|  |
| --- |
| Fact Sheet: 8(a) Program **8(a) Program Features**   * The government has solicitations set-aside exclusively for 8(a) firms. * 8(a) firms potentially can win sole-source contracts as well. * A company can participate in the 8(a) program for a maximum of 9 years. * Apply electronically at https://sba8a.symplicity.com/applicants/guide   **8(a) Status Requires Certification**   * The SBA must certify that an 8(a) company:   + Is a small business in its *primary* NAICS code.   + Has the *potential* to be successful.   + Is *unconditionally* *owned and controlled* by one or more *socially and economically disadvantaged* individuals who are *citizens* of the United States and who possess *good character.*   **8(a) Primary NAICS Code**   * *To be eligible to be certified,* a company must qualify as small under the NAICS code in which the firm did the most business in the past fiscal year. * *To bid on contracts after receiving certification,* the company must be small:   + Under its primary NAICS code, *AND*   + Under the NAICS code assigned to each solicitation that is advertised as an 8(a) set-aside.   **8(a) Potential for Success**   * An 8(a) applicant has to convince the SBA that the business has a good chance to thrive. * Judgment is involved here, so the SBA will place emphasis on the firm’s financial history. * Financial statements (balance sheets) are required. * Businesses that are less than 2 years old generally are not considered for certification review.   **8(a) Socially and Economically Disadvantaged**   * To qualify as an 8(a), a small business must be at least 51% owned and controlled by one or more “socially disadvantaged persons.”   + A person who has been subjected to racial or ethnic prejudice or cultural bias within American society due to the person’s identity as a member of a particular group.   + Certain persons are presumed socially disadvantaged: African Americans, Hispanic Americans, Native Americans, and certain Asian Americans. * You do not need to be a member of a particular racial or ethnic minority group in order to be socially and economically disadvantaged.   + You must show SBA that you have a distinguishing feature that has contributed to social and economic disadvantage and explain how that has a negative impact on your entry or advancement in the commercial sector. * Remember, you also must demonstrate *economic* disadvantage.   + Socially disadvantaged owner’s net worth must be less than $250,000 – not including ownership of small business and primary residence.   + Retirement account also may be excluded if funds are not available until retirement.   + Determine your ability to meet net worth requirement by filling-out SBA Form 413   + Also must have adjusted gross income (AGI) of $250,000 or less, averaged over past 3 years.   **8(a) Residency Requirement**   * In order to apply for 8(a) certification, the 51% owner(s) must be a U.S. citizen who is currently residing in this country. * If born outside the U.S., proof of citizenship must be provided. * Others may be non-U.S. citizens.   **8(a) Good Character Requirement**   * All owners of 10% or more of the 8(a) applicant company as well as key employees and directors must have “good character.”   + SBA will look at criminal record, civil judgments, contract suspensions and debarments, and delinquent federal debts such as SBA loans and IRS taxes.   + These factors do not automatically disqualify, but failure to disclose such factors certainly will.   **8(a) Ownership Requirements**   * Ownership must be:   + Unconditional – no strings attached.   + Direct – not through a parent company.   + Not overlapping.     - Only one 8(a) firm per family.     - A non-disadvantaged individual (or corporation) who owns 10% of one 8(a) firm cannot own more than 10% of another 8(a) firm in the first 4 years, or more than 20% in the last 5 years of participation in the 9-year 8(a) program.   **8(a) Control Requirements**   * The socially and economically disadvantaged owner must also *control* the business.   + This includes the long-term decision-making as well as the day-to-day management and administration of the business.   + Must be the highest-ranking officer in the company.   + Must have sufficient managerial experience to successfully run the business.   + Must work full-time in the business.   + Must be the most highly compensated.   **After 8(a) Certification**   * All requirements remain in effect, except:   + The owner’s net worth may grow from less than $250,000 up to $750,000.   + Salary cap of $250,000/year may increase as long as 3-year average does not exceed $350,000.   + Owner may not withdraw too much money from the business.   **8(a) Mentor-Protégé**   * Once certified as an 8(a), consideration should be given to finding a strong and experienced firm to serve as the 8(a) firm’s mentor. * The SBA will formally recognize this relationship through a written mentor-protégé agreement. * Once SBA approves the agreement, an 8(a) firm may receive any form of assistance from its mentor – without penalty of “affiliation.” |
| Fact Sheet:Historically Underutilized Business Zone (HUBZone) Small Business **HUBZone Size Requirements**   * To become certified as a HUBZone firm, the company must qualify as a small business under the firm’s primary NAICS code. * Once certified by the SBA, the HUBZone firm must qualify as a small business for the NAICS code on any solicitation on which the firm intends to bid.   **HUBZone Eligibility Requirements**   * Must be 51% unconditionally and directly owned and controlled by U.S. citizens. * Must be a small business, both within its primary industry and for the size standard for a solicitation that is set-aside for HUBZone firms. * Must have its principal office in a HUBZone. * Must have at least 35% of its employees living in a HUBZone.   **The Historically Underutilized Business Zone (HUBZone) Program**   * + HUBZones are areas of the country designated by the government as economically disadvantaged because of high unemployment, poverty, and other conditions. * Some contracts are set-aside for competition among HUBZone firms exclusively, and others are sole-source. * On unrestricted solicitations, HUBZone competitors may receive a *price evaluation preference*.   **HUBZone Certification**   * The SBA must certify a firm’s HUBZone eligibility. * To determine whether a business is located in a HUBZone, go to: www.map.sba.gov/hubzone/maps. Use this same link to determine whether the firm’s employees live in a HUBZone. * To apply for HUBZone certification, make an electronic application at: https://eweb1sp.sba.gov/hubzone/internet/imagesnew/button1001\_in.gif * Must re-certify every 3 years. * Denied applicants have to wait a year to re-apply.   **HUBZone Ownership**   * HUBZone firms must be small businesses, unconditionally and directly owned by one or more U.S. citizens. * While no formal guidelines exist, it would be wise to follow the standards applicable to SDVOSB firms. * A company cannot own a HUBZone firm – it must be owned by a person or persons. * There are no net worth or income restrictions.   **HUBZone Control**   * Since HUBZone firms must be small businesses unconditionally and directly controlled by one or more U.S. citizens, the U.S. citizens must be in charge of both long-term decision-making as well as day-to-day management operations. * There are no requirements that address the owner(s) position held within the company or compensation, but these factors certainly should be taken into consideration if any non-citizens are active within the company.   **HUBZone Office Location**   * A firm’s “principal” office must be located in a HUBZone to qualify.   + Principal is defined by SBA as the location where most of the company’s employees work.   + Exception: If the firm is a construction company, construction workers can be excluded from the calculation.   **HUBZone Employee Residency**   * According to HUBZone guidelines, an employee is anyone who works 40 hours a week for the company. * At least 35% of a HUBZone firm’s employees must have lived in a HUBZone for at least 6 months (or if less than 6 months, employees must have registered to vote at their HUBZone residency location. * The company is expected to provide proof of residency such as copies of driver’s licenses or utility bills.   **HUBZone Subcontracting**   * Subcontracting limitations apply to HUBZone firms as other small businesses. * *One Exception:* On service contracts, a HUBZone firm may subcontract more than 50% of the work to other HUBZone firms if the work performed by the HUBZone prime contractor and the HUBZone subcontractor(s) is at least 50% of the total job.   **HUBZone Construction Subcontracting**   * Not only must the HUBZone firm meet the 15% requirement for general construction or 25% for specialty construction. * The HUBZone prime contractor also must ensure that at least 50% of the cost of the contract incurred for personnel be spent on employees from HUBZone companies (including the prime contractor). * Waivers to this rule are permissible by the contracting officer.   **HUBZone Assistance**   * The SBA’s HUBZone Office holds group information conference calls every Tuesday and Thursday from 2pm to 3pm EST. * To access, dial 800-858-2144 and enter Access Code 3061773. * Specific inquiries about an application status should be directed to hubzone@sba.gov in the case of a new application, or to an assigned analyst.   **HUBZone Mentor-Protégé**   * The SBA is expected to issue mentor-protégé guidelines for HUBZone concerns in 2014. |

|  |
| --- |
| **Fact Sheet:** Service-Disabled Veteran-Owned Small Business (SDVOSB) **Two programs: One administered by the SBA and the other administered by the Dept. of Veterans Affairs (VA).**   * Both programs allow for set-asides to SDVOSBs (only SDVOSBs compete) as well as sole-source contracts to SDVOSBs (no competition). * Self-certification of eligibility is the current requirement. * *Except* for VA procurements where the SDVOSB must be certified by the VA. The VA calls this process “verification.”   **Obtaining SDVOSB Verification**   * Apply through the VA’s Center for Verification and Evaluation (CVE) at: www.va.gov/osdbu/veteran/verification.asp * Get it right the first time. Applicants denied certification have to wait 6 months to re-apply. * Verification is indefinite – no 9-year limit like 8(a) – as long as you meet standards. * Must be renewed annually. If it lapses, the company is no longer eligible.   **SDVOSB Joint Ventures**   * If a small business forms a joint venture with another company to compete for a VA SDVOSB set-aside, the joint venture itself must be verified and included in the CVE database.   **Qualifying as a Service-Disabled Veteran**   * Disability must have been incurred or aggravated in active service. * Must have been honorably discharged. * Appropriate documentation is required, such as DOD Form 214 – Certificate of Release or Discharge from Active Duty. * CVE uses the Beneficiary Identification Records Locator Subsystem (BIRLS), a database maintained by VA’s Veterans Benefits Administration, to identify Veteran status and service-connected disability status.   **SDVOSB Eligibility Requirements**   * Must be a small business with the NAICS code assigned to a particular solicitation. *The firm does not need to be small in its primary NAICS code.* * Must be at least 51% unconditionally owned by one or more service-disabled veterans and unconditionally controlled by one or more service-disabled veterans. * There are no personal net worth or income restrictions, unlike the 8(a) program. * Indirect ownership (through a parent company) will not work. * “Affiliations” rules apply.   **A Few Words about the Word “Unconditional”**  “Unconditional ownership means that the service-disabled veterans must immediately have an absolute right to do anything they want with their ownership interest or stock, whenever they want.”  -- excerpt from 2011 ruling by the SBA’s Office of Hearings & Appeals in *Veterans Construction Services, LLC*, Decision No. VET-213  **SDVOSB Control**   * Long-term decision-making and the day-to-day management of the business operations must be conducted by service-disabled veterans.   + A service-disabled veteran must hold the highest position in the company.   + The service-disabled veteran must have sufficient managerial experience to run the company.   + The company may not rely on another business for its revenues.   + A question may be raised if the veteran lives far away from the company’s operations.   **Specific Requirements by the VA**   * Must have good character. * Cannot have delinquent federal debts. * Service-disabled vet must work full-time for the firm. * Must be the highest-compensated employee. * Must receive no less than 51% of annual distribution of profits.   **SDVOSB Joint Ventures**   * Remember, a joint venture is a separate legal entity. If a joint venture is to qualify for a SDVOSB set-aside, it must be separately verified in the VA’s database. * The SDVOSB’s size must be added to the joint venture partner’s size to determine if the joint venture qualifies as small for a SDVOSB set-aside. * For some procurements, both parties in the joint venture must be small for the solicitation’s NAICS code. * The parties in a joint venture bidding on a SDVOSB set-aside must have a written JV agreement that contains certain mandatory terms. These terms are similar to ones required for an 8(a) JV, but not identical.   **SDVOSB Subcontracting**   * The same subcontracting limitations apply to SDVOSBs as other small businesses. * *One Exception:* If the SDVOSB subcontracts work to other SDVOSBs, then the combined work of the SDVOSB prime contractor and the SDVOSB subcontractors can be counted toward the minimum work requirements (i.e., 50% supplies and products; 15% construction; 25% specialty construction).   **SDVOSB Mentor-Protégé**   * In publishing its most recent *Semiannual Regulatory Agenda*, the SBA stated that it would “make it a priority” to write regulations in 2014 that will establish mentor-protégé programs for SDVOSBs. These regulations are expected to be similar to the rules currently in place for the 8(a) program. |
| **Fact Sheet:** Woman-Owned Small Business (WOSB) and **Economically-Disadvantaged Woman-Owned Small Business (EDWOSB)**  Program Overview  PL1005-664 provides for a Women-Owned set-aside and is aimed at expanding federal contracting opportunities for WOSBs. The WOSB Federal Contract Program authorizes contracting officers to set aside certain federal contracts for eligible:   * Women-owned small businesses (WOSBs) * Economically disadvantaged women-owned small businesses (EDWOSBs) * Set-asides are limited to contracts in 83 specific NAICS codes (see: http://www.sba.gov/sites/default/files/files/WOSB%20Program%20Applicable%20NAICS%20Codes.xlsx)   Unlike the 8(a), HUBZone, and SDVOSB programs, sole source awards to WOSBs are not authorized.  **Eligibility**   * 51% owned and unconditionally controlled by one or more women. * Owned by U.S. citizen(s). * Must be “small” in its primary industry in accordance with SBA’s size standards. * For EDWOSB status, must demonstrate *economic disadvantage* (presumed if woman owner’s net worth is less than $750,000, annual income averaged over past 3 years did not exceed $350,000, and fair market value of all assets, including personal residence and value of business, does not exceed $6 million. * Unlike the 8(a) program, there is no term limit on participation in the WOSB program, as long as eligibility requirements are met. * To be considered “unconditional,” the ownership must not be subject to any conditions, agreements, voting trusts, or other arrangements that cause or potentially cause ownership benefits to go to another. * The management and daily business operations of the concern must be controlled by one or more women. Control means that both the long-term decision making and the day-to-day management and administration of the business operations must be conducted by one or more women.   **Certification**  Certification as a WOSB or EDWOSB must be accomplished *in one of two ways*:  *1.* *Self-certify* – Firm must register as a WOSB in the System for Award Management (SAM) at www.sam.gov as well as upload certain required documents to the WOSB Program Repository at <https://eweb.sba.gov/gls/dsp_login.cfm>. The list of required documentation appears at: http://www.sba.gov/sites/default/files/files/Contracting%20Officers%20WOSB%20Compliance%20Guide\_Jan2011.pdf.  *2.* *Be certified by an SBA-Approved 3rd Party Certifier:*  • El Paso Hispanic Chamber of Commerce  • National Women Business Owners Corporation  • US Women’s Chamber of Commerce  • Women’s Business Enterprise National Council (WBENC)  **Award Procedure**  Upon notification that the WOSB is the apparent successful offeror, the WOSB must log-in to the Program Repository and, from the drop-down menu, select the Federal agency and contracting officer to authorize that individual to access the business’ documents.  For more information, go to: http://www.sba.gov/content/women-owned-small-business-federal-contract-program  **Resource**  The SBA’s WOSB program guide is located at: http://www.sba.gov/sites/default/files/files/WOSB%20Compliance%20Guide\_April2011.pdf.  **WOSB Mentor-Protégé**   * The SBA is expected to issue mentor-protégé guidelines for WOSBs in 2014.   **Major Change Since WOSB Program Launch**   * When the WOSB program was launched in 2011, there were dollar caps on contracts that could be set aside for WOSB firms. These caps were removed by the National Defense Authorization Act (NDAA) of 2013. The SBA issued a final interim rule on this matter on May 7, 2013 (see 78 Fed. Reg. 26504) and the FAR has been updated to reflect this change. |