

# NDAA Regulatory Changes

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*Eric Ness*

*District Director*





# Contracting

**Government-wide Small Business Contracting**

**Goals are a floor—not a ceiling!**

**\$90.7 Billion to Small  
Business in FY2015**

**\$52.4 Billion from DoD alone**

# Contracting

## What are the Government-wide Small Business Contracting Goals and Achievement?

Category	Goal	2013	2014	2015
Small Business	23%	<b>23.39%</b>	<b>24.99%</b>	<b>25.75%</b>
SDB (8(a))	5%	<b>8.61%</b>	<b>9.46%</b>	<b>10.06%</b>
HUBzone	3%	2.01%	1.82%	1.82%
Women	5%	4%	4.68%	<b>5.05%</b>
SD Vets	3%	<b>3.03%</b>	<b>3.68%</b>	<b>3.93%</b>

**Bold=Goal met**

Woman-Owned Small Business Goal achieved for the first time in 2015

# Certify.SBA.Gov

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- The U.S. Small Business Administration (SBA) is working to modernize the application process for federal contracting programs. Manage your application and eligibility documentation for the WOSB and All Small Mentor-Protégé programs online from our easy-to-use dashboard

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# Certify.SBA.Gov

- New programs will soon be incorporated onto certify.SBA.gov including :
- 8(a) Business Development Program (Winter 2017)
- HUBZone Program (Spring 2017) and;
- Dynamic Small Business Search (DSBS) (Summer 2017)
- Expanded Mentor-protégé applications **currently** accepted here (since November 2016)/42 approved as of December 2016/3-5 day turnaround

# Women Owned Small Business Program

- Women Owned Small Business (WOSB)
- Economically Disadvantaged Woman Owned Small Business (EDWOSB)
  
- 5% Government-wide contracting goal
- 5% Government-wide subcontracting goal

# Women Owned Small Business Program

The WOSB Repository has moved from the General Login System (GLS) to the new SBA One Contracting Portal at [certify.sba.gov](https://certify.sba.gov). In this new portal, WOSB business owners will be able to manage their documents, complete forms online, and receive notices of upcoming deadlines.

# Women Owned Small Business Program

## Eligibility

### WOSB

- 51% owned & controlled by one or more women who are US citizens
- The firm must be “small” in its primary industry in accordance with SBA’s size standards for that industry
- primarily managed by one or more women

# Women Owned Small Business Program Eligibility

## EDWOSB

- Satisfy all conditions of WOSB
- Personal net worth of less than \$750,000
- Adjusted annual income of \$350,000 or less
- Market value of all assets does not exceed \$6 million

# Women Owned Small Business Certification

- Self Certification

- WOSB or EDWOSB may continue to self certify

- Third Party Certification

- May be certified by an authorized Third Party Certifier (not required)
- Existing 8(a) program certification may be eligible

# Third Party Certification

- Only SBA-approved TPCs can give you an authorized “certificate” of eligibility as a WOSB or EDWOSB. There are currently four SBA-approved TPCs. They are:
- [El Paso Hispanic Chamber of Commerce](#)
- [National Women Business Owners Corporation](#)
- [US Women’s Chamber of Commerce Women’s](#)
- [Business Enterprise National Council \(WBENC\)](#)

For assistance, contact Ramona Moore, Women’s Business Development Center, [rmoores@wbdc.org](mailto:rmoores@wbdc.org),

# Women Owned Small Business Benefits

- SBA has authorized the use of 113 new NAICS Industry groups for WOSB (92) and EDWOSB (21) set asides.
- Contract Set Asides and Sole Source Authorized
- Eligible only for NAICS codes in which the SBA has determined the EDWOSB or WOSB concerns are underrepresented in Federal Procurement

[EDWOSB](#)    [WOSB](#)

# Mentor/Protégé Program

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The purpose of the Mentor/Protégé program is to enhance the capabilities of participants and to improve their ability to successfully compete for federal government contracts

# MPA Benefits

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A protégé and mentor may joint venture as a small business for any government prime contract or subcontract, provided the protégé qualifies as small for the procurement

# MPA Term

SBA regulations only authorizes two, 3-year MPAs with different mentors;

but will allow each to be extended for a **second** 3 years provided the protégé has received the agreed-upon business development assistance and will continue to receive additional assistance.

# NDAA Final Rule

- Small Business Government Contracting and National Defense Authorization Act (NDAA) of 2013 Amendments
- The Final Rule was effective on June 30, 2016

# Limitations on Subcontracting

- Section 1651 of the NDAA, as codified at [15 U.S.C. 657s](#), requires that the limitations on subcontracting for full or partial small business set-aside contracts be evaluated based on the percentage of the overall award amount that a prime contractor spends on its subcontractors.

# Limitations on Subcontracting

- Services (except construction). At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern.
- Supplies (other than procurement from a nonmanufacturer of such supplies). The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.

# Limitations on Subcontracting

- General construction. The concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.
- Construction by special trade contractors. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

# Similarly Situated Entities

- When a contract is awarded pursuant to a small business set-aside or socioeconomic program set-aside or sole source authority, a similarly situated entity subcontractor is a small business concern subcontractor that is a participant of the same SBA program that qualified the prime contractor as an eligible offeror and awardee of the contract.

# Similarly Situated Entities

- In addition to sharing the same small business program status as the prime contractor, a similarly situated entity must also be small for the NAICS code that the prime contractor assigned to the subcontract the subcontractor will perform.

# Subcontracting to Similarly Situated Entities

- The NDAA deems work done by similarly situated entities not to be subcontracted work for purposes of complying with the limitations on subcontracting requirement.
- Thus, work done by a similarly situated entity is counted in determining whether the applicable limitation on subcontracting is met.

# Subcontracting to Similarly Situated Entities

- SBA will also exclude a subcontract to a similarly situated entity from consideration under the ostensible subcontractor rule
- Any work that the similarly situated subcontractor does not perform with its own employees shall be considered subcontracted.

# Subcontracting Plans

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- The head of the contracting agency shall ensure that the agency collects, reports, and reviews data on the extent to which the agency's contractors meet the goals and objectives set out in their subcontracting plans.

# Subcontracting Plans

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- Contracting agencies also perform evaluations of a prime contractor's subcontracting plan performance, and that SBA's evaluations of subcontracting plan performance are completed as a supplement to the contracting agency's review.

# Subcontracting Plans

- A contractor that fails to provide a written corrective action plan after receiving a marginal or unsatisfactory rating for its subcontracting plan performance or that fails to make a good faith effort to comply with its subcontracting plan will not only be in material breach of the contract, but such failure shall also be considered in any past performance evaluation of the contractor.

# Subcontracting Plans

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- If an SBC is identified as a potential subcontractor in a proposal, offer, bid or subcontracting plan in connection with a covered Federal contract, the prime contractor shall notify the SBC prior to such identification

# Joint Ventures

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- This final rule clarifies that a joint venture of two or more business concerns may submit an offer as a small business for a Federal procurement, subcontract or sale so long as each concern is small under the size standard corresponding to the NAICS code assigned to the contract.

# HubZones

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- The HUBZone program has been expanded to assist small businesses in disasters areas and base closure areas and provides equal treatment under the HUBZone program for small businesses owned by Native Hawaiian Organizations (NHOs).

# HubZones

- authorized NHOs to own HUBZone small business concerns;
- expanded the definition of “base closure area” under the HUBZone program; and
- authorized the inclusion of “qualified disaster areas” under the HUBZone program.

# Capital: 7(a) Advantage loans



- < \$150,000: up-front fees eliminated
- \$150,001-\$350,000: no up-front fees for Express loans for vets now permanent
- < \$350,000: simplified processing
- \$150,001 to \$500,000: 50% fee reduction for vets, families, transitioning svc members on 7(a) loans until 9/30
- New name for 7(a) loans: Now Advantage loans

# Capital: 504 Grow loans

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- *Refinance re-approved and signed in FY2016*
- *Permanent as long as program is zero subsidy*
- *New Name: Grow loans*

# Boots to Business: Reboot

- 2 day business entrepreneurship course for vets, transitioning service members, and spouses
- Free!
- After first course, 8 week online entrepreneurship course is accessible
- Apply:  
[www.boots2business/reboot](http://www.boots2business/reboot)



# Awards

- **SBIR Hall of Fame/Tibbetts Award presented at the White House on January 10:**
  - **David Linz, Associate Director, Center for Technology Commercialization, Milwaukee**
  - **Stratatech Corporation, Madison**
- **\$50,000 Growth Accelerator Award**
  - **Manufacturing Diversity Institute, Milwaukee**



# Stay in Touch with SBA in Wisconsin

- Website—[www.sba.gov/wi](http://www.sba.gov/wi)
  - e-news sign-up
  - business success stories,
  - press releases, e-news updates
  - calendar of events
  - loan and program information
  - office staff and responsibilities
  - online resource guide
  - LINC (find a lender)
- E-news--monthly and periodic updates; upcoming events and classes list sent monthly
- Social media
  - Twitter: [@SBAGreatLakes](https://twitter.com/SBAGreatLakes) [#SBA\\_WI](https://twitter.com/SBAGreatLakes)
  - Facebook-U.S. Small Business Administration
- Resource Guide—Updated annually; available in hard copy and on the SBA Wisconsin website





# Upcoming Events

## National Small Business Week

April 30-May 6, 2017

SBA Awards Breakfast May 6, Milwaukee  
Other events throughout the week

## Wisconsin Lenders Conference

May 18-19

Wisconsin Dells

# SBA – Wisconsin District Office

For more information on SBA's programs and services

Please contact:

Shane Mahaffy, Lead Business Opportunity Specialist

Telephone: 414-297-1455

Email: [Shane.Mahaffy@sba.gov](mailto:Shane.Mahaffy@sba.gov)

Or visit our office web site at [www.sba.gov/wi](http://www.sba.gov/wi)

# SBA - Wisconsin Offices

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