

Review Meeting Women Owned Small Business Regulations

8 April 2010
Hosted by NAVSYS

Agenda

- Quick Review of Proposed Rule
- Identify and Discuss Each of the 6 Criteria
- Summarize key points

Overview of Proposed Rule

- Amends Small Business regulation part 127
 - Eliminates agency-by-agency determination of discrimination
 - Identifies a larger set of NAICS codes where women are underrepresented or substantially underrepresented
 - Establishes several methodologies to certify the business as woman-owned
 - Provides for 6 criteria to be met for a contracting officer to make the procurement a WOSB set-aside

Criteria 1

Each eligible concern must be not less than 51 percent owned by one or more women who are “economically disadvantaged.”

However, SBA may waive this requirement of economic disadvantage if it determines that the concern is in an industry in which WOSBs are “substantially underrepresented.”

Criteria 1 – Comments

not less than 51 percent owned by one or more women
good/reasonable

economically disadvantaged

limits the number of small business ... but ...

waive this requirement of economic disadvantage if the concern is in an industry (NAICS) in which WOSBs are substantially underrepresented

helps to include many more companies

Criteria 2

the contracting officer must have a reasonable expectation that two or more WOSBs will submit offers for the contract.

Criteria 2 – Comments

a reasonable expectation that two or more WOSBs will submit offers for the contract

this has parity with the other socio-economic set-asides

if all categories are on equal parity with SBA, perhaps in the future a competitive set-aside could be made by a contracting officer for multiple socio-economic groups rather than limiting it to one

Criteria 3

The anticipated award price of the contract must not exceed \$5 million in the case of manufacturing contracts and \$3 million in the case of other contracts.

Criteria 3 – Comments

Not exceed \$5 million for manufacturing contracts or \$3 million for other contracts

most limiting factor within the criteria;
this is not per task order, it is per contract.

it is on parity with other socio-economic program limitations

Criteria 4

In the estimation of the contracting officer, the contract must be able to be awarded at a fair and reasonable price.

Criteria 4 – Comments

The contract must be able to be awarded at a fair and reasonable price

One would expect Government representatives to be judicious with the expenditure of taxpayers' funds

Criteria 5

Each competing concern must be duly certified by a Federal agency, a State government, or an SBA-approved entity as a WOSB, or must certify to the contracting officer and provide adequate documentation that it is a WOSB. The statute imposes penalties for a concern's misrepresentation of its status as a WOSB.

Criteria 5 – Comments

Certifications--Federal agency, a State government, or an SBA-approved entity or must certify to the contracting officer and provide adequate documentation that it is a WOSB. The statute imposes penalties for a concern's misrepresentation of its status as a WOSB.

Anyone present today that already has a WOSB certification? With whom? {during meeting: 1 company, while going through 8(a) certification also certified to being woman-owned and another identified the WBENC as a commercial entity that does certification (price \$750/yr per company)}

Caution: SBA intends to verify that the State or National certifying entity uses the same criteria of the SBA program. The WBENC may or may not be acceptable to SBA.

Criteria 5 – Comments

Certifications—

Documentation through ORCA and then placing documents in a repository managed by SBA is flexible and allows WOSBs to self-certify.

SBA states an intention to examine (audit the records) and verify eligibility “at any time”.

Criteria 6

Paragraph (2)(C) of the Act provides that the contract for which competition is restricted must be for the procurement of goods or services with respect to an industry identified by SBA ... as one in which WOSBs are underrepresented with respect to Federal procurement contracting.

Criteria 6 – Comments

Industry NAICS codes identified by SBA ... as one in which WOSBs are underrepresented with respect to Federal procurement contracting.

The codes are at the 4 digit level

45 codes for underrepresented

5415, 5416, 5419, 5612 and others

38 codes for substantially underrepresented*

5191, 5417

(lists shown on pgs 28-30 of pdf copy of proposed rule)

How to Provide Comments to SBA

- Comments due by May 3
- Go to **www.regulations.gov**
- Search document ID: SBA-2010-0001-0001 (in keyword or ID field)
- Click Search button
- On results page, click on title of document
- Select the “Submit a Comment” at top of page to enter your comments.