

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 in 15 U.S.C. 637(m) to provide oversight of certification related to the Women-Owned Small Business Federal Contract Program (WOSB Program), the U.S. Small Business Administration (SBA) is currently approved to collect information from WOSB Program applicants or participants through its certification and information collection platform, Certify.SBA.gov (Certify).

As currently approved, this collection of information is submitted by small business applicants or WOSB Program participants that wish to self-certify as WOSBs in order to perform on WOSB set-aside contracts, obtain certification from SBA as an EDWOSB, or obtain certification from an authorized third-party certifier as either a WOSB or EDWOSB. The currently approved collection of information also requires submission or retention of documents that support the applicant's certification.

In order to fully implement its WOSB Program oversight authorities, SBA has drafted a final rule that eliminates self-certification as an option for firms seeking WOSB and EDWOSB set-aside contracts. The final rule details small businesses' options for WOSB Program certification, which include submitting an application and supporting documentation for certification by SBA, submitting Center for Verification and Evaluation (CVE) certification issued by the U.S. Department of Veterans Affairs (VA), or submitting documentation of certification by an authorized third-party certifier.

As a result of the changes in the final rule detailed above, SBA is revising this information collection by updating its hourly burden analysis to reflect the new certification requirements, including the new monthly reporting requirement for third-party certifiers, and adding instructions for firms that wish to document their eligibility using their CVE certification.

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.

SBA is required by statute to administer the WOSB Program. The Small Business Act (the Act) sets forth the certification criteria for businesses seeking to participate in the WOSB Program. Specifically, the Act states that contracting officers can set aside WOSB and EDWOSB awards for businesses that meet the WOSB Program requirements and are "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) (Attachment 1).

Pursuant to the statutory language authorizing SBA to accept certifications by a Federal agency, State agency, or authorized third-party certifier, SBA is updating its regulations to reflect the ways that women-owned small businesses can apply for certification. 13 CFR § 127.300. As discussed above, this information collection covers the options for seeking certification under SBA’s current regulations, which permit firms to request certification by SBA (specifically through the 8(a) BD Program) or to submit evidence of certification by a third-party certifier. SBA has retained these options and added evidence of CVE certification as an option for firms seeking WOSB or EDWOSB certification. 13 CFR § 127.300(a)(2) and (b) (3) (Attachment 2). The requirements for submitting CVE certification are detailed in the final rule in § 127.303(a)(2) (Attachment 2). SBA is currently working on updating the WOSB Program application platform in Certify (Attachment 3). The Certify update will coincide with the final rule going into effect. Once the update is complete, firms will see CVE certification as an option in Certify (Attachment 4).

In addition, the authorizing statutory language permits SBA to continue to accept certifications from authorized third-party certifiers. The amended regulation will codify oversight of third-party certifiers to ensure that all applicants are reviewed fairly and consistently regardless of which certification option they choose. This oversight is detailed in § 127.355(a) (Attachment 2) and the Third-Party Certifier Agreements (Attachment 5).

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 all use this information. Currently, SBA uses the information for verifying a concern’s eligibility in connection with eligibility examinations and status protests for WOSB and EDWOSB contract awards. Contracting officers are required to ensure that the WOSBs or EDWOSB offerors have submitted their required documents to SBA as part of the contract award process. Contracting officers also 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 13 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 submits its third-party certificate through Certify.

Once the rule is final, an applicant can opt to submit documentation of CVE certification, in conjunction with information demonstrating that the applicant meets the unique requirements of the WOSB Program, in support of its application for certification. SBA will use the information submitted to assess an applicant’s eligibility. Applicants will be able to submit all documentation electronically in Certify.

Additionally, SBA will make use of the data third-party certifiers will be required to submit

per §127.355(a). These data include the number of applications received, the number approved, the number declined, and any other information that may be helpful to SBA. SBA's regulations do not mandate how third-party certifiers must submit the data. SBA will use these data as part of its overall tracking of how many applicants are certified each year and which options applicants use. Overseeing the figures for the certification options will help SBA better serve women-owned small businesses. For example, the monthly reports will indicate if there is a disconnect between the number of applications received by a third-party certifier and the number of decisions it issues in a given month. This could mean that demand for third-party certifier services exceeds supply and the existing third-party certifiers are unable to handle the volume of requests, in which case SBA could solicit bids for additional authorized third-party certifiers. Collecting this information will enable SBA to provide more robust oversight of third-party certifiers, which in turn will promote more effective management of the certification process.

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.

Firms currently submit documentation electronically through Certify and will continue to do so. 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. As discussed, SBA will not require third-party certifiers to submit the monthly reports in a specific format.

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.

For firms that are certified via the 8(a) BD Program, CVE, or third-party certifiers, SBA will not request the documentation submitted in conjunction with those certifications. The certifications will signal to SBA that relevant information and supporting documentation has already been collected and reviewed by a Federal agency or national certifying entity, as permitted by the authorizing legislation. If a firm submits a certification that does not demonstrate compliance with all WOSB Program eligibility requirements, it will have to submit additional information to show that it meets those requirements. The WOSB Program requirement that a firm must be 51% owned and controlled by one or more women is unique among other Federal contracting programs for small businesses.

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. The information requested is commercial information that should be maintained by a small business performing on, or seeking to perform on, Federal contracts. As a result, compliance with this information collection should require de minimis additional costs for WOSBs or EDWOSBs. Requiring submission of all documents in Certify minimizes the impact on small businesses because if questions arise about a firm's eligibility, either during the application process or in response to a status protest or program examination, SBA's first step will be to look at a firm's documentation in Certify. Assuming a firm has submitted all necessary documentation, this would ease the burden on respondents by precluding duplicative requests for information.

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 authorize and oversee several different certification options, including those from other Federal agencies and national certifying entities.

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 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. *Id.* at § 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 clarity of instructions and recordkeeping, disclosure, or reporting format.

SBA solicited comments from the public on the proposed rule, *Women-Owned Small Business and Economically-Disadvantaged Women-Owned Small Business Certification* (RIN: 3245-AG75). The proposed rule was published in the Federal Register on May 14, 2019. 84 FR 21256. SBA received 12 comments that touched on § 127.300(a)(2), which outlines the options for non-SBA, government-entity certification options, including CVE certification, and one comment on § 127.300(b)(3), which is about how CVE-certified firms can become certified as EDWOSBs. All three comments asked why a CVE-certified firm could not automatically be certified as a WOSB or EDWOSB. In response, SBA noted that CVE eligibility is not based on gender and thus evidence of CVE certification would not automatically communicate that an applicant had satisfied all Program requirements, including 51% ownership and control by a woman or women. CVE certification alone would also not demonstrate an applicant's economic disadvantage, which is a necessary component of EDWOSB participation. The process for CVE-certified small businesses will be to demonstrate that the individuals certified to own and control the business concern are women and, if they seek EDWOSB status, that they are economically disadvantaged. SBA also received one comment on § 127.355(a), which sets out the third-party certifiers' reporting requirement. The commenter requested additional information about what information SBA will require in the reports. SBA's response was that the regulation was drafted deliberately to permit the agency to provide more detailed instruction to third-party certifiers once certification is underway and it is clear what type of information is necessary to support SBA's oversight responsibilities.

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

The total estimated number of respondents for this information collection includes all the options firms have for certification, including CVE certification. It is estimated that in the first year of certification, 9,349 existing WOSB Program participants and 2,998 new firms will seek certification, for a total of 12,347 respondents. The participant level is expected to remain stable at 12,347 participants annually, with 500 firms leaving the program, 500 new firms seeking initial certification, and 11,847 firms seeking recertification. Based on the number of protests and appeals received in years past, 130 respondents are expected to participate in protests and examinations. Due to the anticipated difference between the first year of certification (when all firms will be submitting initial applications for initial certification) and subsequent years (when most firms will be submitting information for recertification), the information below is organized accordingly.

In addition to the applicant respondents, the four authorized third-party certifiers will need to submit information monthly to SBA. The estimated number of annual responses of 48 is not expected to change from year to year.

(a) Hourly burden of collection of information. Each respondent submits one response at the time of initial certification and one at the time of annual recertification. Estimated burden hours vary depending upon the type of certification that a firm 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 recertifications, because of the need to submit little if any additional information, the estimated burden is 30 minutes per submission. For examinations and protests, the estimated burden is 15 minutes, which is much lower because firms have already provided the documentation referred to in 13 CFR § 127.303 through Certify. The estimated burden for the third-party certifiers' reporting requirement is 30 minutes per submission per month.

The small business respondents' and third-party certifiers' hourly burdens are detailed below.

First Year

Initial Certifications:

Total number of respondents = 12,347
Estimated number of responses = 12,347
Estimated burden hours = 1
Total estimated burden hours = 12,347

Protests and Examinations:

Total number of respondents = 130
Estimated number of responses = 130
Estimated burden hours = .25
Total estimated burden hours = 32.5

Third-Party Certifiers' Monthly Reporting Requirement:

Total number of respondents = 4
Estimated number of responses = 48
Estimated burden hours = .5
Total estimated burden hours = 24

Subsequent Years

Initial Certifications:

Total number of respondents = 500
Estimated number of responses = 500
Estimated burden hours = 1
Total estimated burden hours = 500

Annual Recertifications:

Total number of respondents = 11,847
Estimated number of responses = 11,847
Estimated burden hours = .5
Total estimated burden hours = 5,923

Protests and Examinations:

Total number of respondents = 130
Estimated number of responses = 130
Estimated burden hours = .25
Total estimated burden hours = 32.5

Third-Party Certifiers' Monthly Reporting Requirement:

Total number of respondents = 4
Estimated number of responses = 48
Estimated burden hours = .5
Total estimated burden hours = 24

(b) Annualized cost to respondents. The respondents' estimated cost of burden hours, including the cost associated with third-party certifiers' monthly reporting requirement, is detailed below:

First Year

Initial Certifications:

Estimated officer's salary = \$164.23/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, plus an additional 100% to account for labor costs and overhead).

Total estimated burden = 12,347 x 1 hour x \$164.23/hour = \$2,027,758

Protests and Examinations:

Estimated officer's salary = \$164.23/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, plus an additional 100% to account for labor costs and overhead).

Total estimated burden = 130 x .25 hour x \$164.23/hour = \$5,337

Third-Party Certifiers' Monthly Reporting Requirement:

Estimated officer's salary = \$67.78/hour (based on median hourly rate for accountants and auditors, Bureau of Labor Statistics,¹ plus an additional 100% to account for labor costs and overhead).

Total estimated burden = 48 x .5 hour x \$67.78/hour = \$1626.72

Subsequent Years

Initial Certifications:

Estimated officer's salary = \$164.23/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, plus an additional 100% to account for labor costs and overhead).

Total estimated burden = 500 x 1 hour x \$164.23/hour = \$82,115

Annual Recertifications:

Estimated officer's salary = \$164.23/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, plus an additional 100% to account for labor costs and overhead).

Total estimated burden = 11,847 x .5 hour x \$164.23/hour = \$72,816

Protests and Examinations:

Estimated officer's salary = \$164.23/hour (based on General Schedule 15 Step 10, Washington-Baltimore Northern Virginia area, which would be equivalent to

¹ See <https://www.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm>.

a senior manager in an average small business firm, plus an additional 100% to account for labor costs and overhead).

Total estimated burden = 130 x .25 hour x \$164.23/hour = \$5,337

Third-Party Certifiers' Monthly Reporting Requirement:

Estimated officer's salary = \$67.78/hour (based on median hourly rate for accountants and auditors, Bureau of Labor Statistics,² plus an additional 100% to account for labor costs and overhead).

Total estimated burden = 48 x .5 hour x \$67.78/hour = \$1626.72

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. 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 computed as follows: General Schedule Grades 9—15, Step 1 salaries averaged is \$39.54/hour for employees reviewing documents and responses, plus labor costs and overhead, for a fully-loaded cost of \$79.08/hour. It will take an SBA employee approximately two hours to review the documents submitted for an initial certification. It will take approximately 15 minutes to review the information submitted for an annual recertification. It will take approximately two hours to review the documents submitted for a program examination or status protest. It will take approximately 15 minutes to review the information submitted by the third-party certifiers in their monthly reports. The annual costs to the Federal government for each of these activities is detailed below:

First Year

Initial Certifications:

Estimated officer's salary = \$79.08/hour (General Schedule Grades 9—15, Step 1 salaries averaged, plus an additional 100% for labor costs and overhead, for

² See <https://www.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm>.

employees reviewing documents and responses).

Total estimated burden = 12,347 x 2 hours x \$79.08/hour = \$1,952,801.52

Protests and Examinations:

Estimated officer's salary = \$79.08/hour (General Schedule Grades 9—15, Step 1 salaries averaged, plus an additional 100% for labor costs and overhead, for employees reviewing documents and responses).

Total estimated burden = 130 x 2 hours x \$79.08/hour = \$20,560.80

Third-Party Certifiers' Monthly Reporting Requirement:

Estimated officer's salary = \$79.08/hour (General Schedule Grades 9—15, Step 1 salaries averaged, plus an additional 100% for labor costs and overhead, for employees reviewing documents and responses).

Total estimated burden = 48 x .25 hour x \$79.08/hour = \$948.96

Subsequent Years

Initial Certifications:

Estimated officer's salary = \$79.08/hour (General Schedule Grades 9—15, Step 1 salaries averaged, plus an additional 100% for labor costs and overhead, for employees reviewing documents and responses).

Total estimated burden = 500 x 2 hours x \$79.08/hour = \$79,080

Annual Recertifications:

Estimated officer's salary = \$79.08/hour (General Schedule Grades 9—15, Step 1 salaries averaged, plus an additional 100% for labor costs and overhead, for employees reviewing documents and responses).

Total estimated burden = 11,847 x .25 hour x \$79.08/hour = \$234,215.19

Protests and Examinations:

Estimated officer's salary = \$79.08/hour (General Schedule Grades 9—15, Step 1 salaries averaged, plus an additional 100% for labor costs and overhead, for employees reviewing documents and responses).

Total estimated burden = 130 x 2 hours x \$79.08/hour = \$20,560.80

Third-Party Certifiers' Monthly Reporting Requirement:

Estimated officer's salary = \$79.08/hour (General Schedule Grades 9—15, Step 1 salaries averaged, plus an additional 100% for labor costs and overhead, for employees reviewing documents and responses).

Total estimated burden = 48 x .25 hour x \$79.08/hour = \$948.96

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

The estimated burden in Item 13, OMB Form 83-I, has decreased by 3,153. The "Current OMB Inventory" is 15,556 and the "Total Hours Requested" is 12,403. This decrease is a result of the more detailed guidance for applying for certification and recertification outlined in the final rule. After initial application, all firm documents will be in Certify. For annual

recertifications, protests, and program examinations, firms in compliance with program regulations will need to submit little new information.

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.

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

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.

19. Collections of Information Employing Statistical Methods.

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