

AUDIT REPORT

SBA's 8(a) BUSINESS DEVELOPMENT PROGRAM ELIGIBILITY





EXECUTIVE SUMMARY

Audit Report
No. 16-13

April 7, 2016

SBA's 8(a) BUSINESS DEVELOPMENT PROGRAM ELIGIBILITY

What OIG Reviewed

The Small Business Administration's (SBA) 8(a) Business Development Program provides economically and socially disadvantaged, small business owners with business development assistance and preference-based Federal contracts.

Our objective was to determine whether SBA's procedures ensure that only eligible participants were admitted into the 8(a) Program. SBA approved 249 firms' applications for the 8(a) Program between January 1, 2015 and May 31, 2015. We reviewed 48 of these applications to determine whether applicants met the eligibility requirements of the 8(a) Program.

What OIG Found

SBA reviewers recommended not approving 46 firms into the 8(a) Program because the firms did not meet one or more areas of eligibility.¹ The director of the Office of Certification and Eligibility (OCE) and the Associate Administrator for Business Development (AA/BD) gathered additional information for 18 firms and, based on this information, approved the firms into the 8(a) Program. However, for the remaining 30 firms, the AA/BD approved the firms without fully documenting in the Business Development Management Information System (BDMIS) how all areas of concern regarding eligibility raised by lower-level reviewers were resolved.² As a result, it was not clear whether these 30 firms should have been approved into the 8(a) Program.

During the past year within SBA, the 8(a) Program has experienced a change in leadership, identified an aggressive growth plan for the coming years, began testing a streamlined application process, and shifted responsibilities for continuing eligibility reviews. As new management works to improve the program, we encourage SBA management to ensure the documentation supporting 8(a) Program application approvals is maintained in a method ensuring clear eligibility of the applicant.

OIG Recommendations

We recommend that the Associate Administrator for Government Contracting and Business Development (AA/GCBD) ensure that the AA/BD and OCE's director clearly document their justification for approving or denying applicants into the 8(a) Program, particularly when those decisions differed from lower-level recommendations. We also recommend that the AA/GCBD provide us documentation showing how eligibility concerns raised by lower-level reviewers were resolved for the 30 firms not documented in BDMIS by April 11, 2016.

Agency Response

SBA management agreed that in all cases, BDMIS should be updated with notes that explain why recommendations or decisions were made when they differ from certain lower-level reviewers. However, SBA management asserted that this is not an issue of ineligible firms being certified into the program without adequate review. SBA management informed us that it will provide documentation for the 30 firms showing how the eligibility concerns were resolved by April 11, 2016. Consequently, we plan to conduct a follow-up audit to determine whether the eligibility concerns were resolved.

¹ Our sample included two additional firms approved during the timeframe under review, which were identified through complaints to the OIG Hotline.

² For the purposes of our report, all 8(a) application recommendations to the AA/BD are considered lower-level reviews.



**U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
WASHINGTON, D.C. 20416**

Final Report Transmittal
Report No 16-13

DATE: April 7, 2016

TO: Maria Contreras-Sweet
Administrator

Douglas Kramer
Deputy Administrator

John Shoraka
Associate Administrator
Office of Government Contracting and Business Development

FROM: Troy M. Meyer /s/
Assistant Inspector General for Audit

SUBJECT: *SBA's 8(a) Business Development Program Eligibility*

This report presents the results of our audit of the Small Business Administration's (SBA) 8(a) Business Development Program Eligibility. The objective of our audit was to determine whether SBA's procedures and processes ensure only eligible participants were admitted into the 8(a) Program. We previously furnished copies of the draft report and requested written comments on the recommendations. SBA management's comments are appended and were considered in finalizing the report. The report contains two recommendations that SBA agreed to implement.

Please contact me if you would like to discuss this report or any related issues.

cc: Nick Maduros, Chief of Staff
Melvin F. Williams, Jr., General Counsel
Martin Conrey, Attorney Advisor, Legislation and Appropriations
Tami Perriello, Chief Financial Officer
LaNae Twite, Director, Office of Internal Controls

Table of Contents

Introduction.....	1
Overview of the 8(a) Program.....	1
8(a) Program Administering Offices and Application Process.....	2
Prior Work.....	3
Objective.....	3
Finding 1: SBA Failed to Properly Document that 8(a) Firms Admitted in the Program Met All Eligibility Criteria.....	4
Approvals Did Not Establish All Eligibility Criteria Was Met.....	4
Eligibility Concerns Were Settled for 18 Firms Admitted into the 8(a) Program.....	4
Eligibility Concerns Remain for 30 Firms Accepted into the 8(a) Program.....	5
6 Firms Approved into the 8(a) Program after Denial by Prior AA/BD.....	6
Recommendations.....	7
Analysis of Agency Response.....	7
Appendix I: Scope and Methodology.....	9
Use of Computer-Processed Data.....	9
Review of Internal Controls.....	9
Appendix II: Lower-Level Review Eligibility Concerns.....	11
Appendix III: Agency Comments.....	12

Introduction

The Small Business Administration (SBA) has a number of programs that provide benefits and assistance to help small and disadvantaged businesses grow and develop. These benefits allow participating firms to receive set-aside Federal contracts so that small businesses do not need to compete with large businesses that may have an industry advantage. One of these programs is the 8(a) Business Development Program (8(a) Program), authorized under Section 8(a) of the Small Business Act. The 8(a) Program provides economically and socially disadvantaged, small business owners with business development assistance and preference-based Federal contracts, including sole-source awards.^{3, 4} As of January 2016, the 8(a) Program had approximately 4,495 participants.

In an effort to ensure small businesses are given Federal contracting opportunities, the Small Business Act establishes a Federal Government goal that 5 percent of eligible prime contract dollars be awarded to small disadvantaged businesses each fiscal year.⁵ The 8(a) Program falls within this goal. In fiscal year (FY) 2014, Federal agencies awarded over \$35 billion, or 9.46 percent of the total small business eligible dollars, to small disadvantaged businesses—of which \$16.3 billion, or 4.45 percent, were 8(a) set-aside contracts awarded to 8(a) Program participants.⁶

Overview of the 8(a) Program

In 1978, Congress amended the Small Business Act of 1958 to give SBA statutory authority for its 8(a) Program for minority-owned businesses. Generally, to be approved into the 8(a) Program and become certified, the applicant and the applicant business must meet these eligibility requirements:⁷

- The applicant(s) must be an American citizen, by birth or naturalization, and reside in the United States.
- The business must be majority-owned (51 percent or more) and controlled/managed by socially and economically disadvantaged individual(s) by proving both social disadvantage and economic disadvantage.
- The business must be a small business with a potential for success.
- The principals must show good character.

Participation in this business development program encompasses two phases over a 9-year period. The first phase covers the first 4 years in the program and is considered the developmental stage. The second phase covers the remaining 5 years and is the transitional stage. During the developmental and transitional stage, 8(a) participants receive:

³ 13 CFR 124.103 (a) states economically disadvantaged individuals are socially disadvantaged individuals 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 similar line of business who have not been subjected to prejudice.

⁴ 13 CFR 124.104 (a) states 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. The social disadvantage must stem from circumstances beyond their control.

⁵ A prime contract is any direct contract between the Government and a contractor.

⁶ In FY 2014, SBA reported \$366 billion in total small business eligible dollars. Small disadvantaged businesses were awarded approximately \$35 billion, or 9.5 percent. Within this value, 8(a) set-asides make up approximately \$16 billion, or 4.5 percent, of total eligible small business dollars.

⁷ Separate eligibility requirements exist for a business that is owned by Indian Tribes, Alaska Native Corporations, Native Hawaiian Organizations, and Community Development Corporations.

- specialized training,
- individual counseling assistance,
- high-level executive development support, and
- eligibility to obtain set-aside and sole-source Government contracting opportunities.

During the transitional stage, SBA requires that the participant start to rely less on 8(a) set-aside contracts and more on non-8(a) contract revenue. Non-8(a) contract revenue targets must increase yearly so that by program completion, participants rely on revenues from 55 percent of non-8(a) set-aside contracts. The 9-year program term may be shortened by termination, early graduation, or voluntary withdrawal.

8(a) Program Administering Offices and Application Process

The 8(a) Program is administered by SBA's Office of Business Development (OBD), with the Associate Administrator for Business Development (AA/BD) performing day-to-day leadership. Within OBD, the Office of Certification and Eligibility (OCE) receives, reviews, and evaluates all 8(a) Program applications. Once SBA has received a complete application, it has 90 days to process and either admit or decline a firm into the program.

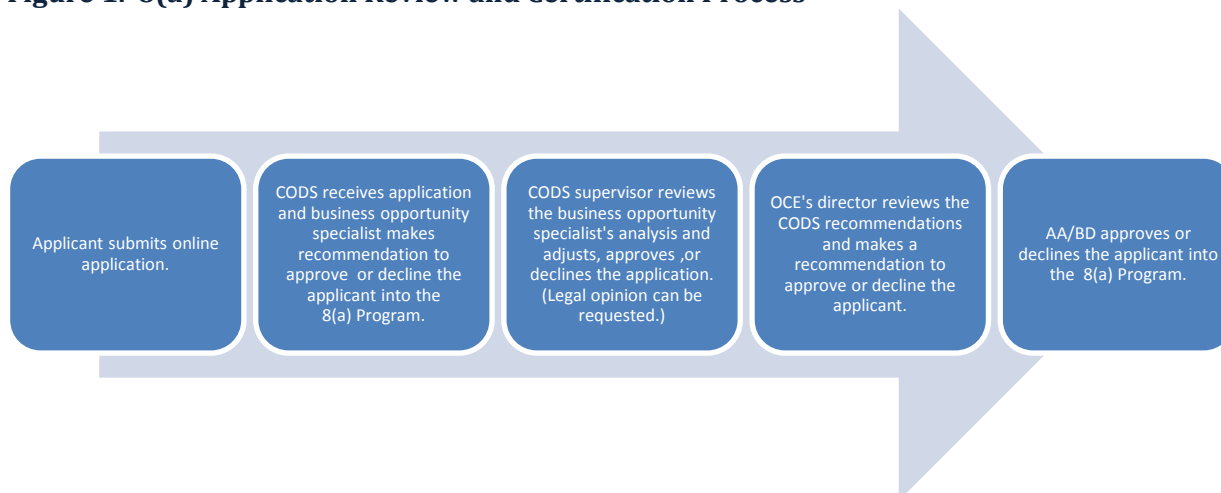
At the time of application, the firm files an electronic application that includes all required forms and attachments. Applicants provide information verifying that they meet program requirements using SBA's business development management information system (BDMIS).⁸ Such information and documentation consists of individual income tax returns, information about the applicant firm's business structure, and citizenship information. At any time during the process, SBA may request more information that it deems necessary. The applicant is responsible for proving they are eligible to be in the program; if a firm fails to provide information, SBA may determine that it did not demonstrate eligibility.

Within OCE, business opportunity specialists located at two central office duty stations (CODS) conduct the initial review of the application. Both a business opportunity specialist and a supervisor review the application and make a recommendation to approve or decline the application. Their recommendations are then forwarded to the director of OCE, who has 5 days to approve or decline the application based on the CODS review.⁹ After the OCE review, within 5 days, the AA/BD ultimately approves or declines the application in writing; any program denial must state the reasons why a firm was found to be ineligible and their rights for appeal. (See Figure 1 for a description of the application and certification review process).

⁸ BDMIS is an online system applicants use to input information to obtain 8(a) Program certification.

⁹ For the purposes of our report, all 8(a) application recommendations to the AA/BD are considered lower-level reviews.

Figure 1. 8(a) Application Review and Certification Process



Change in 8(a) Program Leadership

Since 2010, there has been a steady decline in the number of firms participating in the 8(a) Program from about 7,000 in 2010 to about 4,600 in 2015. During the past year, SBA leadership developed an aggressive growth plan to increase the number of participants in the 8(a) Program for the coming years by piloting a streamlined application process and shifting responsibilities for continuing eligibility. According to SBA leadership, SBA's goal is to increase the number of approved applications over the previous year by 5 percent for both FYs 2016 and 2017. Since SBA approved 568 firms in FY 2015, the goal is to increase this number by 5 percent, or 28 firms, in FY 2016.

Prior Work

In 2010, a Government Accountability Office (GAO) report noted that ineligible 8(a) firms were participating in the program. This report also found that while SBA improved the initial certification process for businesses entering the program, there remained vulnerabilities in SBA's monitoring of individuals and firms already in the program. This report included multiple recommendations, which SBA implemented.¹⁰

Objective

Our objective was to determine whether SBA's procedures ensure only eligible participants were admitted into the 8(a) Program. During the course of our audit, the OIG Hotline received several allegations pertaining to SBA's 8(a) Program eligibility review process.¹¹ We selected and reviewed 48 8(a) applicants that were accepted into the program between January 1, 2015 and May 31, 2015. Our sample was generally based on 8(a) applications that were denied by the processing business opportunity specialist, the specialist's supervisor, the Office of General Counsel, or OCE's director, but subsequently approved by the AA/BD.

¹⁰ U.S. GAO, Report GAO-10-425, *Fourteen Ineligible Firms Received \$325 Million in Sole-Source and Set-Aside Contracts* (March 30 2010).

¹¹ The OIG Hotline collects information of wrongdoing involving SBA programs, operations, or personnel, which help keep SBA OIG aware of risks and trends that affect SBA's programs. Individuals may report fraud, waste, abuse, mismanagement, or misconduct involving SBA programs or employees by submitting using the online complaint submission system, located at <https://www.sba.gov/oig/hotline>, or by contacting the OIG Hotline office directly.

Finding 1: SBA Failed to Properly Document that 8(a) Firms Admitted in the Program Met All Eligibility Criteria

We evaluated SBA's eligibility determination process for admitting 48 applicants in the 8(a) Program between January 1, 2015, and May 31, 2015, and found that 30 of the participants did not meet all of the eligibility criteria, based on information in BDMIS. This occurred because OBD managers overturned lower-level reviewers' recommendations for denial without fully documenting in BDMIS how all of the identified areas of eligibility concerns were resolved. Until 8(a) Program approving officials properly address all areas of eligibility when lower-level reviewers have noted a concern and recommended denial, SBA cannot be certain that the 8(a) Program is meeting its core mission of providing opportunities for small disadvantaged businesses to obtain set-aside Government contracts.

Approvals Did Not Establish All Eligibility Criteria Was Met

To qualify for the 8(a) Program, applicants must establish they are socially and economically disadvantaged and meet all program requirements. During OCE's multi-level application review process, the CODS business opportunity specialists, their supervisors, and the director of OCE all review the application materials. This multi-level review process ends with the AA/BD, who is the approving official for 8(a) Program and has the final authority to accept or decline the applicant into the 8(a) Program, despite a denial from a prior reviewer.

We reviewed 48 applicants for whom reviewers identified one or more eligibility issues, but which the AA/BD ultimately approved into the 8(a) Program. For 18 of these approvals, the AA/BD or OCE's director documented reasons for approval, which demonstrated their eligibility. However, for the remaining 30 participants we reviewed, the AA/BD or OCE's director did not document or address OCE personnel's areas of concern regarding the applicants' eligibility. As a result, potentially ineligible firms have access to the privileges of 8(a) Program participants.

Eligibility Concerns Were Settled for 18 Firms Admitted into the 8(a) Program

Through gathering additional information from the applicants, the AA/BD or OCE's director were able to clarify eligibility issues and approve 18 firms that lower-level reviewers had recommended be denied. In these cases, more outreach by the lower-level reviewers may have cleared the eligibility concerns and not elevated them to the level of OCE and AA/BD, while also ensuring eligibility was met and approval granted. We believe that in some instances, in light of more information, the AA/BD or OCE's director should overrule the lower-level recommendation for denial—so long as the AA/BD or OCE's director clearly document their approval and why the lower-level conclusions were inaccurate or cleared with additional information from the applicant.

For example, in one instance, lower-level reviewers recommended one firm be denied due to possible affiliations and concerns regarding who controlled the firm, based on language in the firm's operating agreement. When the application was submitted to the OCE director for review, she contacted the applicant firm and provided guidance on how to update the operating agreements to comply with 8(a) requirements. Additionally, the applicant provided a written statement that there was no affiliation between the applicant firm and other firms. Furthermore, OCE's director took efforts to document these steps and resolve questions of eligibility. At the time of approval, OCE's director wrote several paragraphs describing her actions and the outcomes leading to the firm's approval. Although lower-level reviewers identified eligibility issues, the AA/BD was able to provide written support for approving the firm.

In a second example, lower-level reviewers recommended a firm be denied due to some concerns about their tax returns. The AA/BD wrote a detailed explanation as to why the lower-level concerns would not affect eligibility and approved the firm. In our review, we agreed with the AA/BD's conclusions.

Eligibility Concerns Remain for 30 Firms Accepted into the 8(a) Program

The AA/BD and OCE's director clearly explained differing opinions from lower-level reviewers and indicated how 18 firms actually met the eligibility requirements. However, for the remaining 30 of the 48 applicants, the AA/BD ultimately approved the applicants without documenting in BDMIS how the eligibility concerns raised by the lower-level reviewers were resolved.¹² While the lower-level reviewers extensively documented applicants' eligibility in each area in BDMIS, generally, OCE's director and the AA/BD did not detail their conclusions in the same method or level of detail. OCE's director and the AA/BD typically used a "notes" section within their approval page in BDMIS to document firms' eligibility information. We requested additional documentation and interviews to support conclusions made by the AA/BD and OCE's director for 38 applicants.¹³ However, SBA only provided some of the requested information for 12 of the applicants; therefore, we were unable to determine definitively whether they were eligible. For 16 of the 30 firms, the AA/BD or OCE's director only partially resolved concerns that lower-level reviewers identified. For the remaining 14 firms, the AA/BD or OCE's director did not resolve any concerns identified by lower-level reviewers.

16 Approvals Did Not Address All Eligibility Concerns

Of the 30 applicants where eligibility concerns were not clarified, 16 applicants were admitted into the 8(a) Program, even though OCE's director and the AA/BD only partially clarified eligibility issues that the lower-level reviewers identified. For example, for one firm, the CODS business opportunity specialist and supervisor identified that the firm lacked full-time devotion, potential for success, and good character. When approved, OCE's director addressed all three areas of eligibility concern, but we identified potential flaws in the conclusions regarding full-time devotion. When the firm applied to the 8(a) Program, there was concern that one of the two applicants might not have dedicated full-time to the business. While OCE's director disregarded the full-time devotion issue in light of the applicant's statement that she worked daily in the firm's office from 8 am -5 pm, the audit team identified other issues that called into question the applicant firm's eligibility. Specifically, we found six additional businesses, which were not disclosed to SBA, that the applicants owned and started during the firm's 8(a) application process. These businesses included an eatery, a clothing shop, as well as businesses related to the work of the applicant firm. The sheer volume of businesses and the time needed to start a new business leads us to question the applicants' full-time devotion in running the applicant firm's day-to-day operations.

In another case, the firm was denied by lower-level reviewers because language in the shareholder's agreement called into question who controlled the firm. The review also noted eligibility concerns with the applicant's lack of experience in the industry combined with a minority owner (49 percent) who had the majority of the experience and was

¹² Appendix II identifies the areas of eligibility concern for the 30 applicants admitted to the 8(a) Program.

¹³ We requested interviews to discern less concrete areas as potential for success and how the different areas reviewed for this eligibility requirement were weighed or factored in the approval process.

previously the applicant's employer. In approving the firm, the AA/BD noted that the applicant corrected the shareholder's agreement and was in control of the firm. While an updated shareholder's agreement addressed a portion of the lower-level reviewers concerns, the AA/BD did not address concerns related to the applicant's lack of experience and the potential influence of the minority owner.

14 Approvals Did Not Clarify Eligibility Concerns

Additionally, OCE's director and the AA/BD did not include any clarifying information in approving 14 firms where lower-level reviewers identified one or more eligibility issues. These eligibility issues related to social disadvantage, control of the firm, potential for success, and others. For example, a lower-level reviewer identified an applicant that was potentially dependent on another business for the majority of its revenues, which would throw into question the size, control, and potential for success. In another application, the lower-level reviewers concluded the applicant did not meet the economic disadvantage requirement, and the firm had control and economic dependence issues. Additionally, of these 14 applications, supervisors recommended that SBA's Office of General Counsel review 4 based on concerns regarding eligibility requirements related to control, social disadvantage, and potential for success. The Office of General Counsel recommended the 4 be denied. For example, lower-level reviewers (including the Office of General Counsel) noted that the applicant did not have sufficient evidence to show it was socially disadvantaged. All of these cases were approved by OCE's director or the AA/BD with no clarifying information on how eligibility was met.

6 Firms Approved into the 8(a) Program after Denial by Prior AA/BD

Additionally, 6 of the 30 participants were denied by the former acting AA/BD, only to be subsequently approved by the current AA/BD once she was in the position. In most cases, the AA/BD stated the previous denials were based on administrative errors. However, the AA/BD did not explain what the administrative errors were and gave no indication that she resolved concerns regarding applicants' eligibility. For example, one firm was denied from the program (both when initially applying and after being reconsidered in 2014) because of (1) concerns with the applicant's economic disadvantage status, (2) the applicant firm's ability to successfully meet the business development objectives of the 8(a) Program, (3) control of the applicant firm by a non-disadvantaged individual, and (4) concerns of the applicant firm's size. The AA/BD approved the firm in March 2015, stating only: "Administrative corrective action. See notes." However, BDMIS contained no notes from the AA/BD. Additionally, for three of the six applicants that were later approved, the AA/BD mentioned these firms filed an appeal or inquiry with an Ombudsman or other SBA office; however, the AA/BD's documentation did not provide enough detail on how the appeal clarified previously identified eligibility issues.

While the AA/BD has final authority to determine whether an applicant is admitted into the 8(a) Program, the approvals we reviewed did not always indicate how the eligibility issues identified through the review process were resolved. Because SBA employs a multi-level application review process, we believe that SBA decision makers should have justified and documented the rationale for approving applicants that were previously denied admission into the 8(a) Program. Further, we found that for some of the applicants, it was unclear from the application reviews that they met all of the program eligibility requirements. Admitting ineligible applicants directs program benefits away from eligible participants and risks SBA overstating small disadvantaged business goaling dollars. Until 8(a) Program approving officials properly address all areas of eligibility when lower-level reviewers have noted a concern and recommended denial, SBA

cannot be certain that the 8(a) Program is meeting its core mission of providing opportunities for small disadvantaged businesses to obtain set-aside Government contracts.

Recommendations

We recommend that the Associate Administrator for the Office of Government Contracting and Business Development (AA/GCBD):

1. Update policy to require the AA/BD and OCE's director to clearly document their justification for approving or denying applicants into the 8(a) Program, particularly when those decisions differed from lower-level recommendations.
2. Provide documentation on how eligibility concerns raised by lower-level reviewers were resolved for the 30 firms not documented in BDMIS by April 11, 2016.

Analysis of Agency Response

SBA management provided formal comments that are included in their entirety in Appendix III. GCBD management expressed concern that of the 48 firms we reviewed, they were only given an opportunity to respond to 18 cases (where we requested clarification of the firms' eligibility) during the audit and that we did not provide them the entire list of the 48 firms until after the draft report was completed. GCBD management further stated that supporting documentation establishing the relevant firms' eligibility is maintained within the hard copy file for the firms and is not available in BDMIS due to its limitations. GCBD management agreed that at a minimum, the AA/BD and the director of OCE should annotate in BDMIS the reasons why their recommendations differ from lower-level reviewers.

To clarify, we requested interviews and supporting documentation from the director of OCE on August 21, 2015 and September 9, 2015, and from the AA/BD on September 2, 2015. These requests addressed 38 of the 48 firms reviewed where we needed additional information. We did not require additional information for the other 10 firms. The director of OCE and the AA/BD were provided a list of questions and documentation requests related to their input into BDMIS. Additionally, we offered that if GCBD maintained a hard copy file for the firms and provided us their location, we could retrieve the necessary information ourselves. However, GCBD did not respond to our request and ultimately provided us information for 12 of the 38 firms.

Subsequent to the Agency providing its response, SBA management informed us that it will provide documentation on how the eligibility concerns were resolved for the 30 firms. As a result, we plan to conduct a follow-up audit to determine whether the eligibility concerns were resolved. Accordingly, we revised recommendation 2 for the AA/GCBD to provide us documentation showing how eligibility concerns raised by lower-level reviewers were resolved for the 30 firms not documented in BDMIS by April 11, 2016.

Summary of Actions Necessary to Close the Report

The following provides the status of each recommendation and the necessary action to either resolve or close the recommendation.

- 1. Update policy to require the AA/BD and OCE's director to clearly document their justification for approving or denying applicants into the 8(a) Program, particularly when those decisions differed from lower-level recommendations.**

Resolved. GCBD management stated the AA/BD and director of OCE will document in BDMIS decisions for approving or denying firms when the decisions differ from lower-level reviewers. GCBD plans to complete final action on this recommendation by October 31, 2016. This recommendation can be closed upon GCBD providing updated policy ensuring proper justification within BDMIS is required from the AA/BD and director of OCE when approving or denying a firm where lower-level reviewers decisions differed.

- 2. Provide documentation on how eligibility concerns raised by lower-level reviewers were resolved for the 30 firms not documented in BDMIS by April 11, 2016.**

Resolved. GCBD management stated they will provide supporting documentation on how eligibility concerns raised by lower-level reviewers were resolved for the 30 firms not documented in BDMIS. GCBD management plans to complete final action on this recommendation by April 11, 2016. This recommendation can be closed upon GCBD providing supporting documentation on how eligibility concerns raised by lower-level reviewers were resolved for the 30 firms not documented in BDMIS.

Appendix I: Scope and Methodology

Our objective was to determine whether SBA's procedures ensure only eligible participants are admitted in the 8(a) Program. To answer our objective, we reviewed Section 8(a) of the Small Business Act, Code of Federal Regulations Title 13, Federal Acquisition Regulation Part 19, and SBA's Standard Operating Procedure 80 05 3.¹⁴ We also obtained access to BDMIS, which OBD uses to process applications. Finally, we interviewed SBA officials responsible for the 8(a) Program. For this report, we reviewed the files and developed a list of follow-up questions and documents the AA/BD and OCE's director referred to when approving firms. We requested this information on August 21, 2015, September 2, 2015 and September 9, 2015. However, even though we allowed time to process and suggested the items be sent as they were available, as of December 15, 2015, we had only obtained information relating to 12 of the 38 firms we requested. For our analysis, we drew conclusions based on information contained in BDMIS and any additional information we obtained from OCE and AA/BD in response to our queries.

We selected and reviewed 48 8(a) applicants that were accepted into the program between January 1, 2015 and May 31, 2015, and reviewed the applications to determine if the participants met the eligibility requirements of the 8(a) Program. The applications included in our audit sample were generally denied by the processing business opportunity specialist, the specialist's supervisor, the Office of General Counsel, or OCE's director, but subsequently approved by the AA/BD. Of the 249 applications processed during this time frame, 46 met the parameters of the sample. We included two additional applications that were contained in the hotline complaints and met the timeframe of our sample but did not contain lower-level denial recommendations.

We conducted this performance audit 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 provides a reasonable basis for our findings and conclusions based on our audit objectives.

Use of Computer-Processed Data

We relied on data we obtained from BDMIS to select our sample of 8(a) participants for review. We corroborated this information by reviewing the approval history for each approved applicant during the time period. Throughout our work, we looked for errors in data but did not have any issues that called into question the validity of information contained in BDMIS. We believe the information is reliable for the purposes of this audit.

Review of Internal Controls

SBA's internal control systems' Standard Operating Procedure provides guidance on implementing and maintaining effective internal control systems, as required by OMB Circular A-123.¹⁵ OMB Circular A-123 provides guidance to Federal managers on improving the accountability and effectiveness of Federal programs and operations by establishing, assessing, correcting, and reporting on internal controls.¹⁶

¹⁴ SOP 80 05 3, *8(a) Business Development* (Version A, effective April 11, 2008).

¹⁵ SOP 00 02, *Internal Control Systems* (January 1986).

¹⁶ OMB Circular A-123, *Management's Responsibility for Internal Control* (December 21, 2004).

To assess internal controls during the audit, we reviewed OCE's internal guidance. During our audit, we found weaknesses in SBA's review process. Specifically, OCE's director and the AA/BD did not consistently provide justification for approving firms into the 8 (a) Program after the firm was denied during lower-level reviews. We believe this is an internal control weakness because we cannot verify if the firm met all eligibility requirements of the 8(a) Program at the time of approval, as required.¹⁷

¹⁷ 13 CFR 124.203.

Appendix II: Lower-Level Review Eligibility Concerns

Firm No.	Size	Unconditional Ownership	Control	Social Disadvantage	Economic Disadvantage	Good Character	U.S. Citizen and Residence	Potential for Success	Other
1					X	X			X
2					X			X	
3			X		X			X	X
4	X		X					X	
5					X				
6			X			X		X	
7								X	
8								X	
9					X				
10			X					X	
11				X				X	
12				X					
13								X	
14								X	
15			X						
16					X			X	
17					X				
18								X	
19					X			X	
20	X							X	
21			X		X			X	
22	X		X						
23			X					X	
24	X		X					X	
25								X	
26				X					
27								X	
28					X				X
29								X	
30			X					X	

SBA
OFFICE OF GOVERNMENT CONTRACTING AND BUSINESS
DEVELOPMENT'S
RESPONSE TO AUDIT REPORT



**U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416**

DATE: March 03, 2016

TO: Troy M. Meyer
Assistant Inspector General for Auditing
Office of Inspector General (OIG)

FROM: Ali J. Shoraka
Associate Administrator
Office of Government Contracting & Business Development (GCBD)

Subject: Comments on OIG Audit Report “SBA’s 8(a) Business Development Program Eligibility”

I appreciate the opportunity to respond to your Draft Report of February 22, 2016, regarding the subject noted above. We take each recommendation seriously, and understand the importance of the work you do to support risk mitigation for the Agency.

The 8(a) Business Development (BD) Program is an essential instrument for helping socially and economically disadvantaged entrepreneurs gain access to the economic mainstream of American society. The program helps thousands of small business concerns owned and controlled by socially and economically disadvantaged individuals to gain a foothold in government contracting and provides a path to business growth for business owners that often have extreme difficulty in accessing capital, counseling and federal contracting opportunities. Certified 8(a) Participants are provided with business development assistance and can participate in the Mentor Protégé Program to build their competitive and institutional know-how to participate in competitive and sole source acquisitions. Through 8(a) sole source and competitive contracting opportunities, the federal government acts as a catalyst for small business growth, innovation, job creation, and supports the national economic security of the Nation.

A few years ago, the 8(a) BD Program boasted over 9,000 certified 8(a) participants, but has declined significantly to less than 4,700 as of September 30, 2015. Though over 2,000 applicants apply each year, the SBA historically rejects most applications as incomplete and missing documentation. Typically, only 25% of the applicants or approximately 500-600 applicants per year are ultimately certified to participate in the 8(a) BD Program by the Associate Administrator of the Office of 8(a) Business Development (AA/BD).

Under new leadership, the SBA designed new goals to improve and provide responsive customer service for 8(a) applicants, to reduce administrative paperwork burdens on applicants, and to grow the 8(a) BD Program by increasing the number of eligible firms approved by 5% per year

for FY16 and FY17. Since the SBA approved 568 firms in FY15, the goal is to simply raise the total by 28 additional firms in FY16. Amongst other objectives, the goals support the SBA's strategic objectives to ensure inclusive entrepreneurship by expanding access and opportunity to small businesses and entrepreneurs in communities where market gaps and high unemployment remain.

The new changes in the mindset in reviewing applications and the expectations in how we respond to our customers will not occur overnight. In the meantime, while our staff at lower levels adjusts to the change, we are still committed at a high level to ensure that firms are afforded every possible opportunity to demonstrate their eligibility. We've considered the potential risk of providing more assistance and working closer with firms even when subordinate staff recommend decline. For cases where the Director of Office of Certification and Eligibility (OCE) or the AA/BD thinks the decline reasons could be overcome with additional information, the applicants are contacted and offered an opportunity to clarify information or mistakes in their application or to provide additional information. This was especially the plan of action when applicants were denied previously, or their applications were in processing for long periods of time. As stated in the draft of your report on Page 5, *"Through gathering additional information from applicants, the AA/BD or OCE Director was able to clarify eligibility issues and approve 18 firms that lower level reviewers recommended be denied. In these cases, more outreach by the lower-level reviewer may have cleared the eligibility concerns and not elevated them to the level of OCE and AA/BD while also ensuring eligibility was met and approval granted. We believe that in some instances, in light of more information, the AA/BD or OCE Director should overrule the lower level recommendation so long as the AA/BD or OCE Director clearly document their approval as to why the lower level conclusions were overcome."*

Your report identified 48 firms that were reviewed. Of the 48 firms, 46 firms had approvals that differed from the lower-level employees' recommendations. On August 21, 2015, BD was offered an emailed list of 18 cases to respond to during the audit. The entire list of 48 firms was not provided until after the draft report was completed. Some of the documentation establishing the relevant firms' eligibility is in emails, some of which were forwarded to the Supervisory Business Opportunity Specialist (BOS) to print and file in the hard copy folder. This method is necessary as our current electronic tracking system, the BDMIS system, doesn't permit upload of documents. Your audit was limited to what could be seen in the BDMIS system and thus the SBA agrees that in all cases, the BDMIS system should be updated with notes that explain why recommendations or decisions were made when they differ from certain lower level reviewers. The AA/BD should, at a minimum, annotate in the BDMIS system when decisions differ from the Director OCE. The Director OCE should, at a minimum, annotate the reasons why his or her recommendations differ from the Supervisory BOS.

Though the SBA will add additional information to the BDMIS system for the remaining 30 firms identified in the report, it should be clear that this is not an issue of ineligible firms being certified into the program without adequate review. This is an issue of adding documentation and notes to the limited information technology system.

Responses to OIG's Recommendations

Recommendation 1: Update policy to require the AA/BD and OCE's director to clearly document their justification for approving or denying applicants into the 8(a) BD Program, particularly when those decisions differed from lower-level recommendations.

GCBD's Response to Recommendation 1: (Concur) The AA/BD will document in the BDMIS system the decisions for approving or denying applicants into the 8(a) BD Program when the decision differs from the recommendation of the Director OCE. The Director OCE will also document in the BDMIS system when his or her recommendation differs from the recommendation of the Supervisory BOS. This may include an email, letter, documented phone call from the applicant, or other documents and notes.

Recommendation 2: Review the firms identified in this Report for eligibility in the 8(a) Program and take appropriate action.

GCBD's Response to Recommendation 2: (Concur) The AA/BD will again review the 30 firms cited in the Report, and take appropriate action to annotate the analysis provided in the BDMIS system.

If you have additional questions, please contact Jackie Robinson-Burnette at (202) 205-7026.

Sincerely,

Ali J. Shoraka
Associate Administrator
Office of Government Contracting and Business Development