

SBA's Government Contracting Programs

8(a), HUBZone, Women, Veterans,
& Service Disabled Veterans

8TH ANNUAL PTAC PROCUREMENT SYMPOSIUM

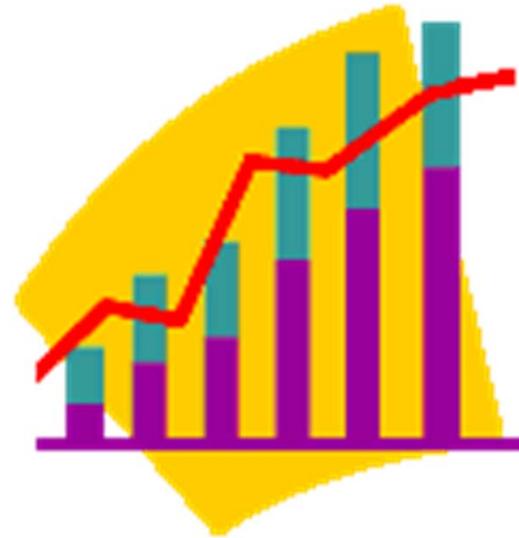
October 22, 2013

Market Potential

- ▶ Approximately ***\$500 Billion*** in annual government purchases.
- ▶ 22–23% dedicated to small business
- ▶ **\$196 million for Utah firms in FY 2013**
- ▶ 13–15% to government contracting category designated firms
- ▶ **\$125 million for Utah firms in FY 2013**
- ▶ Sole Source Contracts (non-competitive direct awards)
- ▶ Competitive Contracts

What is the 8(a) Business Development Program?

- ▶ Sections 8(a) and 7(j) of the Small Business Act authorize a Minority Small Business and Capital Ownership Development program
- ▶ To assist eligible small disadvantaged business concerns to compete in the American Economy
- ▶ A Nine (9) year program
- ▶ Administered locally



Benefits

- ▶ **Sole Source Contracts (non-competitive direct award)**
 - Up to \$4 million for services
 - Up to \$6.5 million for manufacturing
- ▶ **Competitive 8(a) Contracts**
 - For 8(a) firms only, limited playing field
- ▶ **Executive Level Training**
 - Through 7(j) SBA provides free executive level training on various subjects
- ▶ **Other trainings**
 - Provided by SBA and or resource partners

Basic Requirements

1. Small Business
2. Unconditionally owned and Controlled by one or more socially and economically disadvantaged individuals
3. Good Character
4. Citizens of & residing in the USA
5. Potential for Success as an ongoing business

Size

- ▶ Classification System (NAICS) code designation which best describes the primary business activity of your business

- ▶ Must be small business concern for its primary industry classification

<http://www.sba.gov/content/small-business-size-standards>

- ▶ Primary industry classification means the six (6) digit North American Industry Classification Code (NAICS)

- ▶ <http://www.sba.gov/category/navigation-structure/contracting/contracting-officials/eligibility-size-standards>

Who is Socially Disadvantaged?

1. Black Americans
2. Hispanic Americans
3. Native Americans
4. Asian Pacific Americans
5. Subcontinent Asian Americans

Members of non-designated groups must prove discrimination

- ▶ *1 objective distinguishing feature that has contributed to social disadvantage*, such as race, ethnic origin, gender, physical handicap, long-term residence in an environment isolated from mainstream American society
- ▶ *Personal experiences of substantial and chronic social disadvantage in **American society***

Members of non-designated groups must prove discrimination

- ▶ *Negative impact* on entry into or advancement in the business world due to disadvantage
- ▶ *Denial of equal access* to institutions for higher education, exclusion from social & professional association
- ▶ Employment – *unequal treatment* in hiring, promotions etc.
- ▶ *Unequal access* to credit or capital

Economically Disadvantaged

- ▶ *Are socially disadvantaged individuals* whose *ability to compete in the free enterprise system has been impaired* due to diminished capital and credit opportunities as compared to others in similar industries
- ▶ If Married, must submit separate financial information for the spouse
- ▶ Personal Net Worth – *less than \$250,000.*

Unconditionally owned

- ▶ 51% unconditionally and directly owned by one or more socially and economically disadvantaged individuals
- ▶ Must be U.S. Citizens
 - Exception: Tribally Owned firms, Native Hawaiian Firms, Alaska Native Corporations, or Community Development Corporation
- ▶ Ownership must be direct for any type of legal entity – i.e. LLC, Partnership, Corp.

Control

- ▶ Partnership – disadvantaged must serve as general partners with control over all partnership decisions
- ▶ LLC – disadvantaged must serve as management members with control over all decisions of LLC
- ▶ Corporation – disadvantaged must control board of directors

Control

Control is not the same as ownership

- ▶ SBA considers control to include:
 - *Strategic policy setting* exercised by board of directors
 - *Day-to-day management* and administration of business operations conducted by disadvantaged person
 - Must be managed by disadvantage individual(s) on a *full time basis* who *possess requisite management capabilities*

Control

- ▶ Disadvantaged individual *must possess managerial experience* of the extent and complexity needed to run the concern
- ▶ Need not have technical expertise or a required license IF – can demonstrate that disadvantaged has ultimate managerial and supervisory control over person with technical expertise or required license
- ▶ Non-Disadvantaged equity holder cannot hold license

Potential for Success

- ▶ Must possess reasonable prospects for success in competing in the private sector if admitted into the program
- ▶ Must be doing business in its primary NAICS Code for at least two years immediately prior to the date of its 8(a) application
- ▶ Must have two full years of tax returns showing operating revenues in primary NAICS code

Potential for Success

- ▶ SBA considers
 - *technical and managerial experience* of the concern's managers
 - *operating history* of the concern (2 years+)
 - *record of performance* on previous federal and private sector contracts *in the primary industry* in which the concern is seeking 8(a) BD certification
 - *financial capacity*
- ▶ Disadvantaged Individual Must demonstrate
 - *technical knowledge* in the primary industry category
 - *management experience* sufficient to run day-to-day operations

Two Year Waiver *(Must meet all 5)*

1. Disadvantaged individual(s) have *substantial business management experience*
2. *Demonstrate technical experience* to carry out its business plan with a substantial likelihood for success
3. *Have adequate capital* to sustain its operations and carry out its business plan
4. *Record of successful performance* on contracts from governmental or nongovernmental sources in its primary industry
5. Can demonstrate its *ability to timely obtain the personnel, facilities, equipment, and any other requirements needed to perform contracts*

Not Allowed

- ▶ Poor character (legal issues)
- ▶ Violation of any of SBA's regulations – may result in denial of participation in the program
- ▶ Debarred or suspended concerns
- ▶ Questionable business integrity
- ▶ Currently incarcerated, or on parole, or on probation
- ▶ Knowingly submit false information to SBA

Eligibility

- ▶ One time Eligibility
 - Firm
 - Disadvantaged individual(s)
- ▶ Wholesalers – not allowed
- ▶ Brokers – not allowed
- ▶ Any illegal activity – not allowed
- ▶ Not meeting federal obligations – not allowed unless workout plan is in place and current

Who is a Company Principal?

- ▶ Principals include:
 - Owner(s) of more than 10%
 - Officers
 - Directors
 - Members
 - Partners
 - Key Employees

Documents Needed to Apply

- ▶ Majority Owners and Firm Managers
 - Proof of *social disadvantage*
 - Proof of *economic disadvantage*

- ▶ Background information & personal information for all principal(s):

- ▶ Resume
 - Completed Statement of Personal History form
 - Proof of U.S. Citizenship or naturalization
 - Duties within the firm and time devotion
 - List of other business interests and time devotion
 - Nature of outside employment and time devotion

Documents Needed To Apply

- ▶ **Firm's** federal tax returns over the **past three years**
- ▶ **Personal** federal tax returns for the **past three years**
- ▶ **Firm's** balance sheet and profit and loss statements for **past three years**
- ▶ List of all federal, non-federal and private sector contracts for the past two years
- ▶ Lease agreements
- ▶ signature authority on firm bank account(s)
- ▶ contributions used to acquire ownership for each owner
- ▶ Any transfer of assets to/from the firm
- ▶ Any transfer of assets to/from any of its owners over the past two years

Documents Needed to Apply

▶ *State Filings*

- Certificate of good standing
- Foreign corporation filings
- Articles of Incorporation, Articles of Organization
- DBA (doing business as) filings

▶ *Governing Documents* signed by principals

- Bylaws, operating agreements, partnership agreements
- Meeting minutes
- Stock certificates and ledgers

Documents Needed to Apply

- ▶ Financial information for all principals:
 - Signed and dated *personal tax returns for last 3 years* to include all schedules and attachments
 - Completed *personal financial statement form (from individual and spouse)*
 - List of all assets, liabilities, real estate and other personal property, including transferred assets
 - Information on delinquent federal obligations, past due taxes or liens, bankruptcy filings and pending civil lawsuits
 - List of SBA loans for firm and other businesses owned by the principal(s)

Additional Documentation

- ▶ Complete 8(a) Business Development Program Application *online SBA Form 1010*

- ▶ Complete *additional SBA Forms online*
 - SBA Form 912 Statement of Personal History
 - SBA Form 413 Personal Financial Statement
 - SBA Form 1623 Certification Regarding Debarment, Suspension and Other
 - IRS Form 4506T Request for Transcript of Tax Return
 - SBA Form 1790 Representatives Used & Compensation Paid For Services in Connection with Obtaining Federal Contracts

- ▶ Mail signed supporting documents to SBA

Application Process

Must file electronic application –

<https://sba8a.symplicity.com/applicants/guide>

- Applications processed in San Francisco
- Expect 90–180 days to process
- High potential for additional documentation request to applicants

- Utah District SBA Office conducts orientation sessions the last Tuesday of each month, except December, at 10am in our offices.

HUBZone Program



HUBZone

Last updated 09/10/2013

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HUBZone Program

- ▶ Purpose is to provide federal contracting assistance for qualified small business concerns located in **H**istorically **U**nderutilized **B**usiness **Z**ones in an effort to increase employment opportunities, investments, and economic development in such areas

What determines HUBZone Areas?

1. Household Income and Unemployment Rate
2. Qualified census tracts
3. Qualified non-metropolitan counties
4. Lands within the external boundaries of an Indian reservation
5. Qualified base closure area
6. Redesignated area



Firms Owned by U.S. Citizens, ANCs, CDCs

▶ Ownership

- **U.S. Citizens** –51% unconditionally & directly owned & controlled by persons who are U.S. citizens
- **ANC** owned & controlled by Natives or a direct or indirect subsidiary corporation, joint venture or partnership of an NAC qualifying pursuant to section 29€(1) of ANCSA
- Wholly owned by a **CDC** or owned in part by 1 or more CDCs, if all other owners are either U.S. citizens or small business concerns

Size

- ▶ Concern together with affiliates, must qualify as a small business under the size standard corresponding to its primary NAIC code



Other Requirements

- ▶ Principal Office – Concern’s principal office must be located in a HUBZone
- ▶ Employees – *At least 35%* of concern’s employees must reside in a HUBZone.
 - When determining number of employees that reside in a HUBZone, if the percentage results in a fraction, round up to the nearest whole number
- ▶ Contract Performance – Concern must represent, as provided in application, that it will “attempt to maintain” having 35% of its employees reside with a HUBZone during the performance of any HUBZone Contract it receives

Ownership

- ▶ **Corporations** – person who owns stock, whether voting or non-voting, considered to be an owner. SBA considers options to purchase stock and the right to convert debentures into voting stock to have been exercised.
- ▶ **Partnerships** – all partners, whether general or limited to be owners in a partnership
- ▶ **Sole proprietorships** – proprietor is the owner
- ▶ **LLC** – SBA considers each member to be an owner

Control & Size

- ▶ Control – Key employees who possess expertise or responsibilities related to the concern’s primary economic activity may share significant control over the concern
- ▶ Size –At time of application concern must meet SBA’s size standards for its primary NAICS. If SBA is unable to verify that concern is small, SBA may deny the concern status as a qualified HUBZone small business

Or

- ▶ SBA may request a formal size determination

Contract Performance

- ▶ HUBZone Firm must meet performance of work requirements
 - *Services Contracts* (except construction): **at least 50%** of the cost of contract performance incurred for personnel.
 - *General Construction Contract*: **at least 15%** of the cost of contract performance incurred for personnel.
 - *Specialty Trade Construction*: **at least 25%** of the cost of contract performance incurred for personnel.
 - *Manufacturing Contracts*: **at least 50%** of the manufacturing cost (excluding the cost of materials)
- ▶ May subcontract remainder of the contract

The Application

- ▶ Concern seeking certifications for HUBZone must submit either an electronic application to SBA

<http://www.sba.gov/content/applying-hubzone-program>

Or

- ▶ a written application
- ▶ Approval
 - Processed in Washington, DC
 - Takes 90 to 160 days
 - Cannot rush approval process

Where to find list of HUBZone concerns?

- ▶ DSBS –
http://dsbs.sba.gov/dsbs/dsp_dsbs.cfm
- ▶ HUBZone page –
 - <http://www.sba.gov/hubzone>

Service Disabled Veteran Owned Business



Ownership

- ▶ 51% unconditionally & directly owned by 1 or more service-disabled veterans
- ▶ **Ownership must be direct**
 - A concern owned principally by another business entity that is in turn owned & controlled by one or more **SDVOB** is **not allowed**.
- ▶ **Partnership**
 - at least 51% of every class of partnership interest must be unconditionally owned by one or more SDV
 - Ownership must be reflected in the concern's partnership agreement
- ▶ **Limited Liability Company**
 - 51% of each class of member interest must be unconditionally owned by one or more SDV
- ▶ **Corporation**
 - At least 51% of aggregate of all stock outstanding and at least 51% of each class of voting stock outstanding must be unconditionally owned by 1 or more SDV

Control

- ▶ *Management and daily business operations of the concern must be controlled* by 1 or more SDV
- ▶ *Both the long-term decisions making and day-to-day management and administration of business operations* has be controlled by 1 or more SDV
- ▶ Managerial Position and Experience
 - Service-disabled veteran (or in the case of SDV with permanent & server disability, the spouse or permanent caregiver of such veteran) *must hold the highest officer position in the concern* (i.e. President, CEO) and MUST have managerial experience of the extent and complexity needed to run the concern
 - Service-disabled veteran need not have the technical expertise or possess the required license to be found to control the concern if the SDV can demonstrate that *he/she has ultimate managerial and supervisory control over those who possess the required license or technical expertise*

Control

- ▶ Partnership
 - 1 or more SDV must serve as general partners, with control over all partnership decisions
- ▶ Limited Liability Company
 - Must serve as managing members, with control over all decisions of the LLC
- ▶ Corporation
 - Must control the Board of Directors and have the percentage of voting stock necessary to overcome any super majority voting requirements
 - Or
 - SDV comprise the majority of voting directors through actual numbers or, where permitted by state law, through weighted voting

Size Standards

- ▶ At time of contract offer, an SDVOB must be small within the size standard corresponding to the NAICS code assigned to the project
- ▶ If the contracting officer is unable to verify that the SDVOB is small, the concern shall be referred to the responsible SBA Government Contracting Area Director for a formal size determination
- ▶ A concern may have affiliates provided that the aggregate is small.

What requirements must an SDVOB meet to submit an offer on a contract?

- ▶ Be registered in SAM and self-certified as a SDVOB
- ▶ SDVOB MUST submit the following with representations with its initial offer on a specific contract:
 - It is an SDVOB
 - It is small under the NAICS code assigned to the procurement
 - It will meet the percentage of work requirements.

Does 8(a), HUBZone or SDVOB status guarantee a contract?

- ▶ No, the company must market its capabilities to appropriate procuring agencies in order to increase their prospects of having a procurement set-aside awarded.

Women-Owned Small Business Program (WOSB)



WOSB

Eligibility Requirements

▶ EDWOSB

- *A small business* for its primary NAICS code
- *At least 51% unconditionally and directly owned and controlled* by one or more woman who are US citizens and are economically disadvantaged controlled by 1 or more women owned business

▶ WOSB

- *A small business* for its primary NAICS code
- *At least 51% unconditionally and directly owned and controlled* by 1 or more women

Who is an EDWOSB Owner?

- ▶ Personal financial condition of the woman claiming economically disadvantage, including:
 - *Personal income for the past 3 years* (including bonuses, and the value of company stock given in lieu of cash)
 - *Personal net worth*
 - *Fair market value of all assets*, whether encumbered or not

EDWOSB

- ▶ Spouse's financial situation.
 - SBA may consider a spouse's financial situation in determining a woman's access to credit and capital
 - When married must submit separate financial information for the spouse unless legally separated
- ▶ Personal income
 - If adjusted gross yearly income average for the last 3 years preceding the certification exceeds \$350,000, SBA will presume that she is not economically disadvantaged

EDWOSB

- ▶ Income received by LLC, S corporation or partnership will be excluded from an individual's income where the EDWOSB provides documentary evidence demonstrating that the income was solely for the purposes of paying taxes arising in the normal course of operations

Fair Market Value

- ▶ All assets (including her primary residence and the value of the business) do not exceed \$6 Million



Requirements

- ▶ At the time a concern submits an offer on a specific contract reserved for competition under this program, it must be registered in SAM
- ▶ Have a current representation posted on the Online Representations and Certifications (ORCA now a part of SAM)
- ▶ Have provided the required documents to the WOSB Program Repository or if not available be prepared to submit the documents to the contracting officer if selected as the apparent successful offeror

Requirements

- ▶ In conjunction with registration in the SAM database, the concern must submit a copy of the WOSB Program Certification to the WOSB Program Repository and representations
- ▶ Must certify that:
 - they are an EDWOSB or WOSB
 - there have been no changes in its circumstances affecting its eligibility since certification
 - the concern meets each of the applicable individual eligibility requirements

Requirements

- ▶ *Must certify that concern is a small business* under the size standard assigned to the procurement
- ▶ *It is at least 51% owned and controlled* by one or more women who are US citizens and are economically disadvantaged; and
- ▶ Neither SBA, in connection with an examination or protest, nor an SBA approved certifier has issued a decision currently in effect find that it does not qualify as an EDWOSB or WOSB

Documents To Contracting Officer

- ▶ *All of the documents set forth must be provided to the contracting officer to verify eligibility at the time of initial offer.* The documents will be provided via WOSB Program Repository or if repository unavailable straight to Contracting Officer
- ▶ Documents must be retained for 6 years



5 Steps to participate in the WOSB program:

- ▶ Read the WOSB Federal Contract program regulations in the [Federal Register](#) and the WOSB [Compliance Guide](#)
- ▶ Register in SYSTEM FOR AWARD MANAGEMENT (SAM) as WOSB or EDWOSB
- ▶ Log onto SBA's [General Login System](#) (GLS) **Obtain an account now if you don't already have one*
- ▶ Go to the WOSB program repository (through GLS) and upload/categorize all required documents as outlined in the Compliance Guide
- ▶ Represent your status in SYSTEM FOR AWARD MANAGEMENT (SAM)

WOSB Program Repository

- ▶ To access the WOSB Program Repository, users must first login to SBA's [General Login System](#) (GLS). If you do not have an account:
- ▶ Log onto SBA's [General Login System](#) (GLS)
- ▶ Click on “Instructions for GLS” for information on how to request an account
- ▶ Go to “Request SBA User ID” to create an account
- ▶ Once you are in GLS, click the “Access” button at the top of the screen. Then select “Women–Owned Small Business Program Repository” and press submit. You should then be able to access the repository. Upload the required documents as outlined in the WOSB Compliance Guide. *
- ▶ *Once you are in the repository, you can click the “Help” button at the top of the screen for instructions/assistance to use the repository

WOSB QUESTIONS

- ▶ UTAH DISTRICT POINT OF CONTACT
- ▶ MELINDA WORKMAN (801) 524-3213
 - 13 CFR 127
- ▶ For assistance with self-certifying for the WOSB/EDWOSB program contact Ann Marie Thompson at the SL Chamber Women's Business Center (WBC) ph: 801-328-5052 or amthompson@slchamber.com to schedule an appointment

THIRD PARTY CERTIFIERS

- ▶ El Paso Hispanic Chamber of Commerce
- ▶ National Women Business Owners Corporation
- ▶ US Women's Chamber of Commerce
- ▶ Women's Business Enterprise National Council (WBENC)

STEPS TO DO BUSINESS WITH FEDERAL GOVERNMENT

1. Request a D-U-N-S number
2. Register with Systems for Award management (SAM) www.sam.gov
3. SDVOB – Register in Vetbiz.gov
4. WOSB – Register & represent your status in SAM, self certify or go through SBA approved 3rd party certifiers
5. HUBZone – Apply on-line
6. 8(a) – Apply on-line

Assistance & Information

- ▶ FEDERAL CONTRACTING 101 –
<http://www.sba.gov/gcclassroom>
- ▶ SBA Utah District Office
 - Nancy Byerly: nancy.byerly@sba.gov
 - Dennis Wengert: dennis.wengert@sba.gov
 - Suzan Yoshimura: suzan.yoshimura@sba.gov
 - Melinda Workman: melinda.workman@sba.gov

Government Contracting Programs Orientation
Last Tuesday of each month except December
10am–11:30am; SBA offices 125 South State #2222

QUESTIONS

