

OMB Form 83-1 SUPPORTING STATEMENT
Certification for the Women-Owned Small Business Federal Contract Program

Due to significant leadership staffing changes in the months prior to the expiration of SBA Forms 2413 and 2414, there was a major breakdown in communications regarding the status of this information collection. As a result, submission for renewal of this information collection was inadvertently overlooked and it is currently in violation of the PRA. The leadership in SBA's Office of Government Contracting (GC) is developing a plan in conjunction with SBA's Paperwork Reduction Act officials to effectively monitor and track the information collections that GC manages to ensure continuity regardless of changes in leadership and to prevent similar violations in the future. As part of the plan, GC is also committed to reviewing and evaluating its information collections to collect only the information that is necessary to carry out its mission and not unduly burden the public.

A. Justification

1. Circumstances necessitating the collection of information.

Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The U.S. Small Business Administration (SBA) is required by statute to administer the "Women-Owned Small Business Federal Contract Program (WOSB Program)." 15 U.S.C. § 637(m). A copy of the pertinent statute section is attached. Attachment 1. The Small Business Act (Act) sets forth the certification criteria for the WOSB Program. Specifically, the Act states that a WOSB or EDWOSB must: (1) be certified by a Federal agency, a State government, or a national certifying entity approved by the SBA Administrator, as a small business concern owned and controlled by women; 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 the SBA, to support such certification.

According to the legislative history for section 637(m), certification by a Federal agency, State government or national certifying entity should be acceptable if it tracks the statutory and regulatory definition of WOSB and economically disadvantaged women-owned small business (EDWOSB). H.R. Rep. No. 106-879, at 4 (2000). Consequently, the SBA reviews those third party certifiers that certify WOSBs and EDWOSBs and designate those whose certification criteria meet the requirements of this program. The SBA requires that those third party certifiers collect the same information and documents as SBA collects from those small businesses that are self-certifying.

In addition, the legislative history explains that "the Committee expects the contracting officers will accept self-certification so long as the documentation provided along with the response to the solicitation enables the contracting officer to determine that the bidder" meets the requirements of the program. As a result of this statutory provision, and the supporting legislative history, the SBA issued a rule that authorizes WOSBs and EDWOSBs to submit self-certifications. 13 C.F.R. § 127. As a first step in this process, these small business concerns must register in the System for Award Management (SAM) system where they are able to self-represent their status as a WOSB eligible under this program or an EDWOSB. SAM is an online government-maintained database of companies wanting to do business with

the Federal government available at SAM.gov. The Federal Acquisition Regulation (FAR) at 48 C.F.R. § 4.1102(a) requires that most prospective contractors be registered in the SAM database prior to award of a contract or agreement, with certain exceptions. FAR § 2.101 explains that SAM 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. Agencies search the SAM database for prospective vendors. After registering, a WOSB or EDWOSB may enter its small business profile information on SBA's Dynamic Small Business Search (DSBS) database page. Creating a profile in SAM and DSBS, and maintaining its annual status, helps provide access to Federal contracting opportunities.

Next, the small business concern must provide documents supporting its WOSB or EDWOSB status to an online document repository, called the WOSB Program Repository, which the SBA has established. The documents submitted include those verifying that the concern has received a third party certification. A list of the documents required is attached to this statement. Attachment 2. In addition, each WOSB or EDWOSB is required to submit a Women-Owned Small Business Program Certification - WOSB or Women-Owned Small Business Program Certification - EDWOSB, as applicable. Attachment 3 & 4.

The Act also states that the SBA is authorized to conduct eligibility examinations on any small business concern that certified itself as a WOSB or EDWOSB. 15 U.S.C. § 637(m)(5)(D). Further, the SBA is authorized by statute to handle protests and appeals on WOSB or EDWOSB certifications. *Id.* § 637(m)(5)(A). In conducting the eligibility examination, protests and appeals, the SBA requests the same documents that are required to verify eligibility for award. However, with respect to eligibility examinations and protests, the SBA also requests a copy of the bid or proposal submitted in response to an EDWOSB or WOSB solicitation as well as certain financial information to verify EDWOSB status.

2. How, by whom, and for what purpose information will be used.

Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information from the current collection.

The contracting officer for a WOSB or EDWOSB procurement, the SBA and the third party certifiers collect this information in order to carry out the statutory requirements of the program. Contracting officers are required to ensure that the WOSBs or EDWOSB offerors have registered in SAM, and have submitted their required documents through the repository, unless the repository is unavailable, at which time the contracting officer collects them directly from the WOSB or EDWOSB. Third party certifiers collect these documents from WOSBs or EDWOSBs seeking certification as such entities. SBA also collects this information during the course of an eligibility examination or protest and appeal, unless SBA can obtain the information from a contracting officer's contract file (since it was already submitted in response to the solicitation), or the repository.

The SBA and third party certifiers use the information submitted for verifying a concern's eligibility for award of a WOSB or EDWOSB contract. The contracting officers use the information to determine whether he/she should protest the WOSB or EDWOSB status of an apparent successful offeror.

3. Technological collection techniques.

Describe whether, and to what extent, the collection of information involves the use of automated,

electronic, mechanical or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The offeror for each EDWOSB or WOSB requirement has the option to submit its documents electronically directly to the repository or in hard copy to SBA. Third party certifiers decide whether such documents can be submitted to them electronically. With its other programs, the SBA has allowed small businesses to submit documents via facsimile as well, and permits firms to do the same with this program. In addition, as stated above, the self-certification is done electronically in SAM.

4. Avoidance of duplication.

Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for the purposes described in Item 2 above.

The information collected for this program is generally different from information collected for other SBA programs and therefore, there is no similar information available that can be used to satisfy program needs. In addition, in order to reduce the burden on small businesses, if a WOSB or EDWOSB submits documents to a contracting officer because it is the apparent successful offeror and there is a protest or eligibility examination, the SBA will obtain those documents from the contracting officer and not require the WOSB or EDWOSB to submit a duplicate set to SBA, or the SBA will obtain most of the documents from the repository, if they are available.

5. Impact on small businesses or other small entities.

If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), describe any methods used to minimize burden.

The collection of this data involves small businesses (but not governmental jurisdictions or not-for-profit enterprises), but entails basic commercial information that is usually maintained by any business. Compliance with this information collection requires de minimis additional costs for WOSBs or EDWOSBs, as compared to submitting proposals under any other small business set-aside program. Moreover, WOSBs currently represent their status for purposes of data collection in SAM. In addition, as noted above, if there is a protest or eligibility examination, rather than require the WOSB or EDWOSB to submit documents to SBA that it already submitted to the contracting officer, the regulations require the contracting officer to forward a copy of those documents to SBA, which minimizes the submission burden on the small business.

6. Consequences if collection of information is not conducted.

Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If SBA does not collect the information it cannot fulfill its statutory mandate to ensure that only eligible WOSBs and EDWOSBs receive contracts designated for such small businesses, conduct eligibility examinations, or adequately resolve a protest and appeal.

7. Existence of special circumstances.

Explain any special circumstances that would cause any information collection to be conducted in a manner requiring respondents to report information to the agency more often than quarterly; requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; requiring respondents to submit more than an original and two copies of any document; requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years; in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study; requiring the use of a statistical data classification that has not been reviewed and approved by OMB; that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has illustrated procedures to protect the information's confidentiality to the extent permitted by law.

The statute provides authority for the SBA to conduct eligibility examinations of any WOSB or EDWOSB. To assist with these examinations, SBA's regulations require applicants to retain documentation demonstrating qualifying requirements for a period of 6 years from the date of certification (initial and any subsequent certification). This will allow SBA to review certifications made at the time of prior contract awards. The SBA requires the documents be kept for 6 years from the date of an initial or subsequent certification because the Government can bring an action under 31 U.S.C. § 3730 for false claims 6 years from the date the false claim is made. 31 U.S.C. § 3731.

8. Solicitation of Public Comment.

If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice ...soliciting comments on the information collection ... Summarize public comments received; describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarify of instructions and record keeping, disclosure, or reporting format.

Consistent with 5 C.F.R. § 1320.8(d), a request for public comment was published in the Federal Register on August 6, 2013 at 78 FR 47814. Attachment 5. The SBA received no comments.

9. Payment or gifts.

Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There are no payments or gifts given to any respondent.

10. Assurance of confidentiality.

Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation or agency policy.

Any documents submitted as part of an offer are considered source selection sensitive under the Federal Acquisition Regulations (FAR) and cannot be released prior to award of a contract. FAR § 3.104-3. However, after award of a contract, all information and/or documents submitted to a Federal agency, including SBA, are protected to the fullest extent permitted by law, including the Privacy Act and Freedom of Information Act, 5 U.S.C. § 552.

11. Questions of a sensitive nature.

Provide justification for any questions of a sensitive nature such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain the consent.

There are no questions asked which are of a sensitive nature although documents and information provided may be protected because they are not generally releasable to the public (e.g., Federal tax returns).

12. Estimate of the hourly burden of the collection of information.

Provide estimates of the hour burden of the collection of the information. Also, provide an estimate of the annualized cost to the respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.

Total number of respondents for certification:	16,688 ¹
Number of responses per respondent:	1
Estimated burden hours:	2.0 hours
Total annual burden hours:	16,688 x 2.0 hours = 33,376

Total number of respondents for eligibility examinations, protests and appeals:	200
Number of responses per respondent:	1
Estimated burden hours:	2.0 hours
Total annual burden hours:	200 x 2.0 hours = 400

Total:	33,776
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Respondent's Cost of Burden Hours

Estimated officer's salary = \$75/hour (based on General Schedule 15 Step 10, Washington-Baltimore-Northern Virginia, DC-MD-VA-WV-PA area), which would be equivalent to a senior manager in an average small business firm.)

Total estimated burden: 33,776 x \$75/hour = \$2,533,200

¹ See 15. Explanation of program changes/adjustments in Item 13 or 14 OMB Form 83-I.

EDWOSBs must also submit a Form 413, Personal Financial Statement. Therefore, in addition to the hour burden listed above, EDWOSBs will also be required to spend an additional 1.5 hours to complete the SBA Form 413 (OMB Control #3245-0188).

13. Estimate of total annual cost burden for submission.

Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. Do not include the cost of any hour burden shown in Items 12 and 14.

SBA believes that there are no additional capital or start-up costs or operation and maintenance costs and purchases of services costs to respondents as a result of this collection of information because there should be no cost in setting up or maintaining systems to collect the required information. As stated in Answer 5, the information requested should be collected and retained in the ordinary course of business.

14. Estimated annualized cost to the Federal government.

Provide estimates of annual costs to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing and support staff), and any other expense that would not have been incurred without this collection of information. (Cost estimates for items 12, 13, and 14 may aggregate in a single table.)

The annualized cost to review and analyze the documents is \$3,397,866, computed as follows:

General Schedule (GS)-9-15 salaries, averaged (based on GS-9 through GS-15 Step 10, Washington-Baltimore-Northern Virginia, DC-MD-VA-WV-PA area): \$50.30/hour for employees reviewing documents and responses, to include contracting officers of procuring agencies

Average review of documents, including for each eligibility examination and protest and drafting of response = 2 hours

Number of responses reviewed: 33,776

Total estimated cost to government per year: $(33,776 \times 2) \times \$50.30 = \$3,397,866$

15. Explanation of program changes in Item 13 or 14 OMB Form 83-I.

Explain reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

SBA's General Login System (GLS) controls access to SBA applications including the WOSB Repository. The number of respondents listed in Item 12 represents the number of unique business owners that have registered in the WOSB Repository from program inception through March 31, 2014. This number has changed because the initial OMB Form 83-I Supporting Statement reported an estimated number of respondents. Once the number of actual respondents became available, the calculations for Items 13 and 14 were affected and thereby changed.

16. Collection of information whose results will be published.

For collection of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project including beginning and ending dates of the collection of the information, completion of report, publication dates, and other actions.

The results of this information may be published in various SBA reports as aggregated data only.

17. Expiration date for collection of information.

If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that the display would be inappropriate.

SBA is not seeking approval to not display the expiration date.

18. Exceptions to certifications in Block 19 in OMB Form 83-1.

Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-1.

This is not applicable.

B. Collections of Information Employing Statistical Methods.

This collection of information does not employ statistical methods.