's Office of Hearings and Appeals (OHA).

When must I file the appeal?

You must file and serve an appeal petition within 10 business days after you receive the WOSB or EDWOSB protest determination.

What do I have to say in the appeal petition?

You must set forth the solicitation or contract number, and the name, address, and telephone number of the contracting officer. You must also provide a statement that you are appealing a WOSB or EDWOSB protest determination issued by the D/GC and the date that you received the decision. In addition, you must include a full and specific statement as to why the WOSB or EDWOSB protest determination is alleged to be based on a clear error of fact or law, together with an argument supporting such allegation. Finally, provide your name, address, telephone number, facsimile number, and signature or this information for your attorney.

In addition, you must attach to the appeal petition a signed certificate of service meeting the requirements of 13 C.F.R. § 134.204(d).

To whom do I send the appeal?

You must send the appeal to each of the following:

(1) The D/GC at U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, facsimile (202) 205-6390;

(2) The contracting officer responsible for the procurement affected by a WOSB or EDWOSB determination;

(3) The protested concern (the business concern whose WOSB or EDWOSB status is at issue) or the protester; and

(4) SBA's Office of General Counsel, Associate General Counsel for Procurement Law, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, facsimile number (202) 205-6873.

When will a Judge dismiss an appeal?

The presiding Judge must dismiss the appeal if the appeal is untimely or the matter has been decided or is the subject of adjudication before a court of competent jurisdiction over such matters. However, once an appeal has been filed, initiation of litigation of the matter in a court of competent jurisdiction will not prevent the Judge from rendering a final decision.

Who can file a response to my appeal petition and when must it be filed?

Any person served with an appeal petition may file and serve a response supporting or opposing the appeal if he or she wishes to do so. If a person decides to file a response, the response must be filed within 7 business days after service of the appeal petition. The response should present argument. For example, SBA may file a response on the appeal.

Does the Judge allow discovery and oral hearings?

No, discovery will not be permitted, and oral hearings will not be held.

Can I submit new evidence? There were some documents I forgot to provide to SBA.

No. The Judge may not admit evidence beyond the written protest file nor permit any form of discovery. All appeals under this subpart will be decided solely on a review of the evidence in the written protest file, arguments made in the appeal petition, and responses.

When will the Judge issue his or her decision?

The Judge shall issue a decision, insofar as practicable, within 15 business days after close of the record.

Can a Judge reconsider his decision?

Yes. The Judge may reconsider an appeal decision within 20 calendar days after issuance of the written decision. Any party who has appeared in the proceeding, or SBA, may request reconsideration by filing with the Judge and serving a petition for reconsideration on all the parties to the appeal within 20 calendar days after service of the written decision. The request

for reconsideration must clearly show an error of fact or law material to the decision. The Judge may also reconsider a decision on his or her own initiative.

Can the Judge remand the decision back to SBA for another decision?

Yes. The Judge may remand a proceeding to the D/GC for a new WOSB or EDWOSB determination if the D/GC fails to address issues of decisional significance sufficiently, does not address all the relevant evidence, or does not identify specifically the evidence upon which it relied. Once remanded, OHA no longer has jurisdiction over the matter, unless a new appeal is filed as a result of the new WOSB or EDWOSB determination.

What happens if SBA sustains a protest (agrees with the protester that the protested concern is not eligible)?

If SBA sustains the protest, SBA will issue a decision explaining the basis of its determination and requiring that the concern remove its designation on the CCR and ORCA as an EDWOSB or WOSB, as appropriate.

The protested concern (i.e., the concern that has been found to be ineligible) may not submit an offer as a WOSB or EDWOSB on another procurement until it cures the reason for its ineligibility and SBA issues a decision to this effect. A concern that believes in good faith that it has cured the reason(s) for its ineligibility may request an eligibility examination.

How does a protest affect the contract award? How does a sustained protest affect the contract award if no OHA appeal has been filed?

A contracting officer shall not award the contract to a protested concern that the D/GC has determined is not an EDWOSB or WOSB for the procurement in question.

However, if the contracting officer has made a written determination (prior to the D/GC's decision) that it must proceed with the contract or it will harm the public interest, the contracting officer receives the D/GC's determination after contract award, and no appeal has been filed, the contracting officer may terminate the award, and shall not exercise any options, or not award further task or delivery orders.

If no such written determination has been made, the contracting officer receives the D/GC's determination after contract award, and no OHA appeal has been filed, the contracting officer shall terminate the award.

What happens if SBA denies the protest (finds the protested concern is eligible) and no OHA appeal is filed?

A contracting officer may award the contract to a protested concern after the D/GC either has determined that the protested concern is an eligible WOSB or EDWOSB or has dismissed all protests against it.

What if SBA denies the protest, but an appeal is filed?

If a timely OHA appeal has been filed after contract award, the contracting officer must consider whether performance can be suspended until an appellate decision is rendered.

What happens if SBA denies the protest, but an appeal is filed and OHA overturns the original decision months later on an appeal?

If OHA subsequently overturns the D/GC's determination or dismissal, the contracting officer may apply the OHA decision to the procurement in question.

What happens if SBA denies the protest, but an appeal is filed and OHA agrees with the original decision months later on an appeal?

If OHA affirms the D/GC's determination finding that the protested concern is ineligible, the contracting officer shall either terminate the contract, not exercise the next option and not award further task or delivery orders.

PENALTIES FOR MISREPRESENTATION

What happens if someone falsely self certifies, misrepresents its status as an EDWOSB or WOSB or provides false information to the Government?

The SBA or another Federal agency may propose to suspend and debar you pursuant to the procedures set forth in the FAR, 48 CFR 9.4.

In addition, the Federal government can seek administrative and civil remedies prescribed by the False Claims Act, 31 U.S.C. 3729–3733 and under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801–3812.

Further, the Federal government may seek administrative and criminal remedies as described at Sections 16(a) and (d) of the Small Business Act, 15 U.S.C. 645(a) and (d), as amended.

The Federal government may also prosecute you for criminal penalties under 18 U.S.C. 1001 and any other penalties as may be available under law.

What happens if I think that someone has provided false documents or false information?

You can notify the SBA so that it can consider whether to conduct an eligibility examination or file a protest.

In addition, you can refer the matter to the agency's Inspector General's office. You may report fraud, waste, mismanagement, or misconduct involving SBA programs or employees either online (<http://www.sba.gov/ig/aboutus/overview/rsw/index.html>) or by calling the OIG Hotline toll-free at (800) 767-0385. You may choose to remain anonymous; however, the SBA OIG will not be able to contact you for more information regarding your complaint. This may hinder our ability to fully investigate the complaint, and we will not be able to inform you about the results of our review. You may also request that your identity remain confidential. In this case, the SBA OIG will not release your name without your prior consent unless we determine that such disclosure is absolutely unavoidable during the course of an investigation or audit.

Appendix A

List of 83-four digit NAICS Codes Eligible for Contracting under WOSB Program

The SBA has designated 83 NAICS codes as eligible for Federal contracting under the WOSB Program. There are forty-five NAICS codes in which WOSBs are underrepresented and thirty-eight NAICS codes in which WOSBs are substantially underrepresented.

The forty-five NAICS codes in which WOSBs are underrepresented are:

1. 2213-Water, Sewage and Other systems;
2. 2361-Residential Building Construction;
3. 2371-Utility System Construction;
4. 2381-Foundation, Structure, and Building Exterior Contractors;
5. 2382-Building Equipment Contractors;
6. 2383-Building Finishing Contractors;
7. 2389-Other Specialty Trade Contractors;
8. 3149-Other Textile Product Mills;
9. 3159-Apparel Accessories and Other Apparel Manufacturing;
10. 3219-Other Wood Product Manufacturing;
11. 3222-Converted Paper Product Manufacturing;
12. 3321- Forging and Stamping;
13. 3323-Architectural and Structural Metals Manufacturing;
14. 3324-Boiler, Tank, and Shipping Container Manufacturing;
15. 3333-Commercial and Service Industry Machinery Manufacturing;
16. 3342-Communications Equipment Manufacturing;
17. 3345-Navigational, Measuring, Electromedical, and Control Instruments Manufacturing;
18. 3346-Manufacturing and Reproducing Magnetic and Optical Media;
19. 3353-Electrical Equipment Manufacturing;

20. 3359-Other Electrical Equipment and Component Manufacturing;
21. 3369-Other Transportation Equipment Manufacturing;
22. 4842-Specialized Freight Trucking;
23. 4881-Support Activities for Air Transportation;
24. 4884-Support Activities for Road Transportation;
25. 4885-Freight Transportation Arrangement;
26. 5121-Motion Picture and Video Industries;
27. 5311-Lessors of Real Estate;
28. 5413-Architectural, Engineering, and Related Services;
29. 5414-Specialized Design Services;
30. 5415-Computer Systems Design and Related Services;
31. 5416-Management, Scientific, and Technical Consulting Services;
32. 5419-Other Professional, Scientific, and Technical Services;
33. 5611-Office Administrative Services;
34. 5612-Facilities Support Services;
35. 5614-Business Support Services;
36. 5616-Investigation and Security Services;
37. 5617-Services to Buildings and Dwellings;
38. 6116-Other Schools and Instruction;
39. 6214-Outpatient Care Centers;
40. 6219-Other Ambulatory Health Care Services;
41. 7115-Independent Artists, Writers, and Performers;
42. 7223-Special Food Services;
43. 8111-Automotive Repair and Maintenance;

44. 8113-Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance; and
45. 8114-Personal and Household Goods Repair and Maintenance.

The thirty-eight NAICS codes in which WOSBs are substantially underrepresented are:

1. 2372-Land Subdivision;
2. 3152-Cut and Sew Apparel Manufacturing;
3. 3231-Printing and Related Support Activities;
4. 3259-Other Chemical Product and Preparation Manufacturing;
5. 3328-Coating, Engraving, Heat Treating, and Allied Activities;
6. 3329-Other Fabricated Metal Product Manufacturing;
7. 3371-Household and Institutional Furniture and Kitchen Cabinet Manufacturing;
8. 3372-Office Furniture (including Fixtures) Manufacturing;
9. 3391-Medical Equipment and Supplies Manufacturing;
10. 4841-General Freight Trucking;
11. 4889-Other Support Activities for Transportation;
12. 4931-Warehousing and Storage;
13. 5111-Newspaper, Periodical, Book, and Directory Publishers;
14. 5112-Software Publishers;
15. 5171-Wired Telecommunications Carriers;
16. 5172-Wireless Telecommunications Carriers (except Satellite);
17. 5179-Other Telecommunications;
18. 5182-Data Processing, Hosting, and Related Services;
19. 5191-Other Information Services;
20. 5312-Offices of Real Estate Agents and Brokers;
21. 5324-Commercial and Industrial Machinery and Equipment Rental and Leasing;

22. 5411-Legal Services;
23. 5412-Accounting, Tax Preparation, Bookkeeping, and Payroll Services;
24. 5417-Scientific Research and Development Services;
25. 5418-Advertising, Public Relations, and Related Services;
26. 5615-Travel Arrangement and Reservation Services;
27. 5619-Other Support Services;
28. 5621-Waste Collection;
29. 5622-Waste Treatment and Disposal;
30. 6114-Business Schools and Computer and Management Training;
31. 6115-Technical and Trade Schools;
32. 6117-Educational Support Services;
33. 6242-Community Food and Housing, and Emergency and Other Relief Services;
34. 6243-Vocational Rehabilitation Services;
35. 7211-Traveler Accommodation;
36. 8112-Electronic and Precision Equipment Repair and Maintenance;
37. 8129-Other Personal Services; and
38. 8139-Business, Professional, Labor, Political, and Similar Organizations.



Appendix B

WOMEN-OWNED SMALL BUSINESS (WOSB) PROGRAM CERTIFICATION-- WOSBs

All small businesses that are interested in submitting an offer on a solicitation that has been set aside for WOSBs under the WOSB Program must complete this certification prior to submitting the offer. This includes checking all of the boxes, having an authorized officer of the WOSB sign and date the certification and having it notarized. Once the certification is complete, you must upload it to the WOSB Program Repository (go to www.sba.gov/wosb) along with all other required documents.

Please read carefully the following certification statements. The Federal government relies on the information in this form and any documents or supplemental information submitted to determine whether the business is eligible for a contract authorized under the WOSB Program. The definitions for the terms used in this certification are set forth in the Small Business Act, SBA regulations (13 C.F.R. Part 127), and also any statutory and regulatory provisions referenced in those authorities. In addition, please note that the U.S. Small Business Administration (SBA) may request further clarification or supporting documentation in order to assist in the verification of any of the information provided and that each person signing this certification may be prosecuted if they have provided false information. Any action taken with respect to this certification does not affect the Government's right to pursue criminal, civil or administrative remedies for incorrect or incomplete information given, even if correct information has been included in other materials submitted to SBA.

The undersigned has reviewed, verified and certifies that (all boxes must be checked):

(i) It is certified as a WOSB by a certifying entity approved by SBA, the certifying entity has not issued a decision currently in effect finding that the concern does not qualify as a WOSB, and there have been no changes in its circumstances affecting its eligibility since its certification.

Yes No N/A Explain why N/A: _____

(ii) It is currently certified by the U.S. Small Business Administration as an 8(a) BD Program Participant.

Yes No N/A Explain why N/A: _____

(iii) If a corporation, the stock ledger and stock certificates evidence that at least 51% of each class of voting stock outstanding and 51% of the aggregate of all stock outstanding is unconditionally and directly owned by one or more women. In determining unconditional ownership of the concern, any unexercised stock options or similar agreements held by a woman will be disregarded. However, any unexercised stock option or other agreement, including the right to convert non-voting stock or debentures into voting stock, held by any other individual or entity will be treated as having been exercised.

Yes No N/A Explain why N/A: _____

(iv) If a partnership, the partnership agreement evidences that at least 51% of each class of partnership interest is unconditionally and directly owned by one or more women.

Yes No N/A Explain why N/A: _____

(iv) If a limited liability company, the articles of organization and any amendments, and operating agreement and amendments, evidence that at least 51% of each class of member interest is unconditionally and directly owned by one or more women.

Yes No N/A Explain why N/A: _____

(v) The birth certificates, naturalization papers, or passports for owners who are women show that the business concern is at least 51% owned and controlled by women who are U.S. citizens.

Yes No

(vi) The ownership by women is not subject to any conditions, executory agreements, voting trusts, or other arrangements that cause or potentially cause ownership benefits to go to another.

Yes No

(vii) The 51% ownership by women is not through another business entity (including employee stock ownership plan) that is, in turn, owned and controlled by one or more women.

Yes No

(viii) The 51% ownership by women is held through a trust, the trust is revocable, and the woman is the grantor, a trustee, and the sole current beneficiary of the trust.

Yes No N/A Explain why N/A: _____

(ix) The management and daily business operations of the concern are controlled by one or more women. Control means that both the long-term decision making and the day-to-day management and administration of the business operations are conducted by one or more women.

Yes No

(x) A woman holds the highest officer position in the concern and her resume evidences that she has the managerial experience of the extent and complexity needed to run the concern.

Yes No

(xi) The woman manager does not have the technical expertise or possess the required license for the business but has ultimate managerial and supervisory control over those who possess the required licenses or technical expertise.

Yes No N/A Explain why N/A: _____

(xii) The woman who holds the highest officer position of the concern manages it on a full-time basis and devotes full-time to the business concern during the normal working hours of business concerns in the same or similar line of business.

Yes No

(xiii) The woman who holds the highest officer position does not engage in outside employment that prevents her from devoting sufficient time and attention to the daily affairs of the concern to control its management and daily business operations.

Yes No

(xiv) If a corporation, the articles of incorporation and any amendments, articles of conversion, by-laws and amendments, shareholder meeting minutes showing director elections, shareholder meeting minutes showing officer elections, organizational meeting minutes, all issued stock certificates, stock ledger, buy-sell agreements, stock transfer agreements, voting agreements, and documents relating to stock options, including the right to convert non-voting stock or debentures into voting stock evidence that one or more women control the Board of Directors of the concern. Women are considered to control the Board of Directors when either: (1) one or more women own at least 51% of all voting stock of the concern, are on the Board of Directors and have the percentage of voting stock necessary to overcome any super majority voting requirements; or (2) women comprise the majority of voting directors through actual numbers or, where permitted by state law, through weighted voting.

Yes No N/A Explain why N/A: _____

(xv) If a partnership, the partnership agreement evidences that one or more women serve as general partners, with control over all partnership decisions.

Yes No N/A Explain why N/A: _____

(xvi) If a limited liability company, the articles of organization and any amendments, and operating agreement and amendments evidence that one or more women serve as management members, with control over all decisions of the limited liability company.

Yes No N/A Explain why N/A: _____

(xvii) No males or other entity exercise actual control or have the power to control the concern.

Yes No

(xviii) SBA, in connection with an examination or protest, has not issued a decision currently in effect finding that this business concern does not qualify as a WOSB.

Yes No

(xix) All required documents verifying eligibility for a WOSB requirement have been submitted to the WOSB Program Repository, including any supplemental documents if there have been changes since the last representation, or will be submitted to the contracting officer if the repository is unavailable and then posted to the WOSB Program Repository within thirty (30) days of the repository becoming available.

Yes No

All the statements and information provided in this form and any documents submitted are true, accurate and complete. If assistance was obtained in completing this form and the supporting documentation, I have personally reviewed the information and it is true and accurate. I understand that these statements are made for the purpose of determining eligibility for a WOSB Program contract.

I understand that the information submitted may be given to Federal, State and local agencies for determining violations of law and other purposes. The certifications in this document are continuing in nature. Each WOSB prime contract for which the WOSB submits an offer/quote or receives an award constitutes a restatement and reaffirmation of these certifications. I understand that the WOSB may not misrepresent its status as a WOSB to: 1) obtain a contract under the Small Business Act; or 2) obtain any benefit under a provision of Federal law that references the WOSB Program for a definition of program eligibility.

I am an **officer** of the WOSB authorized to represent it and sign this certification on its behalf.

Warning: By signing this certification you are representing on your own behalf, and on behalf of the WOSB, that the information provided in this certification, and any document or supplemental information submitted, is true and correct as of the date set forth opposite your signature. Any intentional or negligent misrepresentation of the information contained in this certification may result in criminal, civil or administrative sanctions including, but not limited to: 1) fines of up to \$500,000, and imprisonment of up to 10 years, or both, as set forth in 15 U.S.C. § 645 and 18 U.S.C. § 1001, as well as any other applicable criminal laws; 2) treble damages and civil penalties under the False Claims Act; 3) double damages and civil penalties under the Program Fraud Civil Remedies Act; 4) suspension and/or debarment from all Federal procurement and nonprocurement transactions; and 5) program termination.

<i>Signature</i>	<i>Date</i> __/__/__
<i>Print Name (First, Middle, Last)</i>	
<i>Title</i>	
<i>Business Name</i>	

PLEASE NOTE: According to the Paperwork Reduction Act, you are not required to respond to this information collection unless it displays a valid OMB approval number. The estimated burden for completing this form is 2 hours per response. If you have questions or comments concerning this estimate or other aspects of this information collection, please contact the U.S. Small Business Administration, Chief, Administrative Information Branch, Washington, D.C. 20416 and/or SBA Desk Officer, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503.



Appendix C

WOMEN-OWNED SMALL BUSINESS (WOSB) PROGRAM CERTIFICATION-- EDWOSBs

All EDWOSBs that are interested in submitting an offer on a solicitation that has been set aside for WOSBs or EDWOSBs under the WOSB Program must complete this certification prior to submitting the offer. This includes checking all of the boxes, having an authorized officer of the EDWOSB sign and date the certification and having it notarized. Once the certification is complete, you must upload it to the WOSB Program Repository (go to www.sba.gov/wosb) along with all other required documents.

Please read carefully the following certification statements. The Federal government relies on the information in this certification and any documents or supplemental information submitted to determine whether the business is eligible for a contract authorized under the WOSB Program. The definitions for the terms used in this certification are set forth in the Small Business Act, SBA regulations (13 C.F.R. Part 127), and also any statutory and regulatory provisions referenced in those authorities. In addition, please note that the U.S. Small Business Administration (SBA) may request further clarification or supporting documentation in order to assist in the verification of any of the information provided and that each person signing this certification may be prosecuted if they have provided false information. Any action taken with respect to this certification does not affect the Government's right to pursue criminal, civil or administrative remedies for incorrect or incomplete information given, even if correct information has been included in other materials submitted to SBA.

The undersigned has reviewed, verified and certifies that (all boxes must be checked):

(i) It is certified as an EDWOSB by a certifying entity approved by SBA, the certifying entity has not issued a decision currently in effect finding that the concern does not qualify as a EDWOSB, and there have been no changes in its circumstances affecting its eligibility since its certification.

Yes No N/A Explain why N/A: _____

(ii) It is currently certified by the U.S. Small Business Administration as an 8(a) BD Program Participant.

Yes No N/A Explain why N/A: _____

(iii) If a corporation, the stock ledger and stock certificates evidence that at least 51% of each class of voting stock outstanding and 51% of the aggregate of all stock outstanding is unconditionally and directly owned by one or more women who are economically disadvantaged. In determining unconditional ownership of the concern, any unexercised stock options or similar agreements held by an economically disadvantaged woman will be disregarded. However, any unexercised stock option or other agreement, including the right to convert non-voting stock or debentures into voting stock, held by any other individual or entity will be treated as having been exercised.

Yes No N/A Explain why N/A: _____

(iv) If a partnership, the partnership agreement evidences that at least 51% of each class of partnership interest is unconditionally and directly owned by one or more economically disadvantaged women.

Yes No N/A Explain why N/A: _____

(v) If a limited liability company, the articles of organization and any amendments, and operating agreement and amendments, evidence that at least 51% of each class of member interest is unconditionally and directly owned by one or more economically disadvantaged women.

Yes No N/A Explain why N/A: _____

(vi) The birth certificates, naturalization papers, or passports show that the business concern is at least 51% owned and controlled by economically disadvantaged women who are U.S. citizens.

Yes No

(vii) The ownership by economically disadvantaged women is not subject to any conditions, executory agreements, voting trusts, or other arrangements that cause or potentially cause ownership benefits to go to another.

Yes No

(viii) The 51% ownership by economically disadvantaged women is not through another business entity (including employee stock ownership plan) that is, in turn, owned and controlled by one or more economically disadvantaged women.

Yes No

(ix) The 51% ownership by economically disadvantaged women is held through a trust, the trust is revocable, and the economically disadvantaged woman is the grantor, a trustee, and the sole current beneficiary of the trust.

Yes No N/A Explain why N/A: _____

(x) The management and daily business operations of the concern are controlled by one or more economically disadvantaged women. Control means that both the long-term decision making and the day-to-day management and administration of the business operations are conducted by one or more economically disadvantaged women.

Yes No

(xi) An economically disadvantaged woman holds the highest officer position in the concern and her resume evidences that she has the managerial experience of the extent and complexity needed to run the concern.

Yes No

(xi) The economically disadvantaged woman manager does not have the technical expertise or possess the required license for the business but has ultimate managerial and supervisory control over those who possess the required licenses or technical expertise.

Yes No N/A Explain why N/A: _____

(xii) The economically disadvantaged woman who holds the highest officer position of the concern manages it on a full-time basis and devotes full-time to the business concern during the normal working hours of business concerns in the same or similar line of business.

Yes No

(xiii) The economically disadvantaged woman who holds the highest officer position does not engage in outside employment that prevents her from devoting sufficient time and attention to the daily affairs of the concern to control its management and daily business operations.

Yes No

(xiv) If a corporation, the articles of incorporation and any amendments, articles of conversion, by-laws and amendments, shareholder meeting minutes showing director elections, shareholder meeting minutes showing officer elections, organizational meeting minutes, all issued stock certificates, stock ledger, buy-sell agreements, stock transfer agreements, voting agreements, and documents relating to stock options, including the right to convert non-voting stock or debentures into voting stock evidence that one or more economically disadvantaged women control the Board of Directors of the concern. Economically disadvantaged women are

considered to control the Board of Directors when either: (1) one or more economically disadvantaged women own at least 51% of all voting stock of the concern, are on the Board of Directors and have the percentage of voting stock necessary to overcome any super majority voting requirements; or (2) economically disadvantaged women comprise the majority of voting directors through actual numbers or, where permitted by state law, through weighted voting.

Yes No N/A Explain why N/A: _____

(xv) If a partnership, the partnership agreement evidences that one or more economically disadvantaged women serve as general partners, with control over all partnership decisions.

Yes No N/A Explain why N/A: _____

(xvi) If a limited liability company, the articles of organization and any amendments, and operating agreement and amendments evidence that one or more economically disadvantaged women serve as management members, with control over all decisions of the limited liability company.

Yes No N/A Explain why N/A: _____

(xvii) No males or other entity exercise actual control or have the power to control the concern.

Yes No

(xviii) The economically disadvantaged woman upon whom eligibility is based has read the SBA's regulations defining economic disadvantage and can demonstrate that her personal net worth is less than \$750,000, excluding her ownership interest in the concern and her equity interest in her primary personal residence.

Yes No

(xix) The personal financial condition of the woman claiming economic disadvantage, including her personal income for the past three years (including bonuses, and the value of company stock given in lieu of cash), her personal net worth and the fair market value of all of her assets, whether encumbered or not, evidences that she is economically disadvantaged.

Yes No

(xx) The adjusted gross income of the woman claiming economic disadvantage averaged over the three years preceding the certification does not exceed \$350,000.

Yes No

(xxi) The adjusted gross income of the woman claiming economic disadvantage averaged over the three years preceding the certification exceeds \$350,000; however, the woman can show that

this income level was unusual and not likely to occur in the future, that losses commensurate with and directly related to the earnings were suffered, or that the income is not indicative of lack of economic disadvantage.

Yes No N/A Explain why N/A: _____

(xxii) The fair market value of all the assets (including her primary residence and the value of the business concern but excluding funds invested in an Individual Retirement Account or other official retirement account that are unavailable until retirement age without a significant penalty) of the woman claiming economic disadvantage does not exceed \$6 million.

Yes No

(xxiii) The woman claiming economic disadvantage has not transferred any assets within two years of the date of the certification.

Yes No

(xxiv) The woman claiming economic disadvantage has transferred assets within two years of the date of the certification. However, the transferred assets were: (1) to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support; or (2) to an immediate family member in recognition of a special occasion, such as a birthday, graduation, anniversary, or retirement.

Yes No N/A Explain why N/A: _____

(xxv) SBA, in connection with an examination or protest, has not issued a decision currently in effect finding that this business concern does not qualify as a EDWOSB.

Yes No

(xxvi) All required documents verifying eligibility for the EDWOSB requirement have been submitted to the WOSB Program Repository, including any supplemental documents if there have been changes since the last representation, or will be submitted to the contracting officer if the repository is unavailable and then posted to the WOSB Program Repository within thirty (30) days of the repository becoming available.

Yes No

All the statements and information provided in this form and any documents submitted are true, accurate and complete. If assistance was obtained in completing this form and the supporting documentation, I have personally reviewed the information and it is true and accurate. I understand that these statements are made for the purpose of determining eligibility for a WOSB Program contract.

I understand that the information submitted may be given to Federal, State and local agencies for determining violations of law and other purposes. The certifications in this document are continuing in nature. Each EDWOSB or WOSB prime contract for which the EDWOSB submits an offer/quote or receives an award constitutes a restatement and reaffirmation of these certifications. I understand that the EDWOSB may not misrepresent its status as a EDWOSB or WOSB to: 1) obtain a contract under the Small Business Act; or 2) obtain any benefit under a provision of Federal law that references the WOSB Program for a definition of program eligibility.

I am an **officer** of the EDWOSB authorized to represent it and sign this certification on its behalf.

Warning: By signing this certification you are representing on your own behalf, and on behalf of the EDWOSB, that the information provided in this certification, and any document or supplemental information submitted, is true and correct as of the date set forth opposite your signature. Any intentional or negligent misrepresentation of the information contained in this certification may result in criminal, civil or administrative sanctions including, but not limited to: 1) fines of up to \$500,000, and imprisonment of up to 10 years, or both, as set forth in 15 U.S.C. § 645 and 18 U.S.C. § 1001, as well as any other applicable criminal laws; 2) treble damages and civil penalties under the False Claims Act; 3) double damages and civil penalties under the Program Fraud Civil Remedies Act; 4) suspension and/or debarment from all Federal procurement and nonprocurement transactions; and 5) program termination.

<i>Signature</i>	<i>Date</i> __/__/__
<i>Print Name (First, Middle, Last)</i>	
<i>Title</i>	
<i>Business Name</i>	

PLEASE NOTE: According to the Paperwork Reduction Act, you are not required to respond to this information collection unless it displays a valid OMB approval number. The estimated burden for completing this form is 2 hours per response. If you have questions or comments concerning this estimate or other aspects of this information collection, please contact the U.S. Small Business Administration, Chief, Administrative Information Branch, Washington, D.C. 20416 and/or SBA Desk Officer, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503.