

A WHITE PAPER

**The Women-Owned Small Business
Program
Action, Advocacy, and Accountability**

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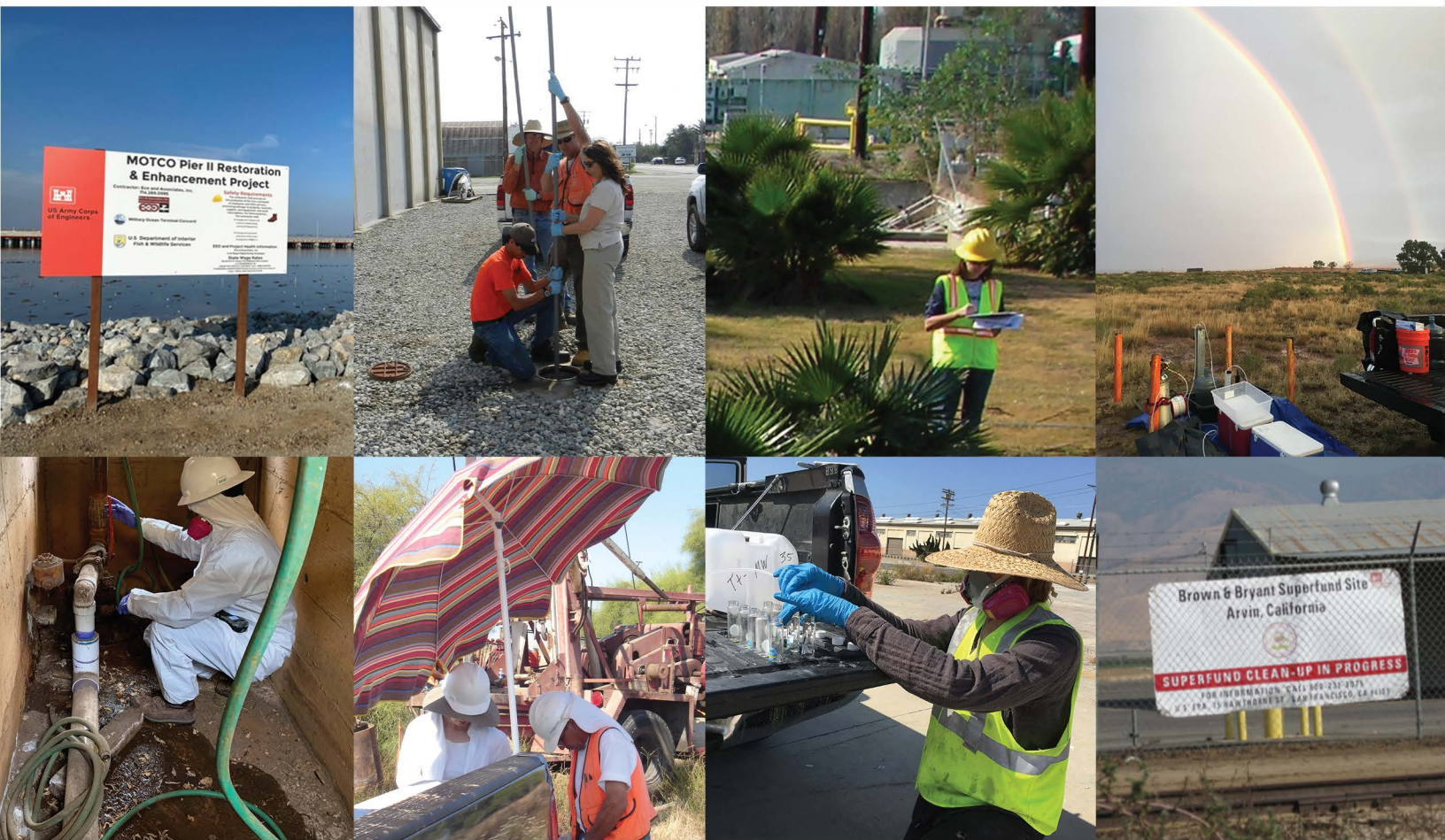
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Environmental Excellence

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THE WOMEN-OWNED SMALL BUSINESS (WOSB) PROGRAM



Action, Advocacy, and Accountability

ECO & ASSOCIATES, INC. — Founded in 2001, (Eco) is an SBE and Woman-Owned business providing a full of environmental engineering, planning, compliance, consulting, and construction services.

As of 2019, women-owned businesses represent an estimated 42% of all U.S. businesses (nearly 13 million), employ 9.4 million workers, and generate \$1.9 trillion in revenue.

The number of active business owners in the U.S. plummeted by 3.3 million or 22% from February to April 2020. Female-owned businesses experienced a 25% drop.

-- National Women's Business Council, 2020 Annual Report¹

1.0 INTRODUCTION

The Women-Owned Small Business (WOSB) Program set forth in Section 8(m) of the Small Business Act, 15 U.S.C. 637(m), authorizes Federal contracting officers to restrict competition to eligible WOSBs² or Economically Disadvantaged Women-Owned Small Businesses (EDWOSBs)³ for Federal contracts in certain industries. This statute –

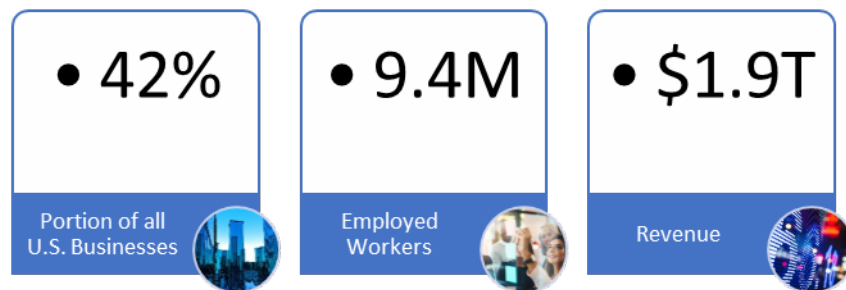
- established criteria for the WOSB Program, including the eligibility and contract requirements for the program, and
- implemented congressional changes as set forth by the 2015 National Defense Authorization Act (2015 NDAA) which –
 - further mandated WOSBs and EDWOSBs provide certification if those businesses seek to compete for set-aside or sole source contracts under the Program or be awarded multiple award contracts for pools reserved for WOSBs and EDWOSBs, and
 - granted contracting officers the authority to award sole source awards to WOSBs and EDWOSBs, as found in the Federal Acquisition Regulation (FAR) Subpart 19.1505 Set-aside Procedures, and Subpart 19.1506 Women-Owned Small Business Program sole source awards.⁴

Congress's intent in establishing the WOSB Program was to “level the playing field by restricting competition for federal contracts to women-owned businesses in industries where women are substantially underrepresented.” As part of the 2015 NDAA, the SBA was also tasked to conduct a study to determine the industries in which WOSBs are underrepresented in Federal contracting. An outcome of the study, the list of *Qualifying North American Industry Classification System (NAICS) for the Women-Owned Small Business Federal Contracting Program* (most recent version dated October 1, 2017) includes 444 NAICS descriptions in which WOSBs are found to be underrepresented or substantially underrepresented. Eighty (80) of the NAICS descriptions listed are specific to EDWOSBs only.⁵

In support of small business and socio-economic Federal contracting assistance programs, Congress establishes Federal small business procurement goals. Congress first enacted a procurement goal in prime contracting for small business in 1988. Since then, goals have been increased and extended to include businesses in Historically Underutilized Business Zones

(HUBZones), Veteran-Owned and Service-Disabled Veteran-Owned Small Businesses (VOSBs and SDVOSBs), and WOSBs (to include EDWOSBs). As required by statute, the Federal government shall direct a percentage of spending dollars to small business and these certain categories of small businesses. The statutory goal for participation by small business concerns owned and controlled by women is established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year.

SBA recently released the FY2019 WOSB Prime Contracting Scorecard, revealing 5.19% of prime federal contracts were awarded to WOSBs in 2019. While this is a notable increase from 4.75% in FY2018 and 4.71% in FY2017, it reflects only the second time in the WOSB Program's history that the Federal government has met its statutory procurement goal of awarding at least 5% of all federal contracting dollars to WOSBs. This, even though women-owned businesses comprise--



The purpose of this paper is to highlight areas of the WOSB Program which require additional action, advocacy, and accountability in order to achieve the success envisioned by Congress and WOSBs and EDWOSBs program participants.

2.0 BACKGROUND

2.1 WOSB PROGRAM ACHIEVEMENT

The SBA ensures annually that the small business contracting goals negotiated with each agency meet the overall small business and socio-economic goals established by statute. The SBA establishes a contracting scorecard grading methodology. The methodology includes several factors such as price and subcontract awards to small business concerns, a comparison of the number of small business prime contractors to the agency's top NAICS for the current and prior year, and a peer review by the agency's Office of Small and Disadvantaged Business (OSDBU). The result is the *Small Business Procurement Scorecard*. Scorecards going back to FY2006 can be found on the SBA website. Specific to WOSBs (which includes EDWOSBs, since their establishment), the scorecards reflect the following:

Table 1. Government-Wide WOSB Goals by FY

Fiscal	WOSB Prime	WOSB Prime	WOSB Prime
Year	Goal	Achieved	Dollars
FY2019	5.00%	5.19%	\$26.0B
FY2018	5.00%	4.75%	\$22.9B
FY2017	5.00%	4.71%	\$20.8B
FY2016	5.00%	4.79%	\$19.7B
FY2015	5.00%	5.05%	\$17.8B
FY2014	5.00%	4.68%	\$17.2B
FY2013	5.00%	4.32%	\$15.4B
FY2012	5.00%	4.00%	\$16.2B
FY2011	5.00%	3.98%	\$16.8B
FY2010	5.00%	4.04%	\$17.456B
FY2009	5.00%	3.68%	Not Available
FY2008	5.00%	3.40%	\$14.732B
FY2007	5.00%	3.41%	\$12.925B

FY2015 and FY2019 are the only years in the history of the WOSB Program where Federal agencies, combined, achieved the statutory goal for WOSB receipt of prime contracts for the Program. While the dollars in terms of prime contract awards to WOSBs has increased every from year except for FYs 2012 and 2013, meeting the 5 percent goal historically lags.

Per the *Small Business Goaling Report* for FY2019 there were 73,185,962 total small business eligible contracting actions that totaled \$501.58B. Of those actions, WOSBs received 652,858, or less than 1 percent (0.892%) of the total actions and \$25.3B (5.04%) of the total small business dollars across the Federal government.⁶ Of the 24 agencies subject to the Chief Financial Officer's (CFO) Act, six did not meet the statutory goal for the WOSB Program in FY2019. They are:

Table 2: CFO Act Agencies - WOSB Goal Not Met FY2019

Agency Name	# of Actions to WOSBs	Dollars Awarded to WOSBs	WOSB Percentage
Environmental Protection Agency	1,111	\$77,666,084.14	4.98%
National Aeronautics and Space Administration	3,316	\$847,448,950.47	4.80%
Defense	317,131	\$13,277,316,226.58	4.25%
National Science Foundation	143	\$20,340,546.56	3.72%
Veterans Affairs	14,782	\$869,158,557.48	3.16%
Energy	1,695	\$314,275,656.33	1.11%

It has been almost 20 years since the inception of the WOSB Program. Agencies, particularly agencies subject to the CFO Act, should be easily meeting and exceeding the statutory goal for WOSBs by this point in the Program's history.

2.2 IDENTIFICATION OF WOSB PROGRAM OPPORTUNITIES

The *FY2021 Forecast of Contracting Opportunities*, described as “a nationwide dashboard of upcoming Federal contracting opportunities” is found on the Acquisition Gateway⁷. This forecast, however, includes only those opportunities for three CFO Act agencies—the General Services Administration (GSA), Department of the Interior (DOI) and Department of Labor (DOL). Of the opportunities listed in this forecast only six are identified with an acquisition strategy of “small business” or as “set-aside small business total” and none are identified as set-aside for WOSBs or EDWOSBs.

Outside of the Contracting Opportunities tool found on beta.SAM.gov, finding a list of potential small business or WOSB contracting opportunities for FY2021 is not easy. Acquisition.gov⁸ provides links to agency websites on a page titled “Agency Recurring Procurement Forecasts.” However, the links in each section on this page most often go to the general agency website and not directly to procurement forecasts for the current fiscal year. This requires firms to search for and review the individual forecasts of each agency. When found, agency procurement forecasts are often not updated for the current fiscal year. In the case of the Department of Defense, each service and command—sometimes by location—have separate forecasts and must be reviewed individually. A consolidated procurement forecast portal is needed to further success of SBA's overall small business and socio-economic contracting assistance programs, to include the WOSB Program.

2.3 AUTHORITY TO SET-ASIDE AND SOLE SOURCE TO WOSBS AND EDWOSBS

As required by FAR Part 10, market research is performed as part of the acquisition planning process of FAR Part 7 to determine the most suitable approach to acquiring supplies and services as well as the pool of sources most likely to satisfying the agency's requirements in a timely manner at a reasonable price. Agencies use methods such as those below to determine the most likely pool of sources for a given requirement.

Table 3: Common Market Research Methods

Requests for Information (RFIs)	Sources Sought Synopses	Surveys	Contacting Industry & Other Government Officials
Reviewing Market Research for Same / Similar Requirements	Query Government Contract Databases	Industry Communications	Industry Exchange Meetings
Presolicitation Conferences	Source Lists from Trade Associations	Review of SAM.gov	Review of the Federal Procurement Data System (FPDS)
Review of SBA's Dynamic Small Business Search (DSBS) Tool		Review of GSA's eLibrary and GSA eBuy Tools	

Agencies coordinate and then document acquisition strategy decisions and seek the appropriate internal signatures as well as SBA Procurement Center Representative (PCR) concurrence when the acquisition strategy is full and open competition.

As part of acquisition planning, for actions over the simplified acquisition threshold (SAT), presently \$250,000, contracting officers are required to consider an acquisition for small business socio-economic programs before considering a small business set-aside. FAR Subpart 19.203(c) reads,

*“...For acquisitions of supplies or services that have an anticipated dollar value exceeding the simplified acquisition threshold definition at 2.101, the contracting officer **shall first consider** an acquisition for the small business socioeconomic contracting programs (i.e., 8(a), HUBZone, SDVOSB, or WOSB programs) before considering a small business set-aside (see 19.502-2(b)).”*

The WOSB Program procurement procedures are governed by FAR Subpart 19.15. Within that subpart, 19.1505 Set-aside Procedures reads,

*“(b) For requirements in NAICS codes designated by SBA as underrepresented, a contracting officer **may** restrict competition to EDWOSB concerns if the contracting officer has a reasonable expectation based on market research that-*

- (1) Two or more EDWOSB concerns will submit offers for the contract and;*
- (2) Contract award will be made at a fair and reasonable price.*

*(c) A contracting office **may** restrict competition to WOSB concerns eligible under the WOSB Program (including EDWOSB concerns), for requirements in NAICS codes designated by SBA as substantially underrepresented if there is a reasonable expectation based on market research that-*

- (1) Two or more WOSB concerns eligible under the WOSB Program (including EDWOSB concerns), will submit offers and;*
- (2) Contract award may be made at a fair and reasonable price.”*

FAR Subpart 19.1506 Women-Owned Small Business Program Sole Source Awards further reads,

“(a) A contracting officer **shall** consider a contract award to an EDWOSB concern on a sole source basis (see 6.302-5(b)(7)) **before considering small business set-asides** (see 19.203 and subpart 19.5) provided none of the exclusions at 19.1504 apply and-

(1) The acquisition is assigned a NAICS code in which SBA has determined that WOSB concerns are underrepresented in Federal procurement;

(2) The contracting officer does not have a reasonable expectation that offers would be received from two or more EDWOSB concerns; and

(3) *The conditions in paragraph (c) of this section exist.*

(b) A contracting officer **shall** consider a contract award to a WOSB concern (including EDWOSB concerns) eligible under the WOSB Program on a sole source basis (see 6.302-5(b)(7)) **before considering small business set-asides** (see 19.203 and subpart 19.5) provided none of the exclusions at 19.1504 apply and-

(1) The acquisition is assigned a NAICS code in which SBA has determined that WOSB concerns are substantially underrepresented in Federal procurement;

(2) The contracting officer does not have a reasonable expectation that offers would be received from two or more WOSB concerns (including EDWOSB concerns); and

(3) *The conditions in paragraph (c) of this section exist.*

(c) (1) *The anticipated award price of the contract, including options, will not exceed-*

(i) \$7 million for a requirement within the NAICS codes for manufacturing; or

(ii) \$4.5 million for a requirement within any other NAICS codes.

(2) *The EDWOSB concern or WOSB concern has been determined to be a responsible contractor with respect to performance.*

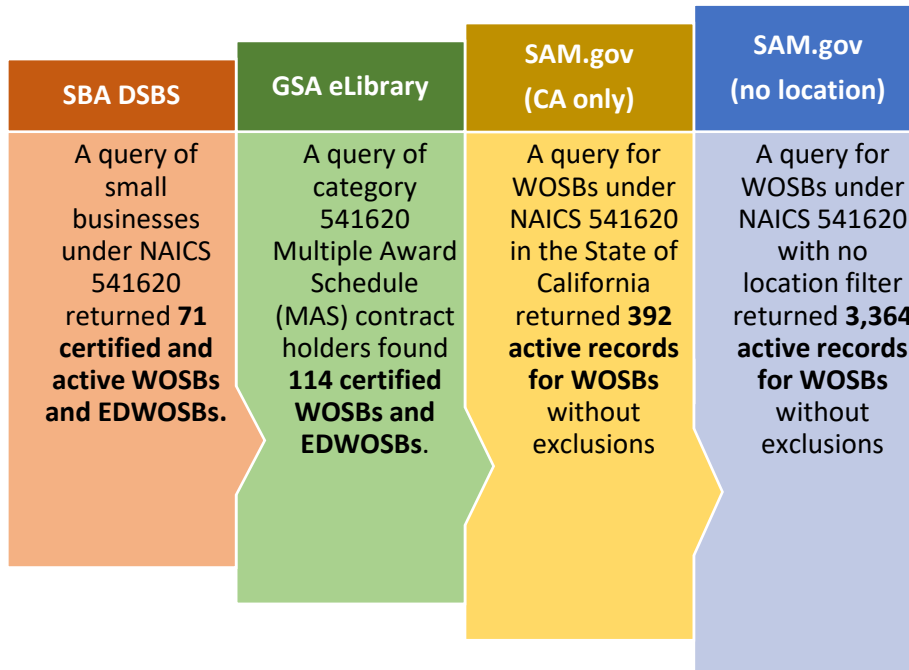
(3) *The award can be made at a fair and reasonable price.*

There is a lack of consistency in the language between these three parts:

- EDWOSB and WSOB set-asides are indicated as “shall consider” in 19.203(c) but only “may restrict” in 15.505(b) and (c)
 - This is a cause for confusion for Federal acquisition workforce personnel and contracting officers and they are unsure which subpart governs. Even when more than two EDWOSB or WOSBs are expected to submit offers, the use of “may” in FAR 15.505(b) and (c) could inform contracting officers and be that guidance which solely rely on to “pass” on consideration of the WOSB Program when making set-aside decisions.
- There few EDWOSB and WOSB set-asides under FAR 15.505 when it is easy to find pools of certified and qualified WOSBs and EDWOSBs through queries of existing government databases.
 - Same for sole source awards to EDWOSBs and WOSBs for contracts that fall under the \$4.5 million cap in 15.506(c)(1)(ii), particularly in the professional,

scientific, and technical industries. A review should examine why there are so few in these categories.

One reason is a perceived lack of certified WOSBs and EDWOSBs capable of performing in professional, scientific, and technical services industries is prevalent within Federal requiring activities and contracting offices. Simple research found large pools of certified WOSBs and EDWOSBs.



The GSA Multiple Award Schedule (MAS) contract holders are already certified and deemed responsible and responsive entities because they currently hold active awards. This makes these WOSBs (to include EDWOSBs) eligible to compete either using a competitive order against the schedule category 541620, or on any WOSB set-aside outside of the MAS program that would be set-aside specifically for WOSBs.

The numbers of firms found in this simple search should easily provide ample offers to justify set-asides for a myriad of Federal government environmental consulting services requirements as EDWOSB or WOSB prime contract opportunities. Using simple market research techniques, contracting officers and acquisition strategy decision makers can remove doubts that the government will receive two or more offers from WOSBs and EDWOSBs, specifically in NAICS 541620 industry sector.

2.4 EXAMPLE OF LACK OF IDENTIFIED WOSB OPPORTUNITIES

Eco & Associates’ primary NAICS is 541620 Environmental Consulting Services. NAICS 541620 is listed by SBA as a NAICS where WOSBs and EDWOSBs are underrepresented.

The FY2021 Forecast of Contracting Opportunities previously mentioned forecast ten opportunities are listed under NAICS 541620. Of the ten opportunities listed, the three that have not yet been awarded are identified with an acquisition strategy of “small business” or as “set-aside small business total” and none are identified as set-aside for WOSBs or EDWOSBs.

Listing ID	Title	Description	Agency	NAICS Code	Award Status	Estimated Contract Value (Max.)	Acquisition Strategy/Type of Set-Aside
18652	PBRWS Environmental Site Assessments - Non-Tribal Lands	Pre-Construction Phase 1 Environmental Site Assessments non-tribal lands	Department of the Interior	541620	Planning	Below 150K	Set-Aside Small Business - Total
23169	Dieringer Phase II ESA and Site Remediation Plan	Conduct a Phase II Environmental Site Assessment or Phase II Environmental Report	Department of the Interior	541620	Planning	Below 150K	Small Business
25274	Technical and Ecological/Environmental Compliance Support for the Klamath Project Operations Endangered Species Act Section 7	The objective of this contract is to acquire the assistance of an expert contractor to assist the Klamath Basin Area Office (KBAO) in achieving compliance with ESA, National Environmental Policy Act (NEPA), and other applicable environmental compliance policies, laws, and regulatory processes.	Department of the Interior	541620	Planning	5.1M to 10M	Small Business

This again begs the question -- why were set-asides in this underrepresented NAICS not considered for WOSBs or EDWOSBs?

Given the leniency of the language in FAR Subparts 15.505 and 15.506 and the perceptions within the Federal acquisition workforce, there is a need for more “teeth” in policy, process, and practice to overcome barriers to success and afford WOSBs and EDWOSBs additional prime contract opportunities.

3.0 BARRIERS TO SUCCESS

3.1 POLICY

The subparts of the FAR referenced in paragraph 2.3 above are inconsistent.

- “**Shall**” in FAR Subpart 19.203(c) is related to consideration for set-asides to small business socioeconomic contracting programs **before** other small businesses.
- “**May**” in FAR Subpart 15.505(b) and (c) is related to restricting competition to EDWOSBs and WOSBs concerns eligible under the WOSB Program for requirements in NAICS codes designated by SBA as substantially underrepresented provided two or more WOSB concerns eligible under the WOSB Program (including EDWOSB concerns) will submit offers.
- “**Shall**” in FAR Subpart 15.506(a) and (b) is related to a sole source award to a WOSB concern (including EDWOSB concerns) eligible under the WOSB Program **before** considering small business set-asides for an acquisition assigned a NAICS code in which SBA has determined that WOSB concerns are substantially underrepresented in Federal procurement, provided the contracting officer does not have a reasonable expectation that offers would be received from two or more WOSB concerns (including EDWOSB concerns)

The language between these subparts causes confusion for the contracting officer in terms of their authority to set-aside contract opportunities for WOSBs and EDWOSBs when certified and qualified firms exist. Consistency is key in federal procurement. Gray areas, while comfortable for some agencies and contracting officers, simply are not for others. This coupled with the perception that few qualified WOSBs and EDWOSBs exist, particularly in the professional, scientific, and technical industries, is costing the WOSBs and EDWOSBs Federal contracting opportunities in an economic downturn when they are most needed.

3.2 IMPLEMENTATION

SBA has developed fact sheets and frequently asked questions (FAQs) for WOSBs and EDWOSBs related to recently mandated certification improvements, program benefits, and eligibility requirements, to include a list of organizations approved to provide third-party certification and existing Procurement Technical Assistance Centers (PTACs) that provide local in-person counseling and training services for small business owners. However, little has been done to inculcate WOSB Program policies and procedures within the Federal acquisition workforce.

The Federal Acquisition Institute (FAI) currently has FAC 031 Small Business Programs as its only course that includes a review of the WOSB Program as part of course content. The Defense Acquisition University (DAU) has the Small Business Program (SBP) series of online or instructor-led courses that range in audience from beginner to senior leader / business decision maker. Of DAU's 13 SBP courses, only four have been updated in 2020 and only two have been updated since the most recent final rule effective July 15, 2020 on certification and participation in set-aside or sole source contracts under the WOSB Program. **Current** and **robust training** is needed on the WOSB Program, to include NAICS where WOSBs and EDWOSBs are underrepresented or substantially underrepresented, the specific authorities granted to contracting officers, and parameters for establishing set-asides and sole source contracting opportunities.

Once trained, agencies should develop a process structure for Federal acquisition workforce personnel that lends itself to the identification of all possible sources, to include those small businesses in socio-economic programs such as the WOSB Program. Presently the acquisition workforce is experiencing unprecedented turnover as senior personnel retire and new positions cannot be filled fast enough to meet demands, especially given the surge in pandemic procurement support required. As a result, in times of limited training and fewer personnel resources agencies largely function based on "what we've always done" and not "what we now need to do." Process is often lost in the fray particularly as the end of fiscal year approaches and adequate time is not given to ensure compliance with the latest acquisition changes such that a full examination of potential acquisition strategies is completed (e.g., the "it's good enough for government work" mentality). When potential sources for requirements that fall in NAICS identified by the SBA as underrepresented or substantially underrepresented by WOSBs and EDWOSBs, such firms should be provided real, meaningful, and timely opportunities to discuss

their qualifications with the appropriate agency representative before an acquisition strategy is finalized that excludes the use of WOSB and EDWOSB set-asides. However, that simply is not happening.

3.3 MONITORING

The Small Business Act states that the Small Business Administration (SBA) is to "...aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise, to ensure that a fair proportion of total purchases and contracts or subcontracts for property and services for the Government to maintain and strengthen the overall economy of the Nation."⁹ The FPDS-Next Generation (-NG) database is SBA's source to monitor agencies' against their goals. However, there are gaps to this monitoring.

FAR Subpart 15.506(d) reads, "*The SBA has the right to appeal the contracting officer's decision not to make a sole source award to either an EDWOSB concern or WOSB concern eligible under the WOSB program.*" Yet, this monitoring of acquisition strategy decisions and true advocacy for WOSBs and EDWOSBs, particularly in the professional, scientific, and technical sectors does not seem to exist. There is no SBA agency advocate identified to discuss a potential SBA appeal specifically for WOSBs and EDWOSBs.

CFO Act agencies among many other agencies, organizations, committees, and boards, continue to fail to meet the statutory WOSB goals well into the second decade of the Program. This is unacceptable to the WOSB community. While dollars awarded increase, contract awards to WOSBs still comprised less than 1 percent of all contract actions to eligible small businesses (see paragraph 2.1 above). Accountability is needed at the agency level and within SBA to ensure all agencies are making the maximum effort to identify prime contracting opportunities through set-asides and sole source means for the WOSB Program. This accountability should be part of the personal performance expected of employees tasked with monitoring the WOSB Program at all levels across all Federal agencies, organizations, missions, and boards government-wide.

4.0 RECOMMENDATIONS

4.1 ACTION

FAR Clarification – Clarification of FAR Subparts 19.203(c), 15.505(b) and (c), and 15.506 (a) and (b) is required. It is recommended that inconsistencies presented in paragraph 3.1 above be reconciled to all read "shall" such that agency acquisition personnel and contracting officers clearly understand –

- (1) WOSB Program requirements, such as eligibility and certification,

- (2) where to find the SBA list of NAICS where WOSBs and EDWOSBs are underrepresented or substantially underrepresented, and
- (3) their authority to set-aside and sole source actions to WOSBs and EDWOSBs, particularly in the NAICS codes where such firms are underrepresented and or substantially underrepresented, before considering small business set-asides or full and open (i.e., unrestricted) competition.

WOSB Program Training – Training specific to the WOSB Program, the NAICS determined to be underrepresented or substantially underrepresented by WOSBs and EDWOSBs, market research tools and industry communications specific to identifying such businesses, and contracting authorities is necessary. SBA fact sheets and FAQs are not enough. It is recommended that FAI and DAU, in consultation with the SBA Office of Women’s Business Ownership, develop a two-hour continuous learning course (online) specific to the WOSB Program, and mandate the course for all Federal acquisition workforce personnel as part of Federal Acquisition Certification (FAC) or Defense Acquisition Workforce Improvement Act (DAWIA) certifications, or a certified employee’s next continuous learning period requirements. Such training will inculcate knowledge of the WOSB Program, market research best practices, and acquisition strategy decision-making in the Federal workforce. One aspect of this training that is vital would be to eliminate the subliminal bias against WOSB’s and EDWOSB’s that they are capable of performing only small procurements because they are small themselves. Intentional or unintentional, this bias exists, and eliminating this innate bias must be a part of such training. In the affirmative, the message must be that women-owned small business entities are as capable of performing as their male-owned counterparts.

Consolidated Contracting Opportunities Listing – The FY2021 Forecast of Contracting Opportunities, as found on the Acquisition Gateway is intended to be a Federal government-wide dashboard of upcoming Federal contracting opportunities. It is recommended that all Federal agencies, organizations, commissions, and boards be required to add contracting opportunities for the coming fiscal year (2021) to create a Consolidated Procurement Forecast Portal no less than twice annually, to include the date by which the acquisition strategy decision shall be made and the market research methods to be used by the agency to ensure adequate industry input, where possible. A Consolidated Procurement Forecast Portal will provide Congress, SBA, agencies, and potential offerors of all business sizes clear picture of the known Federal contracting opportunities landscape for the purposes of planning resources, communications between government and industry, and possible to appeal the contracting officer’s decision not to make a sole source award to either an EDWOSB concern or WOSB concern eligible under the WOSB program (and for other socio-economic programs). Such a portal is needed to further the success of SBA’s overall small business and socio-economic contracting assistance programs, to include the WOSB Program, increase advocacy, and ensure transparency for purposes of accountability.

4.2 ADVOCACY

Agency WOSB Program Advocates – While SBA has an Office of Women’s Business Ownership and 294 Women’s Business Centers (WBC’s) nationwide, agencies do not. Given the WOSB Program is nearing the end of its second decade of existence and the 5 percent statutory goal has only been met twice, it is imperative that there be specific advocates at each agency, even if only as a collateral duty, to advocate for WOSBs and EDWOSBs. It is recommended that each agency identify a WOSB Advocate at the headquarters and subcommand / regional levels that will possess in-depth knowledge of the program, assist agencies with identifying of certified and qualified WOSBs and EDWOSBs as part of market research, and match WOSBs and EDWOSBs to agency contracting opportunities in NAICS that SBA has determined are underrepresented or substantially underrepresented by such firms. Increased advocacy will boost intended Program success, particularly in professional, scientific, and technical industries.

4.3 ACCOUNTABILITY

Personal Accountability – Additional incentive is required to ensure that Federal employees responsible for oversight and achievement of statutory goals for the WOSB Program and the acquisition workforce personnel making acquisition strategy decisions are accountable to the WOSB community for their actions related to WOSB advocacy and oversight. Performance elements for a similar level of accountability related to discharging oversight duties is not uncommon. The General Services Administration (GSA) recently implemented such performance elements for FY2021 certified FAC-Contracting Officer’s Representatives (CORs) with active COR appointments. It is recommended that Federal employees who overseeing or have decisions making authority related to contracting opportunities available to WOSBs and EDWOSBs have, as part of their annual performance review, a performance element included that specifically addresses their level of effort advocating for the WOSB Program and/or success in meeting the annual WOSB goal of 5 percent given the level and types of acquisition strategy decisions for which they were responsible.

Agency Accountability – There must be accountability for CFO Act agencies that do not meet statutory WOSB Program goals and SBA for the lack of progress government-wide as the agency with Federal oversight of the Program. It is recommended that CFO Act agencies that do not meet the 5 percent goal should be –

- subject to in-depth audits of their market research and acquisition strategy decision processes to determine the internal and external barriers that exist that prevent the intended Program success,
- provide a written Corrective Action Plan with measures to ensure progress toward increased WOSB and EDWOSB participation, particularly identifying requirements that

can be set-aside and/or sole sourced for NAICS where WOSBs and EDWOSB have been found underrepresented or substantially underrepresented, per the SBA,

- formal quarterly agency and SBA monitoring of Corrective Action Plan progress, and
- a report to Congress on the success or failure of CFO Act agencies to meet the progress promised toward meeting the 5 percent WOSB Program goal.

It is recommended that the SBA also undergo an in-depth review in the form of an audit to –

- examine SBA’s business model and structure and recommend changes to successfully advocate and support of the WOSB Program as intended by Congress,
- review SBA’s management of the WOSB Program toward meeting the 5 percent statutory goal as the Program approaches the end of its second decade and the continued underachievement of the Program each FY, particularly in award of prime contract awards WOSBs and EDWOSBs, and
- a report to Congress on audit findings, recommendations to SBA, implementation plan, and progress toward the WOSB meeting the statutory 5 percent WOSB Program goal as well as possible increases to the goal for outyears.

5.0 CONCLUSION

In a report titled “*The Burden of the COVID-19 Pandemic on Women in the Workforce*” by the Office of Congresswoman Katie Porter (CA-45)¹⁰ it is clear that “*No matter how one looks at the economic data—by race, by sector, by income—the story is the same: the burden of the coronavirus pandemic is falling hardest on women. Without action, the pandemic will likely erase decades of progress for working women...*” Overcoming barriers through the specific recommendations outlined in this paper are the first steps. An even more broad approach to not only the WOSB Program but other socio-economic programs is also needed. However, now, a renewed sense of urgency is required from the Federal Government to push the level of action, advocacy, and accountability necessary in these unprecedented times that will keep WOSBs and EDWOSBs viable in the Federal marketplace in the coming year and decade.

¹ “Sources: 2019 State of Women Owned Businesses Report | American Express, 2018 Annual Business Survey | U.S. Census Bureau – March 2020 Release, An Investigation of Women Business Owners, Industry Concentration, and Family Composition | SBA Office of Advocacy – March 2020, The impact of COVID-10 on Small Business Owners: Evidence of Early Stage Losses from the April 2020 Current Population Survey – Working Paper | National Bureau of Economic Research – June 2020, Small Business Pulse Survey | U.S. Census Bureau. American Express’ (AMEX) projections utilize 2012 Survey of Business Owners data from the U.S. Census Bureau as a foundation. Numbers are then adjusted for each year by the annual gross domestic product (GDP) estimates as of January of the current year at the national, state, and metropolitan levels and by industry.” AMEX did not release a 2020 report due to the fluidity of the U.S. economy because of the COVID-19 pandemic.

² A Women-Owned Small Business (WOSB) is a small business concern that is at least 51 percent owned and controlled by one or more women who are U.S. citizens, in accordance with 13 Code of Federal Regulations (C.F.R.) §§ 127.200, 127.201, and 127.202.

- ³ An Economically Disadvantaged WOSB is a WOSB that is owned and controlled by one or more women, each with a personal net worth less than \$750,000, \$350,000 or less in adjusted gross income averaged over the previous three years, and each with less than \$6 million in personal assets.
- ⁴ Section 825 of the National Defense Authorization Act for Fiscal Year (FY) 2015, Public Law 113-291, 128 Stat. 3292 (December 19, 2014) (2015 NDAA).
- ⁵ SBA announced their new disparity study on October 2, 2020 (85 Federal Register (FR) 62004), requesting public comments on the appropriate thresholds for “underrepresented” versus “substantially underrepresented”. The original study by the Kauffman-RAND Institute for Entrepreneurship Public Policy (RAND) published in April 2007 (https://www.rand.org/pubs/technical_reports/TR442.html) measured WOSB representation in each industry code through a “disparity ratio”, comparing the utilization of WOSBs in Federal contracting in a particular code to their availability for such contracts (utilization divided by availability). In 2014, Congress amended the Small Business Act requiring SBA submit a report to Congress reflecting the results of a new study by January 2, 2016, and then continue to conduct a new study every five years. The Office of the Chief Economist (OCE) of the U.S. Department of Commerce assisted SBA and published the most recent study *Utilization of Women-Owned Businesses in Federal Prime Contracting* on December 31, 2015 (sba.gov/sites/default/wosb_study_report.pdf).
- ⁶ The report, by its nature, appears to reflect “Total Small Business Eligible Actions” that are prime contract awards, but this cannot be confirmed. The report may also eligible actions such as orders to WOSBs under their existing prime contracts.
- ⁷ The Acquisition Gateway Forecast of Contracting Opportunities can be found at <https://hallways.cap.gsa.gov/app/#/dv/federal-business-forecast>.
- ⁸ Acquisition.gov provides links to agency websites at <https://www.acquisition.gov/procurement-forecasts-old>.
- ⁹ FY2020 Federal Small Business Goaling Guidelines can be found at https://www.sba.gov/sites/default/files/2020-05/FY20_Small_Business_Goaling_Guidelines_Draft_2020.pdf.
- ¹⁰ The report can be found at https://porter.house.gov/uploadedfiles/final-_women_in_the_workforce.pdf.