



Power



Infrastructure



Federal



Industrial & Commercial



Small Business Legislative Review



April 27, 2011

Recent Rules

- ◆ Revised 8(a) Business Development Program
- ◆ Women-owned Small Business Federal Contract Program



Revised SBA 8(a) BD Program

- ◆ Final Rule – February 11, 2011
- ◆ Effective – March 14, 2011



Revised SBA 8(a) BD Program:

- ◆ Nine-year business development program
- ◆ Provides specialized training, counseling, marketing and technical assistance to small businesses certified for participation in the program
- ◆ First comprehensive overhaul of the 8(a) program in more than ten years.



Revised SBA 8(a) BD Program

Changes made were:

- ◆ Both technical and substantive in nature;
- ◆ To ensure program benefits flow to the intended recipients;
and
- ◆ Help reduce potential fraud, waste and abuse.



Revised SBA 8(a) BD Program:

- ◆ Allows 8(a) owners called to active military status to elect to be suspended in order not to lose any of their 9-year term in the program.
- ◆ Adds objective criteria to determine “**economic disadvantage**” based on
 - personal income of >\$250,000 for initial eligibility,
 - \$350,000 for continued eligibility; and
 - total assets of >\$4 million for initial eligibility, and
 - \$6 million continued eligibility).
- ◆ Allows an immediate family member of a current or former 8(a) firm to own an 8(a) firm provided there are no or negligible connections between the two firms and the family member can demonstrate sufficient management and technical experience to independently operate the firm.



Revised SBA 8(a) BD Program

- ◆ Tightens requirements for JVs to ensure that non-disadvantaged firms do not unduly benefit from the 8(a) program.
- ◆ The 8(a) participant in a M-P agreement must perform 40% of the work of each 8(a) joint venture contract that it is awarded.
- ◆ A JV awarded an 8(a) contract cannot subcontract work to any non-8(a) JV partner, including a large business mentor
- ◆ Each 8(a) firm that performs an 8(a) contract through a JV must report how the performance of work requirements (i.e., that the JV performed at least 50% of the work of the contract and that the 8(a) participant to the JV performed at least 40% of the work done by the JV) were met on the contract.



Revised SBA 8(a) BD Program

- ◆ Requires firms owned by tribes, Alaskan Native Corporations (ANC), Native Hawaiian Organizations (NHO) and Community Development Corporations (CDC) to report benefits flowing back to their respective communities.
- ◆ Firms owned by a tribe, ANC, NHO or CDC may not receive a sole source 8(a) contract that is a follow-on contract to an 8(a) contract that was performed immediately previously by another participant (or former participant) owned by the same tribe/ANC/NHO/CDC.



Revised SBA 8(a) BD Program

- ◆ Authorizes early graduation for a firm that exceeds the size standard for its primary NAICS code, as adjusted, for three successive program years.



Revised SBA 8(a) BD Program

- ◆ <http://www.sba.gov/content/revised-8a-regulations>
 - Press Release
 - Fact Sheet: Revised 8(a) BD Program Regulations
 - Frequently Asked Questions (FAQ)
 - 8(a) BD Program Compliance Guide
 - Final Rule (Federal Register, Feb. 11, 2011)



WOSB Federal Contract Program

- ◆ Final Rule - October 7, 2010
- ◆ Effective - February 4, 2011



WOSB Federal Contract Program

- ◆ Provides equal access to federal contracting opportunities for
 - Women-owned Small Businesses (WOSB) and
 - Economically Disadvantaged Women-owned Small Businesses (EDWOSBs)

- ◆ Allows C.O. to set aside specific federal contracts for WOSBs and EDWOSBs.

- ◆ The goal is for WOSBs and EDWOSBs to be ready to compete for contracts awarded fourth quarter of fiscal year 2011.



WOSB Federal Contract Program

- ◆ Firm must meet the eligibility requirements and be certified.



WOSB Eligibility Requirements

To be an eligible WOSB, a company must:

- ◆ Be a small business
- ◆ At least 51% unconditionally and directly owned and controlled by one or more women
- ◆ Who are U.S. citizens.
- ◆ Have a woman manage day-to-day operations making long-term decisions for the business,
- ◆ Hold the highest officer position in the business, and
- ◆ Work at the business full-time during normal working hours.



EDWOSB Eligibility Requirements

To be an eligible EDWOSB, a company must:

- ◆ Be a WOSB
- ◆ At least 51% unconditionally and directly owned by one or more women who are “economically disadvantaged”
- ◆ Have an economically disadvantaged woman manage day-to-day operations making long-term decisions for the business
- ◆ Hold the highest officer position in the business, and
- ◆ Work at the business full-time during normal working hours.



Economically Disadvantaged WOSB

A woman is presumed economically disadvantaged if:

- ◆ A personal net worth of less than \$750,000 (with some exclusions),
- ◆ Adjusted gross yearly income averaged over the three years preceding the certification less than \$350,000 and
- ◆ Fair market value of all her assets less than \$6 million.



WOSB Program Certification

Two ways to certify for the WOSB program:

- ◆ Self certification with supporting documents, or
- ◆ Third Party Certification with supporting documents



WOSB Program Certification

- ◆ All WOSBs and EDWOSBs must register their status in
 - the Central Contractor Registration (CCR) and
 - the Online Representations and Certifications Applications (ORCA), as well as,
 - Upload required documents to the WOSB Program Repository.
- ◆ SBA will accept 8(a) BD Participant certifications as long as 8(a) BD Participant is
 - 51% owned and controlled by one or more women and
 - the business is currently in the 8(a) Program.
- ◆ However, a certified 8(a) BD Participant still needs to submit their 8(a) certification and WOSB certification to the WOSB Program Repository.



Participation in the WOSB Program

5 Steps to participate in the WOSB program:

- ◆ Read the WOSB Federal Contract program regulations in the Federal Register and the WOSB Compliance Guide.
- ◆ Register in Central Contractor Registration (CCR) as WOSB or EDWOSB.*
- ◆ Log onto SBA's General Login System (GLS).
- ◆ Go to the WOSB program repository (through GLS) and upload / categorize all required documents.
- ◆ Represent your status in Online Representations and Certifications Application (ORCA).*



WOSB Program – Third Party Certification

- ◆ A WOSB may choose third-party certification from SBA-approved third-party certifiers only.
- ◆ SBA has not approved any third party certifiers at this time.
- ◆ A list of approved third-party certifiers will be posted after they have been approved.



WOSB Program – Contracting Details

COs may set aside a requirement for a WOSB if:

- ◆ The NAICS code is in an industry the SBA has determined WOSBs are substantially underrepresented. (There are over 300 6-digit NAICS codes eligible for Federal contracting under the WOSB Program.)
- ◆ The CO has a reasonable expectation that two or more WOSBs will submit offers.
- ◆ Anticipated award price of the contract does not exceed \$6.5 million in the case of manufacturing contracts and \$4 million in the case of all other contracts.
- ◆ The CO believes the contract can be awarded at a fair and reasonable price.



WOSB Program – Contracting Details

COs may set aside a requirement for an EDWOSB if:

- ◆ The NAICS code is in an industry in which SBA has designated WOSBs are substantially underrepresented.
- ◆ The CO has a reasonable expectation that two or more EDWOSBs will submit offers.
- ◆ Anticipated award price of the contract does not exceed \$6.5 million in the case of manufacturing contracts and \$4 million in the case of all other contracts.
- ◆ The CO believes the contract can be awarded at a fair and reasonable price.



WOSB Federal Contract Program:

◆ <http://www.sba.gov/wosb>

- WOSB Program Fact Sheet
- WOSB Program Frequently Asked Questions or FAQs
- WOSB Program Applicable NAICS Codes
- Compliance Guide for the WOSB Program
- Contracting Officer's Guide for the WOSB Program



Proposed Rules

The 112 Congress, 1st Session (Calendar Year 2011)



H.R. 240

- ◆ January 7, 2011
- ◆ Promotes jobs for veterans through the use of sole source contracts by Dept of Veterans Affairs for purpose of meeting the contacting goals and preference of the Department of Veterans Affairs for small business concerns owned and controlled by veterans.



H.R. 447, 448 and 449

- ◆ January 26, 2011
- ◆ SBIR/STTR Enhancement Act of 2011
- ◆ Amends the required Expenditure Amounts for the SBIR and STTR Programs from 2.5% to 5%
- ◆ Increases from \$100,000 to \$200,000 funds an agency may award in the first phase of an SBIR program and from \$750,000 to \$1,500,000 in the second phase of an SBIR program.
- ◆ Adjustment once every 5 years to reflect economic adjustments and programmatic considerations.



H.R. 585

- ◆ February 9, 2011
- ◆ Small Business Size Standard Flexibility Act of 2011
- ◆ Amends the Small Business Act to provide for the establishment and approval of SB size standards by the Chief Counsel for Advocacy of the SBA.



H.R. 598

- ◆ February 9, 2011
- ◆ Eliminates the preference and special rules for Alaska Native Corporations under the program under section 8(a) of the Small Business Act.



H.R. 658

- ◆ February 11, 2011
- ◆ FAA Reauthorization and Reform Act of 2011
- ◆ Authorizes appropriations for the Federal Aviation Administration for fiscal years 2011 through 2014. Sections of this bill would affect contracting programs or FAA contracting.
- ◆ Passed the House on April 1, 2011.
- ◆ On April 7, 2011, HR 658 was substituted with S. 223, and passed the Senate and asked for a conference with the House.



H.R. 744

- ◆ February 16, 2011
- ◆ the Women's Business Ownership Act of 2011
- ◆ Establish the National Commission on Women's Business Ownership.



H.R. 1392

- ◆ April 6, 2011
- ◆ Fairness to Veterans Act of 2011
- ◆ Provide assistance to veterans and veteran-owned businesses with respect to contracting opportunities.



S. 125

- ◆ January 25, 2011
- ◆ Local Disaster Contracting Fairness Act of 2011
- ◆ To ensure efficiency and fairness in the awarding of federal contracts in connection with natural disaster reconstruction efforts



S. 236

- ◆ January 31, 2011
- ◆ Eliminates the preferences and special rules for Alaska Native Corporations under the program under section 8(a) of the Small Business Act.



S. 370

- ◆ February 16, 2011
- ◆ Requires contractors to notify small business concerns that have been included in offers relating to contracts let by Federal agencies.



S. 493

- ◆ March 3, 2011
- ◆ SBIR/STTR Reauthorization Act of 2011,
- ◆ Reauthorizes the SBIR and STTR programs.



S. 633

- ◆ March 17, 2011
- ◆ Small Business Contracting Fraud Prevention Act of 2011
- ◆ Prevent fraud in small business contracting.



Thank You

Sam Artis

Director – Small Business Liaison Office

URS Corporation

<http://www.urscorp.com>

