

Section 330 of the Consolidated Appropriations Act, 2021: 1-year Extension FAQs For PUBLIC

Questions	Response
<p>Will SBA notify firms and ask them whether they want the option of the extra year, or will SBA automatically grant the one year, or let the firms inform SBA?</p>	<p>On January 14, 2021 SBA sent emails to 8(a) Program Participants with notification and instructions that their program term will automatically be extended for one year from their program exit date, unless the firm expressly declines the extension. Firms are instructed to notify SBA in writing at 8aQuestions@sba.gov if they decline.</p> <p>On January 14, 2021 SBA sent emails to firms that graduated before January 13, 2021 with notification and instructions they may be reinstatement eligible. These firms are required to reply to the SBA’s email as soon as possible, but not later than March 15, 2021, to notify SBA that their firm elects to be readmitted to the 8(a) Program. As a condition of readmittance the firm must certify they continue to meet applicable eligibility requirements set forth in 13 C.F.R. §§ 124.101 through 124.111.</p>
<p>When was the law effective?</p>	<p>On December 27, 2020, the Consolidated Appropriations Act, 2021, Pub. L. 116-260, Div. N, title III, sec. 330 was signed into law.</p> <p>SBA’s interim final rule implementing this statutory provision was effective 1/13/2021.</p>
<p>Do all firms get one year added to their program? How much time will be added to the program year end date?</p>	<p>Generally, one year may be added to the firm’s program completion(end) date.</p> <p>Some firms will not technically get a year. For example, a firm that completed the program April 1, 2020 that elects reinstatement receives one year from their program completion date. Once reinstated their new program completion date is April 1, 2021.</p>
<p>What 8(a) Participants in the program are eligible to receive 1-year added to their program term?</p>	<p>Any small business concern participating in the 8(a) BD program on or before September 9, 2020.</p> <p>This extension authority does not extend to business concerns that graduated from the 8(a) BD program prior to March 13, 2020 or to business concerns that were admitted to the 8(a) BD program after September 9, 2020.</p> <p>In addition, this rule clarifies that the extension will not apply to business concerns that were Participants in the 8(a) BD</p>

	<p>program at any point between March 13, 2020 and September 9, 2020, but were terminated, early graduated or voluntarily withdrew.</p> <p>A firm that was participating in the 8(a) BD program as of March 13, 2020 through January 13, 2021 but has since graduated must notify SBA of its intent to be readmitted for a period of one year from the date it completed its program term. Any such notification must be received by SBA no later than March 15, 2021. In addition, a firm seeking to be readmitted must certify that it continues to meet the applicable eligibility requirements as set forth in §§ 124.101 through 124.111.</p>
Will new firms be eligible for the 1 year extension?	No. Only firms certified on or before September 9, 2020 are eligible to receive the 1 year extension.
What firms are excluded from the 1 year extension?	<p>The following firms are not eligible:</p> <ul style="list-style-type: none"> - Terminated - Early Graduated - Voluntarily Withdrew - Voluntarily Early Graduated - Firms certified on or after September 10, 2020 are not eligible for the one year extension.
Voluntary Suspension due to COVID ends March 12, 2021. Will the new Law affect this option?	No. Active firms can still elect to VS between now and March. However, SBA has 10 days to process the request, therefore, if a firm submitted a request on March 1, 10 days will only add 2 more days to program term.
Can a readmitted firm also elect to voluntarily suspend its program participation in connection with the nationwide federal disaster declaration on March 13, 2020?	No
What if the firm does not want an additional year? Do they need to VW or VEG from the program to finish their time?	In the email notification SBA issued to firms on January 14, 2021 the firms received instructions to notify SBA if they expressly decline the extension. Firms are instructed to notify SBA in writing submitted to: Deputy Associate Administrator, Office of Business Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416, or e-mail to 8aQuestions@sba.gov.
For firms that are reinstatement eligible, when may that firm submit an	A firm requesting program readmittance is eligible to submit offers on specific 8(a) solicitations as soon as SBA receives the

<p>offer for a specific competitive 8(a) requirement?</p>	<p>firm's request for program readmittance and the requisite certification that it continues to meet the applicable program requirements. SBA need only confirm the firm's eligibility prior to the time of award (i.e., during the contract eligibility determination review process).</p> <p>If the firm leaves the program prior to the time of award, the firm will still be eligible for the contract as long as the firm submitted its request for readmission and make the applicable eligibility certification prior to submitting its initial offer.</p>
<p>What are the relevant dates for determining a reinstated firm's eligibility for sole source 8(a) procurements?</p>	<p>In order to receive a sole source 8(a) contract, the firm must be an active and eligible 8(a) Participant on the date of award (and irrespective of the time of offer).</p>
<p>If a graduated firm emails SBA that they would like to be reinstated for their 1 year extension, what is the effective date of their reinstatement?</p>	<p>The effective date of the reinstatement is when SBA receives the firm's request for program readmittance.</p>
<p>What about BAT's? What is required of the firm in Year 10 or in some cases Year 11 or Year 12?</p> <p>How does the one-year extension of participation under the Act impact an 8(a) Participant's requirement to attain the targeted dollars levels of non-8(a) revenue in its extended program term?</p>	<p>See Final Rule, Extension of Participation in 8(a) Business Development Program</p> <p>SBA is revising 124.509 for Business Activity Targets (BAT).</p> <p>Firms in Year 9 of their program, as of March 13, 2020 are not subject to higher BAT for the time added on to the end of their program terms. The same 50 percent business activity target that applies to the program year nine will also apply to the firm's one year extended term.</p> <p>For example, Firm's already in year nine of their program that get the one-year extension, the same 50% BAT is extended and still applies to their Year 10.</p> <p>Firms readmitted to the 8(a) Program: Because the period of extension for firms that were participating as of March 13, 2020 but have since graduated or otherwise left the program may be less than a full year, SBA understands that it may be more difficult to meet the 50 percent non-8(a) business activity target for the one year extended program term. Participants shall continue to make good faith efforts to obtain at least 50 percent of their revenue from non-8(a)</p>

	sources during their one year extension period in order to ease the transition to the competitive marketplace after graduating from the 8(a) BD program.
Why isn't my program extension term a full year?	Section 330 of the Appropriations Act mandates that SBA must ensure that any small business concern participating in the 8(a) BD program on or before September 9, 2020 has the option to extend such participation for a period of one year from the end of its program term. Firms whose program terms expired between March 13, 2020 and January 13, 2021 (the period beginning on the date of the nationwide federal disaster declaration and ending on the date SBA published its Interim Final Rule) will therefore not be getting a full extra year in the program. Rather, such firms will be eligible to participate for the period beginning on the date of program readmittance and ending on the one year anniversary of its end of its program term.
If I recertify to SBA that I continued to meet the eligibility criteria, can SBA reject my request?	Yes, if there were any prior eligibility issues with your firm, those issues must be resolved before your firm will be reinstated into the program. In such case, self certification of continued eligibility will not be sufficient and you must demonstrate that you had in fact overcome any potential eligibility issues. If your firm is in this situation, SBA will contact you directly for further guidance.
I was approved on 12/20/2020 why am I not getting the 1 year extension? What are other avenues to this corrected?	The statute specifically states that only firms that were participating in the program "on or before September 9, 2020" are eligible to receive an extension. Therefore, any firm admitted to the program on or after September 10, 2020 is not eligible to receive an extension.
Is a Sole Source Restriction required during the 1 year extension if I do not meet my BAT requirements?	Yes, a firm either had to meet the 50% BAT in Program year 9 or demonstrate that it made good faith efforts to meet this threshold in order to preserve its eligibility for sole source contracts during the period of extension. Of course, the waiver process is also an option.
What does good faith mean regarding my BAT?	In general, a firm will have made good faith efforts to meet its applicable non-8(a) BAT where it demonstrates that it submitted offers on non-8(a) contracts which, if awarded, would have given the firm sufficient non-8(a) revenues to cover the deficit during the applicable time period. In rare instances, SBA may also consider extenuating circumstances such as a reduction in government funding, continuing resolutions and budget uncertainties, increased competition driving prices down, and having prime contractors award less

	work to small business subcontractors than originally contemplated.
Where should a firm send questions about its eligibility for a program year extension?	Questions from the public or 8(a) firms should go to 8aquestions@sba.gov