DECEMBER 15, 2025

Small Business Administration Investigating ALL 8(a) Businesses in Effort to Expose Fraud, Waste, & Abuse: What This Means for your 8(a) Organization

by Gunjan R. Talati , Jennifer L. Andrews , Katherine S. Klein , Hunter T. Payne

On December 5, the Small Business Administration ("SBA") circulated a letter to all 8(a) businesses demanding verification of eligibility under the 8(a) Business Development Program. Existing 8(a) businesses are advised to comply with the SBA's extensive disclosure demands and prepare for scrutiny of 8(a) compliance.

Background

The SBA administers the 8(a) Business Development Program to support socially and economically disadvantaged business owners through training, technical assistance, and contracting opportunities. The program is limited to small businesses "unconditionally and directly owned by one or more socially and economically disadvantaged individuals who are citizens of the United States."[1]

Federal regulations designate "socially disadvantaged individuals" as "those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities."[2] There is a rebuttable presumption that individuals who identify with certain racial and ethnic minorities are socially disadvantaged.[3] Individuals who do not identify with such minority groups "must establish individual social disadvantage by a preponderance of the evidence."[4]

Small business owners must further qualify as "economically disadvantaged" to satisfy 8(a)'s eligibility requirements. To ensure an individual is economically disadvantaged, the SBA limits eligibility to individuals with limited financial access and resources. The SBA bars eligibility for individuals exceeding (1) a net worth of $850,000; (2) personal income of $400,000 within the past three years; or (3) assets totaling $6.5 million in fair market value.

Once determined eligible for the program, the SBA provides 8(a) businesses exclusive access to set-aside and sole-source federal contracting opportunities. These opportunities limit competition and lower procurement costs, allowing 8(a) businesses to thrive in their respective markets.

SBA's December 5 Letter

On December 5, the SBA issued a letter to 8(a) businesses, requesting extensive data to "address waste, fraud, and abuse in the 8(a) Program." In support of its investigation, the SBA cites "years of credible concerns that the program . . . has become a vehicle for institutionalized abuse at taxpayer expense."

To combat the alleged fraud and abuse, the SBA demands that 8(a) businesses provide an extensive number of documents, including:

1. A general ledger for the last three full fiscal years;

2. The trial balance as of the last day for each of the last three fiscal year-ends;

3. IRS Form 4506 covering the last three full fiscal years;

4. Bank statements as of the last day for each of the last three fiscal year-ends;

5. Bank reconciliations as of the last day for each of the last three fiscal year-ends;

6. Monthly payroll register and reconciliation (including any distributions to any owner) for the last three full fiscal years;

7. A list of all employees, broken out by contracts those employees are servicing, for the last three full fiscal years;

8. A list of all vendors (as well as all joint ventures) for the last three full fiscal years;

9. A copy of all 8(a) contracts on which the firm is currently working for the last three full fiscal years;

10. Subcontracting agreements related to the contracts in item 9 (for the last three full fiscal years);

11. Financial statements including the year-end balance sheet, YTD P&L, cash flow statement, and the statement of equity for each of the last three fiscal years;

12. Financial statement reconciliation to the year-end trial balance for the last three fiscal years; and

13. For each of the last three full fiscal years, a sub-ledger schedule tying to the year-end trial balance accounts.

Next Steps

The SBA's December 5 letter imposes a considerable burden upon existing 8(a) businesses. Failure to comply with the SBA's demands could result in disqualification from the program and its benefits. In response, 8(a) businesses should:

Take notice of the SBA's investigation . The SBA has demonstrated a clear intent to thoroughly

investigate fraud and abuse within the 8(a) Business Development Program. If it has not already been received, current 8(a) business owners should anticipate receiving this letter in the future.

Gather the requested information. The SBA is requesting substantial documentation that will impose a heavy burden upon existing 8(a) businesses. Eligible companies should give prompt attention to gathering this information.

Evaluate eligibility concerns. While gathering the requested information, existing 8(a) businesses should consider whether requested documents or current practices threaten 8(a) eligibility. Specifically, these businesses should ensure that social and economic requirements remain satisfied.

Prepare to address any issues and potentially challenge the SBA's findings. The SBA's extensive demands indicate that it is actively seeking to identify and reprimand noncompliance. While the SBA has provided little transparency as to how it plans to assess the entirety of the requested information, the sheer bulk of its request suggests the SBA may engage the help of artificial intelligence to identify noncompliance. Existing 8(a) businesses are advised to seek the advice of counsel if questions or concerns arise regarding whether an entity was eligible for the program (or should remain eligible). Additionally, if SBA makes adverse determinations regarding an entity's eligibility, it may be able to challenge such determinations administratively or through the courts.

---

[1] 13 C.F.R. § 124.105.

[2] 13 C.F.R. § 124.103(a).

[3] *See* 13 C.F.R. § 124.103(b)(1) (listing the eligible groups).

[4] 13 C.F.R. § 124.103(c)(1).