



## Testimony

Before the Subcommittee on  
Contracting and Infrastructure,  
Committee on Small Business, House of  
Representatives

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# WOMEN-OWNED SMALL BUSINESS PROGRAM

## Actions Needed To Address Continued Oversight Issues

Statement of William B. Shear, Director, Financial  
Markets and Community Investment

# GAO Highlights

Highlights of [GAO-19-563T](#), a testimony before the Subcommittee on Contracting and Infrastructure, Committee on Small Business, House of Representatives

## Why GAO Did This Study

In 2000, Congress authorized the WOSB program, allowing contracting officers to set aside procurements to women-owned small businesses in industries in which they are substantially underrepresented. To be eligible to participate in the WOSB program, firms have the option to self-certify or be certified by a third-party certifier. However, the 2015 NDAA changed the WOSB program by (1) authorizing SBA to implement sole-source authority, (2) eliminating the option for firms to self-certify as being eligible for the program, and (3) allowing SBA to implement a new certification process.

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. GAO reviewed relevant laws, regulations, and program documents; analyzed federal contracting data from April 2011 through June 2018; and interviewed SBA officials, officials from contracting agencies selected to obtain a range of experience with the WOSB program, and the three (out of four) private third-party certifiers that agreed to meet with GAO.

## What GAO Recommends

GAO recommended in March 2019 that SBA develop a process for periodically reviewing the extent to which WOSB program set-asides are awarded for ineligible goods or services and use the results to address identified issues, such as through targeted outreach or training on the WOSB program. SBA agreed with the recommendation.

View [GAO-19-563T](#). For more information, contact William B. Shear at (202) 512-8678 or [shearw@gao.gov](mailto:shearw@gao.gov)

May 16, 2019

# WOMEN-OWNED SMALL BUSINESS PROGRAM

## Actions Needed to Address Continued Oversight Issues

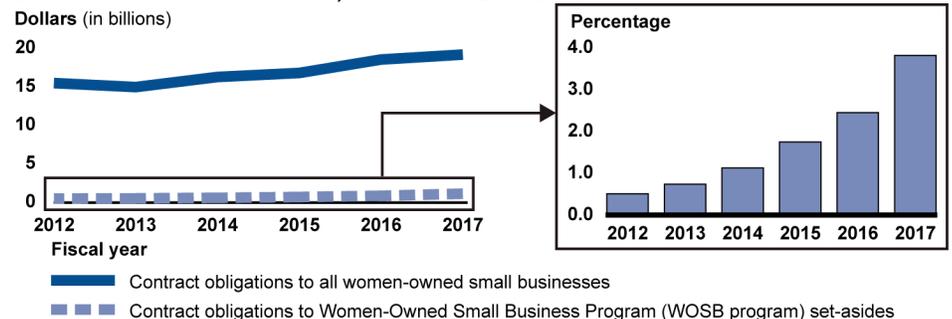
### What GAO Found

The Small Business Administration (SBA) has implemented one of the three changes to the Women-Owned Small Business (WOSB) program authorized in the National Defense Authorization Act of 2015 (2015 NDAA). In September 2015 SBA published a final rule to implement sole-source authority (to award contracts without competition), effective October 2015. As of early May 2019, SBA had not eliminated the option for program participants to self-certify that they are eligible to participate, as required by the 2015 NDAA. SBA officials stated that the agency intended to address the third change made by the 2015 NDAA (meaning implement a new certification process for the WOSB program).

SBA has not addressed WOSB program oversight deficiencies and recommendations in GAO's 2014 report ([GAO-15-54](#)). For example, GAO recommended that SBA establish procedures to assess the performance of four third-party certifiers—private entities approved by SBA to certify the eligibility of WOSB firms. While SBA generally agreed with GAO's recommendations and conducted a compliance review of the certifiers in 2016, it has no plans to regularly monitor their performance. By not improving its oversight, SBA is limiting its ability to ensure third-party certifiers are following program requirements. Further, the implementation of sole-source authority in light of these continued oversight deficiencies can increase program risk. GAO maintains that its recommendations aimed at improving oversight should be addressed. In addition, GAO's March 2019 ([GAO-19-168](#)) report found that about 3.5 percent of contracts using a WOSB set-aside were awarded for ineligible goods or services from April 2011 through June 2018. At that time, SBA was not reviewing contracting data that could identify which agencies may need targeted training. GAO recommended that SBA review such data to help address identified issues. In early May 2019, SBA said it had initiated such efforts.

While federal contract obligations to all women-owned small businesses and WOSB program set-asides have increased since fiscal year 2012, WOSB program set-asides remain a small percentage (see figure).

**Obligations for the Women-Owned Small Business Program and to All Women-Owned Small Businesses in Similar Industries, Fiscal Years 2012–2017**



Source: GAO analysis of Federal Procurement Data System-Next Generation (FPDS-NG) data. | [GAO-19-563T](#)

Note: Obligations to women-owned small businesses represent contract obligations to women-owned small businesses under WOSB-program-eligible North American Industry Classification System codes. FPDS-NG obligation amounts have been adjusted for inflation.

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Chairman Golden, Ranking Member Stauber, and Members of the Subcommittee:

I am pleased to be here today to discuss our recent work on the Woman-Owned Small Business Program (WOSB program). Congress authorized the WOSB program in 2000, allowing contracting officers to set aside procurements to women-owned small businesses in industries in which they are substantially underrepresented. On October 7, 2010, the Small Business Administration (SBA) issued a final rule to implement the WOSB program, and the program began operating in 2011. To be eligible to participate in the WOSB program, firms have the option to self-certify or be certified by a third-party certifier. However, the 2015 National Defense Authorization Act (2015 NDAA) changed the WOSB program by (1) authorizing SBA to implement sole-source authority, (2) eliminating the option for firms to self-certify as being eligible for the program, and (3) allowing SBA to implement a new certification process.

Today I will discuss (1) the extent to which SBA has implemented changes to the WOSB program made by the 2015 NDAA; (2) the extent to which SBA has implemented changes to address previously identified oversight deficiencies, including those we identified in October 2014; and (3) changes in WOSB program use since 2011, including since the 2015 implementation of sole-source authority.<sup>1</sup> My statement is based on our March 2019 report.<sup>2</sup> For that report, we reviewed relevant laws, regulations, and program documents; analyzed federal contracting data from April 2011 through June 2018; and interviewed SBA officials, officials from contracting agencies selected to obtain a range of experience with the WOSB program, and three of the four private third-party certifiers.

The work on which this statement is based was performed in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained

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<sup>1</sup>GAO, *Women-Owned Small Business Program: Certifier Oversight and Additional Eligibility Controls Are Needed*, [GAO-15-54](#) (Washington, D.C.: Oct. 8, 2014).

<sup>2</sup>GAO, *Women-Owned Small Business Program: Actions Needed to Address Ongoing Oversight Issues*, [GAO-19-168](#) (Washington, D.C.: Mar. 14, 2019).

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provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

Federal agencies conduct a variety of procurements that are reserved for small business participation through small business set-asides. These set-asides can be for small businesses in general, or they can be specific to small businesses that meet additional eligibility requirements in the Service-Disabled Veteran-Owned Small Business, Historically Underutilized Business Zone (HUBZone), 8(a) Business Development (8(a)), and WOSB programs. The WOSB program enables federal contracting officers to identify and establish a sheltered market, or set-aside, for competition among women-owned small businesses (WOSB) and economically disadvantaged women-owned small businesses (EDWOSB) in certain industries.<sup>3</sup> WOSBs can receive set-asides in industries in which SBA has determined that women-owned small businesses are substantially underrepresented. To determine these industries, SBA is required to conduct a study to determine which North American Industry Classification System (NAICS) codes are eligible under the program and to report on such studies every 5 years.

Additionally, businesses must be at least 51 percent owned and controlled by one or more women who are U.S. citizens to participate in the WOSB program. The owner must provide documents demonstrating that the business meets program requirements, including a document in which the owner attests to the business's status as a WOSB or EDWOSB. According to SBA, as of early October 2018, there were 13,224 WOSBs and 4,488 EDWOSBs registered in SBA's online certification database. SBA's Office of Government Contracting administers the WOSB program by, among other things, promulgating regulations and conducting eligibility examinations of businesses that receive contracts under a WOSB or EDWOSB set-aside. According to SBA, as of October 2018, there were two full-time staff within the Office of Government Contracting whose primary responsibility was the WOSB program.

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<sup>3</sup>Throughout this statement, we use the abbreviation "WOSB" to refer specifically to women-owned small businesses that have been certified as eligible for the WOSB program. Economically disadvantaged is a determination made if a woman can demonstrate that her ability to compete in the free enterprise system is impaired due to diminished capital and credit opportunities as compared with others in the same or similar business.

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Initially, the program's statutory authority allowed WOSBs to be self-certified by the business owner or certified by an approved third-party national certifying entity as eligible for the program. Self-certification is free, but some third-party certification options require businesses to pay a fee. Each certification process requires businesses to provide signed representations attesting to their WOSB or EDWOSB eligibility. Businesses must provide documents supporting their status before submitting an offer to perform the requirements of a WOSB set-aside contract. In August 2016, SBA launched [certify.sba.gov](http://certify.sba.gov), which is an online portal that allows firms participating in the program to upload required documents and track their submission and also enables contracting officers to review firms' eligibility documentation.<sup>4</sup> According to the Federal Acquisition Regulation, contracting officers are required to verify that all required documentation is present in the online portal when selecting a business for an award. In addition, businesses must register and attest to being a WOSB in the System for Award Management, the primary database of vendors doing business with the federal government.

In 2011, SBA approved four organizations to act as third-party certifiers. According to SBA data, these four third-party certifiers completed a total of about 3,400 certifications in fiscal year 2017.<sup>5</sup>

In 2014 we reviewed the WOSB program and found a number of deficiencies in SBA's oversight of the four SBA-approved third-party certifiers and in SBA's eligibility examination processes, and we made related recommendations for SBA.<sup>6</sup> In addition, in 2015 and 2018 the SBA Office of Inspector General (OIG) reviewed the WOSB program and also found oversight deficiencies, including evidence of WOSB contracts set aside for ineligible firms. In both reports, the SBA OIG also made

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<sup>4</sup>According to SBA, the agency plans to move other certifications, such as those of the 8(a) and HUBZone programs, into the new system and allow documents uploaded for one program to be reused for another.

<sup>5</sup>To become an SBA-approved third-party certifier, interested organizations submitted an application to SBA that contained information on the organization's structure and staff, policies and procedures for certification, and attestations that they will adhere to program requirements.

<sup>6</sup>[GAO-15-54](#). We made two recommendations to improve SBA's oversight of the WOSB program. As of early May 2019, these recommendations remained open.

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recommendations for SBA.<sup>7</sup> Further, in July 2015, we issued GAO’s fraud risk framework, which provides a comprehensive set of key components and leading practices that serve as a guide for agency managers to use when developing efforts to combat fraud in a strategic, risk-based way.<sup>8</sup>

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## SBA Has Implemented One of the Three Changes Made by the 2015 NDAA

As of early May 2019, SBA had implemented one of the three changes that the 2015 NDAA made to the WOSB program—sole-source authority. The two other changes—authorizing SBA to implement its own certification process for WOSBs and requiring SBA to eliminate the WOSB self-certification option—had not been implemented.<sup>9</sup> The 2015 NDAA did not require a specific time frame for SBA to update its regulations. SBA officials have stated that the agency will not eliminate self-certification until the new certification process for the WOSB program is in place, which they expect to be completed by January 1, 2020.

In September 2015, SBA published a final rule to implement sole-source authority for the WOSB program (effective October 2015).<sup>10</sup> Among other things, the rule authorized contracting officers to award a contract to a WOSB or EDWOSB without competition, provided that the contracting officer’s market research cannot identify two or more WOSBs or EDWOSBs in eligible industries that can perform the requirements of the contract at a fair and reasonable price. In the final rule, SBA explained that it promulgated the sole-source rule before the WOSB certification requirements for two reasons. First, the sole-source rule could be accomplished by simply incorporating the statutory language into the regulations, whereas the WOSB certification requirements would instead

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<sup>7</sup>SBA Office of Inspector General, *Improvements Needed in SBA’s Management of the Women Owned Small Business Federal Contracting Program*, SBA OIG Report 15-10 (Washington, D.C.: May 14, 2015) and *SBA’s Women-Owned Small Business Contracting Program*, SBA OIG Report 18-18 (Washington, D.C.: June 20, 2018).

<sup>8</sup>GAO, *A Framework for Managing Fraud Risks in Federal Programs*, [GAO-15-593SP](#) (Washington, D.C.: July 2015).

<sup>9</sup>The 2015 NDAA expanded the WOSB certification process to include the SBA Administrator, in addition to the previously approved methods of a federal agency, a state government, or a national certifying entity approved by SBA.

<sup>10</sup>See *Women-Owned Small Business Federal Contract Program*, 80 Fed. Reg. 55019 (Sept. 14, 2015). The value of a WOSB sole-source contract, including options, cannot exceed \$6.5 million for manufacturing contracts and \$4 million for all other contracts. A related interim rule updating the Federal Acquisition Regulation was issued in December 2015 and was followed by a final rule in September 2016.

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require a prolonged rulemaking process. Second, SBA said that addressing all three regulatory changes at the same time would delay the implementation of sole-source authority.

As of early May 2019, SBA had not published a proposed rule for public comment to establish a new certification process for the WOSB program. Previously, in October 2017, an SBA official stated that SBA was about 1–2 months away from publishing a proposed rule. However, in June 2018, SBA officials stated that a cost analysis would be necessary before the draft rule could be sent to the Office of Management and Budget for review. In response to the SBA OIG recommendation that SBA implement the new certification process, SBA stated that it would implement a new certification process by January 1, 2020.<sup>11</sup> Further, in June 2018, SBA officials told us that they were evaluating the potential costs of a new certification program as part of their development of the new certification rule.<sup>12</sup> On May 3, 2019, SBA officials explained that they expected to publish the proposed rule within a few days.

In December 2015, SBA published an advance notice of proposed rulemaking to solicit public comments to assist the agency with drafting a proposed rule to implement a new WOSB certification program.<sup>13</sup> In the notice, SBA stated that it intends to address the 2015 NDAA changes, including eliminating the self-certification option, through drafting regulations to implement a new certification process. The advance notice requested comments on various topics, such as how well the current certification processes were working, which of the certification options

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<sup>11</sup>SBA OIG Report 18-18.

<sup>12</sup>Executive Order 12866 and Office of Management and Budget Circular A-4 require that certain agencies—including SBA—generally assess the potential costs and benefits of actions, including proposed rules that are deemed to be a “significant regulatory action.” A “significant regulatory action” is defined by the order as one that is likely to result in a rule that may (1) have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy or a sector of the economy, among other things (generally referred to as “economically significant” regulations); (2) create a serious inconsistency or otherwise interfere with another agency’s taken or planned actions; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising from legal mandates, the President’s priorities, or the principles set forth in the executive order. See Exec. Order No. 12866 § 6(a)(3)(C), 3 C.F.R. § 12866 (1994).

<sup>13</sup>Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business—Certification, 80 Fed. Reg. 78984 (Advance notice of proposed rulemaking, Dec. 18, 2015).

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were feasible and should be pursued, whether there should be a grace period for self-certified WOSB firms to complete the new certification process, and what documentation should be required.

Three third-party certifiers submitted comments in response to the advance notice of proposed rulemaking, and none supported the option of SBA acting as a WOSB certifier. One third-party certifier commented that such an arrangement is a conflict of interest given that SBA is also responsible for oversight of the WOSB program, and two certifiers commented that SBA lacked the required resources. The three third-party certifiers also asserted in their comments that no other federal agency should be allowed to become an authorized WOSB certifier, with one commenting that federal agencies should instead focus on providing contracting opportunities for women-owned businesses. All three certifiers also proposed ways to improve the current system of third-party certification—for example, by strengthening oversight of certifiers or expanding their number. The three certifiers also suggested that SBA move to a process that better leverages existing programs with certification requirements similar to those of the WOSB program, such as the 8(a) program. In the advance notice, SBA asked for comments on alternative certification options, such as SBA acting as a certifier or limiting WOSB program certifications to the 8(a) program and otherwise relying on state or third-party certifiers.<sup>14</sup>

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## SBA Has Not Fully Addressed Deficiencies in Oversight and Program Implementation

SBA has not fully addressed deficiencies we identified in our October 2014 report, and these recommendations remain open.<sup>15</sup> First, we reported that SBA did not have formal policies for reviewing the performance of its four approved third-party certifiers, including their compliance with their agreements with SBA. Further, we found that SBA had not developed formal policies and procedures for, among other things, reviewing the monthly reports that certifiers submit to SBA.<sup>16</sup> As a result, we recommended that SBA establish comprehensive procedures

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<sup>14</sup>WOSB program regulations currently allow WOSB certification through the 8(a) program; however, SBA officials said that this method of certification currently represents a small percentage of all WOSB program certifications.

<sup>15</sup>[GAO-15-54](#).

<sup>16</sup>Per their written agreements, the third-party certifiers are required to submit monthly reports to SBA describing WOSB program performance information.

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to monitor and assess the performance of the third-party certifiers in accordance with their agreements with SBA and program regulations.

In response to our October 2014 recommendation, in 2016 SBA conducted compliance reviews of the four SBA-approved third-party certifiers. The compliance reviews included an assessment of the third-party certifiers' internal certification procedures and processes, an examination of a sample of applications from businesses that the certifiers deemed eligible and ineligible for certification, and an interview with management staff. SBA officials said that SBA's review team did not identify significant deficiencies in any of the four certifiers' processes and found that all were generally complying with their agreements. However, one compliance review report described "grave concerns" that a third-party certifier had arbitrarily established eligibility requirements that did not align with WOSB program regulations and used them to decline firms' applications.<sup>17</sup> SBA noted in the report that if the third-party certifier failed to correct this practice, SBA could terminate the agreement. As directed by SBA, the third-party certifier submitted a letter to SBA outlining actions it had taken to address this issue, among others.

In January 2017, SBA's Office of Government Contracting updated its written Standard Operating Procedures (SOP) to include policies and procedures for the WOSB program, in part to address our October 2014 recommendation. The 2017 SOP discusses what a third-party-certifier compliance review entails, how often the reviews are to be conducted, and how findings are to be reported. The 2017 SOP notes that SBA may initiate a compliance review "at any time and as frequently as the agency determines is necessary." In March 2019, SBA provided an updated SOP, which includes more detailed information on third-party compliance reviews, such as how SBA program analysts should prepare for the review. However, the updated SOP does not provide specific time frames for how frequently the compliance reviews are to be conducted.

In addition, in April 2018, SBA finalized a WOSB Program Desk Guide that discusses how staff should prepare for a compliance review of a

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<sup>17</sup>Specifically, SBA found that the third-party certifier denied firms solely on the grounds that the woman owner was not the highest compensated officer, which SBA's report states was outside the parameters of eligibility for the WOSB program. According to the report, SBA provided guidance to the third-party certifier stating that it should not deny firms based on compensation issues alone and that the third-party certifier should take into account the totality of the circumstances, including whether decisions concerning compensation make business sense.

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third-party certifier, review certification documents, and prepare a final report. In March 2019, SBA provided GAO with an updated WOSB Program Desk Guide that contains information comparable to that in the 2018 version. Both Desk Guides do not describe specific activities designed to oversee third-party certifiers on an ongoing basis.

Per written agreements with SBA, third-party certifiers are required to submit monthly reports that include

- the number of WOSB and EDWOSB applications received, approved, and denied;
- identifying information for each certified business, such as the business name;
- concerns about fraud, waste, and abuse; and
- a description of any changes to the procedures the organizations used to certify businesses as WOSBs or EDWOSBs.

In our October 2014 report, we noted that SBA had not followed up on issues raised in the monthly reports and had not developed written procedures for reviewing them.<sup>18</sup> At that time, SBA officials said that they were unaware of the issues identified in the certifiers' reports and that the agency was developing procedures for reviewing the monthly reports but could not estimate a completion date. In interviews for our March 2019 report, SBA officials stated that SBA still does not use the third-party certifiers' monthly reports to regularly monitor the program. Specifically, SBA does not review the reports to identify any trends in certification deficiencies that could inform program oversight. Officials said the reports generally do not contain information that SBA considers helpful for overseeing the WOSB program, but staff sometimes use the reports to obtain firms' contact information. SBA's updated 2019 SOP includes information on reviews of third-party certifier monthly reports, but it does not contain information on how staff would analyze the reports or how these reports would inform SBA's oversight of third-party certifiers and related compliance activities, such as eligibility examinations. On May 3, 2019, SBA officials stated that, earlier in the week, they had initiated monthly meetings with the third-party certifiers. SBA officials explained that they intended to continue holding these monthly meetings to discuss

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<sup>18</sup>[GAO-15-54](#).

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best practices and potential issues related to the approval and disapproval of firms and to improve collaboration.

Although SBA has taken steps to enhance its written policies and procedures for oversight of third-party certifiers, it does not have plans to conduct further compliance reviews of the certifiers and does not intend to review certifiers' monthly reports on a regular basis in a way that would inform its oversight activities. SBA officials said that third-party certifier oversight procedures would be updated, if necessary, after certification options have been clarified in the final WOSB certification rule. However, ongoing oversight activities, such as regular compliance reviews, could help SBA better understand the steps certifiers have taken in response to previous compliance review findings and whether those steps have been effective. In addition, leading fraud risk management practices include identifying specific tools, methods, and sources for gathering information about fraud risks, including data on trends from monitoring and detection activities, as well as involving relevant stakeholders in the risk assessment process.<sup>19</sup> Without procedures to regularly monitor and oversee third-party certifiers, SBA cannot provide reasonable assurance that certifiers are complying with program requirements and cannot improve its efforts to identify ineligible firms or potential fraud. Further, it is unclear when SBA's final rule will be implemented. As a result, we maintain that our previous recommendation should be addressed—that is, that the Administrator of SBA should establish and implement comprehensive procedures to monitor and assess the performance of certifiers in accordance with the requirements of the third-party certifier agreement and program regulations.

SBA also has not fully addressed deficiencies we identified in our October 2014 report related to eligibility examinations.<sup>20</sup> We found that SBA lacked formalized guidance for its eligibility examination processes and that the examinations identified high rates of potentially ineligible businesses. As a result, we recommended that SBA enhance its examination of businesses that register for the WOSB program to ensure that only eligible businesses obtain WOSB set-asides. Specifically, we suggested that SBA should take actions such as (1) completing the development of procedures to conduct annual eligibility examinations and implementing such procedures; (2) analyzing examination results and

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<sup>19</sup>[GAO-15-593SP](#).

<sup>20</sup>[GAO-15-54](#).

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individual businesses found to be ineligible to better understand the cause of the high rate of ineligibility in annual reviews and determine what actions are needed to address the causes, and (3) implementing ongoing reviews of a sample of all businesses that have represented their eligibility to participate in the program.

SBA has taken some steps to implement our recommendation, such as including written policies and procedures for WOSB program eligibility examinations in an SOP and a Desk Guide. However, SBA does not collect reliable information on the results of its annual eligibility examinations. According to SBA officials, SBA has conducted eligibility examinations of a sample of businesses that received WOSB program set-aside contracts each year since fiscal year 2012. However, SBA officials told us that the results of annual eligibility examinations—such as the number of businesses found eligible or ineligible—are generally not documented. As a result, we obtained conflicting data from SBA on the number of examinations completed and the percentage of businesses found to be ineligible in fiscal years 2012 through 2018. For example, based on previous information provided by SBA, we reported in October 2014 that in fiscal year 2012, 113 eligibility examinations were conducted and 42 percent of businesses were found to be ineligible for the WOSB program. However, during our more recent review, we received information from SBA indicating that 78 eligibility examinations were conducted and 37 percent of businesses were found ineligible in fiscal year 2012. In addition, SBA continues to have no mechanism to look across examinations for common eligibility issues to inform the WOSB program. As we noted in 2014, by not analyzing examination results broadly, the agency is missing opportunities to obtain meaningful insights into the program, such as the reasons many businesses are deemed ineligible.

Further, SBA still conducts eligibility examinations only of firms that have already received a WOSB award. In our October 2014 report, we concluded that this sampling practice restricts SBA's ability to identify potentially ineligible businesses prior to a contract award.<sup>21</sup> SBA officials said that while some aspects of the sample characteristics have changed since 2012, the samples still generally consist only of firms that have been awarded a WOSB set-aside. Restricting the samples in this way limits SBA's ability to better understand the eligibility of businesses before

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<sup>21</sup>[GAO-15-54](#).

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they apply for and are awarded contracts, as well as its ability to detect and prevent potential fraud.

We recognize that SBA has made some effort to address our previous recommendation by documenting procedures for conducting annual eligibility examinations of WOSB firms. However, leading fraud risk management practices state that federal program managers should design control activities that focus on fraud prevention over detection and response, to the extent possible.<sup>22</sup> Without maintaining reliable information on the results of eligibility examinations, developing procedures for analyzing results, and expanding the sample of businesses to be examined to include those that did not receive contracts, SBA limits the value of its eligibility examinations and its ability to reduce ineligibility among businesses registered to participate in the WOSB program. These deficiencies also limit SBA's ability to identify potential fraud risks and develop any additional control activities needed to address these risks. As a result, the program may continue to be exposed to the risk of ineligible businesses receiving set-aside contracts. In addition, in light of these continued deficiencies, the implementation of sole-source authority without addressing the other changes made by the 2015 NDAA could increase program risk. For these reasons, we maintain that our previous recommendation that SBA enhance its WOSB eligibility examination procedures should be addressed.

SBA has also not addressed previously identified issues with WOSB set-asides awarded under ineligible industry codes. In 2015 and 2018, the SBA OIG reported instances in which WOSB set-asides were awarded using NAICS codes that were not eligible under the WOSB program, and our analysis indicates that this problem persists.<sup>23</sup> Specifically, our analysis of data from the Federal Procurement Data System–Next Generation (FPDS–NG) on all obligations to WOSB program set-asides from the third quarter of fiscal year 2011 through the third quarter of fiscal year 2018 found the following:

- 3.5 percent (or about \$76 million) of WOSB program obligations were awarded under NAICS codes that were never eligible for the WOSB program;

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<sup>22</sup>[GAO-15-593SP](#).

<sup>23</sup>SBA OIG Report 15-10 and SBA OIG Report 18-18.

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- 10.5 percent (or about \$232 million) of WOSB program obligations made under an EDWOSB NAICS code went to women-owned businesses that were not eligible to receive awards in EDWOSB-eligible industries; and
  - 17 of the 47 federal agencies that obligated dollars to WOSB program set-asides during the period used inaccurate NAICS codes in at least 5 percent of their WOSB set-asides (representing about \$25 million).

According to SBA officials we spoke with, WOSB program set-asides may be awarded under ineligible NAICS codes because of human error when contracting officers are inputting data in FPDS–NG or because a small business contract was misclassified as a WOSB program set-aside. Rather than review FPDS–NG data that are inputted after the contract is awarded, SBA officials said that they have discussed options for working with the General Services Administration to add controls defining eligible NAICS codes for WOSB program set-aside opportunities on FedBizOpps.gov—the website that contracting officers use to post announcements about available federal contracting opportunities. However, SBA officials said that the feasibility of this option was still being discussed and that the issue was not a high priority. Additionally, as of November 2018, the WOSB program did not have targeted outreach or training that focused on specific agencies’ use of NAICS codes, and SBA officials did not identify any targeted outreach or training provided to specific agencies to improve understanding of WOSB NAICS code requirements (or other issues related to the WOSB program). On May 6, 2019, an SBA official provided information that SBA has initiated a review to determine federal agencies’ use of ineligible NAICS codes and that SBA plans to share the findings with agencies and also provide training to procurement center representatives.<sup>24</sup>

Congress authorized SBA to develop a contract set-aside program specifically for WOSBs and EDWOSBs to address the underrepresentation of such businesses in specific industries. In addition, federal standards for internal control state that management should design control activities to achieve objectives and respond to risks, and that management should establish and operate monitoring activities to

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<sup>24</sup>A procurement center representative is an SBA staff member assigned to federal agencies or contract administration offices whose responsibilities include conducting periodic reviews of compliance with small business policies.

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monitor and evaluate the results.<sup>25</sup> Because SBA does not review whether contracts are being awarded under the appropriate NAICS codes, it cannot provide reasonable assurance that WOSB program requirements are being met or identify agencies that may require targeted outreach or additional training on eligible NAICS codes. As a result, WOSB contracts may continue to be awarded to groups other than those intended, which can undermine the goals of and confidence in the program.

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## Federal Contracts to WOSB Set-Asides Remain Relatively Small

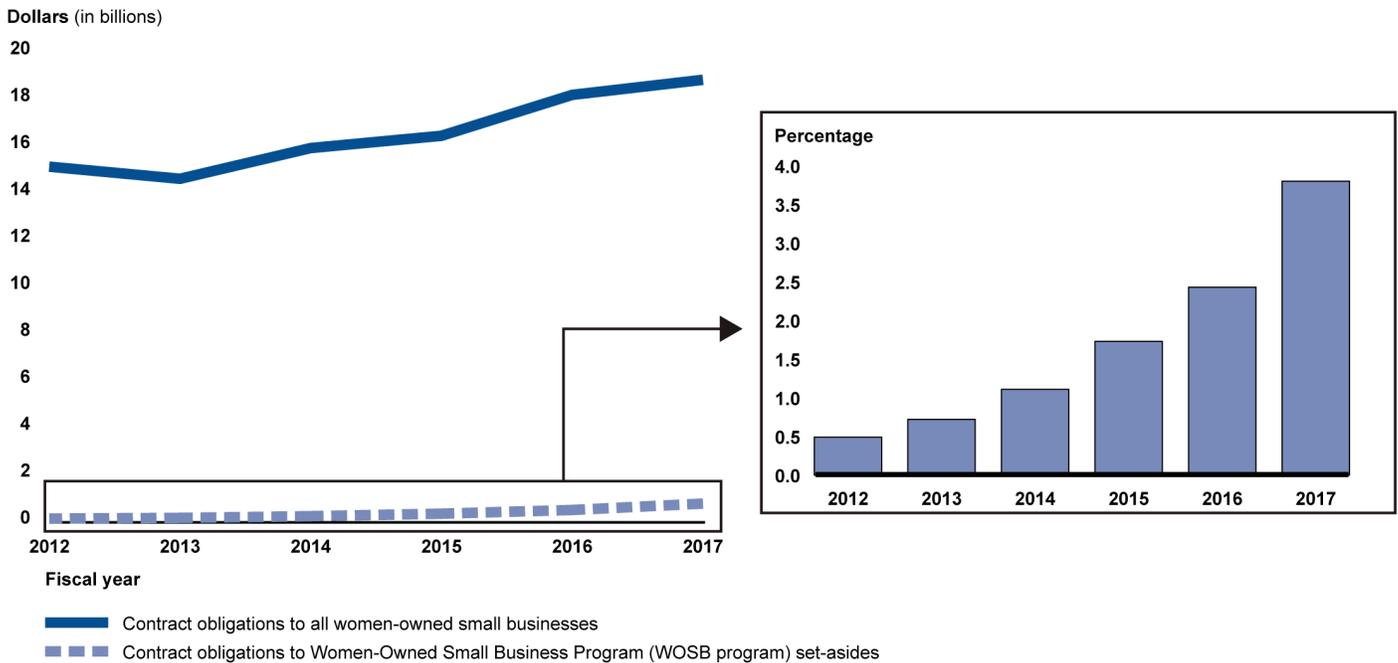
While federal contract obligations to all women-owned small businesses and WOSB program set-asides have increased since fiscal year 2012, WOSB program set-asides remain a small percentage. Specifically, federal dollars obligated for contracts to all women-owned small businesses increased from \$18.2 billion in fiscal year 2012 to \$21.4 billion in fiscal year 2017.<sup>26</sup> Contracts awarded to all women-owned small businesses within WOSB-program-eligible industries also increased during this period—from about \$15 billion to \$18.8 billion, as shown in figure 1. However, obligations under the WOSB program represented only a small share of this increase. In fiscal year 2012, WOSB program contract obligations were 0.5 percent of contract obligations to all women-owned small businesses for WOSB-program-eligible goods or services (about \$73.5 million), and in fiscal year 2017 this percentage had grown to 3.8 percent (about \$713.3 million) (see fig. 1).

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<sup>25</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

<sup>26</sup>These figures include contracts for any type of good or service awarded under the WOSB program, under other federal programs, or through full and open competition.

**Figure 1: Obligations for the Women-Owned Small Business Program and to All Women-Owned Small Businesses in Similar Industries, Fiscal Years 2012–2017**



Source: GAO analysis of Federal Procurement Data System-Next Generation (FPDS-NG) data. | GAO-19-563T

Note: Obligations to women-owned small businesses represent contract obligations to women-owned small businesses under WOSB-program-eligible North American Industry Classification System codes. FPDS-NG obligation amounts have been adjusted for inflation.

In summary, the WOSB program aims to enhance federal contracting opportunities for women-owned small businesses. However, as of early May 2019, SBA had not fully implemented comprehensive procedures to monitor the performance of the WOSB program’s third-party certifiers and had not taken steps to provide reasonable assurance that only eligible businesses obtain WOSB set-aside contracts, as recommended in our 2014 report.<sup>27</sup> Without ongoing monitoring and reviews of third-party certifier reports, SBA cannot ensure that certifiers are fulfilling their requirements, and it is missing opportunities to gain information that could help improve the program’s processes. Further, limitations in SBA’s procedures for conducting and analyzing eligibility examinations inhibit its ability to better understand the eligibility of businesses before they apply

<sup>27</sup> GAO-15-54.

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for and potentially receive contracts, which exposes the program to unnecessary risk of fraud. Also, since SBA does not expect to finish implementing the changes in the 2015 NDAA until January 1, 2020, these continued oversight deficiencies increase program risk. As a result, we maintain that our previous recommendations should be addressed.

In addition, SBA has not addressed deficiencies related to WOSB program set-asides being awarded under ineligible industry codes. Although SBA has updated its training and outreach materials for the WOSB program to address NAICS code requirements, it has not developed a process for periodically reviewing FPDS–NG data, and has yet to provide targeted outreach or training to agencies that may be using ineligible codes. As a result, SBA is not aware of the extent to which individual agencies are following program requirements and which agencies may require targeted outreach or additional training. Reviewing FPDS–NG data would allow SBA to identify those agencies (and contracting offices within them) that could benefit from such training. Without taking these additional steps, SBA cannot provide reasonable assurance that WOSB program requirements are being met.

As such, we made one recommendation in our March 2019 report to SBA. We recommended that SBA develop a process for periodically reviewing FPDS–NG data to determine the extent to which agencies are awarding WOSB program set-asides under ineligible NAICS codes, and take steps to address any issues identified, such as providing targeted outreach or training to agencies making awards under ineligible codes. As of May 2019, this recommendation remains open.

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Chairman Golden, Ranking Member Stauber, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

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## GAO Contact and Acknowledgments

If you or your staff have any questions about this testimony, please contact William Shear, Director, Financial Markets and Community Investment at (202) 512-8678 or [shearw@gao.gov](mailto:shearw@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony are Andrew Pauline (Assistant Director), Tarek Mahmassani (Analyst in Charge), and Jennifer Schwartz.

Other staff who made key contributions to the report cited in the testimony were Allison Abrams, Pamela Davidson, Jonathan Harmatz, Tiffani Humble, Julia Kennon, Rebecca Shea, Jena Sinkfield, Tyler Spunaugle, and Tatiana Winger.

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## Strategic Planning and External Liaison

James-Christian Blockwood, Managing Director, [spel@gao.gov](mailto:spel@gao.gov), (202) 512-4707, U.S. Government Accountability Office, 441 G Street NW, Room 7814, Washington, DC 20548



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