



Update to Industries Eligible for the Women-Owned Small Business Contracting Program

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Introduction

The Small Business Administration’s (SBA’s) Women-Owned Small Business (WOSB) Federal Contracting Program is designed to provide greater access to federal contracts for WOSBs, including a subset that are considered “economically disadvantaged” (EDWOSBs). The program aims to help federal agencies achieve their statutory goal of awarding 5% of federal contracting dollars to WOSBs. Only twice has the 5% federal procurement goal for WOSBs been met since it was authorized in 1994.

The SBA [updated its list](#) of eligible industries for the program on March 18, 2022. The list of industries determines which WOSBs may receive set-aside (limited competition) and sole-source (noncompetitive) contracts from federal agencies. The SBA increased the number of eligible industries from 444 to 759, a 71% increase. By expanding the industries list, the SBA has significantly grown the number of small women-owned businesses and federal agencies able to use SBA’s WOSB program.

Under the WOSB program, federal contracting officers may restrict competition for contracts to WOSBs through a set-aside if there is a reasonable expectation that at least two WOSBs will submit offers that meet reasonable price requirements, and if the contract is for a good or service from an eligible industry. The program also authorizes contracting officers to award a sole-source award to a WOSB from an eligible industry, provided that only one identified WOSB can perform the contract at a fair and reasonable price.

Program Update Results Summary

Per direction from Congress, the SBA identifies WSOB program-eligible industries by determining how underrepresented WOSBs are among federal contractors. The SBA determines underrepresentation to different degrees—either “underrepresented” or “substantially underrepresented”—every five years. Both “underrepresented” and “substantially underrepresented” refer to a disparity between federal utilization of WOSBs in contracting and their availability for contracts. Each term is defined by a “disparity ratio”

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threshold, for every four-digit [North American Industry Classification System \(NAICS\)](#) industry code. SBA then reports the results of its industry determinations by six-digit NAICS industry codes.

As a result of the latest industry eligibility update, the SBA now considers WOSBs to be “substantially underrepresented” in [646 six-digit NAICS industry codes](#) out of 1,023 total six-digit codes, and “underrepresented” in [113 six-digit NAICS industry codes](#). WOSBs are eligible for set-asides and sole-source opportunities in the 646 substantially underrepresented industries, while EDWOSBs are eligible for such opportunities in all 759 NAICS code industries in which WOSBs are either underrepresented or substantially so. Therefore, EDWOSBs are now eligible for contracting preferences in 74% of NAICS industries, and WOSBs in 63%.

Program Update Background

The updated WOSB industry list implements provisions of the National Defense Authorization Act for Fiscal Year 2015 (P.L. 113-291), in which Congress required the SBA to conduct a new study of WOSB representation across industries by 2016, update it every five years, and submit a report of the results of each to Congress. The SBA contracted with an independent research firm to make the most recent industry updates.

The study examined the representation of WOSBs in government procurement during the previous three fiscal years (FY2016-FY2019). According to its [industry update announcement](#) in the *Federal Register*, the SBA used the same “disparity ratio thresholds ... for finding WOSBs to be substantially underrepresented and underrepresented” that were developed by the [Kaufman-RAND Institute for Entrepreneurship Public Policy for the WOSB program in 2007](#).

Significant Expansion of Program Eligibility

[According to the SBA](#), the new WOSB industry list now covers NAICS codes that account for 92% of all small-business prime-contract spending, up from 75% in the previous list. This expanded eligibility could improve utilization of the WOSB contracting program, which has experienced set-backs and delays since its inception. With over 70% more eligible industries and, therefore, many more businesses now potentially qualified for contract set-asides and sole-source awards through the WOSB contracting program, agencies have more opportunities to contract with WOSBs when possible.

Despite the expansion of eligible industry codes however, other factors may still impede achievement of the federal 5% WOSB procurement goal. One potential impediment might be that federal agencies have less experience utilizing the WOSB program than other contracting programs, seen in greater use of programs besides the WOSB program when contracting with WOSBs. In FY2020, about 34% of the federal contracts awarded to WOSBs were awarded in full and open competition with other firms, about 61% were awarded with another small business preference (such as the 8(a) and HUBZone programs), and about 5% were awarded with a WOSB preference. Further WOSB program promotion and development are possible ways to advance the program’s use by contracting officers.

In addition, legislative efforts to prevent program fraud led to the end of WOSB self-certification in 2020 and it is unclear whether new certification requirements will affect program participation. Prior to this change, WOSBs could self-certify their status for free or obtain certification from certain third parties. Now WOSBs may continue to use third-party certifiers (subject to SBA regulations) or use SBA’s [online application for certification](#). SBA informational campaigns and technical assistance could help current and prospective program participants adjust to the change if needed.

Conclusion

Since the WOSB contracting program was established, the percentage of contracts awarded to WOSB has slowly increased, but most often fallen short of the 5% statutory WOSB procurement goal. WOSB advocates would like the approved industry update to lead to more federal agencies meeting or exceeding the 5% goal. However, because the WOSB program is optional and many federal agencies have not utilized the WOSB program to the extent that they have other contracting programs, the expanded use of the WOSB program is uncertain. Congress may be interested in the performance of federal agencies in making WOSB awards as well as program oversight to ensure that WOSB awards are made only to certified eligible firms.

For additional discussion of the WOSB contracting program's history and implementation issues, see CRS Report R46322, *SBA Women-Owned Small Business Federal Contracting Program*.

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