

Minority Views

H.R. 7105, The WOSB Certification and Opportunity Expansion Act

The Small Business Administration's (SBA) Women-Owned Small Business (WOSB) Contracting Program is designed to help level the playing field for women-owned small businesses and economically disadvantaged women-owned small businesses (EDWOSBs) in the federal marketplace. The federal government attempts to expand contracting opportunities for WOSBs in two main ways: (a) setting an overall goal of sending 5% of federal contracting dollars to women-owned firms and (b) using streamlined authorities to make it easier for federal agencies to contract with women-owned firms. These authorities allow contracting officers to set-aside a contract for exclusively WOSBs competition and to sole source contracts to a WOSB firm, when certain conditions are met.

The federal government topline goal of 5% for WOSBs has only been met twice and federal agencies routinely miss their individual WOSB goals. Historically, women-owned small businesses have not been provided with the contracting opportunities that should accompany their level of participation in the federal market.

SBA administers contracting programs for small businesses in four categories: 1) the 8(a) Business Development program; 2) Women-Owned Small Business program (WOSB); 3) Historically Underutilized Business Zone small business program (HUBZone); and (4) Service-Disabled Veteran-Owned Small Business program (SDVOSB). The FY24 National Defense Authorization Act eliminated self-certification for the SDVOSB program. As a result, the three other contracting programs will now require participants to be certified by the SBA.

Stakeholders have pointed to the lack of SBA certification and other WOSB unique requirements as limitations on contracting officers that prohibit great use of the program's authorities. For example, the Government Accountability Office (GAO) surveyed WOSB stakeholders and some mentioned that having to review additional documentation on their own, since SBA didn't certify the firms, was burdensome and limited use of the program.¹

The goal of requiring an SBA certification is to protect the integrity of the program but also to incentivize contracting officers to use the authorities designed to streamline contracting with WOSB firms. Right now, these authorities are underutilized.

According to CRS's last analysis in fiscal year 2021, the percentage of contracts awarded through a set-aside or a sole source varies significantly by program. For 17% of contract spending awarded to HUBZone companies, contracting officers use the set-aside or sole-source authorities, while well over half—about 58%—of 8(a) contracts can be awarded only to 8(a) certified firms. The SDVOSB program has 44% of its dollars reserved exclusively for program participants. Of the contract spending now awarded to women-owned small businesses, only 5% is moved through the

¹ Government Accountability Office. "Women-Owned Small Business Program: Actions Needed to Address Continued Oversight Issues" (GAO-19-563) May 16, 2019: <https://www.gao.gov/products/gao-19-563>.

contracting authorities.² This bill is intended to strengthen the WOSB program while also encouraging greater use of the contracting authorities for certified WOSB firms.

To date, both the establishment and administration of the WOSB program, as well as federal agencies' efforts to meet the WOSB goals have been significant challenges. Requiring all WOSB to be certified by the SBA or a third-party certifier will take time and resources for SBA to implement. The legislation builds in additional time for SBA to implement these requirements, and specifically includes processes to ensure that current and future WOSB firms are not penalized if SBA faces delays. The committee intends for SBA to ensure that WOSB firms who have applied for certification with the SBA or a third-party certifier by the deadline are able to continue to receive contracts that are counted toward an agency's small business procurement goals until a decision on their certification is made by the SBA.

Finally, the WOSB program is unique in its use of third-party certifiers. The third-party certifiers are now required to tell prospective applicants that the SBA certification is an option and does not charge a fee. The committee believes that existing and new processes laid out in the bill will ensure that no WOSB is required to pay for a certification.

Sincerely,



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Ranking Member

² Congressional Research Service. "An Overview of Small Business Contracting" (R45576), Updated July 29, 2022: <https://crsreports.congress.gov/product/pdf/R/R45576>.