

# SBA'S IMPLEMENTATION OF THE WOMEN-OWNED SMALL BUSINESS CERTIFICATION PROGRAM

Report Number 22-20 | September 29, 2022





# EXECUTIVE SUMMARY

Report  
Number  
22-20

## SBA'S IMPLEMENTATION OF THE WOMEN-OWNED SMALL BUSINESS CERTIFICATION PROGRAM

### What OIG Reviewed

The U.S. Small Business Administration's (SBA) Women-Owned Small Business (WOSB) federal certification program provides greater access to federal contracting opportunities for women owned small businesses. Through this program, contracting officers can set aside contracts for certified WOSBs and economically disadvantaged women-owned businesses. In Fiscal Year 2020, the federal government awarded about \$27 billion, or 4.8 percent, of federal contracting dollars to WOSBs. Of these awards, \$1.2 billion went to WOSB program participants using set-aside or sole source contracting procedures.

The objective of this audit was to determine whether SBA implemented controls to prevent ineligible firms from being certified into the WOSB program. We reviewed SBA policies and procedures, interviewed personnel, and reviewed documentation from the Office of Government Contracting and Business Development. We analyzed supporting documentation for 25 firms we sampled to verify the firms were eligible to participate in the WOSB program. Additionally, we performed limited testing of 46 firms SBA determined were not eligible to participate in the program.

### What OIG Found

SBA had applicants provide documentation that demonstrates a woman owned and controlled the business in accordance with federal regulations, but SBA did not design a process that ensured analysts thoroughly and promptly reviewed the documentation.

Further, despite requirements that the business be considered small to be eligible for contracts set aside for WOSBs, SBA did not require that firms submit any documentation to ensure the business met federal size regulations. We also determined the agency did not have adequate staffing levels to

support the program, nor did it ensure the database used to administer the eligibility reviews could fully support the certification program.

Lastly, though SBA relies on the program eligibility decisions that third-party certifiers make, SBA could not provide evidence that they effectively monitored third-party certifiers compliance with program regulations.

### OIG Recommendations

We made six recommendations for SBA to improve its oversight and management of the WOSB certification program.

### Agency Response

Management partially agreed with recommendations 1 and 6 and disagreed with recommendations 2, 3, 4, and 5. Management's planned actions resolved three recommendations.

Management reviewed the three firms we questioned as ineligible and stated they found the firms to be eligible but did not provide documentation to support their determination. SBA also completed assessments of program resources, including staffing, technology, and support services and is making improvements to ensure timely application reviews. In addition, management stated they plan to implement standard operating procedures that provide for consistent compliance reviews of third-party certifiers and maintain the documented results of the reviews.

We did not reach resolution on recommendations 1, 2, and 4. OIG will seek resolution in accordance with our audit resolution policies and procedures.



# Office of Inspector General

U.S. Small Business Administration

**DATE:** September 29, 2022

**TO:** Isabella Casillas Guzman  
Administrator

**FROM:** Hannibal "Mike" Ware   
Inspector General

**SUBJECT:** SBA's Implementation of the Women-Owned Small Business Certification Program

This report represents the results of our audit *SBA's Implementation of the Women-Owned Small Business Certification Program*. We considered management comments on the draft of this report when preparing the final report and revised recommendation 2. SBA management partially agreed with two of our six recommendations and disagreed with four. However, three recommendations are pending resolution.

We appreciate the cooperation and courtesies provided by your staff. If you have any questions, please contact me or Andrea Deadwyler, Assistant Inspector General for Audits, at (202) 205-6586.

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## Introduction

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The Women-Owned Small Business (WOSB) federal certification program provides greater access to federal contracting opportunities for WOSBs and economically disadvantaged women-owned small businesses. The U.S. Small Business Administration (SBA) program allows contracting officers to set aside or award sole-source contracts to certified WOSBs and economically disadvantaged women-owned small businesses.<sup>1</sup> The program helps federal agencies achieve the existing statutory goal of awarding 5 percent of federal contracting dollars to WOSBs.

To be eligible for the WOSB contracting program, a business must be small in size and be at least 51 percent owned and controlled by a woman or women who are U.S. citizens. A woman must manage day-to-day operations and make long-term decisions. Additionally, to qualify as economically disadvantaged, the business owner must have a personal net worth less than \$750,000, adjusted gross yearly, personal income over the preceding 3 years averaging less than \$350,000, and personal assets with a fair market value less than \$6 million.<sup>2</sup>

In fiscal year (FY) 2020, the federal government awarded about \$27.1 billion, or 4.85 percent, of federal contracting dollars to WOSBs. Of these awards, \$1.2 billion went to WOSB program participants using set-aside or sole source contracting procedures. The Small Business Reauthorization Act of 2000 authorized contracting officers to set aside and restrict competition to economically disadvantaged women-owned small businesses and WOSBs performing in industries identified by the North American Industry Classification System (NAICS) code, where women-owned small businesses are underrepresented. A NAICS code is an industry categorization number used in contracting. As of March 18, 2022, SBA identified 646 codes where WOSB firms were substantially underrepresented and 113 codes where economically disadvantaged women-owned firms were underrepresented.

## SBA's Certification Process

The National Defense Authorization Act of 2015 required firms to be certified by a federal agency, a state government, the SBA Administrator, or a national certifying entity approved by the Administrator.<sup>3</sup> It also authorized federal procuring agencies to award contracts on a sole-source basis for WOSB firms. Even though the Act required the implementation of a certification process, SBA continued until 2020 to allow applicants to either self-certify their eligibility status or use third-party certifiers.

On May 11, 2020, SBA published the WOSB certification final rule outlining new certification requirements with roles and responsibilities for SBA personnel and third-party certifiers. SBA added language in its third-party certifiers agreements to increase

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<sup>1</sup> A sole source contract is a direct awarding of a government contract to a WOSB that can provide the needed services without soliciting competition.

<sup>2</sup> 13 CFR 127.203(b)(1); \$350,000 13 CFR 127.203(c)(3)(i); and \$6 million 13 CFR 127.203(c)(4). 13 CFR 127.203 also expands upon the definition of assets included and excluded from the fair market valuation.

<sup>3</sup> PL 113-291, Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act of 2015, Sec. 825 (December 19, 2014).

oversight, such as requiring a review of determination methodologies, and the agency required additional reporting metrics.

SBA launched beta.Certify.sba.gov on July 15, 2020. The certification portal accepts applications free of charge while the third-party certifiers charge the business owners a fee. On October 15, 2020, the regulations went into full effect and SBA began making certification determinations.

## **SBA's Oversight of Third-Party Certifiers**

A third-party certifier is a non-governmental entity that SBA authorized to certify applicant eligibility for the WOSB federal certification program.<sup>4</sup> A third-party certifier may be a for-profit or nonprofit entity. SBA periodically holds open solicitations for third-party certifiers. SBA annually enters into written agreements with the third-party certifiers detailing the requirements. These organizations must apply the current federal regulations when reviewing WOSB applications. SBA may terminate the agreement if it is determined that the organization's certification process does not comply with SBA's certification standards or is not based on the same program eligibility requirements set forth in federal regulations. SBA approved four organizations as third-party certifiers.

Although the firms are certified by a third-party certifier, SBA makes the final approval decision for the firm to participate in the WOSB program. SBA uses a streamlined approval process for applicants certified by third-party certifiers. SBA periodically reviews the third-party certifiers and their underlying certification determinations to ensure that they are properly applying SBA's WOSB program requirements.

## **Objective**

The audit objective was to determine whether SBA implemented controls to prevent ineligible firms from being certified into the WOSB program.

## **Results**

To ensure that only small businesses owned and controlled by women were benefiting from the WOSB certification program, SBA must create a control environment that requires all eligibility requirements to be verified. We found that although SBA established its WOSB certification process to collect documents to verify applicants met most program eligibility requirements, SBA did not require any documentation to ensure businesses met SBA size standards. Analysts also did not always ensure women were the majority owners and controlled the business. Further, despite relying on third-party certifiers' decisions on a firm's eligibility to participate in the program, SBA did not conduct consistent reviews of third-party certifiers.

The agency also did not develop a reliable system that accurately reports data and interfaces with other essential databases that contracting officers across the federal government rely on for awarding WOSB set-aside contracts. In addition to the system

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<sup>4</sup> 15 USC §637 (m)(2)(E) requiring certification by a national certifying entity approved by the Administrator which SBA identifies as third-party certifiers pursuant to 13 CFR §127.303(a)(3).

issues, SBA did not ensure the staffing levels were appropriate to handle the initial surge of applications, resulting in processing times that exceeded the established timeframes.

# **Finding 1: Improvements Needed in WOSB Certification Process to Ensure Businesses Meet Size Standards and Are Owned and Controlled by a Woman**

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SBA did not require any documentation to ensure businesses met federal size regulations and did not consistently ensure women controlled the business. Such documentation and verification by SBA program analysts would serve as an effective internal control to help program officials ensure that only small businesses owned and controlled by women are benefiting from the WOSB certification. We found SBA approved all 25 firms we reviewed without ensuring that the business was small and approved 3 of the 25 firms without documenting how the firm overcame SBA program analysts' concerns that a woman controlled the business. Without improvements to the certification process, SBA cannot ensure that only eligible entities are awarded WOSB set-aside and sole-source contracts.

## **Small Business Size Standards**

For a woman-owned business to be eligible to participate in the WOSB program, it must be a small business.<sup>5</sup> SBA sets the size standards for each industry to establish the maximum size a business can be to qualify as small.<sup>6</sup> However, the program office did not require applicants to submit documentation that could have been used to verify that the business met the applicable size standard to be considered small. Depending on the industry, the size standard threshold is set based on a maximum number of employees or amount of gross annual receipts. Documentation, such as tax returns or payroll records, would have provided SBA with the information needed to determine the applicant qualified as a small business.

Since program officials did not require applicants to submit this type of documentation, program analysts did not verify that the applicants met the size standards. Instead, program officials told us that analysts checked that firms self-certified as small for the WOSB program in the System for Award Management (SAM.gov) database.<sup>7</sup> Program officials told us that the small business size program is by statute a self-certification program and for the WOSB program to change its process to verify the business met the size standards, it would at minimum require regulatory changes. Program officials also stated that an adverse size determination at the time of application would not result in the firm being removed or declined from the program.

This is inconsistent with the statutory requirement for SBA to certify the business meets program requirements. With business size as a significant requirement for the WOSB

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<sup>5</sup> 13 CFR 127.200.

<sup>6</sup> 13 CFR 121.201.

<sup>7</sup> SAM.gov is the official federal database to help entrepreneurs register to do business with the federal government and find contracting opportunities.

program, controls are needed to ensure applicants are eligible based on all statutory requirements.<sup>8</sup>

SBA's other certification programs, including the Historically Underutilized Business Zones (HUBZone) and the 8(a) Business Development programs, have detailed guidance for analysts to review documentation to evaluate business size, and they are required to document their determinations. Most significantly, the HUBZone and 8(a) program standard operating procedures guide program analysts to determine business size based on applicants' primary NAICS code and evaluate all the size standards supporting documentation.<sup>9</sup> For example, the 8(a) program also requires analysts to review the applicants' tax returns or examine the average number of employees to determine size. Both of the approved third-party certifiers that we reviewed had documented certification procedures that required the application reviewers verify that the firm met applicable size standards under its primary NAICS code. In addition to requiring applicants to submit business size documentation, program officials should establish procedures similar to the third-party certifiers, HUBZone, and 8(a) programs to ensure analysts consistently verify that WOSB applicants are small businesses.

## Woman Control Requirements

Federal regulations require that at least 51 percent of the small business be owned and controlled by women who are U.S. citizens to be eligible for the WOSB program. Also, federal regulations require that women manage the day-to-day operations and make long-term decisions.<sup>10</sup> The program office developed a checklist which prompts program analysts to review resumes and other business agreement documents depending on the business type to assess control. However, the program office did not provide guidance for the program analysts or supervisors to use when control concerns were identified. Specifically, we reviewed 25 firms, of which 10 were certified by SBA and 15 by third-party certifiers. We verified that the third-party certifiers adequately documented that a woman controlled all 15 firms. Analysts noted concerns related to control for 3 of the 10 files reviewed by SBA. The program analysts determined the applicants' documentation did not clearly demonstrate the woman owner had control of the firm. Even though the analysts documented these concerns, none of the officials in the review and approval process documented a resolution for the control concerns before approving and certifying the applicant as a WOSB program participant.

The documentation we reviewed did not support overturning the analysts' determinations. Without justification, these three firms appear to be ineligible to participate in the program. Program officials should improve the certification review process by providing

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<sup>8</sup> PL 113-291, Section 825.(a)(1)(E) states each of the concerns is certified by a federal agency, a state government, the Administrator, or a national certifying entity approved by the Administrator as a small business concern owned and controlled by women.

<sup>9</sup> SBA Standard Operating Procedures 80 06, HUBZone Program, Ch. 2, sec. 9, How Does the Program Analyst Process a HUBZone Program Application? (Nov. 2, 2007) and 80 05 7, Standard Operating Procedures for the Office of Business Development, Ch. 4A, sec. 59, How Is a Participant's Size Determined For an 8(a) Contract? (Dec. 7, 2020).

<sup>10</sup> 13 CFR 127.201 and 127.202.

analysts specific guidance on how to resolve control concerns, including documenting the analysis for all reviews.

## **Recommendations**

We recommend the Administrator require the Associate Administrator for the Office of Government Contracting and Business Development to:

1. Update and implement standard operating procedures to ensure consistent eligibility reviews that comply with 13 CFR 127.300.
2. Update application instructions and require WOSB applicants to submit documentation for program officials to verify the business meets small business size standards.
3. Perform eligibility examinations for the three WOSB firms that did not have adequate support that a woman controlled the business and take appropriate action.

## **Finding 2: SBA Needs to Align Information Technology and Staff Resources to Effectively Administer the Certification Program**

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The National Defense Authorization Act of 2015 required SBA to implement a certification program for their already existing WOSB federal contracting program. Before SBA started making decisions in October 2020, firms would self-certify that they met the WOSB program requirements in SAM.gov, a vital database that contracting officers must check as part of awarding contracts. In addition to the representations that the firms made in SAM.gov, firms pursuing contracts set aside for WOSBs had to submit documents through the previous WOSB Repository database to prove that they met WOSB program requirements. Federal government contracting officers had to review and verify that the firm submitted all the required documents.

SBA started making certification decisions using the beta.Certify.sba.gov system and began updating WOSB certification statuses in SBA's Dynamic Small Business Search (DSBS) database in FY 2020. Program officials told us that the certification statuses input into SBA's DSBS database integrates with the SAM.gov database and DSBS displays certification statuses from both beta.Certify.sba.gov and SAM.gov. As a result, federal government contracting officers were no longer required to independently verify that firms met WOSB program requirements, instead they were only required to check the certification status represented in DSBS. Further, prime contractors may rely on subcontractors' representations in SAM.gov.<sup>11</sup>

However, we found the DSBS certifications were not reliable. Despite daily updates from beta.Certify.sba.gov, we found 14 of the 46 firms SBA had denied certifications were still shown as certified in DSBS. Nineteen of the same 46 denied firms were still showing as certified in SAM.gov. In addition to the data inconsistencies, SBA's staffing levels were not sufficient for processing the applications within the established timeframes, resulting in applicants experiencing excessive delays in obtaining certification decisions.

Because SBA did not ensure that essential federal contracting databases were accurately updated once a decision had been made, some businesses were still identified as WOSB in the federal contracting databases even though they had not been certified by SBA. As a result, there is a risk that federal government contracting officers may award set-aside contracts to businesses that had previously only self-certified with no SBA oversight.

### **WOSB Certification Data Reliability**

According to federal regulations, SBA uses DSBS as the system of record for small business contracting programs to indicate that businesses are certified by SBA as a WOSB or as an economically disadvantaged women-owned small business.<sup>12</sup> However, certification statuses were not consistently updated in DSBS, which integrates with SAM.gov, when it made decisions on the applicants' WOSB certifications. We found 6 of the 25 approved

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<sup>11</sup> FAR part 19.703 (2)(ii).

<sup>12</sup> 13 CFR 127.300(c) and CFR 127.304 (f).

firms in our sample did not show as certified in DSBS at the time of our initial review in October 2021. Since then, five of the six firms have been updated to reflect a certified status while the remaining one is no longer displaying within the database.

Federal regulations require that SBA propose decertification for businesses that did not meet program eligibility requirements.<sup>13</sup> From October 2020 through June 2021, SBA denied 46 firms from being certified in the program but did not remove the certification status in DSBS for 14 of the 46 denied firms. Program officials explained that they were unable to keep up with the data entry validations while handling the high number of applications in the first year of the certification program. Program officials were aware of this issue but told us that they had other priority issues they were working on fixing. SBA also recently added a disclaimer on the DSBS interface that states the system is experiencing intermittent issues in displaying the most up-to-date certification for some registrants.

Contracting officers across the government use SBA's WOSB program to help the government meet contracting goals. Before SBA established a WOSB certification program, federal government contracting officers had to review relevant documentation that the firm submitted in the WOSB Repository to verify that it met program requirements to award a contract using WOSB set-aside procedures. Now that there is a certification program, federal regulations only require contracting officers to verify that the firm was certified as WOSB or an economically disadvantaged women-owned small business in DSBS and do not require any other documentation reviews.<sup>14</sup> This simpler validation process was intended to encourage contracting officers to set aside opportunities for WOSBs.

However, DSBS was missing records, displaying multiple certification statuses from various federal contracting databases, and showed inaccurate certification statuses for denied firms. This was the information contracting officers have access to and it was not reliable. Federal internal control standards advise agencies to design control activities over the information technology infrastructure to support completeness, accuracy, and validity of information.<sup>15</sup>

Until the SBA certification system can reliably interface with the database contracting officers use to verify a business's certification, there is no assurance that only eligible businesses will receive contracts set aside for WOSBs.

## **Beta.Certify.sba.gov System Limitations**

Beta.Certify.sba.gov did not allow program officials to accurately report and effectively monitor the WOSB certification program. Program officials were unable to populate the total of applications received, approved, and denied without having to manually correct data errors. SBA's system developers erroneously equated an applicant's decision date with annual renewal date. Further, we found that beta.Certify.sba.gov contained inaccurate WOSB information. In addition to our observations, program officials cited instances in

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<sup>13</sup> 13 CFR 127.405.

<sup>14</sup> FAR 19.15.

<sup>15</sup> GAO-14-704G, *Standards for Internal Control in the Federal Government* (September 2014).

which analysts did not have access to applicant documentation for review and told us that the system does not populate all fields as intended. Beta.Certify.sba.gov is undergoing continuous patches and fixes, adding new functionalities as program officials discover issues.

SBA is required to make and preserve records containing documentation of decisions and essential transactions made by the agency. Additionally, the records need to provide necessary information to protect the legal and financial rights of the federal government and persons directly affected by the agency's activities.<sup>16</sup> However, the beta.Certify.sba.gov system did not maintain all records related to the certification determinations SBA made. As of July 5, 2022, we searched beta.Certify.sba.gov for the 71 denied and approved applications we reviewed and found 21 of the processed applications were no longer maintained in the database.

## **Federal Deadlines for WOSB Certification Reviews**

The WOSB certification review process consists of three steps. First, the applicants submit the application with all supporting documentation through beta.Certify.sba.gov. Businesses already certified as a WOSB by a third-party certifier must still submit an application to the SBA certification portal, but they only submit their official third-party certificate and proof of U.S. citizenship. Next, contractors check to make sure the applications are complete. WOSB program officials complete the application review and decision making in the final stage of certification.

SBA provided status notifications to applicants by sending email messages to the applicants through beta.Certify.sba.gov. Business owners are either notified that their applications are complete and accepted for processing or incomplete and notified of the missing documentation. However, for 12 of the 25 firms we reviewed, program officials did not notify applicants in a timely manner on the status of their applications. Program regulations required SBA notify applicants of their status within 15 calendar days.<sup>17</sup> For the 12 firms we reviewed that did not receive prompt notification, SBA response times ranged from 24 to 78 days, averaging 50 days.

In addition, program officials did not make eligibility determinations in a timely manner for 7 of the 25 applicants we reviewed. Federal regulations required SBA to make its determination within 90 calendar days after receipt of a complete package.<sup>18</sup> Figure 1 illustrates the timeliness of the eligibility determinations completed for the first 9 months of the certification program. Overall, during this time, SBA's processing time ranged from 58 to 160 days, averaging 112 days to process and approve 2,505 applications.

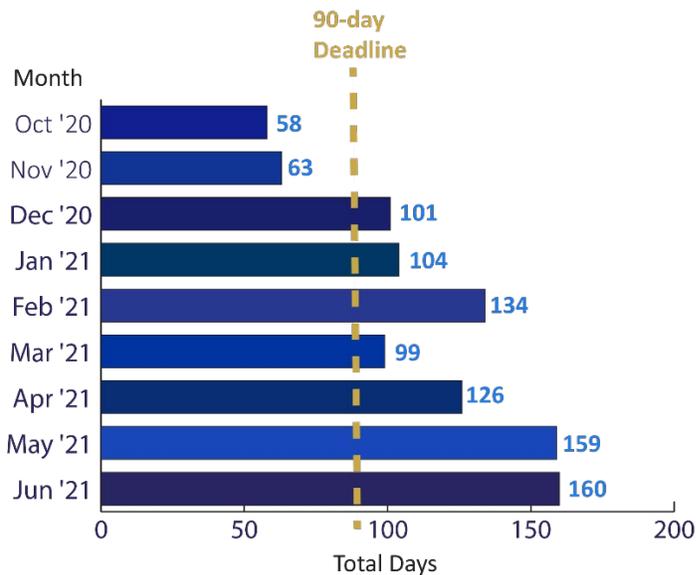
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<sup>16</sup> 44 USC 3101 requires the head of each federal agency to preserve records related to policies, decisions, and procedures among other duties.

<sup>17</sup> 13 CFR 127.304.

<sup>18</sup> 13 CFR 127.304.

**Figure 1. Average Number of Days it Took SBA to Approve WOSB Certifications**



Source: OIG generated from data provided by SBA WOSB program officials

From October 2020 to June 2021, the program office received 10,903 applications.<sup>19</sup> As of June 2021, SBA made decisions on 2,551 applications, leaving 8,352 applications waiting for a certification decision. Although SBA received the Congressional mandate to initiate a WOSB certification process in 2015 and ultimately took 5 years to implement, SBA did not prepare for the initial surge when the program began as indicated by the surplus of applications.

During our analysis of the certification process, contractor support staff ranged from two to five personnel. SBA had seven analysts making eligibility determinations. There is no evidence that program officials conducted an analysis to determine the staffing levels needed to implement the certification process; however, they indicated budget restrictions limited their ability to hire additional staff. Addressing this challenge is still a current concern for the program, as over 17,000 applications are waiting on a decision as of April 6, 2022.<sup>20</sup> Delaying the certification for applicants is likely keeping potentially eligible firms from gaining access to federal contracts.

<sup>19</sup> The 10,903 applications may include duplicate applications submitted by firms applying to the program. SBA was unable to identify the number of unique applicants.

<sup>20</sup> Program office reported it had received 22,363 applications as of April 5, 2022, of which program officials reported they approved 5,093 firms and declined 198 firms' WOSB certifications.

## **Recommendations**

We recommend the Administrator require the Associate Administrator for the Office of Government Contracting and Business Development to:

4. Implement a plan to mitigate or remedy beta.Certify.sba.gov issues affecting SBA's ability to maintain records, accurately report data, and work with other federal databases, minimizing the possibility of awarding contracts to ineligible businesses.
5. Assess the technological resources, staffing levels, and service contracts needed to reduce application wait time and ensure application reviews are conducted in a prompt manner in accordance with regulatory requirements in 13 CFR 127.300. Use the results of the assessment to improve processing times.

## Finding 3: SBA Should Improve Oversight of Third-Party Certifiers

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SBA allows for third-party certifiers to certify firms as eligible to participate in the WOSB program. Even though the firm was certified by a third-party certifier, SBA makes the final approval decision for the firm to participate in the WOSB program. SBA uses a streamlined approval process for applicants certified by third-party certifiers. These applicants are only required to provide SBA with a copy of their valid certificate and proof of U.S. citizenship. The third-party certifiers are required to maintain files for each applicant it reviews. These files include the third-party certifier's analyst notes and the documents it used as a basis for their certification decisions. At the end of our analysis, 906 out of 2,505, or 36 percent, of firms that SBA had approved for certification were based on third-party certifier determinations.

Federal regulations require SBA to periodically review third-party certifiers and their underlying certification determinations to ensure they are properly applying SBA's WOSB program requirements. At the conclusion of each compliance review, SBA is required to provide the third-party certifier with a written report detailing SBA's findings about the third-party certifier's compliance with SBA requirements.<sup>21</sup> However, SBA did not establish procedures to perform third-party certifier compliance reviews to ensure program officials consistently reviewed the certification determinations. Nor did SBA provide the third-party certifiers with a report at the conclusion of the periodic reviews.

WOSB program officials started monitoring the third-party certifiers in October 2020, at the start of the agency's own WOSB certification. Each month, program officials randomly pulled 5 percent of initial applications submitted to each certifier for compliance reviews. SBA did not maintain a record of the sample that was selected to review.

Program officials told us they only document compliance reviews when they disagree with the decision. Since the start of the compliance reviews, program officials have not disagreed with or overturned any third-party certifiers' decisions, and as a result, SBA has not documented its reviews. Without any documentation of the results of these reviews, SBA cannot demonstrate that program officials conducted the compliance reviews and met its oversight responsibilities of the third-party certifiers established in the federal regulations. Program officials stated they are in the process of developing a process for compliance reviews.

Until then, SBA's ability to minimize the potential risk of ineligible firms being admitted into the program or inappropriately kept out of the program through third-party certifiers is limited.

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<sup>21</sup> 13 CFR § 127.355. This rule became applicable May 3, 2021.

## **Recommendations**

We recommend the Administrator require the Associate Administrator for the Office of Government Contracting and Business Development to:

6. Develop standard operating procedures to ensure program officials assess third-party certifications, establish a risk-based sampling plan for selecting files to review, and document the results of the compliance reviews.

## Analysis of Agency Response

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SBA management responded to our draft report with formal comments that are included in their entirety in Appendix II. Overall, management's comments were dismissive of our findings, lacked evidence to support their claims, and do not demonstrate a serious regard for improvement of the program, as identified by OIG.

Management partially agreed with two recommendations and disagreed with four recommendations. We found the agency's planned actions are sufficient to resolve three of the six recommendations. However, management did not propose any corrective actions to address the remaining three recommendations. In accordance with our audit follow-up policy, we will attempt to reach agreement with SBA management on the unresolved recommendations within 60 days after the final date of this report. If we do not reach agreement, OIG will notify the audit follow-up official of the disputed issues.

In their response, SBA management disagreed with our conclusion that SBA should be verifying that the applicant is a small business as part of the certification process for several reasons.

First, management asserted that the business size requirement is a self-certification program. We maintain our position that the program office's current process of accepting self-certification for size standards is inconsistent with the statutory requirement. The Act requires each business to be certified by a federal agency, state government, the Administrator, or a national certifying entity approved by the Administrator as a small business concern owned and controlled by a woman.<sup>22</sup> Further, in a 2019 hearing on the oversight of the SBA's WOSB program, Congress expected SBA to remove self-certifications and for SBA to certify that program participants are women-owned small businesses in order to reduce the opportunity for fraud.<sup>23</sup>

Second, management opposed updating regulations to verify size for WOSB applicants because requiring size determinations during application reviews would require regulatory changes which is a burden to the agency and to applicants. Management believes OIG overreached with this recommendation, stating that updating regulations is a policy decision that falls solely within the agency's purview. OIG has the duty and responsibility to assess internal controls and program integrity. This includes reviewing existing regulations and making recommendations to improve controls that will prevent and detect fraud and abuse in SBA programs.<sup>24</sup> OIG acknowledges that a size determination is a specific process and is not recommending SBA perform size determinations for each applicant. OIG believes program officials can still certify that the business meets size standards, similar to the procedures used to certify that 8(a) applicants meet size requirements, to participate in the program. Without clear regulations and procedures to verify the applicant's business size, we believe the program is vulnerable to abuse.

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<sup>22</sup> PL 113-291, Section 825.(a)(1)(E).

<sup>23</sup> House Small Business Committee transcript hearing "Oversight of SBA's Women-Owned Small Business Federal Contract Program" (May 16, 2019).

<sup>24</sup> PL 95-452, §4 (a)(2), Oct. 12, 1978, 92 Stat. 1101.

While management should implement regulatory changes to clarify requirements, we believe the list of documentation already referenced in 13 CFR 127.303 (a)(1)(i) support OIG's position that SBA can request and review documentation needed to verify the business met size standards and revised recommendation 2. SBA's comment that requiring WOSB applicants to submit documentary evidence to support their self-certification that the business qualifies as small under its primary NAICS unnecessarily burdens the WOSB applicants since size has always been a self-certification program. However, SBA does not take into consideration that the size program does not provide for sole source contracting opportunities, contracts awarded without any competition. Also, contracts that restrict competition for only WOSB participants greatly reduce the number of potential offerors. Program participants should be held responsible for demonstrating all program requirements are met to gain access to the added benefits of the program.

Third, SBA stated that none of the other government contracting and business development programs verify size during the application review process. However, as mentioned in the report, both the HUBZone and 8(a) program have standard operating procedures that instruct program officials on verifying business size standards when certifying firms to participate in the programs.

The last reason management provided for disagreeing to verifying the business size was because the WOSB application already contained the NAICS code and the firm's size representation made in SAM.gov. Management stated that program analysts checked the information during the application reviews. However, we found the checklist and program guidance did not include any steps within the certification review process that required analysts to check this information or conduct any size assessment.

Management also disagreed with our finding that three firms approved for the program did not have documentation that clearly demonstrated the woman owner had control of the firm. Management stated the files contained documentation that supported the program analyst had followed up with the applicants and received clarifying information that supported approving the firm for certification. However, management did not provide OIG with evidence to substantiate that this follow up was done and that clarifying information was received. We maintain our position that at the time of our review, SBA did not maintain sufficient documentation in the beta.Certify.sba.gov database to verify that firms met the control requirements. We will review any new information SBA has that supports their determination that the firms are eligible.

SBA management expressed concerns with the number of firms that were showing incorrect statuses in the Dynamic Small Business Search, the inclusion in the report of an updated data set of numbers, and claimed our findings were inaccurate and outside the scope of the audit. During the exit conference, the program officials disagreed with our finding on inaccurate database reporting and said it was fixed but did not provide any evidence to support their statement. To confirm this was the case, we did another verification of the statuses reported in the systems and noted some of the records had been updated but there were still errors within the system, which we included in our draft report. This is a problem that has occurred in other government contracting business development programs. In SBA OIG Report 19-17, we identified functionality and reliability issues within certify.SBA.gov, the database used to administer the All Small Mentor-Protege program.

Management also noted that the DSBS and beta.Certify.sba.gov systems are dynamic and that an audit finding represents the data at that exact time. While the system data is updated frequently, management's point does not explain why a firm's status, determined months prior to our testing the accuracy of the system, was either erroneous or missing from systems.

SBA management had concerns with the scope of our audit. Management stated that OIG did not inform officials of a change in the audit scope, mostly with regards to our testing of the system data and procedures that program officials used to oversee the third-party certifiers. We communicated the scope of our review throughout all our discussions with program officials. The dates management referenced related only to the population of applications that we used to select our sample. We communicated the objectives and timeline for our review during the entrance conference, which included evaluating the current controls in place for the program.

In addition, management took issue with the number of applications we reported were awaiting a decision. Based on the discussion conducted during the exit conference, we added a footnote to clarify that there were potential duplicate applications included in the count. However, SBA was unable to provide documentation to support revising the number of applicants waiting on a certification decision.

Management stated that they completed an analysis of the staffing levels needed to fully implement the program in October 2021, but management did not provide us with a copy of the analysis despite our requests for the information.

Regarding the third-party certifiers oversight issues, management stated that all third-party certifier compliance reviews SBA conducted during the audit scope were proactive. However, the third-party certifiers reviews were not proactive but rather based on GAO's 2015 and 2019 audit reports findings on the lack of SBA's oversight of third-party certifiers. We requested documentation to support the third-party certifiers compliance reviews conducted throughout the audit, including a list of the records reviewed, but program officials were not able to provide documentation because they told us they did not maintain it.

Lastly, management also expressed concern with the prior audit coverage section in the report and referred to the prior self-certification process as a program that no longer exists. Although the program has changed, the findings in OIG's and GAO's reports listed in our prior audit coverage section of the report are relevant. There are still open recommendations pertaining to third-party certifiers that program officials have not fully addressed, as identified in this report. Also, the prior reports included findings related to weaknesses in the internal controls that allowed for ineligible firms to participate. As our findings demonstrate, there are still areas that require improvement to ensure the program meets its intended purpose.

## **Summary of Actions Necessary to Close the Recommendations**

The following section summarizes the status of our recommendations and the actions necessary to close them:

## **Recommendation 1**

Update and implement standard operating procedures to ensure consistent eligibility reviews that comply with 13 CFR 127.300.

### **Status: Unresolved**

SBA management partially agreed with this recommendation. Management does not plan to change its processes or procedures related to verifying the business size. Management explained that they have drafted standard operating procedures for the program that include clear and comprehensive guidance to analysts reviewing applications. Management plans to complete final action by October 1, 2022.

We maintain our position that SBA is responsible for ensuring the businesses certified in the WOSB program are small businesses, owned and controlled by women as required by statute. This recommendation can be closed once program officials provide evidence that they have implemented processes and procedures that ensure program officials consistently review applications to ensure applicants meet all program eligibility requirements.

## **Recommendation 2**

Update application instructions and require WOSB applicants to submit documentation for program officials to verify that the business meets small business size standards.

### **Status: Unresolved**

SBA management disagreed with this recommendation and maintained the position that they should rely on self-certification in SAM.gov, and if there is a question about a firm's size, they should seek a formal size determination. We maintain our position that SBA has a responsibility to verify that the business met the applicable size standard to be certified as eligible to participate in the program. Our original recommendation advised SBA to update regulations requiring a review of business size in the certification process. We still believe SBA should consider revising the regulations to clarify review requirements. However, because SBA's regulations in 13 CFR 127.303 (a)(1)(i) list the documentation that applicants could provide for program officials to verify that the business met size standards, and eligibility requirements established in 13 CFR 127.200 already require that the business meet the size requirements to be considered small, we believe SBA only needs to modify its application forms.

This recommendation can be closed once program officials provide evidence that they have updated application instructions to require that applicants provide appropriate business size documentation for program officials to verify as part of determining an applicant's eligibility to participate in the program.

## **Recommendation 3**

Perform eligibility examinations for the three WOSB firms that did not have adequate support that a woman controlled the business and take appropriate action.

### **Status: Resolved**

SBA management disagreed with this recommendation but stated that they did conduct a review of the three firms, which satisfies the intent of the recommendation. Based on the results of their review of the three firms we identified as potentially ineligible, management determined that the firms were eligible, but did not provide additional documentation to support their conclusion.

This recommendation can be closed once program officials provide evidence that the three firms are eligible to participate in the WOSB program.

#### **Recommendation 4**

Implement a plan to mitigate or remedy beta.Certify.sba.gov issues affecting SBA's ability to maintain records, accurately report data, and work with other federal databases, minimizing the possibility of awarding contracts to ineligible businesses.

##### **Status: Unresolved**

SBA management disagreed with this recommendation and stated that there are procedures and guidance in place to identify and address system issues. Management stated that many of the system concerns we noted were remedied prior to the draft report, but did not provide any support to demonstrate that the errors OIG found and shared with management were resolved. Also, management did not share any specific information on the improvements made to either the DSBS or beta.Certify.sba.gov systems that addressed the missing or erroneous certification statuses.

The processes and procedures that management stated were established for the program did not identify the problems we found through our testing of the sampled firms' certification statuses in both the DSBS and beta.Certify.sba.gov. The data errors identified in our report are consistent with issues found in prior OIG reviews involving SBA's certify systems.

This recommendation can be closed when SBA provides evidence that beta.Certify.sba.gov is reporting reliable certification data in DSBS.

#### **Recommendation 5**

Assess the technological resources, staffing levels, and service contracts needed to reduce application wait time and ensure application reviews are conducted in a prompt manner in accordance with regulatory requirements in 13 CFR 127.300. Use the results of the assessment to improve processing times.

##### **Status: Resolved**

SBA management disagreed with the recommendation, stating that management has completed assessments of program resources needed for staffing, technology, and support services. Management also established an internal working group to evaluate current application processes, identify best practices, and develop recommendations to improve the application experience for all Office of Government Contracting and Business Development programs. These efforts would satisfy the intent of the recommendation. However, management has not provided the results of their assessment.

This recommendation can be closed once SBA provides the results of the program resources assessments and documentation of the improvements made that result in timely application reviews.

## **Recommendation 6**

Develop standard operating procedures to ensure program officials assess third-party certifications, establish a risk-based sampling plan for selecting files to review, and document the results of the compliance reviews.

### **Status: Resolved**

SBA management partially agreed with the recommendation, stating that program officials maintained documentation for the third-party certifier compliance reviews and believes the updated draft standard operating procedures includes clear and comprehensive guidance to assist analysts in conducting reviews and making determinations related to third-party certifier oversight. Management plans to complete final action on this recommendation by October 1, 2022.

We reviewed the initial draft standard operating procedures and made several suggestions for management to improve its procedures for overseeing third-party certifiers. We noted that the procedures should be more specific to ensure program officials conduct adequate and consistent monitoring.

This recommendation can be closed once SBA provides evidence that they revised and implemented standard operating procedures to ensure program officials assess third-party certifications and document the results of the compliance reviews.

## **Appendix I: Objective, Scope, and Methodology**

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The audit objective was to determine whether SBA implemented controls to prevent ineligible firms from being certified into the Women-Owned Small Business program. Our scope covered all applications SBA received and all OIG Hotline complaints filed from October 15, 2020 through June 30, 2021.

We judgmentally selected a total 71 firms to review. This included 25 firms that SBA approved and all 46 firms it had denied, out of the total 2,551 applications that SBA had made decisions on from October 15, 2020 through June 30, 2021. The 25 selected consisted of 15 firms that were certified by third-party certifiers and 10 firms that were certified by SBA. We judgmentally selected the 25 firms that had received the highest amount of federal contract awards during that same time period. We reviewed all 46 firms that SBA denied and reviewed 11 firms that received OIG Hotline complaints regarding eligibility and size determination. We performed limited testing to evaluate SBA's oversight of denied applicants and Hotline complaints.

To meet our objective, we reviewed the established certification review procedures to determine whether program officials included all applicable WOSB certification provisions in the analyst checklist. This included Public Law 112-239, 13 Code of Federal Regulations, Part 121 and 127, Federal Acquisition Regulations Subpart 19.15, and other relevant written policies and procedures. We examined SBA's review documentation to determine whether SBA performed prompt reviews of WOSB eligibility documentation and approving certifications in accordance with applicable policies, procedures, and federal regulations. We reviewed the organization chart, position descriptions, roles and responsibilities, and documentation of education to determine whether SBA identified and allocated adequate resources to include staffing and technology to meet WOSB program requirements.

For each business selected for our sample, we reviewed supporting documentation to verify eligibility. We reviewed the status of WOSB certification through the System for Award Management, the Dynamic Small Business Search, and beta.Certify.sba.gov to determine whether they contained accurate WOSB certification information.

In addition, we interviewed SBA personnel from the Office of Government Contracting and Business Development, which administers the WOSB certification program.

We conducted this performance audit in accordance with *Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence presented provides a reasonable basis for our findings and conclusions based on our audit objective.

### **Use of Computer-Processed Data**

We relied on computer-processed data provided by SBA program officials. We used the list of all approved and denied applications during October 15, 2020 through June 30, 2021 stored in SBA's beta.Certify.sba.gov database. We analyzed that list to determine our sample of 25 approved firms and 46 denied firms for audit analysis. We also used computer-processed data provided by the SBA OIG Hotline to analyze 11 firms that received Hotline complaints. We used documentation of application review and

notifications in beta.Certify.sba.gov to confirm the reliability and accuracy of the data. We believe the computer-processed information obtained from SBA's certification portal is unreliable as a single source. For the purposes of this audit, we conducted our own testing of available data and the documentation in the underlying files SBA used to make certification decisions.

We also relied on the computer uploaded data received from the beta.Certify.sba.gov database. We obtained data including source documentation, such as proof of U.S. citizenship, business tax documents, business organizational documents, stock ledgers, resumes, and any other documentation as required.

We tested the reliability of computer-processed data in the beta.Certify.sba.gov database by comparing the report generated by SBA personnel to information located in the certification portal. While examining this information, we found data in the generated reports was not consistent or accurate with the database. As a result of these discrepancies, we relied on a combination of the documentation maintained within the database and some information generated from the same database. We determined that the data we retrieved from the certification portal was reliable to assess whether program officials complied with federal regulations and make recommendations based on our review and findings.

## **Assessment of Internal Controls**

For this audit, we identified the following internal control components and underlying internal control principles as significant to the audit objectives.

Internal Control Component	Internal Control Principle
Control Environment	Establish Structure, Responsibility, Authority Enforcing Accountability
Risk Assessment	Define Objectives and Risk Tolerances Identify, Analyze, and Respond to Risk Consider Potential Fraud Identify, Analyze, and Respond to Changes
Control Activities	Design Control Activities Design Information System and Related Control Activities Implement Control Activities
Information and Communication	Use of Quality Information Internally Communicate Necessary Quality Information Externally Communicate Necessary Quality Information
Monitoring	Perform Monitoring Activities and Evaluate Monitoring Results Remediate Deficiencies Timely

Source: OIG analysis

We assessed the operational effectiveness of the internal controls and identified deficiencies we believe could affect SBA’s ability to determine the effectiveness of the WOSB program and correctly report performance.

The internal control deficiencies we found are discussed in the finding section of this report. However, because our review was limited to aspects of these internal control components and underlying principles, it may not identify all internal control deficiencies that may have existed when this audit took place.

## Prior Audit Coverage

Report Title	Objective	Report Number	Final Report Date	Monetary Impact (dollars)
<i>SBA's Women-Owned Small Business Federal Contracting Program</i>	Determine whether (1) contracts awarded on a sole-source basis complied with requirements of the Program and (2) whether firms that received set-aside contracts on a sole-source basis conformed to the self-certification requirements.	<a href="#">Report 18-18</a>	June 20, 2018	\$52,229,145
<i>Improvements Needed in SBA's Management of the Women Owned Small Business Federal Contracting Program</i>	Determined whether (1) WOSB awards complied with set-aside requirements and (2) firms that received set-aside awards conformed to self-certification requirements.	<a href="#">Report 15-10</a>	May 14, 2015	N/A
<i>Women-Owned Small Business Program Actions Needed to Address Continued Oversight Issues</i>	This testimony is based on a report GAO issued in March 2019 (GAO-19-168). For that report, GAO examined (1) the extent to which SBA has addressed the 2015 NDAA changes, (2) SBA's efforts to address previously identified deficiencies, and (3) use of the WOSB program.	<a href="#">GAO 19-563T</a>	May 2019	N/A
<i>Women-Owned Small Business Program Actions Needed to Address Ongoing Oversight Issues</i>	This report discusses (1) the extent to which SBA has addressed the 2015 NDAA changes, (2) SBA's efforts to address previously identified deficiencies, and (3) use of the WOSB program.	<a href="#">GAO-19-168</a>	March 2019	N/A
<i>Women-Owned Small Business Program Certifier Oversight and Additional Eligibility Controls are Needed</i>	This report examines (1) how businesses are certified as eligible for the WOSB program, (2) SBA's oversight of certifications, and (3) the effect the program has had on federal contracting opportunities available to WOSBs or economically disadvantaged women-owned small businesses.	<a href="#">GAO 15-54</a>	October 2014	N/A

## **Appendix II: Management Comments**

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### **SBA RESPONSE TO THE AUDIT REPORT**



## U.S. SMALL BUSINESS ADMINISTRATION

WASHINGTON, D.C. 20416

DATE: August 15, 2022

TO: Mike Ware, Inspector General,  
Office of Inspector General (OIG)

THRU: Bibi Hidalgo  
Associate Administrator for Government Contracting and Business Development

FROM: Wallace D. Sermons II  
Acting Director  
Office of Government Contracting (GC)

SUBJECT: SBA's Response to OIG Project 21006, Audit of SBA's Implementation of the Women-Owned Small Business Certification Program

Thank you for the opportunity to respond to the Office of Inspector General's (OIG) Draft Report of July 14, 2022, regarding the U.S. Small Business Administration's Women-Owned Small Business Contracting Program (WOSB Program or Program).

SBA appreciates the role OIG plays in working with management to help SBA administer its programs more effectively. SBA values its partnership with OIG and hopes future engagements will afford open and productive communication. We have carefully considered each recommendation and have done our best to provide thoughtful feedback with the goal of reaching a resolution on each recommendation.

The OIG draft report presents the results of OIG's audit of *SBA's Implementation of the Women-Owned Small Business Certification Program* (Project 21006), in which OIG reviewed SBA's initial implementation of the new WOSB certification requirement to determine if SBA had implemented sufficient controls and procedures to ensure ineligible firms were not certified by the WOSB Program.

Based on SBA's review of the report's *Results* and *Finding 1* sections, the Office of Government Contracting and Business Development (GCBD) offers the following comments and suggested changes to the draft report:

### Results

SBA believes it has created a strong control environment that verifies all WOSB Program eligibility requirements, ensuring that only small businesses owned and controlled by women are benefitting from the WOSB Program. SBA established its WOSB Program certification process based on an

unfunded Congressional mandate, and accurately and consistently followed statutes and regulations regarding self-certification for size.

In the OIG sample of files tested, SBA found that WOSB Program analysts ensured women were majority owners and controlled the business. The records reviewed by the SBA found that SBA program analysts made the appropriate follow-ups and noted their recommendations in the beta.Certify.sba.gov system of record. Further, SBA conducted proactive reviews of third-party certifiers (TPCs), in advance of the requirements outlined in regulations 13 CFR § 127.355, effective May 3, 2021. Since the regulations became effective, SBA has implemented guidance and conducted both TPC program and compliance reviews in accordance with SBA policies and procedures.

SBA acknowledges the challenges in developing a new system and communicated to OIG the issues encountered at launch. Those issues were ticketed (e.g., user fields), and have since been resolved. The beta.Certify.sba.gov has always interfaced with and updated SBA's Dynamic Small Business Search (DSBS) system, and any data transfer issues were quickly identified and escalated to the appropriate SBA teams. SBA did not use any manual workarounds and beta.Certify.sba.gov automatically updates DSBS nightly.

SBA also emphasized to OIG that it implemented the WOSB Program in October 2020 with no additional funding or specific appropriations to handle the initial surge of applications. In response to the National Defense Authorization Act of 2015 (NDAA 2015) requirements, SBA worked diligently to finalize the regulations needed to implement the WOSB Program.<sup>1</sup> SBA requested resources for personnel and IT system support in fiscal year 2019 in anticipation of the Program's implementation. In SBA's FY2020 Congressional Budget Request, SBA requested \$2.5 million for WOSB Information Technology. SBA also prepared a needs assessment in anticipation of the Program implementation for staff, technology, and support services in October 2020. Budget restrictions impeded our ability to hire additional staff. As evidenced in SBA's budget requests, SBA would require additional funding on the part of Congress. SBA has received no additional funding to employ those assessment results.

It is important to note that SBA believes it has effective internal controls over the WOSB Program application review process, as evidenced by the fact that OIG did not find any ineligible firms. Further, no WOSB or EDWOSB set-aside awards were awarded to the firms that were identified as appearing ineligible or appearing as incorrectly certified.

SBA appreciates OIG's suggestions about ways to improve its internal controls and is committed to implementing Program improvements based on accurate information and actionable recommendations.

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<sup>1</sup> In December 2015, SBA issued advanced notice of proposed rulemaking. With the change of administration in 2016 (as is the case with the change of every administration), there were delays in rule publishing to allow for administrative changes. Separately, in 2016, the administration outlined a new provision that required for everyone (1) rule changed, two (2) other rules would need to be removed, adding layers of complexity in the WOSB rulemaking process (EO 13771). In May 2019, SBA issued the proposed rule and in May 2020, SBA issued the final rule.

## *Finding 1: Improvements Needed in WOSB Certification Process to Ensure Businesses Meet Size Standards and Are Owned and Controlled by a Woman*

### *Small Business Size Standards*

The OIG draft report states, “However, the program office did not require applicants to submit documentation that could have been used to verify that the business met the applicable size standard to be considered small.” As explained to the OIG, this is an incorrect view of how size is verified for all Federal programs (not just SBA programs) for which size is a requirement. Because businesses self-certify their size status, the proper method for Federal program officials to verify size is to check their status in SAM.gov (the current government wide database for representations and certifications). The draft report also states, “This is inconsistent with the statutory requirement for SBA to certify the business meets program requirements.” SBA has pointed out to the OIG that this unfounded OIG legal opinion is contrary to several decades of Federal Programs relying on self-certifications for size, and that the OIG’s legal interpretation would mean that the WOSB Program and by extension any other Federal program that had size as an eligibility criteria are in fact required to perform size determinations independent of the SBA Office that has sole statutory authority for making size determinations for all Federal programs.

SBA provided OIG with legal guidance on SBA’s position regarding size self-certification and clarifying the audit report references to other SBA programs. SBA’s position is reiterated here:

As SBA has informed the OIG on this and past audits, the size program is by statute and regulation a self-certification program, and therefore the appropriate verification is for procurement officials, whether SBA, contracting officers, or others, to verify the certification in SAM.gov (previously CCR and ORCA). Requiring extra documentation to support self-certification means the program is no longer a self-certification program. This substantial change, transforming a self-certification program into government reviewed verification/certification program, would require regulatory and possibly statutory changes.

Pursuant to the Small Business Act, SBA’s regulations, and the regulations of other Federal Agencies, when size is a component of the eligibility criteria of a Federal Program, the Agency administering that program should rely on the self-certification, and if there is a question about a firm’s size they should seek a formal size-determination from the relevant Area Office – meaning that those Programs have no independent authority to make a determination of size.

During the exit conference, OIG mentioned that SBA’s 8(a) Business Development Program, the HUBZone Program, and WOSB Third-Party Certifiers were making determinations of program eligibility based on a firm’s size and collecting documentation specifically to “verify” size. This is not an accurate representation of the procedures for those programs. First, those programs are not collecting specific information related to size in order to make formal size determinations. Other programs collect information on other matters of program eligibility and oftentimes this information may be related to information that would be collected by an SBA Area Office, but it is never a complete collection of size documentation (for example, income tax records or employee records). The HUBZone Program, and other Federal Programs verify a firm’s size by checking SAM.gov, and

per the Small Business Act and SBA's regulations, are required to treat those certifications as true and accurate. However, if any Federal Program has information that indicates a firm may not be small, there are procedures for that program to request SBA's Office of Government Contracting to perform a size determination.

As SBA explained in the exit briefing, this is exactly what the WOSB Program does with EDWOSB applications. An EDWOSB application will contain more financial information due to the requirements of that certification. In addition, currently EDWOSBs are required to be small under their primary NAICS at the time of their application. This is not required for WOSBs. 13 C.F.R. § 127.200. For these reasons the WOSB Program follows the same procedures as HUBZone and other programs mentioned by OIG. The WOSB Program will not make an independent size determination. If there are genuine concerns with an applicant concern's size, the WOSB Program will request a formal size determination. See 13 C.F.R. § 121.1001(b)(7).

Additionally, SBA Third-Party Certifiers (TPCs) collect tax return and payroll records to help an applicant determine if it can qualify as an EDWOSB. Per 13 CFR § 127.200(a)(1), EDWOSBs must be small in their primary NAICS. If a firm applied to the WOSB Program directly with SBA, SBA collects those same documents for EDWOSBs. This type of documentation is not relevant to WOSB eligibility and therefore is not required from WOSBs. WOSBs do not need to be small in a primary NAICS at the time of their application; they need to be small for the NAICS assigned to the relevant WOSB procurement.

The draft report also suggests that TPCs are reviewing and declining firms for size issues. This is incorrect, and any reference or inference to this effect should be removed from the report. Moreover, Management has reviewed TPC approve and decline recommendations for all four SBA-approved TPCs and determined that no TPC decline recommendation was related to a "size issue."

Further, as SBA mentioned during the exit conference, it would make little sense for a WOSB application to be sent for a size determination, because it is entirely based on size at the time of contracting, and not based on a primary NAICS. Therefore, 1) it is unclear which NAICS the Area Office would assess at the time of application, and 2) an adverse size determination at the time of application would not result in the firm being removed or declined from the Program. By design, Program participants must be small for the NAICS assigned to a specific contract. For example, if there is an adverse size determination based on \$5 million-dollar NAICS, that firm could, and should, stay in the Program because they would still be eligible to bid on all employee-based size standards, and every size standard above \$5 million.

SBA assesses size for specific procurements, and a firm that is other than small for one NAICS may be small in other NAICS codes. There is no way to conclusively determine if a firm is "small" or "other than small." It is "small for a specific procurement" or "other than small for a specific procurement." The size determination is at the buying activity level for a specific procurement.

For EDWOSBs, SBA requires firms to submit tax returns as part of the application process, because an EDWOSB must be small in their primary NAICS. However, the review the WOSB Program analysts conduct in this regard is not a formal size determination. The Program relies on the firm's self-reported information within the beta.Certify.sba.gov system as part of the application process and

the firm's self-certification in SAM.gov. As stated above, a WOSB applicant does not need to identify a primary NAICS.

To summarize, self-certification by statute and regulation means certification without being required to provide additional documentation. Any change to this would at a minimum require a significant regulatory change to the size program, and possibly a statutory change. The WOSB Program is not operating differently than the OIG-referenced programs. If there are genuine issues of size for EDWOSBs identified in the submitted application material, SBA's procedures state that formal size determination should be sought, and there is a procedure for doing so. 13 CFR § 121.1001(b)(7).

In the alternative, to implement any regulation change as OIG recommends, and by following the rulemaking process, SBA would only make the change after assessing comments to the proposed rule and determining the burden analysis. This process can and has taken up to five years to complete. Moreover, the OIG policy change recommendation increases the burden on Federal employees and small businesses and would trigger a Paperwork Reduction Act (PRA) review. The draft report recommendation does not provide a rational reason for changing this policy and imposing this unnecessary burden on small businesses.

OIG did not perform even the most rudimentary cost-benefit analysis before proposing SBA alter its policy. SBA has not done a formal cost analysis for OIG's recommended policy change, but SBA can provide an early estimate. Based on cost estimates prepared for other PRA package for SBA's Size Program (the program that is specifically authorized to make size determinations) and the WOSB Program, SBA believes that the OIG's policy proposal recommendation would add an additional three hours of application documentation collection and engagement with woman-owned small businesses. This additional annualized cost (based on burden hours) to woman-owned small businesses equates to an additional \$6.1 million per year due to the extra regulatory and documentary burden<sup>2</sup>. This cost was calculated by taking an estimate of three hours of work needed per applicant firm per year. The hours per firm (three) multiplied by the fully-loaded pay rate of a GS-15<sup>3</sup> (\$164.23/hour) multiplied by 12,347 (annual number of applicants) is \$6,083,243. Totaling over \$12.2 million per year in administrative burden costs to small businesses by adding this additional review. This is just the added unnecessary costs imposed on small businesses. There would also be an associated cost to other Federal government programs but specifically the WOSB Program annualized cost would increase totaling over \$5.9 million per year. The additional review would increase the program's review time delaying program determinations and impacting the program's ability to meet regulatory timeframes.

Implementing a size review determination process for the WOSB Program, or other Federal programs, would be duplicative of an existing program. The resulting economic burden would be millions of dollars per year for small businesses. In addition, there is no actual benefit for small

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<sup>2</sup> WOSB Program's PRA submission estimates the current initial application burden hours to be three hours per firm per year and the estimated annual cost to be \$6.1 million per year for small businesses.

<sup>3</sup> The applied GS-15 rate would be equivalent to a senior manager in an average small business firm.

businesses to offset the burden; for purposes of size they are still subject to size protests, because as stated elsewhere, size is a separate assessment conducted by a separate office.

Additionally, if SBA were to make the significant regulatory change OIG insists on, the repercussions would be felt government-wide. This change does not just affect the WOSB Program. It would necessitate changes to other GCBD programs' regulations, revising the FAR, and process changes for other agencies that also rely on firms' self-certifications of size. In short, this is not a policy decision that can be made unilaterally by SBA's Office of Government Contracting, and given the gravity and scope of the policy change, is not something SBA would entertain without input from Congress, the White House, other Federal Agencies, and small businesses. SBA believes that an OIG request to alter decades of government-wide policy is not appropriate for an audit recommendation directed at a single Office within SBA.

Furthermore, SBA has controls over the application process, including within the beta.Certify.sba.gov system. SBA requires firms to input their current and historical revenues or employee size according to a self-identified primary NAICS within the beta.Certify.sba.gov system as part of the application process. The beta.Certify.sba.gov system already captures those applicants self-reported information based on their primary NAICS, and was evident for the OIG sampled firms. SBA analysts review that data and the firms' size self-certifications in SAM.gov. Of significant note, a firm's self-certification of size is identified within a GSA-owned and maintained system, SAM.gov. SBA has no authority to unilaterally make changes to the SAM.gov system. SBA submits the appropriate forms to request changes to the Integrated Acquisition Environment Change Control Board and works with GSA and the Small Business Procurement Advisory Council (SBPAC) to discuss changes needed to systems and regulations. SBA is open to partnering with OIG to work with GSA and their SAM.gov team for a stronger attestation process for self-certification of size.

Given the significant and burdensome cost to the small businesses to implement an unnecessary regulatory change, SBA will continue to follow its regulations and current procedures regarding WOSB Program applicants. Additionally, SBA believes OIG has overreached with this recommendation. Updating regulations is a policy decision that falls solely within the Agency's purview. SBA articulated its position on this topic prior to OIG issuing the draft report. SBA requests OIG remove this section and associated recommendation from the final report.

#### *Woman Control Requirements*

This part of the audit finding suggests that the WOSB Program did not have guidance for analysts. This is inaccurate. The Program has clear and comprehensive guidance to assist analysts in conducting reviews and making determinations, and this guidance was provided to OIG. Within the previous version of the WOSB Program SOP, as well as the updated version, SBA provides guidance to Program analysts regarding their application recommendations, and guidance that SBA would follow should it receive information that would necessitate an eligibility examination. SBA follows its guidelines.

The finding also implies that analysts made "*decline*" recommendations that a second-level reviewer ignored. SBA reviewed the files for this statement in the draft report and found that the implication is not accurate. In fact, for each of the three firms, the analyst recommended approval and the second-level review did not overturn that recommendation. After OIG provided its list of sampled firms to SBA, Management conducted a brief review of the records. This review indicated that the

analyst noted the issues of concern, requested additional information from the applicant, and the applicant responded with the requested documentation. The documentation received was clear and showed that each firm was 100% owned and controlled by a woman. Notation of resolution was not necessary by any other level, as documentation of the request sent to the firm and resolution is captured within the beta.Certify.sba.gov system. The records Management reviewed provided adequate support for the decisions. Furthermore, the beta.Certify.sba.gov system already captures notation for the reexamination or overturning of first and second level reviewers' recommendations.

SBA requests OIG remove this section and associated recommendation from the final report.

OIG made the following three recommendations associated with *Finding 1*. Management's responses to Recommendations 1-3 in the draft report are noted as follows:

*OIG Recommendation 1: Update and implement standard operating procedures to ensure consistent eligibility reviews that comply with 13 CFR § 127.300.*

**SBA's Response to Recommendation 1:** SBA partially agrees with the recommendation. As stated above, SBA does not plan to change its processes or procedures related to verification of size. Furthermore, the Program has clear and comprehensive guidance to assist analysts in conducting reviews and making determinations, and this guidance was provided to OIG.

Management understands the importance of updated formal standard operating procedures (SOP). Management considered OIG comments to the SOP as part of the clearance process and believes the updated SOP includes clear and comprehensive guidance to assist analysts in conducting reviews and making determinations. SBA does not plan to make any further changes to the updated SOP in response to this audit. The Program office has completed the clearance process for its most recent SOP update, with planned issuance by October 1, 2022.

*OIG Recommendation 2: Update regulations to require a review of business size as part of the certification process and require WOSB applicants to submit documentation to verify they meet small business size standards.*

**SBA's Response to Recommendation 2:** SBA disagrees with the recommendation. SBA provided OIG with its legal position via email on June 27, 2022, and further expanded upon above. In sum, pursuant to the Small Business Act, SBA's regulations, and the regulations of other Federal Agencies, when size is a component of the eligibility criteria of a Federal Program, the Agency administering that program should rely on the self-certification, and if there is a question about a firm's size they should seek a formal size-determination from the relevant Area Office – meaning that those Programs have no independent authority to make a determination of size. SBA believes OIG has overreached with this recommendation. Updating regulations is a policy decision that falls solely within the Agency's purview. SBA provided its position on this topic prior to OIG issuing its draft report.

For reasons outlined here and above, SBA will continue to follow its regulations and current procedures regarding WOSB applicants and does not plan to make regulatory changes in response to this OIG recommendation.

***OIG Recommendation 3:** Perform eligibility examinations for the three WOSB firms that did not have adequate support that woman controlled the business and take appropriate action.*

**SBA's Response to Recommendation 3:** SBA disagrees with the recommendation. After OIG disclosed the data it relied on for the three WOSB firms, Management was able to quickly look up each firm's record in the SBA beta.Cerity.sba.gov system. In each case, the records indicated that the analyst recommended approval and the second level review did not overturn that recommendation. The firm's records also indicated that the analyst noted the concern, requested additional information from the applicant and the applicant responded with the requested documentation. Notation of resolution was not necessary by any other level, as documentation of the request sent to the firm and resolution is captured within the beta.Cerity.sba.gov system. The records Management reviewed provided adequate support for the approval decisions.

The results of Management's review, based on the OIG concerns for the three firms noted within the report, do not necessitate an eligibility examination and it is SBA's position that reopening the applications to conduct an eligibility exam is overly burdensome and unnecessary for the small businesses. SBA does not plan to conduct an eligibility examination of those firms and maintains its decision for the firms' approvals into the WOSB program. Furthermore, the beta.Cerity.sba.gov system already captures "**Process Notes**" for first-level (analyst) reviews and "**Status Notes**" for second-level (supervisory at all levels) reviews for the reexamination or overturning of first- and second-level reviewers' recommendations.

Based on SBA's review of the draft report's *Finding 2* section, the Office of Government Contracting and Business Development offers the following comments and suggested changes to the draft report:

***Finding 2: SBA Needs to Align Information Technology and Staff Resources to Effectively Administer the Certification Program***

SBA would like to clarify the audit report references to Federal contracting databases. First, DSBS and beta.Cerity.sba.gov are the only databases that SBA is responsible for maintaining. Second, Beta.Cerity.sba.gov interfaces with DSBS and updates that system automatically every night. Further, SAM.gov does not display the new WOSB Federal Contract Program designation. The formal WOSB Program designation is only contained in DSBS under the "*Federal Certifications*" section. SAM.gov displays the WOSB self-designated status. Lastly, the beta.Cerity.sba.gov system does not report data to the SAM.gov system.

At the beginning of the audit engagement, SBA informed OIG of specific reporting limitations within beta.Cerity.sba.gov and data reliability issues with the legacy DSBS system. SBA provided OIG with documentation of alternate actions taken – and continues to take – to ensure Federal contracting officers had the most recent and accurate certification information while system fixes were pending. WOSB Program team works with its SBA counterparts to implement changes to DSBS.

For further context, a WOSB Program designation is updated only by SBA in DSBS under the “*Federal Certifications*” section. Federal contracting officers are regularly trained to check that section of DSBS before awarding a contract. Woman-owned firms that are not seeking to participate in the WOSB Program are by statute allowed to self-designate their status as woman-owned within the SAM.gov system. 15 USC § 632(n) and 15 USC § 643(e). That self-designated status is listed under the “*Small Business Program Representations*” section in SAM.gov.

The draft report identified 19 of 46 denied firms as inaccurate in SAM.gov. SBA has no control or authority over a firm’s self-designation in SAM.gov. SBA requests OIG remove from the final report reference to those 19 firms. A firm’s self-certifications (e.g., size and woman-owned small business) are identified within a GSA-owned and maintained system, SAM.gov. SBA has no authority to unilaterally make changes to that system. SBA submits the appropriate forms to request changes to the Integrated Acquisition Environment Change Control Board and works with GSA and SBPAC to discuss changes needed to systems and regulations. SBA is open to partnering with OIG to work with GSA and their SAM.gov team for a stronger attestation process for self-certification of size.

SBA worked with the Federal Acquisition Regulation Small Business Council (FAR Council) to update the Federal Acquisition Regulation (FAR) to reflect 13 CFR § 127. Until those FAR changes are finalized, several class deviations were issued to both DOD and civilian agencies providing Federal contracting officers guidance to follow 13 CFR § 127 for program utilization for WOSB and EDWOSB set-asides, including using DSBS for program verification.

The following FAR Deviations were issued, and SBA provided the information to the OIG prior to the draft report issuance:

- [DOD Memo Class Deviation 2021-00002](#)
- CAAC – Each civilian agency issued their own: [CAAC Letter 2021 01.pdf \(acquisition.gov\)](#)
- Each civilian agency issues their own based on the CAAC guidelines. Examples are:
  - [WOSB Class Deviation-FAR \(acquisition.gov\)](#)
  - [FAR Case Deviation 21-01 | CAAC Letter 2021-01 \(acquisition.gov\)](#)

The DSBS and beta.Certify.sba.gov systems and Program determinations are inherently dynamic. In contrast, audits are a snapshot in time. Since the implementation of the WOSB Program, SBA has continuously worked to review applications and make certification recommendations. The databases are updated based on the results of those reviews. The DSBS and beta.Certify.sba.gov systems also undergo real time fixes and upgrades.

#### *WOSB Certification Data Reliability*

SBA acknowledges the beta.Certify.sba.gov system required initial technical improvements for data reliability when the WOSB Program began in October 2020. However, system improvements have been ongoing to continue improving data reliability. Many of the concerns noted by OIG have been remedied since the audit began, and SBA prioritized the fixes, based on significance, and established short-term, medium-term, and long-term priorities for future system updates.

As previously stated, the WOSB Program regulations instruct Federal acquisition professionals to use DSBS to validate program participants’ WOSB and EDWOSB certifications. The SAM.gov database

designations are currently small business self-certifications and SBA reiterates that the formal certification process for the WOSB Program does not update firms' SAM.gov profiles directly.

SBA shared with OIG the submitted FAR case and is currently coordinating with the FAR Council and GSA for an implementation plan to include the WOSB Program certification status into SAM.gov.

#### *Beta.Certify.sba.gov System Limitations*

SBA takes issue with the inclusion in the draft report of OIG work conducted on July 5, 2022. Not only is the OIG statement of *"21 of the 71 denied and approved applications were no longer in the database"* inaccurate, but it is also more than one year after the end of the communicated scope of review for the audit. After OIG provided its list of sampled firms to SBA, Management conducted a brief review of the records. This review indicated that the one firm OIG references that was *"no longer displaying within the [DSBS] database"* was removed due to a request made by the firm. The remaining 70 firms from the OIG sample are accurately displaying in both DSBS and beta.Certify.sba.gov. SBA requests OIG remove from the final report reference to the 21 of 71 firms.

The Program continues to make certification determinations for its applicants. SBA also reviews, when necessary, those firms that are currently certified into the Program and takes appropriate action to remove a firm that is no longer eligible. SBA continues to enhance reporting data as the Program matures.

SBA would like to emphasize that Management, including those with sufficient authority and responsibility to implement corrective action in the WOSB Program and those charged with governance, did not receive any communication from OIG on its final scope change as reported in the draft report, which conflicts with guidance in GAO-21-386g, sections 8.10 and 8.20. The audit began with an Entrance Conference on May 19, 2021, and with an initial timeframe of review of October 15, 2020, to May 31, 2021. During the exit briefing on June 21, 2022, OIG stated it informed SBA of its reported timeframe of review (October 15, 2020, to June 30, 2021) during a previous meeting. However, OIG did not provide the date or attendees of this meeting. SBA has no record of this exchange, nor did OIG ever follow up formally to change the scope of the audit.

The only communication SBA has is email correspondence dated June 29, 2021, which states the scope has changed from the timeframe identified at the outset of the audit to a new timeframe of October 15, 2021, to June 15, 2021, because *"(1) for reporting purposes, a complete period e.g., months, quarters, semi-annually and annually is ideal. (2) we will be using the data to report on program matters during the beginning, middle and currently on-going. Audits must represent the most updated information. We think the program has made significant progress. Having more recent data will support/display such progress."*

SBA requests OIG remove of any reference to data from July 5, 2022, in the final report, and to reflect in the final report the official scope of review of October 15, 2020, to June 15, 2021.

#### *Federal Deadlines for WOSB Certification Reviews*

The draft report inaccurately states that SBA has 17,000 applications that are awaiting review for a certification decision as of April 6, 2022. The number of remaining applications *"waiting for a certification decision"* cannot be calculated by just subtracting the number of decisions from the number of applications received.

As previously provided to OIG, via email on June 28, 2021, the number of applications received is not unique. The Program only processes and makes decisions on complete applications. Included in the OIG-cited “*received applications*” number are firms that applied multiple times. Many of those applications were closed and returned for insufficiency as they were not complete due to missing or insufficient documentation. SBA provided this information and explanation to OIG on multiple occasions.

As of August 15, 2022, SBA has 3,044 applications in-process. Since the WOSB Program launch in October 2020, SBA has approved 6,068 applications. In fiscal year 2022, SBA denied 101 applications. The current backlog of complete applications that require a certification decision is 2,208.

The finding also suggests that any delay in certification determination would lead to a firm missing contract opportunities. This is not the case. If an applicant is an apparent awardee on a federal contracting set-aside, there are procedures to receive an expedited review. Per 13 CFR § 127.504(a), that request comes from the Federal contracting officer.

Finally, the draft report finding intersperses IT issues (i.e., DSBS) with Program processes, which may exceed this audit’s scope. While an assessment of staffing levels needed to improve processing timeliness is feasible and has been completed, implementing increased staffing and updates to federal systems such as SAM.gov are outside of SBA’s control.

SBA conducted an analysis in October 2021 to determine the staffing levels needed to implement the certification process; however, budget restrictions and a lack of appropriated funding limited our ability to hire additional staff. SBA would like to acknowledge the tenacity of WOSB Program personnel in their work to review the surge of applications and make decisions for Program participation. With additional resources and the ability to expand the Program staffing, SBA is encouraged that processing times for applicants will fall within the stated regulatory timeframes.

SBA requests OIG remove from the final report any references to remaining applications (i.e., 8,352 and 17,000), as the numbers are misleading and are not an accurate calculation.

OIG made the following two recommendations associated with *Finding 2*. Management's responses to Recommendations 4-5 in the draft report are noted as follows:

*OIG Recommendation 4: Implement a plan to mitigate or remedy beta.Certify.sba.gov issues affecting SBA’s ability to maintain records, accurately report data, and work with other federal databases, minimizing the possibility of awarding contracts to ineligible businesses.*

**SBA's Response to Recommendation 4:** SBA disagrees with the recommendation. SBA currently has procedures in place – and follows that guidance – to identify and address any system issues. The beta.Certify.sba.gov system already “works” with other Federal databases. As stated above, system improvements have been ongoing to continue to improve data reliability. Many of the system concerns noted by OIG in the draft report were remedied prior to the draft report issuance. SBA prioritizes fixes based on significance and has established short-term, medium-term and long-term priorities for future system updates. Government awarding agencies also issued deviations and alternate paths for Federal contracting officers to ensure certification information was accurate and easily found by contracting officers before awarding a contract. SBA has already provided this information to OIG.

SBA is currently coordinating with the FAR Small Business Team and GSA for an implementation plan to include the WOSB Program certification status into SAM.gov. SBA shared with OIG FAR case 2020-013 that SBA submitted. As of July 22, 2022, the FAR case status is listed as, “*The final rule FAC from FAR staff analyst to FARSEC for processing.*” The IAE case is IAEPOL-010, and was submitted by SBA on June 10, 2020, and last updated on January 21, 2022. SBA has completed all actions within its control related to these requests.

*OIG Recommendation 5: Assess the technological resources, staffing levels, and service contracts needed to reduce application wait time and ensure application reviews are conducted in a prompt manner in accordance with regulatory requirements in 13 CFR § 127.300. Use the results of the assessment to improve processing times.*

**SBA's Response to Recommendation 5:** SBA disagrees with the recommendation. SBA implemented the WOSB Program in October 2020 with no additional funding or specific appropriations to handle the initial surge of applications. In response to the NDAA 2015 requirements, SBA worked diligently to finalize the regulations needed to implement the WOSB Program. SBA requested resources for personnel and IT system support in fiscal year 2019 in anticipation of the Program's implementation. In SBA's FY2020 Congressional Budget Request, SBA requested \$2.5 million for WOSB Information Technology. SBA also prepared a needs assessment in anticipation of the Program implementation for staff, technology, and support services in October 2020. Budget restrictions impeded our ability to hire additional staff. As evidenced in SBA's budget requests, SBA would require additional funding on the part of Congress. SBA has received no additional funding to employ those assessment results.

SBA has assessed existing program resources and will continually make improvements where feasible. SBA also formed an internal working group to evaluate current application processes, identify best practices, and develop potential ways to improve the application experience for all GCBD Certification Programs. Specifically, the WOSB Program has refined the initial pre-screening process and implemented practices to accelerate application review, where possible, while maintaining review integrity. SBA has also taken action to streamline the application process for WOSB applicants with existing qualified certifications, such as *8(a) Business Development Program Participants*, *VA's Center for Verification and Evaluation participants*, and *Third-Party certified firms*, which facilitates a more efficient review process for these applicants. However, interest in the WOSB Program remains high and staffing resources are limited to address this continual demand.

The SBA plans to continue to submit budget formation requests to support the WOSB Program's needed resources. SBA has already submitted its budget request for FY 2023 on March 28, 2022 to include an increase for pay adjustments and pay raise of \$5 million to support WOSB implementation. SBA is currently formulating its submission for FY 2024, and will complete its submission by the required deadline.

Based on SBA's review of the draft report's *Finding 3* section, the Office of Government Contracting and Business Development offers the following comments and suggested changes to the draft report:

***Finding 3: SBA Should Improve Oversight of Third-Party Certifiers***

The finding suggests that SBA's compliance and program reviews of Third-Party Certifiers (TPCs), during the timeframe of the audit (October 15, 2020, to June 15, 2021), were fraught with issues. SBA would like to bring to the forefront that *all* TPC oversight reviews SBA conducted during the audit scope were proactive and prior to the regulation effective date of May 3, 2021. 13 CFR § 127.355.

Prior to regulatory changes, SBA conducted site visits of Third-Party Certifiers (TPCs) in 2017. SBA maintains evidence of these site visits. SBA also conducted proactive reviews of TPC applicants and their resulting recommendations. SBA maintained documentation of its TPC site visits (Program reviews) and of its TPC application reviews (Compliance reviews) and any reference otherwise is inaccurate.

SBA provided a list to the OIG of all the firms that underwent a TPC compliance review during the audit scope. The firms on the list were reviewed by SBA from November 15, 2020, to June 15, 2021, covering the period from October 15, 2020, to May 15, 2021. SBA conducts TPC compliance reviews of the prior month. All firms within the list provided to OIG were reviewed before the regulations went into effect. SBA conducted initial reviews, incorporating changes to that process once the regulations were effective.

Furthermore, SBA conducted its program reviews of two of its approved TPCs in July 2022, with the remaining two scheduled for mid-August 2022. The results of those reviews and communication to the TPCs is planned to be finalized by the end of fiscal year 2022, according to SBA established guidance. SBA has a process for its oversight reviews and follows it.

SBA has followed the requirements of the effective regulation and documented its sample and methodology, the results of the reviews and communicated those results with the firm and TPC, in accordance with SBA's guidance.

SBA requests OIG remove from the final report reference to any issues identified prior to regulation effective date.

**Prior Audit Coverage**

All the prior audits listed in the draft report are for a program that is no longer extant. SBA requests OIG include in the final report a lead-in sentence to this section that provides context that each of the prior audit reports cover a self-certification program that no longer exists.

OIG made the following one recommendation associated with *Finding 3*. Management's responses to Recommendation 6 in the draft report are noted as follows:

*OIG Recommendation 6: Develop standard operating procedures to ensure program officials assess third-party certification, establish a risk-based sampling plan for selecting files to review, and document the results of the compliance reviews.*

**SBA's Response to Recommendation 6:** SBA partially agrees with the recommendation. As stated above, prior to regulatory changes, SBA conducted site visits of Third-Party Certifiers (TPCs) in 2017. SBA maintains evidence of these site visits. SBA also conducted proactive reviews of TPC applicants and their resulting recommendations. SBA maintained documentation of its TPC site visits (Program reviews) and of its TPC application reviews (Compliance reviews) and any reference otherwise is inaccurate. SBA has followed the requirements of the effective regulation and documented its sample and methodology, the results of the reviews and communicated those results with the firm and TPC, in accordance with SBA's guidance.

Management understands the importance of updated formal standard operating procedures (SOP) and considered OIG comments to the SOP as part of the clearance process and believes the updated SOP includes clear and comprehensive guidance to assist analysts in conducting reviews and making determinations related to TPC oversight. SBA does not plan to make any further changes to the updated SOP in response to this audit. The program office has completed the clearance process for its most recent SOP update, with planned issuance by October 1, 2022.

While SBA understands the spirit of OIG's recommendations, we would like to acknowledge the diligent work of the WOSB team. In our view, the results of the audit validate the challenges that are associated with a vastly popular and unfunded program, including the tremendous amount of work that our analysts must complete, and their continued dedication to ensure that Program applicants and participants comply with Program requirements.

Should you require additional information in this regard, please do not hesitate to contact Mr. Wallace D. Sermons II.