

SBA Certification of WOSB/EDWOSBs and 8(a) Eligibility - The Wheels Turn Slowly

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In 2015, Congress directed the Small Business Administration (SBA) to end self-certification for Women-Owned Small Businesses (WOSBs) and Economically Disadvantaged Women-Owned Small Businesses (EDWOSBs) and implement a certification process. On 14 May 2019, SBA issued a proposed amendment, which, when finalized, will implement a certification requirement for WOSBs and EDWOSBs. Simultaneously, SBA is proposing to revise the economic disadvantage criteria for 8(a) companies, particularly for initial eligibility purposes, for consistency between the 8(a) and EDWOSB programs.

The proposed amendments are lengthy and complex. BMSS encourages you to read the [Proposed Rule](#) in its entirety. SBA is proposing either to provide the certification, to accept certification from certain government entities or to allow certification by SBA-approved, third-party certifiers.

SBA's WOSB/EDWOSB certification is free, and the process can be initiated at www.certify.sba.gov. In anticipation of the flood of potential applications once the rules are finalized, SBA is proposing that a company could continue to submit offers as a WOSB/EDWOSB if it has submitted an application to SBA and has not received a negative determination regarding that application at the time it submits the offer. Then, at the time of award, SBA would prioritize the company's WOSB/EDWOSB application. SBA is asking for comments on this approach. After application, the proposed amendment requires SBA to notify applicants within 15 days about whether their application is complete enough for evaluation and, if it's not, to indicate what additional information is required. SBA then has 90 days, "whenever practicable," to make a determination.

As an alternative to certification by SBA, the proposed rule allows an approved third party to make the determination. The approved third party certifies that all required documents are uploaded to the SBA and is allowed to charge a fee for this service. A list of current [third-party certifiers](#) can be found on SBA's website.

With regard to the 8(a) program, the current regulations include different economic disadvantage criteria for initial eligibility and CONTINUED eligibility for the program. The proposed amendment aims to keep the economic disadvantage criteria the same; specifically, the qualifying disadvantaged owner must have a net worth of less than \$750,000 (currently \$250,000), his/her adjusted gross income (the average over the three preceding years) may not exceed \$350,000 (currently \$250,000) and the fair market value of his/her assets cannot exceed \$6M (currently \$4M). This aligns with the current economic disadvantage criteria required to be certified as an EDWOSB.

SBA is accepting public comments on the proposed amendment through 15 July 2019.