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Section 610 Review of the

Small Business Administration’s 8(a) Program

13 Code of Federal Regulations (C.F.R.) § 124

August 2020

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1 Introduction

Section 610 of the Regulatory Flexibility Act (5 U.S.C. § 610) calls for the implementation of periodic "lookback" reviews for rules affecting small entities. These periodic reviews assemble updated information about the need for regulation; examine retrospective information about the regulatory impacts and performance to determine whether rules need to be changed, amended, or rescinded; and assess whether they are still consistent with their stated objectives. Additionally, these reviews help identify any adverse or unintentional economic impacts that the implemented rule may have had on a substantial number of affected entities and identify any ways to increase the rule's overall effectiveness in the future.

Review of rules under Section 610 is organized around assessment of the following factors:

- The continued need for the rule
- The nature of complaints and comments about the rule from the public
- The complexity of the rule
- The extent to which the rule overlaps, duplicates, or conflicts with other federal rules (or, if applicable, with state and local rules)
- The length of time since the last review of the rule, or the degree to which technology, economic conditions, or other factors have changed the area affected by the rule

Consistent with the wording in Section 610, a plan for a review must be established within 180 days after a rule is published. The actual review of the rule shall be conducted within 10 years of the publication of the final version of the rule. The review is initiated when, each year, every agency submits a list to the *Federal Register* outlining rules that have had a Significant Economic Impact on a Substantial Number of Small Entities (SISNOSE) and which are due for review under Section 610. The rules on this list are reviewed within the following year.

Consistent with this process, this document provides a Section 610 Review that focuses on the 8(a) Business Development Program. The current program was created by merging two federal programs and Congress granting the Small Business Administration (SBA) the authority for the 8(a) program for minority-owned businesses in 1978.[1]

2 Program Description

2.1 Purpose

The 8(a) Business Development Program assists eligible small disadvantaged business concerns to compete in the American economy through business development.[2]

Since 1942, the United States has been assisting small businesses through temporary agencies such as the Smaller War Plants Corporation and later the Small Defense Plants Administration during times of war. This later led to the creation of the permanent SBA in 1958. SBA began to shift its focus toward racial and ethnic minorities in 1970, with the earliest installments of regulations for the 8(a) Program. In

[1] P.L. 95-507, To amend the Small Business Act and the Small Business Investment Act of 1958, 92 Stat. 1757 (October 24, 1978).

[2] https://www.govinfo.gov/content/pkg/CFR-2019-title13-vol1/xml/CFR-2019-title13-vol1-part124.xml § 124.1

1978, the 8(a) Program officially became only for socially and economically disadvantaged business concerns. New disadvantaged groups were added to the program starting in the 1980s to incorporate Native American populations and Community Development Corporations.[3]

2.2 Eligibility

Only certain small businesses can qualify for the 8(a) Program, and they must meet several relevant factors that determine whether a concern qualifies for the program. Generally, a concern meets the basic requirements for admission to the 8(a) Business Development Program if it is a small business that is unconditionally owned and controlled by one or more socially and economically disadvantaged individuals who are of good character and citizens of the United States. SBA considers these characteristics demonstrative of the business having "potential for success."[4]

To be eligible, the applicant concern must qualify as a small business concern; otherwise their application will be denied. The applicant concern must also be unconditionally owned and controlled by at least one socially and economically disadvantaged individual. Socially disadvantaged individuals are 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."[5] Economically disadvantaged individuals are those whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or a similar line of business who are not socially disadvantaged.[6]

Furthermore, an applicant or participant must be at least 51 percent unconditionally and directly owned by one or more socially and economically disadvantaged individuals who are citizens of the United States, except for the concerns owned by Indian tribes, Alaska Native Corporations (ANCs), Native Hawaiian Organizations, or Community Development Corporations (CDCs). An applicant or participant's management and daily business operations must also be conducted by one or more disadvantaged individuals, except for concerns owned by Indian tribes, ANCs, Native Hawaiian Organizations (NHO), or CDCs. Disadvantaged individuals managing the concern must have managerial experience of the extent and complexity needed to run the concern.

Additionally, applicant concerns must possess reasonable prospects for success by being in business in its primary industry classification for at least 2 full years immediately prior to the date of its 8(a) Business Development application, unless granted a waiver. Applicants must also possess good character, and applications will be denied if evidence of poor character (such as the incarceration of key personnel or a lack of business integrity) is found. Once a concern or disadvantaged individual upon whom eligibility was based has participated in the 8(a) Business Development Program, neither the concern nor that individual will be eligible again. Wholesalers, brokers, and firms that fail to pay significant financial obligations owed to the Federal Government (including unresolved tax liens and defaults on federal loans or other federally assisted financing) are ineligible for admission to or participation in the 8(a) Business Development Program.

[3] https://fas.org/sgp/crs/misc/R44844.pdf Pages 3–8

[4] https://www.govinfo.gov/content/pkg/CFR-2019-title13-vol1/xml/CFR-2019-title13-vol1-part124.xml § 124.101

[5] https://www.govinfo.gov/content/pkg/CFR-2019-title13-vol1/xml/CFR-2019-title13-vol1-part124.xml § 124.103

[6] https://www.govinfo.gov/content/pkg/CFR-2019-title13-vol1/xml/CFR-2019-title13-vol1-part124.xml § 124.104

During the application process, Indian tribes and ANCs have special rules that apply only to them, including separate definitions for social disadvantage and economic disadvantage. Native Hawaiian Organizations and CDCs similarly have special rules that apply only to them.

To remain eligible, a concern must continue to meet all eligibility standards mandated by the basic requirements for admission to the 8(a) Business Development Program. A concern must make the appropriate submissions supporting continued eligibility (such as payment records and tax forms). If specific and credible information exists alleging a participant no longer meets the eligibility requirements for continued program eligibility, the concern's eligibility for continued participation in the program will be reviewed. Examples of indicators of no longer being economically disadvantaged are excessive withdrawals of funds by the owner or substantial income. Lastly, a concern can lose its eligibility status if there is evidence of excessive withdrawals. Withdraws are deemed excessive in aggregate if they exceed $250,000 for firms with sales up to $1,000,000; $300,000 for firms with sales between $1,000,000 and $2,000,000; and $400,000 for firms with sales exceeding $2,000,000.[7]

2.3 Services

The primary service of the 8(a) Program is business development. As part of this service, participants submit an initial business plan that identifies business targets, objectives, and goals for the SBA servicing office to better assist participants. This business plan is reviewed annually, and SBA recommends items for further development. Additionally, each participant must identify a transition management strategy for how they intend to remain profitable after their 8(a) Program term ends. In return, participants are eligible to receive the following:

- Contract support
- Financial assistance
- The transfer of technology or surplus property owned by the United States
- Training to aid in developing business principles and strategies to enhance their ability to compete for contracts
- Assistance from procuring agencies in forming joint ventures
- Leader-follower arrangements
- Teaming agreements between the concern and other participants and training and technical assistance in transitional business planning

A key component of the program is contractual assistance. The SBA provides participants with procurement assistance and negotiation assistance for contracts. Additionally, participation in the program allows access to set-aside 8(a) contracts that only program participants can bid for.

Another service is the Mentor-Protégé Program. This program encourages approved mentors to provide various forms of assistance to eligible participants. Any concern that demonstrates a commitment and the ability to assist developing 8(a) participants may act as a mentor and receive the associated benefits (such as owning an equity interest of up to 40 percent in the protégé firm). The protégé firm is then able to bid and compete for contracts that would otherwise be out of reach for a firm of their size.

[7] https://www.govinfo.gov/content/pkg/CFR-2019-title13-vol1/xml/CFR-2019-title13-vol1-part124.xml § 124.112

2.4 Types of Contracts

The 8(a) Business Development Program also has the provision for participants to receive 8(a) sole-source contract awards of less than $4 million, unless a waiver for competition is approved, and competitive 8(a) contract awards valued over $4 million. Eligible 8(a) participants can also participate in other types of set-asides and full and open competitions. Other procurements are contracts awarded through the traditional proposal/bid acquisition system, in which firms submit a proposal and government agencies determine which bid they will select. Sole-source contract awards are awarded without competition, thus enabling participants to gain experience, past performance, and familiarity with different agencies that enhance their future contract competitiveness.

2.5 Stages of the Program

The 8(a) Business Development Program is separated into two stages. For the first 4 years of the program, participants are in the developmental stage of program participation. During this time, participants receive sole-source and competitive 8(a) contract support, financial assistance, the transfer of technology or surplus property owned by the United States, and training to aid in developing business principles and strategies to enhance their ability to compete successfully for both 8(a) and non-8(a) contracts. During the last 5 years of the program, participants are in the transitional stage of program participation. In this stage, participants receive the same assistance as before, as well as assistance from procuring agencies (in cooperation with SBA) in forming joint ventures, leader-follower arrangements, and teaming agreements between concern and other participants or other business concerns with respect to contracting opportunities outside the 8(a) Program. They also receive training and technical assistance in transitional business planning.

3 Affected Universe

3.1 Potential Affected Universe

The 8(a) Business Development Program has the potential to impact any small business that:

- Has been in business for at least 2 years
- Has not previously participated in the program
- Is at least 51 percent owned and controlled by socially and economically disadvantaged U.S. citizens
- Has a net worth and adjusted income of less than or equal to $750,000 and assets less than $6 million

As of 2018, there were 30.2 million small businesses in the United States.[8] Of those, 8 million were minority-owned businesses that could possibly be eligible (though a business does not have to be minority-owned to be deemed eligible) for the 8(a) Business Development Program.[9]

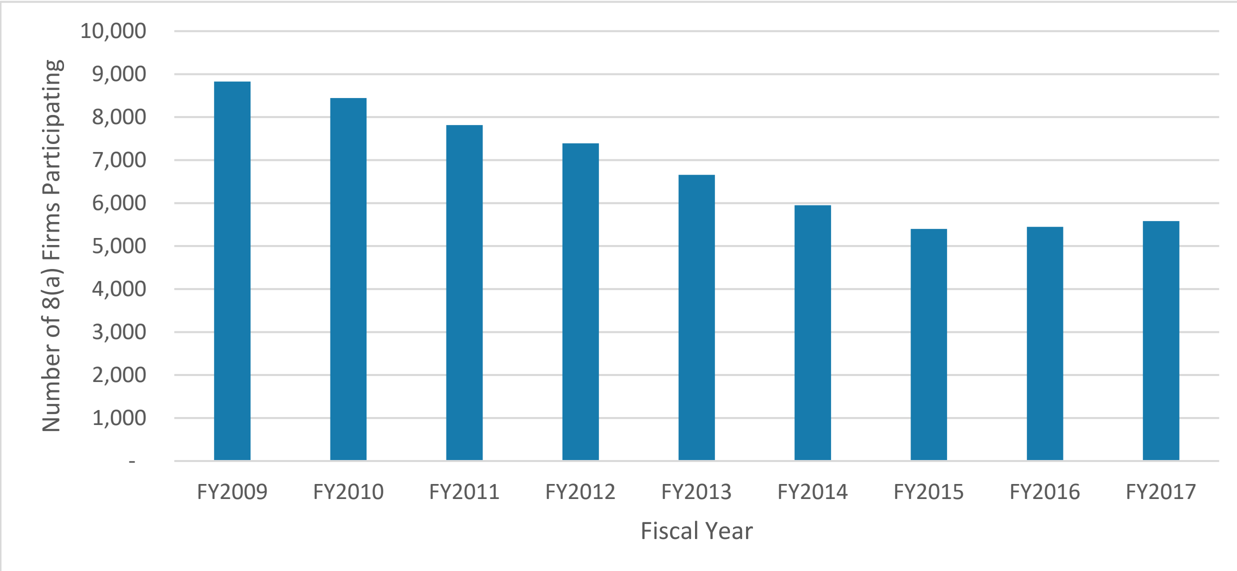
3.2 Actual Affected Universe

As shown in **Figure 1,** the actual number of small businesses that participated in the 8(a) Program was fewer than 10,000 for every year between FY2009 and FY2017, and this number has been decreasing

[8] https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-US.pdf
[9] https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-US.pdf

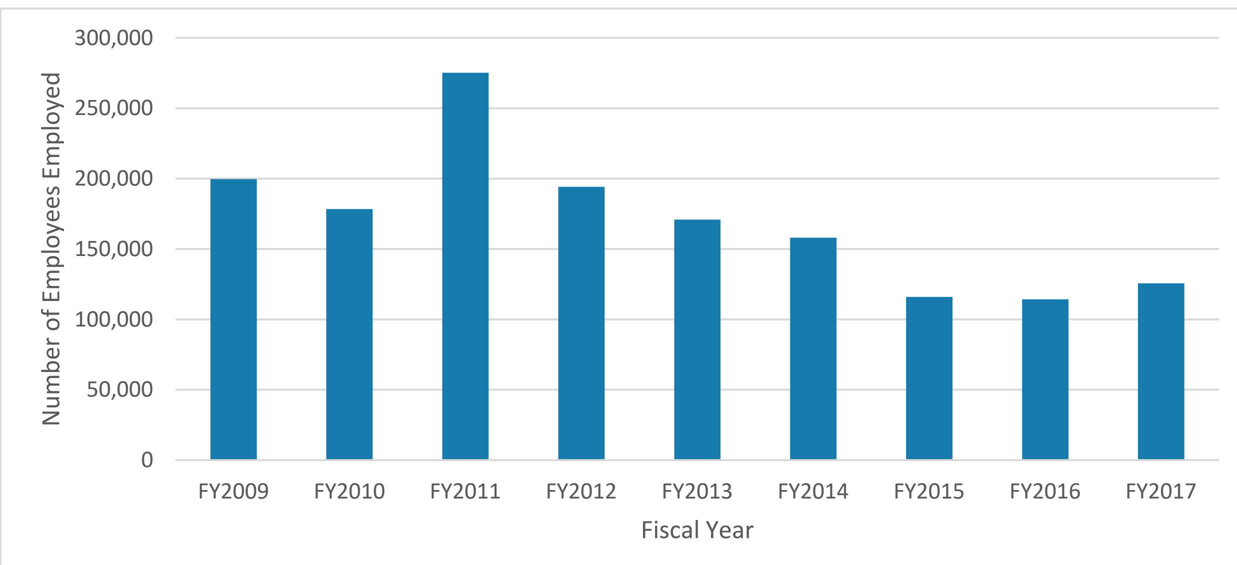
over this time period. However, the program continues to have over 5,000 firm participants each year. These firms employ over 100,000 people (see **Figure 2**) each year**. Figure 3** shows the number of newly certified 8(a) participants each fiscal year. There was an increase in FY16 that coincided with SBA's efforts to streamline the application process.

Figure 1: Number of Firms Participating in 8(a) Program



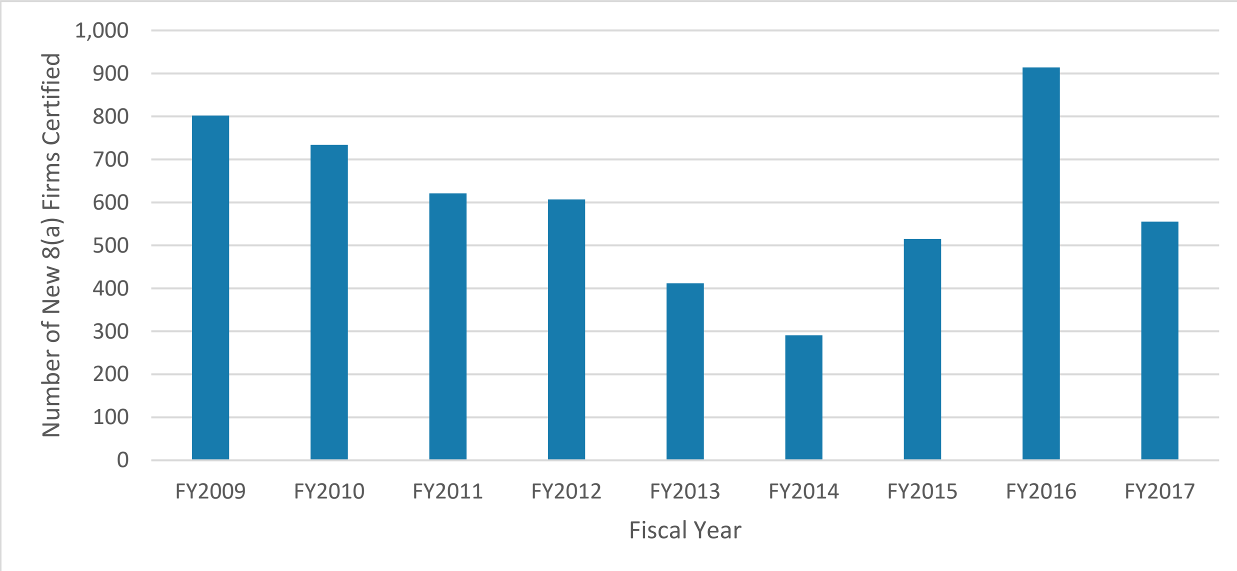
Source: U.S. Small Business Administration, Office of Business Development, 408 Report to Congress (FY2010 through FY2017).

Figure 2: Number of Employees Employed by 8(a) Participants



Source: U.S. Small Business Administration, Office of Business Development, 408 Report to Congress (FY2010 through FY2017).

Figure 3: Number of Newly Certified 8(a) Participants



Source: U.S. Small Business Administration, Office of Business Development, 408 Report to Congress (FY2010 through FY2017).

4 Section 610 Review Criteria

The purpose of a Section 610 Review is to determine whether a rule should be continued unchanged, be discontinued, or be amended. When reviewing the 8 (a) program rule, 13 C.F.R. § 124, the following criteria are considered:

- The continued need for the rule
- The nature of complaints and comments about the rule from the public
- The complexity of the rule
- The extent to which the rule overlaps, duplicates, or conflicts with other federal rules (or, if applicable, with state and local rules as well)
- The length of time since the last review of the rule, or the degree to which technology, economic conditions, or other factors have changed the area affected by the rule

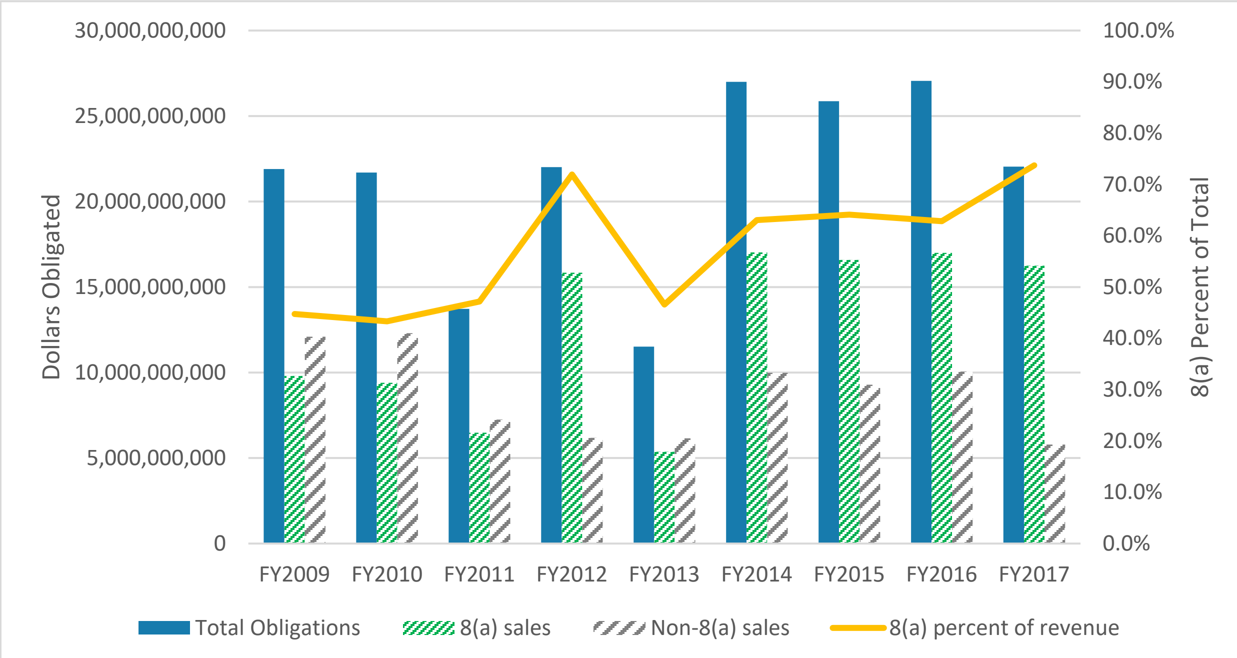
The findings of each of these criteria are discussed throughout this section.

4.1 Discussion of Continued Need

The 8(a) Program continues to serve a large number of socially and economically disadvantaged business concerns. As noted in Section 3, the 8(a) Program continues to have upward of 5,000 businesses participating in the program each year. These businesses employ over 100,000 employees each year.

Figure 4 shows the total sales, 8(a) sales, and non-8(a) sales for 8(a) firms from FY2009 to FY2017. The total obligations (combining 8(a) sales and non 8(a) sales) were over $20 billion for all years except FY2011 and FY2013. The percentage of revenue coming from 8(a) sales increased by around 30 percent from FY2009 to FY2017 (44.7 percent to 73.7 percent). This shows that firms are relying more heavily on the 8(a) Program to generate sales than in the past, highlighting the importance of the program for participants.

Figure 4: 8(a) Firm Obligations, by Total and Source



Source: U.S. Small Business Administration, Office of Business Development, 408 Report to Congress (FY2010 through FY2017).

The 8(a) program continues to aid businesses with winning contracts, with between 13,399 firms (in 2010) and 9,857 (in 2019) winning contracts each year. While the number of firms is decreasing over time, similar to the enrollment in the program, the number of firms that are awarded contracts through the 8(a) program is near 10,000. As shown in **Table 1**, the top three industries for program participants are Construction; Professional, Scientific, and Technical Services; and Administrative and Support and Waste Management and Remediation Services. However, businesses across all industries are assisted through the program.

Table 1: Number of Firms Awarded at Least One Contract, by Year and Industry

Industry (Two-Digit NAICS)	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Construction (23)	4,787	4,446	4,235	3,596	3,633	3,408	3,390	3,190	3,105	2,783
Professional, Scientific, and Technical Services (54)	3,438	3,422	3,467	3,259	3,291	3,328	3,343	3,345	3,390	3,395
Administrative and Support and Waste Management and Remediation Services (56)	2,049	2,054	1,972	1,830	1,870	1,883	1,872	1,816	1,863	1,813
Manufacturing (31–33)	1,134	1,087	981	775	755	705	696	697	635	551
Wholesale Trade (42)	460	309	244	199	155	111	79	55	49	46
Information (51)	342	333	343	332	321	306	294	267	281	243
Other Services (except Public Administration) (81)	218	217	210	214	197	190	172	171	168	148
Transportation and Warehousing (48–49)	210	223	225	197	202	206	182	177	187	174
Health Care and Social Assistance (62)	192	238	275	254	261	294	287	313	336	294
Educational Services (61)	189	192	180	190	180	177	177	195	188	202
Retail Trade (44–45)	87	71	64	30	27	20	16	8	4	4
Agriculture, Forestry, Fishing, and Hunting (11)	69	57	58	48	45	42	46	46	52	48
Real Estate Rental and Leasing (53)	61	57	60	58	69	65	57	56	67	51
Accommodation and Food Services (72)	43	39	37	37	38	32	33	31	29	35
Missing NAICS (N/A)	39	14	6	3	1	0	0	0	0	0
Utilities (22)	33	37	39	25	26	27	21	26	30	26
Public Administration (92)	14	18	12	14	13	8	11	8	8	6
Mining (21)	13	16	8	8	9	12	12	8	12	9
Arts, Entertainment, and Recreation (71)	12	15	15	15	14	14	16	18	14	18
Finance and Insurance (52)	9	12	12	14	16	14	13	13	14	11
Total	**13,399**	**12,857**	**12,443**	**11,098**	**11,123**	**10,842**	**10,717**	**10,440**	**10,432**	**9,857**

Source: SBA Program Data. The discrepancy between total awards and total firms participating in the 8(a) Program is due to the length of time of contracts. For example, many contracts awarded have periods of performances that are longer than a year so they could still be counted as receiving a contract award through the program even after they graduate from the 8(a) Program.

4.2 Complaints, Comments, and Issues

Section 610 of the Regulatory Flexibility Act requires a review of any complaints, comments, or other reactions from the public. As part of this component, this review focused on documents from various sources, including a report from the Congressional Research Service (CRS), public comments, and reports from the Office of the Inspector General (OIG). While the 8(a) Program continues to assist thousands of businesses with winning billions of dollars in federal contracts each year, these sources have identified a series of opportunities to strengthen the program, many of which have been addressed over time. The subsections below summarize findings by category based on the theme of the complaint or issue. Overall, many interrelated issues with the application and recertification process impact participation, effective enforcement of program eligibility requirements, receipt of services, and documentation.

4.2.1 Decreasing Participation/Application Process

CRS identified a number of issues with decreasing participation, intertwined with issues with the application process. From 2010 to 2017 the 8(a) Program experienced a decrease in the number of 8(a) small businesses assisted by SBA Business Opportunity Specialists, a 20 percent decrease from 8,442 to 6,789. The program reached a low in businesses assisted in FY2017, with 6,655 businesses assisted. Over that same time period, SBA's administrative costs increased from $56.817 million to $71.456 million.[10,11]

One possible cause of the declining participation is the process for applying and getting accepted into the 8(a) Program. As described in the Program Description section, applicants must meet an extensive list of criteria to be accepted into the program. According to SBA, almost three-quarters of applications are initially rejected due to missing components; and once the applications are complete, only half are approved.[12] Some firms have begun offering services to prepare the application for 8(a) applicants, introducing an additional expense of $5,000 to $75,000, without proof of an increased likelihood of being approved.[13] **Figure 5** shows the number of firms that completed the 8(a) Program from FY2009 to FY2016. The figure also shows the percentage of total participants the graduating firms represent. The number of firms completing the program increased each from FY2009 to FY2014, which could also contribute to the declining number of total firms in the program.

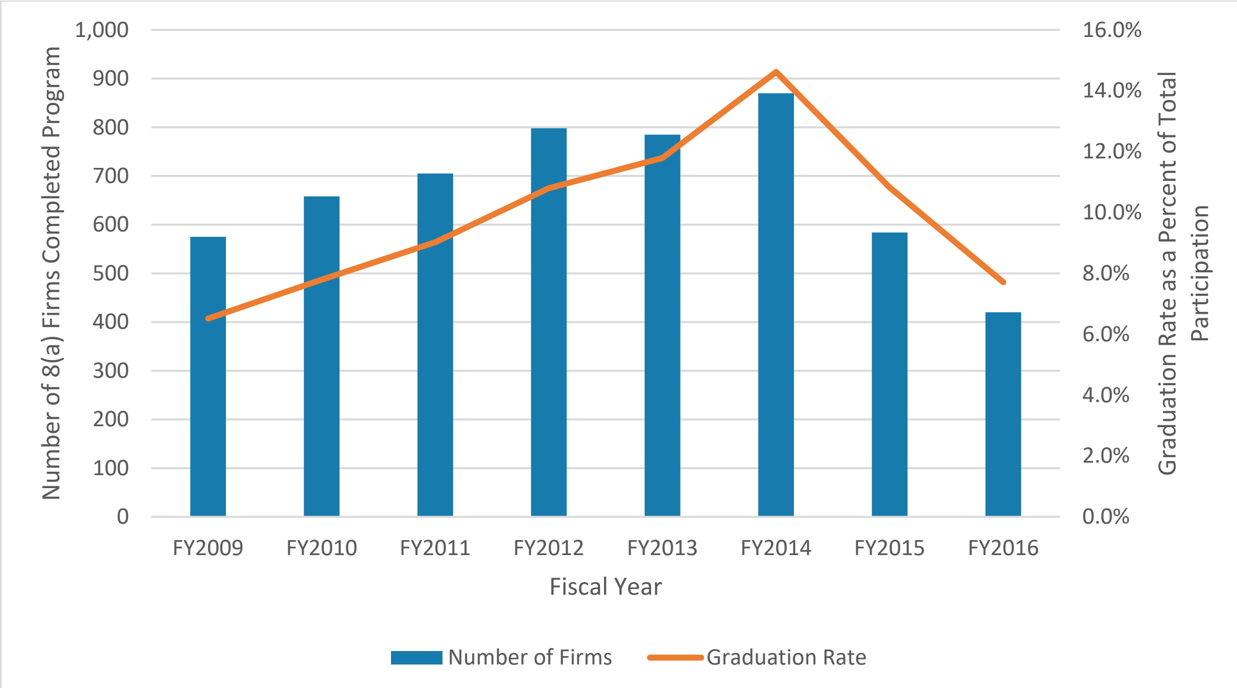
[10] https://fas.org/sgp/crs/misc/R44844.pdf, page 33-35

[11] The administrative costs include direct costs from the operating budget, including contracts; compensation and benefits; Agency-wide costs, such as rent and telecommunications; and indirect costs. The SBA updated its Total Administrative Resources calculation methodology in FY2018. Fiscal years prior to 2018 are not comparable and are provided for presentation purposes only.

[12] https://fas.org/sgp/crs/misc/R44844.pdf, page 35

[13] Ibid, page 35

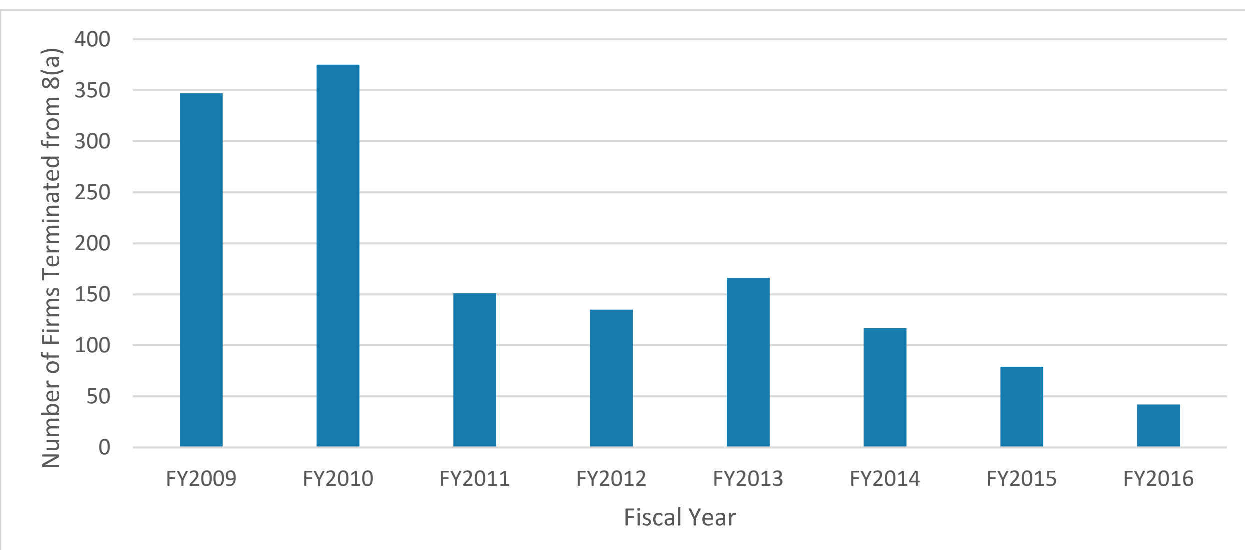
Figure 5: Number of Firms Completed 8(a) Program/Graduated/Early Graduated



Source: U.S. Small Business Administration, Office of Business Development, 408 Report to Congress (FY2010 through FY2017).

Figure 6 shows the number of firms that were terminated from the 8(a) Program from FY2009 to FY2016. The number of firms that were terminated from the 8(a) Program was over 300 between FY2009 and FY2010 but then did not pass 200 afterwards.

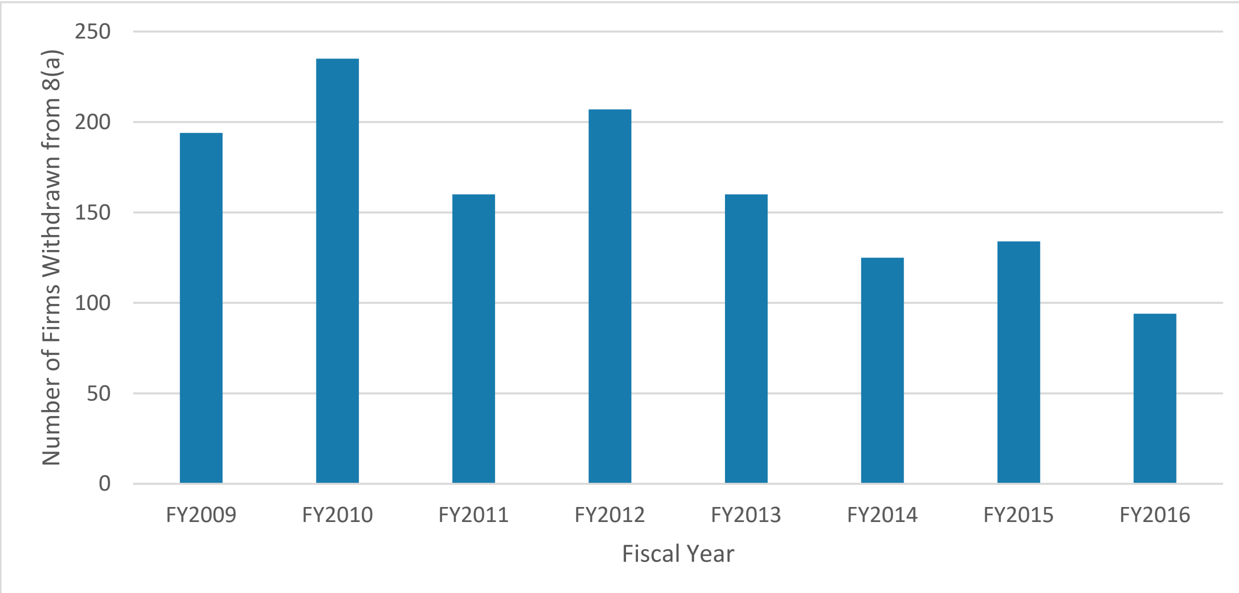
Figure 6: Number of Firms Terminated from 8(a)



Source: U.S. Small Business Administration, Office of Business Development, 408 Report to Congress (FY2010 through FY2017).

Figure 7 shows the number of firms that withdrew from the 8(a) Program from FY2009 to FY2016, this number was rarely above 200 and has been declining since FY2012.

Figure 7: Number of Firms Withdrawn from 8(a)



Source: U.S. Small Business Administration, Office of Business Development, 408 Report to Congress (FY2010 through FY2017).

As an effort to increase participation, SBA designed a streamlined application process. Although SBA was able to enroll participants faster, an SBA OIG audit found that SBA did not always document why applications with eligibility issues were approved. SBA agreed to clearly document justifications for approving applications in its Business Development Management Information System.[14] The next section discusses eligibility concerns in greater detail.

4.2.2 Eligibility Concerns

Despite the application process being so extensive and requiring a large amount of documentation, there are multiple sources that cite concerns with eligibility, both at the time of application and throughout program participation. Specifically, there are issues with reporting requirements, clarity of definitions, and continued monitoring and enforcement of firms maintaining eligibility. **Table 2** summarizes the concerns and their sources. Overall, the findings and comments suggest that SBA's current methodology for determining and recertifying eligibility of program participants is unclear, inconsistently applied, incompletely documented, and too burdensome.

[14] Ibid, page 35

Table 2: Eligibility Concerns

Issue	Description	Source
Lack of Reporting Requirements	In the original rule, SBA did not require firms to alert SBA of any changes that would affect their eligibility. SBA updated the rule to include new provisions in the rule, including requirements to disclose any changes in eligibility during the application process and throughout program participation.	Public Comments, pg. 35,727, 35,731[15]
Incomplete Documentation of Approvals/Denials	SBA does not record why applicants are approved or denied. Some applicants were flagged for potential issues but were still approved without documented justification. Commenters also expressed a desire for more oversight from SBA to prevent fraud.	OIG Report,[16] pg. 2, Public Comments, pg. 35,731[17]
Annual Recertification Process Is Burdensome	Commenters suggested that the annual review process was too burdensome and unclear. In response, SBA stated that the requirements would remain as such and that clarifications were not necessary based on the existing content in the rule.	Public Comments, pg. 33,813–33,814[18]
Inconsistent Identification of Ineligible Firms	Four of the 15 firms that OIG reviewed were ineligible for the program. These firms either were not reviewed for continued eligibility or the indicators of ineligibility were not detected in the review.	OIG Report,[19] pg. 4
Did Not Correct or Remove Ineligible Firms	When SBA did review firms and identify potential issues, they did not have documentation of correcting the ineligibilities or removing any firms from the program. Six of the 15 firms OIG reviewed had eligibility concerns that SBA identified. Four of these firms received notices, whereas no action was taken for the other firms. In the end, one firm withdrew from the program and the other five either remained in the program or completed their graduation at the full term.	OIG Report,[20] pg. 7
Did Not Log or Follow Up on Complaints	Further, the SBA's Standard Operating Procedure does not require the reviews, despite them being mandated by the regulation. Finally, OIG found that they did not log all the complaints received. SBA logged only 44 of the 77 complaints (57%).	OIG Report,[21] pg. 9–11

4.2.3 *Variation in Services*

The CRS also identified issues with the services that participants received. In particular, the job duties of Business Opportunity Specialists (BOS) responsible for overseeing the 8(a) Program were not clearly stated and were known to vary from office to office. This, along with the fact that BOS were often asked to help with other programs, led to inconsistent services being delivered to 8(a) participants. These duties were clarified in the National Defense Authorization Act for FY2018 with a list of duties for the BOS.[22]

[15] https://www.govinfo.gov/content/pkg/FR-1998-06-30/pdf/98-17196.pdf#page=14

[16] https://www.sba.gov/sites/default/files/oig/SBA-OIG-Report_18-22.pdf

[17] https://www.govinfo.gov/content/pkg/FR-1998-06-30/pdf/98-17196.pdf#page=14

[18] https://www.govinfo.gov/content/pkg/FR-2013-06-28/pdf/FR-2013-06-28.pdf

[19] https://www.sba.gov/sites/default/files/oig/SBA-OIG-Report_18-22.pdf

[20] Ibid.

[21] Ibid.

[22] https://fas.org/sgp/crs/misc/R44844.pdf, page 36

The Government Accountability Office (GAO) found that a significant amount of time is spent on doing the annual reviews of the 8(a) firms, limiting the amount of time SBA can spend on other responsibilities, such as helping businesses with finance, marketing, getting loans, or other business development tasks.[23] In fact, the task of completing the annual reviews also prevented staff from being able to follow up on red flags from previous reviews, performing site visits, or other tasks that are key to maintaining the program and developing the firms who are participating.

4.2.4 Documentation and Recordkeeping

In addition to the 8(a) Program's shortcomings in terms of logging complaints, the GAO also found that SBA is not collecting granular information about the types of firms they serve. Specifically, SBA was unable to readily provide GAO with how many ANC-owned firms were in the program.[24] Some of the data shortcomings prevent SBA from effectively enforcing regulations, such as tracking follow-on contracts and tracking firms that are under one parent ANC.[25] GAO found that SBA was not keeping an accurate list of the participants of the Mentor-Protégé Program, introducing issues with controlling and monitoring the program.[26]

4.2.5 Other Public Comments

In addition to the comments mentioned throughout this section, SBA has received over a hundred comments on the 8(a) Program and solicited further comments through Tribal consultations. The following is a summary of content and responses:

- Most of the comments were relatively simple, requesting minor tweaks to language, clarification of specific provisions, or regarding provisions to which SBA does not have the authority to change. SBA addressed the comments and accepted changes where they were willing and able, or justified their decision not to adopt the suggested change.
- In the original version of the rule (set forth in 1998), SBA received a number of requests to allow small businesses to enter into teaming agreements or joint ventures to complete larger contracts. SBA revised the rule to accommodate this request. SBA also received comments regarding eligibility and continued eligibility. The updated rule states that individuals need to maintain their eligibility throughout the program and inform SBA of any changes in eligibility.
- There were several comments regarding trust arrangement and ownership rules. SBA determined that:
  - Certain trust arrangements were permissible
  - Individuals with a certain percentage of ownership interests in an 8(a) participant may not have the same level of ownership in an additional 8(a) participant, with specific provisions on current and former participants
  - While there were some concerns about access to capital and whether additional controls were needed beyond the 51 percent rule, SBA relaxed the restrictions but did not remove them, because they view this as a method for reducing abuse of the program

[23] https://www.gao.gov/assets/310/302582.pdf, page 15
[24] https://www.gao.gov/assets/710/702178.pdf, page 4
[25] ibid, page 5
[26] https://www.gao.gov/assets/310/302582.pdf, page 22–23

- Ownership of a participating firm can be transferred, but SBA needs to approve the transfer ahead of time or it will suspend the firm's participation in the program while SBA reviews the transfer[27]
- Non-owners can hold licenses critical to the business, as long as the owner can demonstrate control over the business

4.3 Program Complexity

As stated in Section 2, the 8(a) Program has extensive requirements for applying to the program. Once firms are admitted into the program, SBA has a large burden to then review and confirm eligibility throughout firms' tenure. This introduces a level of complexity in terms of entering and administering the program that can inhibit those who want to enter, thus limiting SBA's effectiveness at identifying and serving eligible participants.

The requirements also vary for different types of businesses, which creates confusion. Specifically, there are different rules for general 8(a) business, Tribal-owned, ANC-owned, NHO-owned, and CDC-owned. There is a different interpretation for almost all of the program's key components based on what type of ownership the firm has. With this level of complexity, it can be difficult for participants and administrators to navigate the detailed rules and for the program to run effectively. As GAO noted, the ANC-owned firms can enter into complex business arrangements, unique from other types of firms.[28]

A great number of comments that SBA has received over the years focus on clarifying the provisions and requirements set forth in the rule, which is indicative of the complexity of the rule. Although SBA has addressed the majority of the comments by providing clarifying language, there could be opportunities to streamline the language and requirements.

4.4 Overlap, Duplication, and Conflict with Other Programs

In addition to the 8(a) Program itself, SBA also administers two additional programs to assist 8(a) businesses: the 7(j) Management and Technical Assistance Program and the 8(a) Mentor-Protégé Program. As the name implies, the 7(j) Program provides assistance to 8(a) participants through training. This can happen through contracts, grants, and agreements and can be in a variety of forms, including counseling and assistance with business development.[29] The 8(a) Mentor-Protégé Program was designed to enhance the capabilities of 8(a) firms; similar to the 7(j) Program, it provides training and education, in addition to financial assistance.

There are several certification programs targeted toward specific types of small businesses, providing a further potential area for complexity or overlap. Some examples include:

- Historically Underutilized Business Zone (HUBZone) is a "place-based" program for businesses in areas that are historically underutilized, based on their principal office location. Businesses must be 51 percent owned and controlled by U.S. citizens or an Indian Tribe, and 35 percent of the employees must reside in any HUBZone to be a participant in the program.

[27] https://www.govinfo.gov/content/pkg/FR-1998-06-30/pdf/98-17196.pdf#page=14, page 35729
[28] https://www.gao.gov/assets/gao-20-184t.pdf, page 3
[29] https://fas.org/sgp/crs/misc/R44844.pdf, page 27–28

- Service-Disabled Veteran-Owned Small Businesses (SDVOSB) is a program for veteran-owned businesses that provides competitive and sole-source contracts. The Veterans Administration determines eligibility based on disability and SBA makes the determination based on size.
- The Women Owned Small Business (WOSB) and Economically Disadvantaged Women Owned Small Business (EDWOSB) Contracting Programs provide opportunities for women owned businesses. To participate, businesses must be owned by an American citizen and be 51 percent owned and directed by women, with women managing the day-to-day and long-term business decisions and operations and a woman holding the highest position. To qualify for the EDWOSB, there are additional thresholds for net worth, income, and fair market value of assets.[30]

There is some concern that these programs (specifically the HUBZone and 8(a) programs) may compete with each other and diminish their effectiveness.[31] There has been an increase in HUBZone firm certifications over the same period that there has been a decrease in 8(a) participants, suggesting that firms that are eligible for both are potentially moving toward the HUBZone program.

With all of these programs available to small business owners, varying requirements to participate, and varying application processes (self-certification is available for some programs), it may be difficult for individuals to understand:

- Which programs they qualify for
- Whether they can qualify for multiple programs
- The different benefits of each program
- How to apply for the programs
- Whether they should apply for multiple programs

Although the programs serve differing populations, overlap is possible, as is confusion of interested parties in understanding the intricacies. SBA offers a tool to quickly determine whether a firm is potentially eligible for the 8(a), WOSB, EDWOSB, or HUBZone program.[32] Although the tool does not make a final determination of eligibility, it allows users to narrow the programs they may be eligible for and provides instructions of how to apply for the programs.

Further, SBA has a proposed change to the rule, which would merge the 8(a) Business Development Mentor-Protégé Program and the All Small Mentor-Protégé Program to reduce confusion and duplication. The rule also proposes to clarify regulatory provisions to further reduce confusion.

4.5 Changes in the Market, Economic Factors

The market has not changed significantly in any way that would reduce the need for the program. Further discussion about market conditions is included in the Analytic Review Section. Small disadvantaged businesses continue to be supported through this program to improve their business development processes. While government-wide achievements in awarding contracts to small disadvantaged businesses have exceeded the 5 percent goal for prime contracting for over 10 years, not

[30] https://www.sba.gov/sites/default/files/articles/Government_Contract_Briefing_1.pdf

[31] https://fas.org/sgp/crs/misc/R41268.pdf, page 7

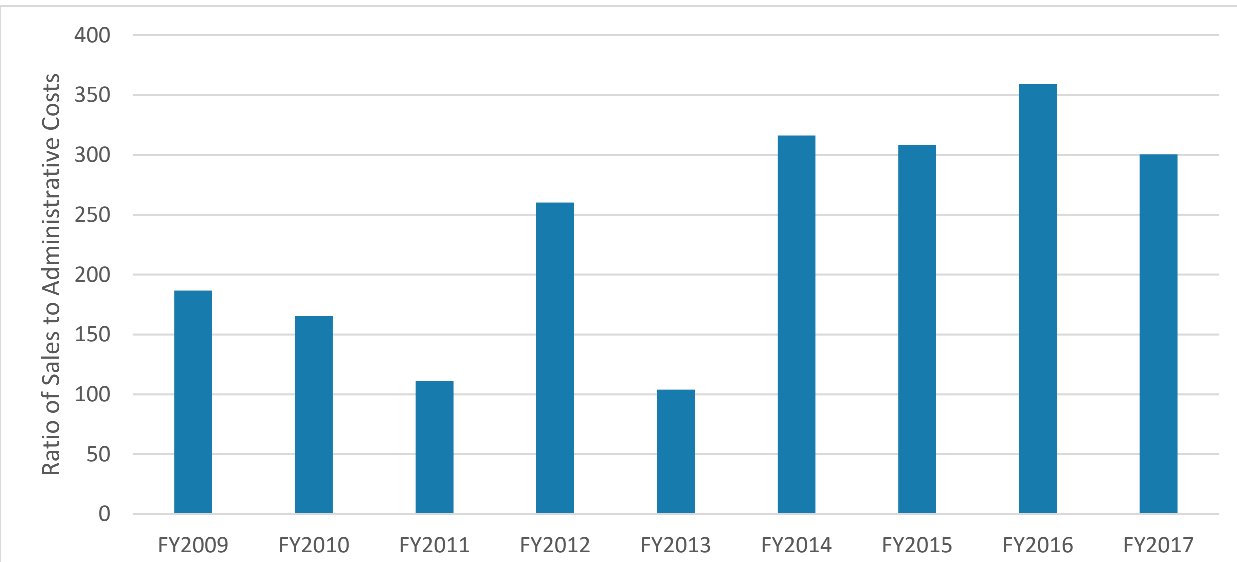
[32] https://certify.sba.gov/am-i-eligible#top

all agencies are meeting the goals.[33] Further, the 8(a) Program is a main factor for agencies achieving these goals.

Further, the COVID-19 pandemic may have increased the need for supporting small businesses. Shutdowns and other mitigation strategies have reduced business activity across many sectors. SBA has developed additional programs and administered loans to support these businesses; however, the 8(a) program should continue to be a resource.

In terms of costs to SBA, **Figure 8** shows the number of dollars in sales that 8(a) participants receive in 8(a) sales specifically, per every dollar that SBA spends on administrative costs. As stated in the annual 408 report to the Congress, the administrative costs consist of "direct costs from the operating budget plus compensation and benefits, Agency-wide costs such as rent and telecommunications, and indirect costs such as Agency overhead."[34] For example, in FY09, 8(a) participants made $9.8 billion in sales associated with 8(a) deals and SBA spent $52.5 million on program administrative costs, which equates to $187 in 8(a) sales for every $1 that SBA spent on the program. While the costs cannot be directly attributed to the sales of the program, this analysis is providing a comparison to contextualize the magnitude of the costs as they related to sales. Since FY2014, the benefits the 8(a) Program participants receive (sales) continue to be near or above 300 times the costs to SBA. The administrative costs have remained relatively consistent from FY2009 to FY2017, so the increase in this ratio starting in F2014 can be attributed to an uptick in sales at that time.

Figure 8: 8(a) Program Participant 8(a) Sales per $1 of SBA Administrative Costs



Source: U.S. Small Business Administration, Office of Business Development, 408 Report to Congress (FY2010 through FY2017).

[33] https://www.sba.gov/document/support--small-business-procurement-scorecard-overview

[34] The administrative costs include direct costs from the operating budget, including contracts; compensation and benefits; Agency-wide costs, such as rent and telecommunications; and indirect costs. The SBA updated its Total Administrative Resources calculation methodology in FY2018. Fiscal years prior to 2018 are not comparable and are provided for presentation purposes only.

5 Analytic Review

SBA's programs often target specific subsets of the small business universe that are not participating in the market at the levels that would be expected absent structural market limitations. For example, the 8(a) program provides technical assistance and training to businesses owned by socially and economically disadvantaged citizens who have historically had less access to capital and markets, while the HUBZone program provides assistance to businesses located in (and employing workers residing in) historically underutilized business zones. Assessing the effects and successes of each program requires program-specific data and analyses (e.g., comparison of the performance of similar businesses receiving 8(a) assistance versus those not receiving assistance or tracking the proportion of federal contracting dollars received by HUBZone program participants over time). Program-specific data aside, this section examines potential high-level effects of SBA's entire program portfolio using sector- and economy-level data, assessing the relative performance of small businesses compared to the rest of the economy. This comparison helps establish a baseline for contextualizing trends in the viability and performance of small businesses.

5.1 Market Concentration: Concentration Ratios

In economics, a "concentration ratio" is a numerical representation of the proportion of a given market or sector captured by the biggest firms in that sector. The less concentrated a market or sector, the more competitive it is, and the greater the share of the market held by small businesses. Less concentrated sectors may also have lower barriers to entry and fewer obstacles to financial success than more concentrated sectors. Concentration ratios are defined on a "number of firms" basis (e.g., the "Four-Firm Concentration Ratio" measures the total market share of the four largest firms in a sector, and the "Eight-Firm Concentration Ratio" measures the total market share of the eight largest firms, etc.). Concentration ratios for many (but not all) sectors are available from the Economic Census, which is published every 5 years: Economic Census data are available for 1997, 2002, 2007, and 2012, with the 2017 data due for release in the immediate future.[35] Market concentration data from the Economic Census is generally available at the two-digit NAICS level, the broadest level possible, although these data are available for the manufacturing sector (NAICS 31–33) at the three-digit level.[36] These data are only available nationally; no additional geographic resolution (e.g., state, county) is available.

An alternative to the "concentration ratios" is the application of the Herfindahl–Hirschman index (HHI). The HHI differs from the concentration ratio in that it is the sum of the squares of the market shares of the *n* largest firms in a sector, whereas the concentration ratio is purely the sum of the market shares of these firms. The HHI therefore gives more weight to the market shares of large firms than a concentration ratio does, highlighting those cases where a few big players dominate the market.

[35] Economic data included in prior Economic Censuses (i.e., those pre-1997) does not include market concentration data.

[36] Unlike every other sector, for which concentration ratio data from the Economic Census are available at the two-digit NAICS code level, concentration ratio data (and HHI data) for the manufacturing sector are available only at the three-digit level. To transform these three-digit-level data into an aggregate two-digit level figure, two analyses were considered: (1) weighting the individual year-by-year concentration ratios of each three-digit manufacturing NAICS code by relative sales revenues in 2012; and (2) weighting the change in concentration ratio between 1997 and 2012 for each three-digit manufacturing NAICS code by relative sales revenue in 2012. The results across both of these methods are relatively consistent, with the first method resulting in smaller changes in concentration ratio between 1997 and 2012 than the second method (e.g., a four percent change using the first method on a four-firm basis compared to an 18 percent chance using the second method, or a three percent change using the first method on a 50-firm basis compared to a five percent change using the second method).

For the sake of simplicity and reproducibility, this section reports market concentration data using concentration ratios—at the 50-firm, 20-firm, 8-firm, and 4-firm levels—and does not use the HHI.[37] Critically, examination of the available data indicates that trends in concentration ratios across sectors generally do not vary by the chosen firm level (i.e., top 50 firms, top 20 firms, top 8 firms), with few exceptions.[38]

Note that the Economic Census does not publish concentration data for some sectors, including:

- Mining, quarrying, and oil and gas extraction (NAICS 21)
- Construction (NAICS 23)
- Management of companies and enterprises (NAICS 55)[39]

Furthermore, the Economic Census does not include agriculture, forestry, fishing, and hunting (NAICS 11) or public administration (NAICS 92), and therefore does not provide concentration data on these sectors.

The sectors considered in this section comprise approximately 75 percent of U.S. gross domestic product (GDP), according to the Bureau of Economic Analysis. The largest omission is public administration (NAICS 92), which comprises 11 percent of U.S. GDP but is not relevant to assessment of small business performance changes associated with SBA programs. Therefore, across U.S. GDP attributable to sectors for which SBA program participation may influence the viability and performance of small businesses, this analysis covers sectors comprising approximately 84 percent of GDP.

5.2 Time-Series Analysis

As Economic Census data are available for only four points in time, time-series analysis of sector concentrations using these data are relatively limited. However, arraying sector-by-sector concentration ratios allows for high-level analysis of whether industry concentration is increasing (i.e., relatively worse small business performance to the benefit of larger market actors) or decreasing (i.e., relatively better small business performance to the detriment of larger market actors). The temporal horizon of the data, from 1997 to 2012, is reasonably broad with regard to the existence of relevant SBA programs. For example, the HUBZone program was established in 1997 as part of the Small Business Administration Reauthorization Act (Public Law 105–135). Therefore, the Economic Census data roughly capture recent changes in high-level small business performance since major SBA programs have been created.

[37] The HHI is only directly available from the Economic Census for the manufacturing sector (NAICS 31-33). To maintain consistency across sectors, the concentration ratio (available for all sectors with concentration data) is used instead. Given the mathematical relationship between the concentration ratio and the HHI, the HHI can be calculated and presented as needed, especially if research suggests that the quadratic nature of the HHI better aligns to other measures of industry competitiveness and barriers to entry than a linear measure such as the concentration ratio.

[38] Specifically, there is a consistent downward trend in concentration three sectors: (1) health care and social assistance (NAICS 62); (2) Arts, entertainment, and recreation (NAICS 71); and (3) other services (NAICS 81) across every firm level. Beyond these three sectors, the only sectors that show an aggregate downward trend at specific firm levels include: (4) accommodation and food services (NAICS 72), under the eight-firm and four-firm levels only; (5) real estate and rental and leasing (NAICS 53) under the eight-firm level only; (6) wholesale trade (NAICS 42) at the four-firm level only; and (7) professional, scientific, and technical services (NAICS 54) at the four-firm level only.

[39] The Economic Census publications do not specify whether the lack of concentration data stems from high concentrations in these sectors to begin with, or for another reason.

Table 3, **Table 4**, **Table 5**, and **Table 6** show concentration ratios by sector across the four Economic Census years for which data are available, starting in 1997. The tables also show the changes between 1997 and 2012 on both a delta and percentage change basis.[40] Each table provides concentration ratio data at a different firm level, though the trends are similar regardless of the firm level examined.

Table 3: Market Concentration by Sector, 50-Firm Basis

Sector NAICS Code	Sector NAICS Description	%[41] 1997	%[41] 2002	%[41] 2007	%[41] 2012	Changes 1997-2012 Delta	Changes 1997-2012 % Change
22	Utilities	64.5	69.0	70.1	69.1	4.6	7%
31–33	Manufacturing	49.9	51.3	52.0	51.5	1.6	3%
42	Wholesale trade	20.3	27.2	24.9	27.6	7.3	36%
44–45	Retail trade	25.7	31.7	33.3	36.9	11.2	44%
48–49	Transportation and warehousing	30.7	33.0	42.7	42.1	11.4	37%
51	Information	N/A	62	62	62.3	0.3	0%
52	Finance and insurance	38.6	44.9	46	48.5	9.9	26%
53	Real estate and rental and leasing	19.5	24.4	26.1	24.9	5.4	28%
54	Professional, scientific, and technical services	16.2	16.2	18.3	18.8	2.6	16%
56	Administrative and support and waste management and remediation services	22.1	21.9	23	23.7	1.6	7%
61	Educational services	19.6	21.4	22.3	22.7	3.1	16%
62	Health care and social assistance	18.8	14.7	15.1	17.2	-1.6	-9%
71	Arts, entertainment, and recreation	21.8	19.6	19.5	19.6	-2.2	-10%
72	Accommodation and food services	21.1	23.1	23.7	21.2	0.1	0%
81	Other services (except public administration)	12.8	11.2	11.3	10.9	-1.9	-15%

Notes: N/A = Not available; for NAICS 51, changes are shown only for 2002 to 2012.
Delta reflects the difference in concentration ratio between 1997 and 2012. As the concentration ratio is itself a percentage, it reflects the absolute change in the percentage. By comparison, the "% Change" column reflects the proportional change in the concentration ratio between 1997 and 2012.
Shaded rows (rows with a negative change value) reflect sectors in which industry concentration has *decreased* between 1997 and 2012.

For the majority of sectors, concentration ratios have increased between 1997 and 2012. In these sectors, economic activity has become more concentrated across a handful of larger actors, and small businesses have correspondingly grown less competitive. Only in a few sectors—mainly (1) health care and social assistance; (2) arts, entertainment, and recreation; and (3) other services (except public administration)—have concentration ratios decreased in this time period, indicating increased competitiveness by small businesses. Notably, these three sectors are generally not highly involved in

[40] The concentration ratio is itself a percentage, reflecting the proportion of a sector comprised by the *n* largest companies. Therefore, the delta between 1997 and 2012 reflects the change in this proportion, i.e., a change in concentration ratio from 10 to 15 is a five percent increase in the overall concentration of the sector; meanwhile, the percentage change in concentration ratio from 10 to 15 is 50 percent, indicating that the concentration has increased by 50 percent relative to its previous level.

[41] Percentage of Total Sales, Receipts, or Revenue

government contracting, suggesting the universe of small businesses that may benefit from SBA programs is more densely concentrated in sectors whose market concentrations have increased since 1997 than in the cross-section of U.S. businesses as a whole.[42]

Table 4: Market Concentration by Sector, 20-Firm Basis

Sector NAICS Code	Sector NAICS Description	%[43] 1997	%[43] 2002	%[41]2007	%[43] 2012	Changes 1997-2012 Delta	Changes 1997-2012 % Change
22	Utilities	40.6	44.9	44.5	48.0	7.4	18%
31–33	Manufacturing	37.1	39.2	40.2	39.5	2.3	6%
42	Wholesale trade	12.9	18.7	16.6	18.1	5.2	40%
44–45	Retail trade	18.5	23.9	25.4	27.8	9.3	50%
48–49	Transportation and warehousing	21.8	25.2	34.9	33.7	11.9	55%
51	Information	N/A	48.5	49.9	50.7	2.2	5%
52	Finance and insurance	22.6	28.2	28.5	31.6	9.0	40%
53	Real estate and rental and leasing	14.1	17.1	16.3	15.8	1.7	12%
54	Professional, scientific, and technical services	11.6	11.1	12.4	12.3	0.7	6%
56	Administrative and support and waste management and remediation services	14.2	14.9	15.2	16.7	2.5	18%
61	Educational services	13.3	15.6	15.3	15.9	2.6	20%
62	Health care and social assistance	14.2	9.0	9.2	10.6	-3.6	-25%
71	Arts, entertainment, and recreation	15.1	12.4	12.5	12.8	-2.3	-15%
72	Accommodation and food services	14.8	16.5	17.4	15.1	0.3	2%
81	Other services (except public administration)	8.6	7.1	7.0	7.0	-1.6	-19%

Notes: N/A = Not available; for NAICS 51, changes are shown only for 2002 to 2012.
Delta reflects the difference in concentration ratio between 1997 and 2012. As the concentration ratio is itself a percentage, it reflects the absolute change in the percentage. By comparison, the "% Change" column reflects the proportional change in the concentration ratio between 1997 and 2012.
Shaded rows (rows with a negative change value) reflect sectors in which industry concentration has *decreased* between 1997 and 2012.

[42] For example, the U.S. Department of the Treasury's list of major contracting NAICS codes (see https://www.treasury.gov/about/organizational-structure/offices/Documents/NIACS%20Code%20Guide.v4.pdf) identifies 25 six-digit NAICS codes, none of which fall within NAICS 62, 71, or 81. The majority of these codes fall into NAICS 54 (professional, scientific, and technical services), NAICS 56 (administrative and support and waste management and remediation services), NAICS 31-33 (manufacturing), and NAICS 51 (information). Of these, only NAICS 54 has exhibited a decreased concentration ratio between 1997 and 2012 given the data in Tables 3 through 6, and even then, only at the four-firm level. (Concentration has increased in NAICS 54 at all other firm levels.)

[43] Percentage of Total Sales, Receipts, or Revenue

Table 5: Market Concentration by Sector, Eight-Firm Basis

Sector NAICS Code	Sector NAICS Description	%[44] 1997	%[43] 2002	%[41]2007	%[43] 2012	Changes 1997-2012 Delta	Changes 1997-2012 % Change
22	Utilities	22.9	24.6	22.1	25.7	2.8	12%
31–33	Manufacturing	25.6	27.5	28.2	27.5	2.0	8%
42	Wholesale trade	8.5	11.6	9.6	9.9	1.4	16%
44–45	Retail trade	11.7	15.3	17.5	19.5	7.8	67%
48–49	Transportation and warehousing	14.5	18.3	25.2	26.4	11.9	82%
51	Information	N/A	34.4	37.3	35.5	1.1	3%
52	Finance and insurance	11.8	16.1	15.7	18.0	6.2	53%
53	Real estate and rental and leasing	9.6	10.4	8.4	9.5	-0.1	-1%
54	Professional, scientific, and technical services	6.8	6.4	6.9	6.9	0.1	1%
56	Administrative and support and waste management and remediation services	8.7	9	9.8	11.7	3.0	34%
61	Educational services	8.4	10.6	9.9	10.5	2.1	25%
62	Health care and social assistance	10.1	5.4	5.3	6.2	-3.9	-39%
71	Arts, entertainment, and recreation	10.2	7.7	7.9	7.9	-2.3	-23%
72	Accommodation and food services	9.8	8.9	10.1	9.1	-0.7	-7%
81	Other services (except public administration)	5.4	D	4.0	4.3	-1.1	-20%

Notes: N/A = Not available; for NAICS 51, changes are shown only for 2002 to 2012. D = Withheld to avoid disclosing data of individual companies.

Delta reflects the difference in concentration ratio between 1997 and 2012. As the concentration ratio is itself a percentage, it reflects the absolute change in the percentage. By comparison, the "% Change" column reflects the proportional change in the concentration ratio between 1997 and 2012.

Shaded rows (rows with a negative change value) reflect sectors in which industry concentration has *decreased* between 1997 and 2012.

[44] Percentage of Total Sales, Receipts, or Revenue

Table 6: Market Concentration by Sector, Four-Firm Basis

Sector NAICS Code	Sector NAICS Description	%[45] 1997	%[45] 2002	%[41]2007	%[45] 2012	Changes 1997-2012 Delta	Changes 1997-2012 % Change
22	Utilities	14.7	13.4	12.5	15.0	0.3	2%
31–33	Manufacturing	18.3	19.3	19.5	19.0	0.7	4%
42	Wholesale trade	6.2	7.5	5.5	5.6	-0.6	-10%
44–45	Retail trade	7.9	11	12.3	13.5	5.6	71%
48–49	Transportation and warehousing	11	14.8	17.2	18.3	7.3	66%
51	Information	N/A	23.2	28.1	26.9	3.7	16%
52	Finance and insurance	6.9	9.9	9.6	10.5	3.6	52%
53	Real estate and rental and leasing	5.3	6.5	4.8	6.1	0.8	15%
54	Professional, scientific, and technical services	4.2	3.9	4.2	4.0	-0.2	-5%
56	Administrative and support and waste management and remediation services	5.7	6	6.2	7.9	2.2	39%
61	Educational services	5.5	6.5	6.6	7.0	1.5	27%
62	Health care and social assistance	7.8	3.9	3.5	4.2	-3.6	-46%
71	Arts, entertainment, and recreation	7.2	5.4	5.6	5.4	-1.8	-25%
72	Accommodation and food services	6.5	5.1	5.8	5.1	-1.4	-22%
81	Other services (except public administration)	3.4	D	2.3	3.0	-0.4	-12%

Notes: N/A = Not available; for NAICS 51, changes are shown only for 2002 to 2012. D = Withheld to avoid disclosing data of individual companies.
Delta reflects the difference in concentration ratio between 1997 and 2012. As the concentration ratio is itself a percentage, it reflects the absolute change in the percentage. By comparison, the "% Change" column reflects the proportional change in the concentration ratio between 1997 and 2012.
Shaded rows (rows with a negative change value) reflect sectors in which industry concentration has *decreased* between 1997 and 2012.

Figure 9 and **Figure 10** aggregate the data in the tables above by weighting each NAICS code by its 2012 sales revenues and 2012 contribution to GDP, respectively. This shows economy-wide trends in concentration in lieu of a sector-by-sector approach. Irrespective of the weighting applied, economy-wide concentration has increased since 1997.

Notably, **Figure 9** and **Figure 10** indicate that while economy-wide market concentration has increased in essentially every 5-year period (a marginal decrease between 2002 and 2007 at the four-firm level in Figure 9 is the only exception), the biggest increases in concentration occurred between 1997 and 2002. It is notable that there were two recessions in the time spanned by the data—in 2001 and 2007 to 2009—though the changes in concentration mostly occurred in the first period between 1997 and 2002. The recession that occurred in the 2007 to 2009 period does not appear to have substantially driven market concentration upward compared to the 2002 to 2007 period, in which no recessions occurred, or to the 1997 to 2002 period, which included the 2001 recession. Alternatively, increases in concentration

[45] Percentage of Total Sales, Receipts, or Revenue

that may have occurred during the 2007 to 2009 recession may have been mitigated by economic expansion between 2010 and 2012, and/or by other factors such as the passage of the Affordable Care Act of 2010.

Figure 9: Market Concentration in the Economy, Sectors Weighted by Sales Revenue

Firm-Level Basis	%[46] 1997	%[46] 2002	%[41]2 007	%[46] 2012	Changes 1997-2012 Delta	Changes 1997-2012 % Change
50-Firm Level	25.5	32.4	32.7	34.5	9.0	35%
20-Firm Level	17.1	22.7	22.9	24.3	7.2	42%
8-Firm Level	10.7	14.3	14.4	15.2	4.5	42%
4-Firm Level	7.3	9.5	9.4	9.8	2.5	34%

Delta reflects the difference in concentration ratio between 1997 and 2012. As the concentration ratio is itself a percentage, it reflects the absolute change in the percentage. By comparison, the "% Change" column reflects the proportional change in the concentration ratio between 1997 and 2012.

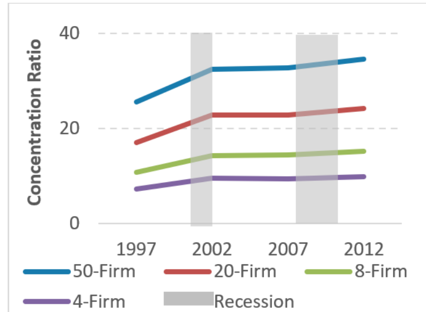
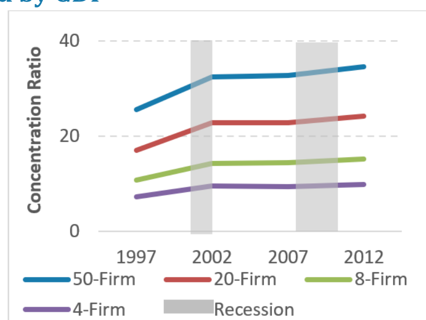


Figure 10: Market Concentration in the Economy, Sectors Weighted by GDP

Firm-Level Basis	%[46] 1997	%[46] 2002	%[41]2 007	%[46] 2012	Changes 1997-2012 Delta	Changes 1997-2012 % Change
50-Firm Level	28.1	34.3	35.5	36.0	7.9	28%
20-Firm Level	19.7	24.7	25.4	25.9	6.2	32%
8-Firm Level	12.8	15.9	16.4	16.9	4.1	32%
4-Firm Level	8.7	10.7	11.0	11.3	2.6	30%

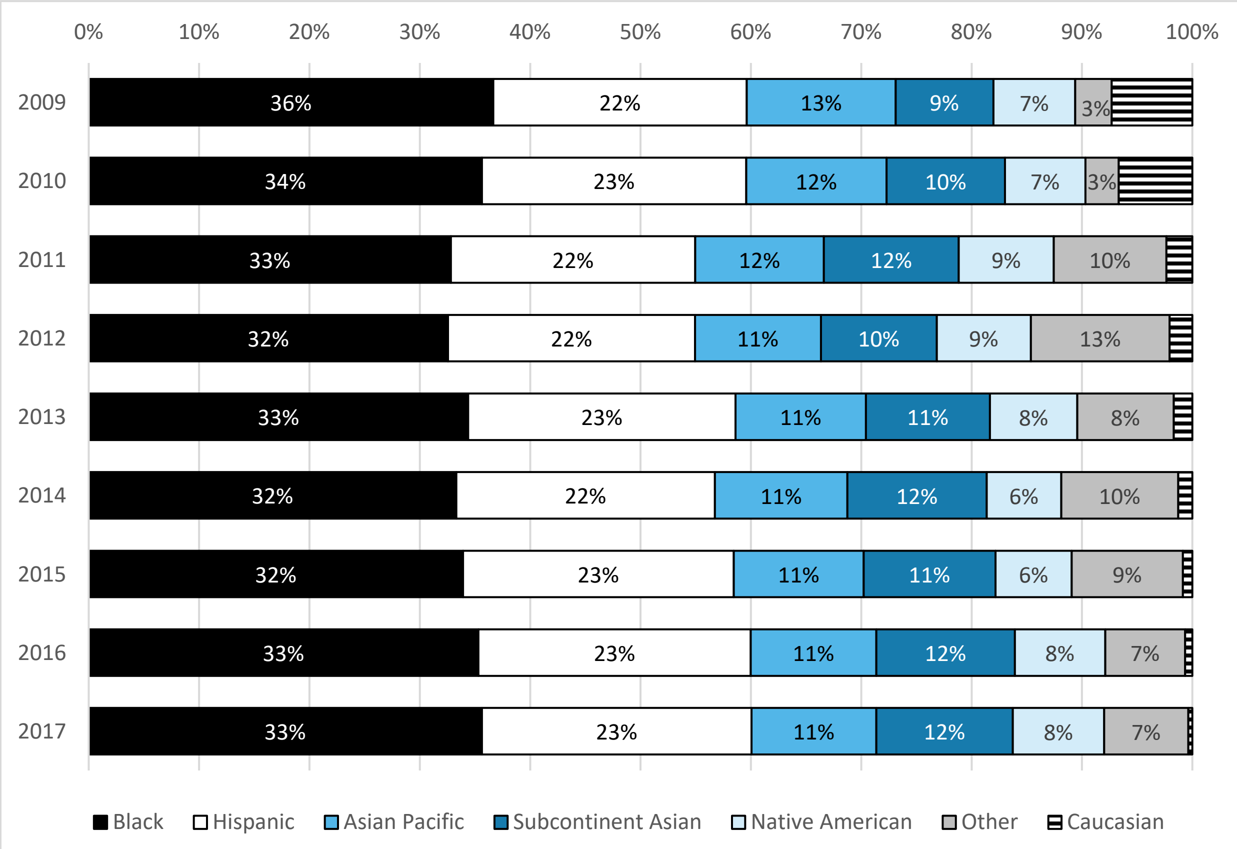
Delta reflects the difference in concentration ratio between 1997 and 2012. As the concentration ratio is itself a percentage, it reflects the absolute change in the percentage. By comparison, the "% Change" column reflects the proportional change in the concentration ratio between 1997 and 2012.



Another component of interest for the 8(a) Program is the trends in the ownership of 8(a) certified firms. In terms of race and ethnicity, from 2009 to 2017, about one-third of 8(a) certified firms were owned by Black Americans, followed by about 22 percent owned by Hispanic Americans. Asian Pacific Americans and Subcontinent Asian Americans each owned between 9 percent and 13 percent of firms, depending on the year**. Figure 11** shows the percentage of ownership by race and ethnicity from 2009 to 2017.

[46] Percentage of Total Sales, Receipts, or Revenue

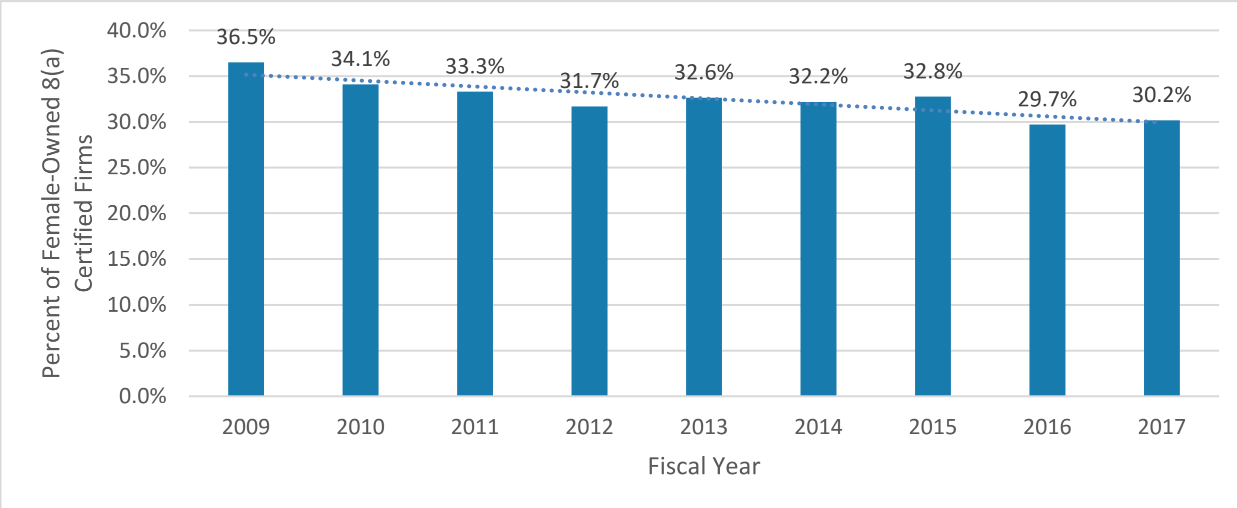
Figure 11: Ethnic/Racial Ownership of 8(a) Certified Firms



Source: U.S. Small Business Administration, Office of Business Development, 408 Report to Congress (FY2010 through FY2017).

In terms of gender (**Figure 12**), there has been a decline in female ownership of 8(a) certified firms from 2009 to 2017. In 2009, 36.5 percent of 8(a) certified firms were female-owned, whereas in 2017 the percentage was only 30.2 percent. This could suggest that outreach for minority female-owned businesses is not as effective as it once was, or that these businesses are gravitating toward the SBA programs geared specifically for woman-owned businesses versus programs that are geared more toward minority-owned businesses, such as the 8(a) Program.

Figure 12: Female Ownership of 8(a) Certified Firms



Source: U.S. Small Business Administration, Office of Business Development, 408 Report to Congress (FY2010 through FY2017).

Table 7 shows the percentage of the contract dollars that were obligated to the top four industries, by year. The majority of industries received between 1 percent and 3 percent of the contract dollars obligated; these industries are noted in the table notes. The Construction industry had a higher percentage of contract dollars obligated in 2010 but declined over the time period of interest, whereas the Professional, Scientific, and Technical Services percentage increased over time.

Table 7: Percentage of Contract Dollars Obligated, by Industry and Year

Industry (2-digit NAICS Code)	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Construction (23)	35.5	30.8	29.3	24.3	28.5	24.4	24.8	23.7	24.8	22.1
Professional, Scientific, and Technical Services (54)	30.7	33.1	36.2	40.8	40.8	44.0	44.2	43.5	43.2	46.3
Administrative and Support and Waste Management and Remediation Services (56)	15.5	17.4	17.5	18.9	16.1	17.6	17.5	19.5	19.4	19.7
Manufacturing (31–33)	8.4	8.2	6.6	5.0	4.8	4.2	4.7	4.0	3.4	3.3

Source: Data provided by SBA Program Staff. Note: The following industries accounted for less than 3 percent of contract dollars obligated from 2010 to 2019 and are excluded from the table Information (51); Health Care and Social Assistance (62); Educational Services (61); Transportation and Warehousing (48–49); Wholesale Trade (42); Agriculture, Forestry, Fishing, and Hunting (11); Arts, Entertainment, and Recreation (71); Finance and Insurance (52); Mining (21); Missing NAICS; Other Services (except Public Administration) (81); Public Administration (92); Real Estate Rental and Leasing (53); Retail Trade (44–45); Utilities (22); and Accommodation and Food Services (72).

5.3 Conclusions and Implications

The time-series analysis of market concentration suggests that concentration has increased in a majority of the economic sectors that are tracked by the Economic Census, as well as in the economy as a whole. This has occurred despite the presence of SBA programs. Increases in concentration have been relatively modest, with some sector-specific exceptions. While these data suggest that small businesses have become somewhat less competitive over the past 2 decades despite the support offered by SBA programs, they cannot be used to infer what the change in market concentration *would have been* across this period but for the existence of these programs. Therefore, it is possible that, but for the 8(a), HUBZone, and similar SBA programs, the data presented in this section would have indicated an even greater increase of market concentration than the actual increases that have occurred.

The findings in this section are consistent with a 2018 report prepared by Economic Consulting Services for SBA's Office of Advocacy.[47] That report noted:

> *The small business share of GDP fell from 48.0% in 1998 to 43.5% in 2014 due to 2.5% real annual growth for large businesses versus only 1.4% for small businesses.*

The report similarly found a decrease in the share of GDP by sector across most sectors between 1998 and 2014, with only management of businesses and utilities as the exceptions.

In the context of the 610 Review, this baseline and economic analysis has implications for two review criteria: (1) continued need and (2) changes in the market. Broadly, the data in this section show a modest increase in economic concentration over the past 2 decades. Therefore, the present analysis has not uncovered evidence that suggests the failure of SBA's programs, nor that the programs are adversely hindering small businesses, given the relatively steady concentration ratios across the economy.

As described throughout this section, market changes relative to small businesses reflect greater concentration across the economy, as well as within most individual economic sectors. This finding suggests a continued need for SBA programs that seek to enhance the viability and economic performance of small businesses. Critically, the increases in economic concentration over the past 2 decades have been fairly modest, suggesting a continued need for SBA programs but perhaps not a strong basis for complete program overhauls that would substantially expand the assistance provided to small businesses. However, the reality of increasing market concentration does suggest a need for programs akin to those currently administered by SBA to prevent or alleviate further erosion of the competitiveness of small businesses across the economy.

This time-series analysis has focused on high-level economic data from the Economic Census. Given the availability of program-specific data, such analyses could be expanded from the top-down, sector-wide, and economy-wide levels to focus on the specific performance of SBA programs in meeting their stated goals. Absent these data, this section indicates a continued need for SBA programs that assist small businesses given the increase in market concentration that has occurred since, and potentially despite, the assistance provided by these programs to date.

Furthermore, targeted analyses of specific SBA programs may benefit from sector-level examinations of concentration, including both the concentration ratios discussed in this section and other measures. Such measures include the number and market share of businesses in each sector meeting certain small business size standards. If deemed relevant, future analyses can examine how the composition of individual sectors and their revenues has changed over time between small businesses and non-small businesses, akin to the GDP-based analyses conducted in Economic Consulting Services' 2018 report for SBA's Office of Advocacy. These analyses may be most useful to support 610 Reviews of programs whose impacts are particularly targeted to a subset of economic sectors.

[47] Kathryn Kobe, Economic Consulting Services, "Small Business GDP 1998-2014," prepared for U.S. SBA Office of Advocacy, December 2018.

In summary, this report found the following with respect to the retrospective review of SBA's 8(a) Program:

- The program continues to serve upward of 5,000 firms per year, and these firms employ over 100,000 people. These firms also collectively have over $20 billion in sales each year.
- The program has received some negative feedback about decreasing participation, the complexity of the application progress, issues with confirming eligibility, variation in services, and issues with documentation and recordkeeping.
- There is some overlap with eligibility for multiple SBA programs and perhaps unnecessary complexity in varying requirements for different types of business for the 8(a) Program that could be simplified or combined.
- Although, broadly, market concentration in the United States has increased over time, which has put additional pressure on small businesses in terms of economic viability, overall concentration growth has been relatively small and sector-specific, and some sectors have actually experienced decreases in concentration over the past 2 decades. Like most other economic indicators, these trends will be substantially disrupted by the COVID-19 pandemic; there may be a greater need for SBA programmatic support in a post-pandemic world, where economic disruption will likely affect small businesses disproportionately.