

News Release

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SBA Proposes Women-Owned Small Business Rule to Expand Access to Federal Contracting Opportunities

WASHINGTON – The U.S. Small Business Administration today released a proposed rule aimed at expanding federal contracting opportunities for women-owned small businesses (WOSB). The proposed rule is available for public comment for 60 days.

The proposed rule is part of the Obama Administration’s overall commitment to expanding opportunities for small businesses to compete for federal contracts, in particular those owned by women, minorities and veterans. This proposed rule identifies 83 industries in which WOSBs are under-represented or substantially under-represented in the federal contract marketplace. This rule is aimed at providing greater opportunities for WOSBs to compete for federal contracts, while achieving the existing statutory goal that 5 percent of federal contracting dollars go to women-owned small businesses.

“Women-owned small businesses are one of the fastest growing segments of our economy, yet they continue to be under-represented when it comes to federal contracting,” said SBA Administrator Karen Mills. “Across the country, women are leading strong, innovative companies, and we know that securing federal contracts can be the opportunity that helps them take their businesses to the next level, expand their volume and create good-paying jobs. This proposed rule is a step forward in helping ensure greater access for women-owned small businesses in the federal marketplace.”

The creation of a rule to increase federal contracting opportunities for WOSBs was authorized by Congress in 2000. Since that time, SBA took a number of steps to study and analyze the market, including looking at participation by women-owned small businesses across all industries. Various draft rules were made available for public comment in prior years, but the Obama Administration chose last year to draft a new, comprehensive rule, based on the analysis of the prior studies and on all the questions and comments previously received.

Some of the components of the proposed Women-Owned Small Business rule include:

- To be eligible, a firm must be 51 percent owned and controlled by one or more women, and primarily managed by one or more women. The women must be U.S. citizens. The firm must be “small” in its primary industry in accordance with SBA’s size standards for that industry. In order for a WOSB to be deemed “economically disadvantaged,” its owners must demonstrate economic disadvantage in accordance with the requirements set forth in the proposed rule.
- Based upon the analysis in a study commissioned by the SBA from the Kauffman-RAND Foundation, the proposed rule identifies 83 industries (identified by “NAICS” codes) in which women-owned small businesses are under-represented or substantially under-represented.
 - The SBA has identified eligible industries based upon the combination of both the “share of contracting dollars” analysis, as well as the “share of number of contracts awarded” analysis used in the RAND study. This differs from an earlier proposed version of the rule which identified only four

industries in which women-owned small businesses were under-represented. This earlier version proposed to identify eligible industries based solely on the “share of contracting dollars” analysis used in the RAND study.

- In accordance with the statute, the proposed rule authorizes a set-aside of federal contracts for WOSBs where the anticipated contract price does not exceed \$5 million in the case of manufacturing contracts and \$3 million in the case of other contracts. Contracts with values in excess of these limits are not subject to set-aside under this program.
- The proposed rule removes the requirement, set forth in a prior proposed version, that each federal agency certify that it had engaged in discrimination against women-owned small businesses in order for the program to apply to contracting by that agency.
- The proposed rule allows women-owned small businesses to self-certify as “WOSBs” or to be certified by third-party certifiers, including government entities and private certification groups.
 - The proposed rule requires WOSBs which self-certify to submit a robust certification at the federal ORCA Web site and also to submit a core set of eligibility-related documents to an online “document repository” to be maintained by the SBA. Each agency’s contracting officers will have full access to this repository.
 - The SBA intends to engage in a significant number of program examinations to confirm eligibility of individual WOSBs.
 - In the event of a contract protest or program review, the SBA will be entitled to request substantial additional documentation from the WOSB to establish eligibility.
 - SBA intends vigorously to pursue ineligible firms which seek to take advantage of this program and in so doing to deny its benefits to the intended legitimate WOSBs.

The public may submit comments to this proposed rule up until close of business on May 3, 2010, to www.regulations.gov, where they will be posted after 4 p.m. EST today, or by mailing them to Dean Koppel, Assistant Director, Office of Policy and Research, Office of Government Contracting, U.S. Small Business Administration, 409 3rd St. SW, Washington, DC 20416. Please reference RIN 3245-AG06 when submitting comments.

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