

## OMB Form 83-1– SUPPORTING STATEMENT

### Certification for the Women-Owned Small Business Federal Contract Program (OMB Control Number 3245-0374)

In carrying out its statutory mandate to provide oversight of certification related SBA's Women-Owned Small Business Federal Contract Program, SBA is currently approved to collect information from the WOSB applicants or participants through SBA Form 2413, and for EDWOSB applicants or participants, through SBA Forms 2414. The currently approved collection of information also requires submission or retention of documents that support the applicant's certification.

SBA has implemented a certification and information collection platform – Certify.SBA.gov (Certify) that replicates the currently approved information collection. In other words, the information collected through Certify includes eligibility documents previously collected in the WOSB Repository, and information collected on SBA Form 2413 (WOSB) and SBA Form 2414 (EDWOSB). As a result, SBA is revising this information collection to establish that the agency is discontinuing these paper forms and collecting the information and supporting documents electronically through Certify. In addition, SBA has added one question to request information on classes of stock for a corporation and has eliminated one question that was redundant. Personal financial information reported on SBA Form 413 will also be submitted electronically through Certify by those applicants seeking SBA certification as an EDWOSB. Applicants using third-party certifiers will continue to use the paper version of Form 413 (OMB Control Number 3245-0188). See Attachment 3 for a representation of the questions as they appear in Certify and Attachment 4 for a comparison between the electronic version and the paper version of the collection of information.

As currently approved this collection of information is submitted by small business applicants or program participants who self-certify or who obtain certification from an SBA approved third-party certifier. SBA is developing a rule that will propose changes to fully implement the statutory requirement in 15 U.S.C. 637(m) for small business concerns to be certified by a Federal agency, a State government, SBA, or a national certifying entity approved by SBA, in order to be awarded a set aside or sole source contract under the WOSB program. As a result of these changes, the rule will propose to eliminate the option to self-certify, set the standards for certification by SBA, and clarify the third party certification requirements. SBA does not anticipate that these changes will impact the information currently collected; however, it will be necessary to propose changes to the instructions, especially as they relate to self-certification. If necessary, SBA will seek additional approval from the Office of Management and Budget for those changes when the rule is developed.

#### **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). The Small Business Act (Act) sets forth the certification criteria for the WOSB Program. Specifically, the Act states that a WOSB or EDWOSB must, “be certified by a Federal agency, a State government, the Administrator, or a national certifying entity approved by the SBA Administrator, as a small business concern owned and controlled by women.” 15 U.S.C. 637(m) (2)(E). Firms may continue to self-certify through the Certify.Gov portal while SBA promulgates regulations to implement an SBA certification program. See Attachment 1 for applicable statutory provisions.

The Federal Acquisition Regulation (FAR) and SBA regulations require that in order to be certified as a WOSB or EDWOSB a small business concern must provide documents supporting its WOSB or EDWOSB status to SBA. See 13 C.F.R. 127.300 and FAR 19.1503(b) (3). See attachment 2. The specific documents firms are required to provide are outlined in §§ 127.300(d) and (e). The Act also states that the SBA is authorized to conduct eligibility examinations of any certified WOSB or EDWOSB, and to handle protests and appeals related to such certifications. Id. § 637(m)(5)(A) and (5)(D), respectively.

*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.*

SBA, third-party certifiers, and contracting officers use this information for the following purposes. . SBA uses the information for verifying a concern’s eligibility in connection with a WOSB or EDWOSB contract award during the course of an eligibility examination or a status protest. As part of the contract award process, Contracting officers are required to ensure that the WOSBs or EDWOSB offerors have registered in SAM, and have submitted their required documents to SBA. Contracting officers use the information to determine whether there is basis to protest the WOSB or EDWOSB status of an apparent successful offeror. Third-party certifiers collect the supporting documents described in 12 CFR §§ 127.300(d) and (e) from concerns seeking certification as WOSBs or EDWOSBs.. After a business concern receives certification from a third-party certifier, the concern completes SBA Form 2413 or SBA Form 2414 and submits its third-party certificate through Certify.

*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/or the decision/or adopting this means of collection. Also describe any consideration of using information technology to reduce burden.*

For firms that do not use a third party certifier, the entire process is conducted electronically through the Certify portal. Collecting information electronically promotes efficiency and reduces burden. It also compels small businesses to answer all the questions and add supporting documents to specific questions. Furthermore, the electronic form filters questions by business type, eliminating the need for firms to answer questions that are not applicable to their business types.

Once initial certification is completed, the re-certification (or annual update) process is streamlined because the WOSB or EDWOSB do not need to resubmit as much, if any additional information. Previously, WOSBs and EDWOSBs were required to complete SBA Form 2413 or SBA Form 2414 each year to comply with the annual update requirement. Now, WOSBs and EDWOSBs can electronically review the information submitted through Certify in the previous year and update it if necessary. Specifically, if there have been changes in the documentation a firm submitted in support of its certification, it may remove the documents by using the “Delete” button, and add an amended version of the document reflecting the change in its circumstances. If there has been no change since the prior year, WOSBs and EDWOSBs do not need to enter anything. By successfully leveraging technology, SBA has decreased burden for WOSBs and EDWOSBs to comply with the regulatory requirement. The third-party certifiers determine how the information is submitted to them.

#### *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.*

Except for participants in SBA’s 8(a) Business Development (BD) Program, the information collected for this program is generally different from information collected for other SBA programs; therefore, there is no similar information available that can be used to satisfy program needs. For firms that are currently participating in the 8(a)BD program or are certified by third-party certifiers, the SBA does not request the information, including the supporting documents but rather relies on the data already collected. 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 not require the concern to submit a duplicate set but will obtain those documents from Certify, 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-I), describe any methods used to minimize burden.*

The collection of this data involves small businesses (but not governmental jurisdictions or not for-profit enterprises). This type of information entails basic commercial information that is usually maintained by any business. Moreover, WOSBs must currently represent their small business status in SAM to be eligible for federal contracts. As a result, compliance with this information collection requires de minimis additional costs for WOSBs or EDWOSBs. In

addition, as noted above, if there is a protest or eligibility examination, SBA obtains the documents from Certify rather than require the WOSB or EDWOSB to submit documents to SBA. This approach also 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 Small Business Act 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 six 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 six 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 six 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 July 17, 2017 at 82 FR 32749. See 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 stature, 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.*

(a) Based on the calculations below, the total estimated number of respondents (WOSBs and EDWOSBs) for this collection of information varies depending upon the types of certification that a business concern is seeking. For initial certification, the total estimated number of

respondents is 9,349. The total number was calculated using the two-year average number of business concerns that have provided information through Certify from March 2016 through February 2018. For annual updates, the total number is 12,347. For examinations and protests, the total number is 130.

Each respondent submits one response at the time of initial certification and one at the time of annual update. Estimated burden hours vary depending upon the type of certification that a WOSB or EDWOSB pursues. SBA conducted a survey among a sample of entities that assist WOSBs and EDWOSBs to provide information through Certify. The majority of those surveyed stated that for initial certifications the estimated time for completion is one hour per submission. For annual updates, because of the need to submit little if any additional information, the estimated burden is 0.5 hour per submission. For examinations and protests, the estimated burden is 0.25, which is much lower because firms have already provided the required documents identified in 13 C.F.R. §§ 127.300(d) and (e) through Certify. They may submit supplementary information in support of their certification as a WOSB or an EDWOSB.

<b>Initial Certification</b>	<b>WOSB</b>	<b>EDWOSB</b>
Total number of respondents for certification	6,876	2,473
Number of responses per respondent	1	1
Estimated burden hours	1	1
Total annual burden hours for certification	6,876 x 1.0 hours = 6,876	2,473 x 1.0 hours = 2,473
<b>Total</b>	<b>6,876</b>	<b>2,473</b>

<b>Annual Update</b>	<b>WOSB</b>	<b>EDWOSB</b>
Total number of respondents for certification	9,312	3,035
Number of responses per respondent	1	1
Estimated burden hours	0.5	0.5
Total annual burden hours for certification	9,312 x 0.5 hours = 4,656	3,035 x 0.25 hours = 1,518
<b>Total</b>	<b>4,656</b>	<b>1,518</b>

<b>Exams and Protests</b>	<b>WOSB</b>	<b>EDWOSB</b>
Total number of respondents for eligibility examinations and protests	87	43
Number of responses per respondent	1	1
Estimated burden hours	0.25	0.25
Total annual burden hours for eligibility examinations and protests	87 x 0.25 hours = 22	43 x 0.25 hours = 11
<b>Total</b>	<b>22</b>	<b>11</b>

(b) Respondent's Cost of Burden Hours:

Initial certification:

Estimated officer's salary = \$77.58/hour (based on General Schedule 15 Step 10, Washington-Baltimore Northern Virginia area), which would be equivalent to a senior manager in an average small business firm.)

Total estimated burden: 9,349 x \$77.58/hour = \$725,295

Annual update:

Estimated officer's salary = \$77.58/hour (based on General Schedule 15 Step 10, Washington-Baltimore Northern Virginia area), which would be equivalent to a senior manager in an average small business firm.)

Total estimated burden: 12,347 x \$77.58/hour = \$957,880

Examinations and Protests:

Estimated officer's salary = \$77.58/hour (based on General Schedule 15 Step 10, Washington-Baltimore Northern Virginia area), which would be equivalent to a senior manager in an average small business firm.)

Total estimated burden: 130 x \$77.58/hour = \$10,085

SBA previously stated that the estimate total respondent's cost of burden hours was \$2,533,200 annually. By successfully leveraging technology, SBA has reduced the total cost of burden hours substantially from \$2,533,200 to \$967,965.

*(c) 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.

*(d) 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 \$1,242,108 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: 12,347

Total estimated annual cost:  $(12,347 \times 2) \times \$50.30 = \$1,242,108$

Regardless of types of certifications, government employees must review all the information provided through Certify. As a result, the estimated annualized cost to the Federal government does not vary.

*(e) Explanation of program changes in Item 13 or 14 OMB Form 83-1.*

*Explain reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1*

The number of respondents has decreased. SBA previously stated that number of respondents was 16,888 and burden hours were 33,776. SBA has updated these numbers to reflect the more accurate information about active participants from the Certify system. At the time that SBA transitioned the Repository from SBA's General Log-in-System (GLS) to Certify, SBA did not transition inactive firms. Inactive firms are firms that previously submitted information to SBA, but have not maintained their status and eligibility. The GLS system did not have the capability of classifying inactive firms. Certify does have that capability. The new lower numbers reflect that SBA is now able to clearly identify firms that are no longer active program participants.

The burden has also decreased because the use of the electronic portal has decreased the time for respondents to submit the information for initial certification. Furthermore, SBA has successfully leveraged the technology to substantially decrease the hourly burden on WOSBs and EDWOSBs to comply with the annual update requirement, as well as to file a protest or appeal.

*(f) 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.

*(g) 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.*

No exceptions are being sought; the expiration date will be displayed.

*(h) 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.*

Not applicable; this collection of information does not employ statistical methods.