

Evaluation Report

Agencies Are Overstating Small Disadvantaged Business and HUBZone Goaling Credit by Including Contracts Performed by Ineligible Firms





**U.S. Small Business Administration
Office of Inspector General
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To: John Shoraka
Associate Administrator for Government Contracting and Business Development

Subject: Evaluation of Select 8(a) Business Development and HUBZone Contract Awards

This report presents the results of our evaluation of select Section 8(a) Business Development Program and HUBZone contract awards. Our review objectives were to determine whether: (1) Section 8(a) and Historically Underutilized Business Zones (HUBZone) set-aside contract awards reported in the Federal Procurement Data System-Next Generation (FPDS-NG) were made to eligible firms, and (2) federal agencies were receiving 8(a) and HUBZone credit towards their annual small business goaling achievements for awards made to ineligible firms. Generally, we found that federal agencies received credit towards their small business goals for contract actions awarded to ineligible 8(a) and HUBZone firms. In addition, for one of the programs, federal agencies continued to receive small business goaling credit for contract actions that occurred after the firms no longer participated in the program. We also identified a weakness in an SBA database used to identify businesses as 8(a) participants and HUBZone-certified.

We conducted this evaluation in accordance with the Council of the Inspectors General on Integrity and Efficiency (CIGIE) *Quality Standards for Inspection and Evaluations*. Those standards require that we plan and perform the evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our objectives.

We appreciate the courtesies and cooperation of the SBA extended to the staff during this audit. Please direct any questions to me at (202) 205-6586 or Riccardo Buglisi, Director, Business Development Programs Group at (202) 205-7489.

/s/

Robert A. Westbrook
Deputy Inspector General

Executive Summary

Agencies are Overstating Small Disadvantaged Business and HUBZone Goaling Credit by Including Contracts Performed by Ineligible Firms

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What the OIG Reviewed

This report presents the results of our evaluation of select Section 8(a) Business Development Program and Historically Underutilized Business Zones (HUBZone) contract awards. The Small Business Act established a goal that not less than 23 percent of prime contracting dollars be awarded to small businesses each fiscal year.¹ To track small business contracting performance, the Government uses the Federal Procurement Data System-Next Generation (FPDS-NG) database. Our review objectives were to determine whether: (1) Section 8(a) and HUBZone set-aside contract awards reported in FPDS-NG were made to eligible firms, and (2) federal agencies were receiving 8(a) and HUBZone credit towards their annual small business goaling achievements for awards made to ineligible firms.

To answer our objectives, we reviewed all contract actions over three million dollars awarded in fiscal year (FY) 2013 that were reported in FPDS-NG as 8(a) set-aside awards and HUBZone set-aside awards.² We also reviewed firms that were reported as HUBZone-certified on non-HUBZone set-aside awards. Our sample encompassed 20 percent of the total dollars of 8(a) set-aside and HUBZone contract actions reported in FY 2013. We reviewed 524 contract actions that were 8(a) set-aside, valued at \$2.9 billion, and 246 HUBZone contract actions valued at \$1.7 billion. We compared FPDS-NG information to certification data in the Dynamic Small Business Search Database (DSBS), the E8a database, and the HUBZone Certification Tracking System. We also interviewed program personnel, including senior leaders.

What the OIG Found

We identified over \$400 million in contract actions that were awarded to ineligible firms, which may have contributed to the overstatement of small business goaling dollars for the Small Disadvantaged Business and the HUBZone Business preference programs in FY 2013.³ Besides reporting inaccurate

information in FPDS-NG, procuring agencies may have limited contracting opportunities for firms currently participating in the 8(a) or HUBZone programs.

We also found that HUBZone and 8(a) certification information is not consistently transmitted to DSBS and the System for Award Management. As a result, the affected small businesses—especially the HUBZONE firms—are not getting the visibility in DSBS, and this may impact federal agencies in meeting their HUBZone procurement goals.

Furthermore, we also identified over \$1.5 billion dollars in contract actions, for which the firms were in the programs at the time of contract award, but in FY 2013 were no longer in the 8(a) or HUBZone programs. Specifically, SBA regulations permit procuring agencies to claim Small Disadvantaged Business and HUBZone goaling credit on certain contract actions even after firms have left the program. In our opinion, the amount of dollars the SBA reports to Congress and the public as being performed by 8(a) and HUBZone firms in the *Small Business Goaling Report* is significantly impacted by the inclusion of contract actions performed by former program participants.

OIG Recommendations

The Office of Inspector General (OIG) made two recommendations to the Associate Administrator for Government Contracting and Business Development intended to strengthen controls between SBA databases on certification data of 8(a) and HUBZone firms and information reported in FPDS-NG.

Agency Comments

On July 24, 2014, we provided a draft copy of this report to SBA management for comment. On September 4, 2014, management submitted formal comments and generally concurred with our findings and recommendations.

¹ A prime contract is any direct contract between the government and a contractor.

² A contract action means any oral or written action that results in the purchase, rental, or lease of supplies or equipment, services, or construction using appropriated dollars over the micro-purchase threshold, or modifications to these actions regardless of dollar value.

³ 8(a) contract awards are included as part of the Small Disadvantaged Business procurement goal.

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Introduction

In November 2013, the OIG initiated a review of a select Section 8(a) Business Development Program⁴ and Historically Underutilized Business Zones (HUBZone)⁵ contract actions.⁶ Our review objectives were to determine whether: (1) Section 8(a) and Historically Underutilized Business Zone (HUBZone) set-aside contract awards reported in FPDS-NG were made to eligible firms, and (2) federal agencies were receiving 8(a) and HUBZone credit towards their annual small business goaling achievements for awards made to ineligible firms. (See Appendix I for a detailed discussion of our scope and methodology.)

Background

The Small Business Act (the Act) establishes policy that small businesses be given the maximum practicable opportunity to participate in providing goods and services to the Federal Government.⁷ In an effort to ensure small businesses are given such opportunities, the Act establishes a Federal Government goal that 23 percent of eligible prime contract dollars⁸ be awarded to small businesses each fiscal year.⁹ The SBA negotiates annual small business goals with individual procurement agencies to obtain a cumulative total meeting this 23 percent government-wide goal. To facilitate the Government's ability to track small business procurement achievement, federal agencies report their contract award data in the Federal Procurement Data System-Next Generation (FPDS-NG) database. The Federal Procurement Data System Program Management Office, a unit of the General Services Administration, administers the FPDS-NG system and collects data on almost all federal contract actions.¹⁰ The FPDS Program Management Office uses this data to calculate the Government's annual small business achievements based on procurement information entered in the FPDS-NG database by federal agencies. The SBA then compiles procurement data reported by participating federal agencies in a comprehensive annual report known as the *Small Business Goaling Report* (Goaling Report), which is submitted to Congress. (See Appendix II for a discussion of the goaling process and FY 2012 government-wide goaling results.)

SBA Assistance Programs for Small and Disadvantaged Businesses

The SBA has a number of programs that provide benefits and assistance to help small and disadvantaged businesses grow and develop. These benefits include sole-source and set-aside federal contracts so that small businesses do not need to compete with large businesses that may have an industry advantage. Two of these SBA programs are the 8(a) Program and the Historically Underutilized Business Zones (HUBZone) Program. The SBA has a certification process for both programs that firms must undergo prior to becoming eligible to receive contracts set-aside specifically for qualifying businesses. In

⁴ The 8(a) Business Development Program was created to assist small, disadvantaged businesses compete in the American economy through business development.

⁵ The HUBZone Program helps small businesses that are located in economically challenged areas, or HUBZones, stimulate their local economies. This program was created to assist HUBZone firms in gaining access to federal contracting opportunities that normally would not be available to them.

⁶ A contract action means any oral or written action that results in the purchase, rental, or lease of supplies or equipment, services, or construction using appropriated dollars over the micro-purchase threshold, or modifications to these actions regardless of dollar value; we reviewed all actions for FY 2013, even if the contract was awarded in a prior fiscal year.

⁷ Title 15 U.S. Code Section 637 (d) (1).

⁸ A prime contract is any direct contract between the Government and a contractor.

⁹ Title 15 U.S. Code Section 644(g).

¹⁰ The Office of Federal Procurement Policy within the Office of Management and Budget provides and directs the activities of FPDS-NG.

addition, the Small Business Act establishes specific annual procurement goals for the 8(a) Program and the HUBZone Program. Federal agencies must attempt to meet annual goals for these specific programs that they negotiate with SBA. (See Appendix III for information related to the 8(a) and HUBZone Programs.)

Contracting Process for Awarding 8(a) Set-Aside or HUBZone Contracts

Federal procuring agencies' contracting officers use different procedures when awarding 8(a) set-aside and HUBZone contracts.¹¹ In addition, they apply different procedures when awarding sole-source and competitive contracts under the 8(a) Program. For example, under the 8(a) Program, the procuring agency contracting officer submits an offer letter to the SBA indicating that the agency intends to award a contract under the program. However, the SBA is not required to accept any particular procurement offered to the 8(a) Program. In instances where the procuring agency identifies an 8(a) firm for a sole-source award in the offer letter, if accepted, the SBA accepts the offer both on behalf of the 8(a) Program and in support of the 8(a) firm. For competitive awards, if the SBA accepts the offer, it accepts it on behalf of the 8(a) Program. Upon receipt of the procuring activity's offer, the SBA will determine, within 10 working days, whether it will accept the contract for the 8(a) Program.¹²

If the SBA delegated its 8(a) contract execution authority to a federal procuring agency through a partnership agreement,¹³ the procuring agency may assume that the SBA accepts its offer for the 8(a) Program if the procuring agency does not receive a reply to its offer within five days.¹⁴ As a result, if an agency has a delegation letter and the SBA did not respond within five days, the contracting officer can assume that the SBA accepted its offer for the 8(a) Program. Even with a delegation letter, the procuring agency's contracting officer is still required to determine a firm's 8(a) eligibility at the time of contract award. One method a contracting officer could do so is by checking the Dynamic Small Business Search (DSBS) database.

Under the HUBZone Program, if the SBA determines that a firm is a HUBZone small business concern, it will issue a certification to that effect and will add the concern to its *List of Qualified HUBZone Small Business Concerns*, located on the DSBS website. Prior to awarding a HUBZone contract, the procuring agency contracting officer is required to search the DSBS website to verify the firm has been certified into the HUBZone Program by the SBA.

Procurement and Certification Systems

The SBA and other federal agencies use a number of computer systems to determine whether firms are participating in the 8(a) and HUBZone Programs, and for reporting contracting information for those firms. These systems include the System for Award Management (SAM), DSBS, FPDS-NG, HUBZone Certification Tracking System (HCTS), and the Electronic 8(a) database (E8a)—a component of the Business Development Management Information System (BDMIS). (See Appendix IV and V for an overview of each system and a flow chart depicting for how data is shared between the systems.)

¹¹ 13 CFR 124.502, FAR § 19.1303.

¹² 13 CFR 124.503.

¹³ The partnership agreement (PA) represents the delegation of SBA's 8(a) contract execution authority to other federal agencies. The purpose of the PA is to streamline the contract execution process between the SBA, the participating federal agency and the 8 (a) participant. Federal agencies without an executed PA must continue to process 8(a) contracts using the procedures of 13 CFR 124.503 and CFR § 124.508 and FAR § 19.8. Currently, the SBA has executed PAs with 46 agencies.

¹⁴ 13 CFR 124.503(a)(3).

Results

Federal agencies may have obtained hundreds of millions of dollars of credit towards their small business goals because procuring agency contracting officers incorrectly reported ineligible firms as either certified in the 8(a) or HUBZone Programs in FPDS-NG. We determined that small business goaling dollars for the Small Disadvantaged Business (SDB) and the HUBZone Business Preference Programs for FY 2013 were potentially overstated by \$428 million.¹⁵ In addition, SBA certification systems inconsistently transmitted 8(a) and HUBZone certification data to DSBS and SAM, which may prevent small businesses from being considered for set-aside contracts. We also identified an additional \$1.5 billion worth of contract actions in FY 2013, for which the firms were in either the 8(a) or HUBZone Program at the time of contract award, but subsequently left the program. As long as a company was eligible at the time of award, SBA regulations permit agencies to continue counting 8(a) and HUBZone contracts towards their procurement goals, even if the company is no longer a program participant. Although authorized by the CFR, we believe the inclusion of these contract actions overstates the contract dollars going to actual 8(a) and HUBZone-certified firms.

Finding 1: Federal Agencies Erroneously Reported Contract Actions in FPDS-NG as Being Awarded to Eligible 8(a) and HUBZone Firms

Procuring agencies' contracting officers incorrectly reported \$428 million worth of contract actions in FPDS-NG as having been awarded to participants in the 8(a) or HUBZone Programs. Specifically,

- 31 contract actions, valued at \$208.4 million were incorrectly reported as 8(a) set-aside awards; and
- 27 contract actions, valued at \$219.4 million were incorrectly reported as HUBZone contracts.

Further, existing controls in FPDS-NG are not preventing contracting officers from incorrectly designating contract awards to ineligible firms as 8(a) and HUBZone set-aside awards. As a result, agency procuring contracting officers are overstating the number of 8(a) and HUBZone contract awards, which led to an inaccurate small business goaling report to Congress and the American public.

8(a) Contract Actions in FPDS-NG Awarded to Ineligible Firms

We determined that 31 of 524 contract actions in our sample from FY 2013, valued at \$208.4 million, were incorrectly credited towards federal small business goals as 8(a) set-aside awards.¹⁶ This accounts for seven percent of the 8(a) Program dollars we reviewed.

We reviewed each firm's contract award in FPDS-NG and compared it to the firm's profile in DSBS for the contract actions in our sample.¹⁷ Further, we determined if the date of award was within the dates listed in the firm's DSBS profile.¹⁸

If a firm did not have a profile in DSBS (see Finding 2 for more information), we reviewed the SBA's E8a system, which is the Agency's internal database of 8(a) firms. We determined 31 contract actions were

¹⁵ 8(a) contract awards are included as part of the Small Disadvantaged Business goal.

¹⁶ The small business set-aside is the most common socioeconomic program. It restricts or "sets aside" contracts exclusively for small business participation.

¹⁷ Our sample was of FY 13 8(a) set-aside awards valued at and above \$3,000,000.

¹⁸ Date signed field in FPDS. For follow-on contract awards, we used the original award date not the follow-on contract to determine eligibility.

awarded as 8(a) set-aside contracts, even though they were ineligible:¹⁹

- 1 firm received 2 contract actions but did not have a DSBS profile and was not identified as certified in E8(a).
- 4 firms received 4 contract actions prior to entering the program.
- 15 firms received 23 contract actions after they graduated from the program.
- 2 firms received 3 contract actions that had a change in the type of award. For both, the original award was not a set-aside, but was later changed to a sole-source 8(a) set-aside.

The firm identified in the first bullet did not have a profile in DSBS. When a firm enters its information into SAM, the firm is provided a link to enter additional information in DSBS if it is a small business. Although the firm had a profile in E8a, the firm was not certified as an 8(a) participant, and its status shows pending since 2009. Because the firm was not 8(a)-certified by the SBA, we question the contracting officer's decision to identify these contract actions to this firm as an 8(a) set-aside in FPDS-NG.

We found that procuring agencies awarded four firms 8(a) set-aside contracts prior to the date the firm entered the 8(a) Program and received credit toward their 8(a) small business goals. Specifically, the procuring agencies awarded the contracts to the firm between 54 and 419 days prior to certification by the SBA. However, a firm must be in the program on the day of award, and as such, these firms did not qualify.

Procuring agencies also awarded contract actions to 15 firms after leaving the 8(a) Program or after the joint-ventures in which the firms participated were completed.²⁰ Contracts were awarded between 1 day and approximately 18 months after exiting the program, or after joint ventures were completed. For example, one firm was awarded a \$24 million sole-source contract one day after it exited the program. Similarly, a procuring agency awarded a \$4 million sole-source contract to an 8(a) joint-venture—approximately 18 months after the approved 2-year joint venture had expired. Based on the available information, the procuring contracting officers should not have reported these 31 procurement actions as 8(a) set-aside contracts in FPDS-NG.

HUBZone Contract Actions in FPDS-NG Were Awarded to Ineligible Firms

We determined that 27 of 246 HUBZone contract actions in our sample from FY 2013, valued at \$219.4 million, were incorrectly credited towards HUBZone goals. This accounts for 2.7 percent of the \$8.1 billion reported in the FY 2012 goaling report.²¹

The procuring agency contracting officer is responsible for checking DSBS to determine if the SBA has certified a firm as a HUBZone firm prior to awarding a HUBZone contract. For the contract actions in our sample, we reviewed the firm's contract award in FPDS-NG and reviewed the firm's profile in DSBS.²² We determined if the date of award was within the firm's certification date as listed in DSBS.²³ If a firm did not have a profile in DSBS (see Finding 2 for more information), we reviewed the SBA's HCTS system.

¹⁹ There were a total of 31 contract actions; however, for one of the firms, we counted a contract action twice because it met more than one improper award category. Therefore, the bulleted information totals to 32 contract actions.

²⁰ A joint venture is two or more businesses coming together to form a temporary partnership that is mutually beneficial to each firm.

²¹ We compared to the FY 2012 goaling report because at the time of our review, the FY 2013 goaling report had not been published.

²² Our sample consisted HUBZone awards for FY 2013, valued at and above \$3,000,000.

²³ Date signed field in FPDS. For follow-on contract awards, we used the original award date not the follow-on contract to determine eligibility.

This system is the SBA’s internal certification tracking system for HUBZone firms. Our review determined that HUBZone firms were ineligible for four reasons:

- 2 firms with 2 contract actions did not have a DSBS profile and were not in HCTS.²⁴
- 4 firms received 5 contract actions prior to entering the program.
- 4 firms received 15 contract actions after they were decertified from the program.
- 2 firms received 5 contract actions and were listed as certified in DSBS, but were not listed as certified in HCTS.

Based on our searches in the two systems, because we could not locate the two firms in HCTS, or a profile in DSBS, we believe the two firms were not in the HUBZone Program at the time the contract was awarded. We also question the contracting officer’s decision to claim these two contract actions, valued at \$24.9 million, for HUBZone goaling credit.

Even though the regulation states that firms must be certified on the day a contract is awarded in order to be considered a HUBZone contract, four firms with five contract actions were awarded contracts prior to entering the program. For example, one firm was awarded two contract actions on April 4, 2012; however, the SBA did not certify it as a HUBZone firm until June 22, 2012—79 days later.

Additionally, four firms were awarded contracts after they were decertified from the HUBZone Program—and did not meet the requirement that firms be certified on the day the contract is awarded. Specifically, for one firm, the contracting officer awarded a contract action for \$3.7 million—46 days after it was de-certified.

Two firms were listed as “certified” in DSBS but not listed as certified in HCTS. Specifically, one firm showed a certification date of April 15, 2005, in DSBS; however, it was not listed in HCTS. The HUBZone Program office concluded it was never certified. Accordingly, the five actions awarded to these two firms should not have been reported in the HUBZone small business goals.

Lack of Controls Led to Ineligible Firms Receiving 8(a) Set-Aside Awards and HUBZone Contracts

Federal regulations require that procuring agencies report in FPDS-NG most contract actions over the simplified acquisition threshold.²⁵ When reporting a contract action in FPDS-NG, the procuring agency’s contracting officer selects the size of the business and the type of set-aside, 8(a), or HUBZone contract. The contracting officer is responsible for reporting actions in FPDS-NG and ensuring that the information entered is accurate.²⁶ However, we found that for the firms identified above, the information was not accurate. To prevent these types of errors from occurring in the future, controls need to be strengthened between DSBS and SAM to ensure only eligible firms are awarded contracts that are included in FPDS-NG and the goaling report. (See Appendix V for the graphic illustrating how the systems interface.)

Conclusion

By identifying 8(a) or HUBZone contract actions that were awarded to ineligible firms, agency procuring contracting officers may be overstating small business goaling dollars reported to Congress and the American public. Our review shows that approximately 8 percent of our sampled contract actions, valued at \$428 million, were awarded to firms that may have been ineligible for the particular program.

²⁴ One firm had a DSBS profile; however, the profile indicated the firm was not HUBZone certified.

²⁵ FAR § 4.603 and FAR § 4.606. As of May 14, 2014, the limit is \$150,000 unless it’s for a contingency operation or response to a nuclear, biological or radiological attack.

²⁶ FAR § 4.604 (b)(1).

In addition to overstating the small business goaling dollars, this may have also prevented other eligible firms from being awarded these contract actions.

Recommendation

We recommend that the Associate Administrator for Government Contracting and Business Development:

- 1) In coordination with the Office of Federal Procurement Policy and the General Services Administration, strengthen controls between the SBA's Dynamic Small Business Search Database and the System for Award Management to ensure accuracy of 8(a) and HUBZone certification data in FPDS-NG.

Finding 2: Inconsistent Interface between SBA's Business Development Systems and DSBS

HUBZone and 8(a) certification information is not consistently communicated to DSBS and SAM because of technical inconsistencies that affect certification information pertaining to small businesses. For example, DSBS was missing profiles for firms, which makes it appear as if firms are not certified. As a result, agency contracting officers may not have the information needed to award contracts and related contract actions through these business development programs, particularly HUBZone contracts. The SBA is aware of and trying to correct the problem.

Twenty-two Sampled Firms' Profiles were not in DSBS

In order to receive an 8(a) set-aside award or a HUBZone contract, a firm must be a participant in the respective program on the date of the original contract award. For HUBZone contracts, the Federal Acquisition Regulation (FAR) requires that contracting officers confirm that the SBA has certified a firm, which is done by checking DSBS. For the 8(a) Program, contracting officers consult or notify the SBA prior to awarding an 8(a) contract for SBA approval. A firm must be in the 8(a) Program on the date of contract award. Besides contacting the SBA, contracting officers can also verify 8(a) status in DSBS.

We found 58 actions from 22 firms that did not have their profiles in DSBS; however, the firms were certified by the SBA and were listed either in E8a or HCTS. Specifically, 11 HUBZone firms accounting for 21 actions did not have profiles in DSBS; however, the SBA had certified these firms and their profiles were in HCTS. In addition, 11 firms in the 8(a) Program firms accounting for 37 actions did not have profiles in DSBS, yet they were 8(a) participants and were listed as such in the E8a. See Appendix V for a description and diagram of how the various systems interface and populate one another.

Technical Problems Impact DSBS

According to the SBA's information technology project manager for the Government Contract Business Development Program, the missing profiles are a result of technical deficiencies between DSBS and SAM.²⁷ For example:

- If a vendor does not add their small business information into SAM correctly, then DSBS will not recognize the firm as small and will not create a DSBS profile.
- Any updates that a small business makes to its relevant business information in SAM can cause a firm's DSBS profile to become hidden because it no longer recognizes the SAM information.

²⁷ Firms create their DSBS profiles through SAM.

- When vendors do not annually update their SAM profiles, those profiles become expired. Once expired, DSBS no longer recognizes the small business because the vendor is not considered an active business. This, in turn, can cause the firms' DSBS profile to become hidden.

According to the project manager, the SBA has hired a contractor to correct these deficiencies. The project manager also stated that an individual can correct profiles on an ad-hoc basis utilizing Pro-Net, an SBA database. However, by using Pro-Net to correct a problem, an audit trail is not generated detailing who, what, where, and why a profile was changed. Therefore, in our judgment, this is not a viable solution. The project manager stated that officials are aware of and trying to resolve the issues in DSBS.

Conclusion

When a firm enters its profile into SAM to become eligible to receive federal contracts, SAM refers small businesses to DSBS to provide a profile in order to market themselves as small businesses. The SBA also instructs small businesses to utilize DSBS in order to market themselves because agency contracting officers use DSBS to conduct market research prior to awarding small business contracts. In addition, procuring agencies' contracting officers are required to confirm HUBZone certification through DSBS prior to awarding HUBZone contracts, and can use this system as a check prior to awarding 8(a) contracts. However, we found that DSBS is not working as intended. As a result, certain small businesses are not getting the visibility in DSBS that is needed for contracting officers to make decisions, particularly regarding HUBZone firms and may impact federal agencies in meeting their HUBZone procurement goals. Furthermore, individual HUBZone firms that successfully navigate the certification process will suffer the most because if the firm is not visible to agency contracting officers, it decreases its chance to obtain HUBZone contracts.

Recommendation

- 2) Modify DSBS so that a firm's profile and certification information for HUBZone and 8(a) status remains visible and accurate to agency contracting officers, or develop an alternate list to verify a firm's status.

Other Matters: Agencies Continue to Receive Significant 8(a) and HUBZone Credit Towards Their Annual Procurement Goals for Firms No Longer in Either Program

We identified 238 contract actions in our sample, valued at \$1.5 billion, that were performed by 8(a) or HUBZone firms that were no longer in either program in FY 2013. These firms were in the program at the time of the original contract award, and SBA and federal regulations allow agencies to continue to take credit toward their contracting goals for certain contract actions performed by former 8(a) participants and HUBZone participants after they have left the program.²⁸ For example, the CFR allows the procuring agency contracting officer to continue to exercise priced options or make modifications within the scope of contracts, even though the firm has either graduated or exited the 8(a) Program.²⁹ Unpriced options and modifications beyond the scope of the contract, however, are treated as new contracting actions and are only available to eligible program participants.

In addition, the FAR allows an 8(a) firm to continue to accept new orders under a multiple award, federal supply schedule, multi-agency contract, or government-wide acquisition contract after a firm

²⁸ 13 CFR 124.514, 13 CFR 124.515, 13 CFR 126.601(h) and FAR § 19.804-6(c).

²⁹ 13 CFR 124.514 (b).

leaves the 8(a) Program.³⁰ Further, a proposed FAR change clarifies that agencies may continue to receive small disadvantaged business goaling credit for contract actions even after the firm exits the 8(a) Program.

For HUBZone firms, according to the CFR, a firm that is a qualified HUBZone Program participant at the time of initial offer and contract award will generally be considered a HUBZone company throughout the life of that contract, even if the firm leaves the program.³¹ This includes multiple award contracts and other longer contracts except that contracting officers must obtain new certifications as to HUBZone eligibility after five years. However, if a HUBZone firm merges with, or is acquired by, another company, or where a HUBZone contract is novated to another business concern, the new company must recertify its HUBZone status for an agency to continue to count the action towards its HUBZone procurement goals.

We believe this is noteworthy because of the impact of these awards on the small business goaling report. Specifically, we identified the following contract actions going to firms no longer in the programs:

- \$941 million in 160 separate 8(a) set-aside actions
- \$562 million in 78 HUBZone actions

These numbers reflect 31 percent of 8(a) set-asides and 32 percent of the HUBZone contract actions we reviewed. The following are some examples of these contract actions:

- A firm was awarded a contract in June 2009 and withdrew from the 8(a) Program in October 2010. The firm was awarded a task or delivery order on June 14, 2013, for \$56.5 million. The procuring agency is allowed to receive credit toward its 8(a) contracting goal, even though it is for an order awarded to a firm three years after their exit from the 8(a) Program.
- A firm was awarded a contract in September 2003, and exited the 8(a) Program in March 2004. There was a contract action under this contract in February 2013 for \$15.6 million. The procuring agency is allowed to receive credit toward its 8(a) contracting goal, even though it is for an action to a firm nine years after their exit from the 8(a) Program.
- A firm was awarded a contract in December 2010 and the firm was decertified from the HUBZone Program in September 2011. The firm was awarded a task order in July 2013 for \$29.5 million. The procuring agency is allowed to receive credit toward its HUBZone contracting goal for an award to a firm two years after their decertification.

The results of these regulations may limit economic opportunities for socially and economically disadvantaged individuals owning firms in the 8(a) Program and for residents of HUBZones. If procuring agencies are allowed to count towards their goals contracts performed by firms no longer in the 8(a) Program, the agency may have less incentive to identify other 8(a) Program participants to perform the contracts. Similarly, if a firm is no longer eligible for the HUBZone Program because its principal office is not located in a HUBZone or it does not employ a minimum of 35 percent HUBZone residents, counting contracts performed by these prior participants, rather than firms meeting these eligibility criteria, may limit economic benefits for HUBZone residents.

We believe allowing contracts that were performed by prior program participants to be counted towards a procuring agency's goals, the SBA may be undermining the purpose of the 8(a) and HUBZone

³⁰ FAR § 19.804-6(c).

³¹ 13 CFR 126.601.

Programs to provide economic opportunities to less fortunate citizens. These type of awards comprised approximately one-third of the contract actions in our sample, valued at \$1.5 billion. We are not making a formal recommendation because this is, essentially, a question of policy for the Agency. Nevertheless, we think the SBA should determine whether these policies are causing more harm than benefit towards fulfilling the central economic development purposes of these disadvantaged contracting programs.

Agency Comments and OIG Response

On July 24, 2014, we provided a draft copy of this report to SBA management for comment. On September 4, 2014, the Agency submitted formal comments, which are included in their entirety in Appendix VI. Management generally concurred with the findings and two recommendations. A summary of management's general comments to the report, recommendation-specific comments, and our response follows.

General Management Comments

Management provided four comments suggesting to revise certain phrases in the draft report and one comment addressing our analysis on the eligibility of firms to receive competitive 8(a) contracts. Specifically, management stated that we:

1. Revise the paragraph header on page 6 to read "*Procurement and Certification Systems*" instead of Procurement System.
2. Revise text on page 6 to read "*Business Development Management Information System (BDMIS)*" instead of Electronic 8(a) database (E8a).
3. Revise text on page 7 to read "*certification systems*" instead of Business Development Systems.
4. Did not state whether the 15 firms that received 23 contracts after graduating from the 8(a) Program were or were not eligible to receive contracts under 13 CFR 124.508(d),³² and
5. Revise text in Appendix V graphic to read "*BDMIS*" instead of E8(a).

OIG Response

Based on management's comments, we incorporated the suggested changes from comments one, two, three, and five. Regarding comment 4, we acknowledge that 13 CFR 124.507(d) allows a firm to be eligible for competitive 8(a) contracts after its program term has expired, if it was eligible for award on the initial date specified for receipt of offers. However, FPDS-NG does not capture the offer date for a contract action, and we did not conduct individual contract file reviews because the contract files reside with the respective federal procuring agency awarding the contract. As we disclosed in our scope and methodology section, we used the contract award date for conducting our analysis, recognizing some firms may have made the offer before exiting the 8(a) Program, and therefore would have been eligible for the award. For the 15 firms that received the 23 contracts, 20 were competitive awards and 3 were sole-source. The competitive contract award dates ranged from 1 day to 489 days after the firms graduated from the 8(a) Program, with 12 of the 20 contract actions (or 60 percent) being awarded over 90 days after the firms graduated. Given the elapsed time between the firms' graduation dates and contract award dates, these firms may have been ineligible. However, without reviewing the contract files, we could not determine when those firms submitted their offers and conclude whether the firms were eligible.

Recommendation 1 – In coordination with the Office of Federal Procurement Policy and the General Services Administration (GSA), strengthen controls between the SBA's Dynamic Small Business Search

³² This CFR reference does not exist. However, 13 CFR 124.507(d) addresses competitive 8(a) awards.

(DSBS) Database and the System for Award Management (SAM) to ensure the accuracy of 8(a) and HUBZone certification data in FPDS-NG.

Management Comments

Management stated that the Agency will continue its assessment and root cause analysis in the interfaces between the Certification Program Source Systems and the DSBS Database, as well as between DSBS and SAM. Management further stated that as the root causes are identified, it will coordinate with the GSA System for Award Management team to determine the appropriate fix and implement.

OIG Response

Management's comments were responsive to our recommendation. We consider this recommendation resolved but open, pending completion of final action. Since the SBA can only effect change to SAM by submitting a change request and working with the GSA System for Award Management team, we will consider the recommendation closed once the SBA submits its change request to the GSA.

Recommendation 2 – Modify DSBS so that a firm's profile and certification information for HUBZone and 8(a) status remains visible and accurate to agency contracting officers, or develop an alternate list to verify a firm's status.

Management Comments

Management stated that the Agency will continue its assessment and root cause analysis in the interfaces between the Certification Program Source Systems and the DSBS Database. As the root causes are identified the Agency will determine the appropriate fix and implement.

OIG Response

Management's comments were responsive to our recommendation. We consider this recommendation resolved but open pending completion of final action.

Appendix I: Scope and Methodology

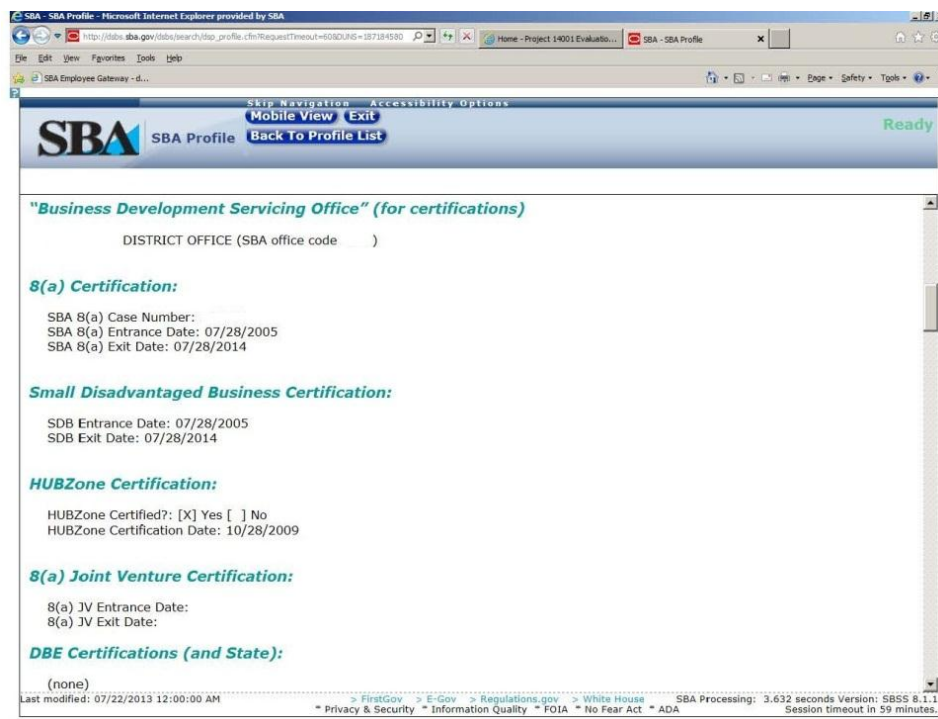
We conducted our review between November 2013 and July 2014 in accordance with the Council of Inspectors General on Integrity and Efficiency (CIGIE) *Quality Standards for Inspection and Evaluations*. Those standards require that we plan and perform the evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our objectives.

Scope

We reviewed all contract actions over \$3 million awarded in FY 2013 and reported in FPDS-NG (as of October 24, 2013) as an 8(a) set-aside or as a HUBZone set-aside award or where a firm was indicated as HUBZone on a non-HUBZone set-aside award contract.³³ Specifically, we reviewed 524 contract actions that were 8(a) set-aside, valued at \$2.9 billion, and 246 HUBZone contract actions, valued at \$1.7 billion. In total, we reviewed 20 percent of the total dollars awarded as an 8(a) set-aside or HUBZone contract action in FY 2013 that was reported in FPDS-NG.

Methodology

To address this objective, we reviewed the Federal Acquisition Regulations, the Code of Federal Regulations, SBA guidance, prior OIG and GAO reports, and interviewed SBA officials in the Government Contracting and Business Development Office. We compared our sample to DSBS to verify whether a firm was certified as being in the 8(a) or HUBZone Program on the date the contract was awarded.



³³ An action is a modification to a contract, or a delivery order placed against an indefinite delivery-indefinite quantity contract; we reviewed all actions for FY 2013, even if the contract was awarded in a prior fiscal year. There were an additional 397 FY 2013 actions, valued at \$2.5 billion that would have been in our sample; however, those actions were added by the agencies subsequent to our sample selection. We queried FPDS-NG in March 2014 to determine the total amount of dollars awarded for 8(a) set-asides and HUBZone contracts and discovered the additional actions.

For the contract actions in our sample in which the FY 2013 action was not the initial contract action, we used FPDS-NG to provide us the contract award date. For firms without a listed business profile in DSBS, we then compared the information to E8a or HCTS to verify whether the SBA certified a firm as belonging to one of the development programs.

Use of Computer-Processed Data

We relied on the data we obtained from the FPDS-NG. As explained in Finding 2, we could not fully rely on information in DSBS; however, we mitigated that shortcoming by using the SBA's E8a and HCTS systems to provide us with the necessary information in order for us to make our conclusions. We believe that by taking this additional step, the information is reliable for the purposes of this review.

Nature of Limited or Omitted Information

No information was omitted due to confidentiality or sensitivity, nor were there limitations to information on this evaluation.

Review of Internal Controls

The Office of Management and Budget (OMB) Circular A-123³⁴ 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. We determined that material internal control weaknesses existed. Specifically, during our review, we found problems with the interface between DSBS and SAM that affected firms' profiles in DSBS. This lack of controls resulted in firms certified by the SBA not showing as certified in DSBS.

Prior Coverage

U.S. Government Accountability Office Audit Reports

Report No. GAO-10-759, *SBA: Undercover Tests Show HUBZone Program Remains Vulnerable to Fraud and Abuse*, June 2010.

Small Business Administration

Report No. 14-03, *Opportunities Exist to Further Improve Quality and Timeliness of HUBZone Certification*, November 2013.

Report No. 12-04, *Small Business Administration's Rationale for Excluding Certain Types of Contracts from the Annual Small Business Procurement Calculations Needs to be Documented*, December 2011.

³⁴ OMB Circular A-123, *Management's Responsibility for Internal Control*, December 21, 2004.

Appendix II. Goaling Process and FY 2012 Small Business Goaling Report

Goaling Process

In order to determine the percentage of contract dollars awarded to small businesses in a fiscal year, the SBA utilizes FPDS-NG data. The SBA includes the total dollars obligated on all prime contracts awarded each fiscal year using appropriated funds and that are subject to the Federal Acquisition Regulation (FAR) to calculate the goaling numbers. To do so, the SBA excludes contracts not covered by the FAR and those awarded with non-appropriated funds from the goaling baseline. In addition, other contracts are excluded from the baseline, such as those:

- awarded to mandatory³⁵ and directed³⁶ sources;
- awarded and performed abroad or performed entirely abroad;³⁷
- made by credit card that are less than \$2,500; or
- made by agencies on behalf of foreign governments or international organizations.

The table below compares the goal dollars and percentages for the various small business categories to actual accomplishment in FY 2012.

Table 1 FY 2012 Small Business Goaling Report

Goal Type	Goal Dollars	Goal Percentage	Accomplishment Dollars	Accomplishment Percent
Small Business Concerns Prime Contracts	\$404,180,226,265.91	23%	\$89,923,198,457.39	22.2%
Small Disadvantaged Business	\$20,209,011,313.30	5%	\$32,334,377,258.41	8.0%
Service Disabled Veteran Owned Small Business	\$12,125,406,787.98	3%	\$12,256,409,592.48	3.0%
Women Owned Small Business	\$20,209,011,313.30	5%	\$16,179,934,372.77	4.0%
HUBZone	\$12,125,406,787.98	3%	\$8,140,221,002.02	2.0%

³⁵ By law, agencies must award certain contracts to “mandatory sources.” Examples include commodities produced by the Federal Prison Industries (known as UNICOR) or the JWOD Participating Nonprofit Agency (formerly Sheltered Workshop).

³⁶ The “purchasing” agency has no discretion in making the award.

³⁷ Based on a study cited in House of Representatives Report No. 110-111, Part 1 (2007), inclusion of foreign contract opportunities in the federal prime contracts baseline would have reduced small business participation to 19.3 percent of all federal contracts.

Appendix III. The 8(a) and HUBZone Programs

8(a) Program

In 1978, Congress amended the Small Business Act of 1958 to give the SBA statutory authority for its 8(a) Business Development Program for minority-owned businesses. To qualify for the 8(a) Program, a firm must be at least 51 percent owned and controlled by an individual or individuals who meet the SBA's criteria to be socially and economically disadvantaged. In addition, the firm must meet other characteristics. Participation in this business development program encompasses two phases over a nine-year period. While in the program, 8(a) participants receive:

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

The first phase, which covers a four-year period, is the developmental stage. The second phase, which covers the remaining five years, is the transitional stage. While continuing to receive assistance, participants are expected to decrease their reliance on 8(a) contracts by increasing their amount of non-8(a) contracts to demonstrate their progress in developing a viable business that is not solely reliant on the 8(a) Program. A firm that completes its nine-year term of participation in the 8(a) Business Development Program is deemed to graduate from the program. The nine-year program term may be shortened only by termination, early graduation, or voluntary withdrawal. After exiting or graduating, the firm is not eligible to enter the program again. Each firm that enters into the 8(a) Program goes through an approval process by the SBA.

HUBZone Program

The purpose of the HUBZone Program is to provide federal contracting assistance for qualified small businesses located in designated HUBZones in an effort to increase employment opportunities, investment, and economic development in those designated areas. To qualify for the HUBZone Program, a business must meet the following conditions:

- The firm must be a small business by SBA standards;
- The firm must be owned and controlled at least 51-percent by U.S. citizens;³⁸
- The firm's principal office must be located within a HUBZone, which includes lands considered "Indian Country" and military facilities closed by the Base Realignment and Closure Act; and
- The firm must have at least 35-percent of its employees residing in a HUBZone.

In order for a firm to be admitted into the HUBZone Program, the SBA makes a determination that a small business concern qualifies for the program. If the small business concern qualifies, the firm is certified into the program and is included in SBA's list of qualified HUBZone firms. Firms remain in the HUBZone Program for as long as they meet program requirements; however, a firm can apply for re-certification once they re-establish compliance with program requirements.

³⁸ Additional ownership types are listed at 13 CFR§ 126.103 and § 126.200.

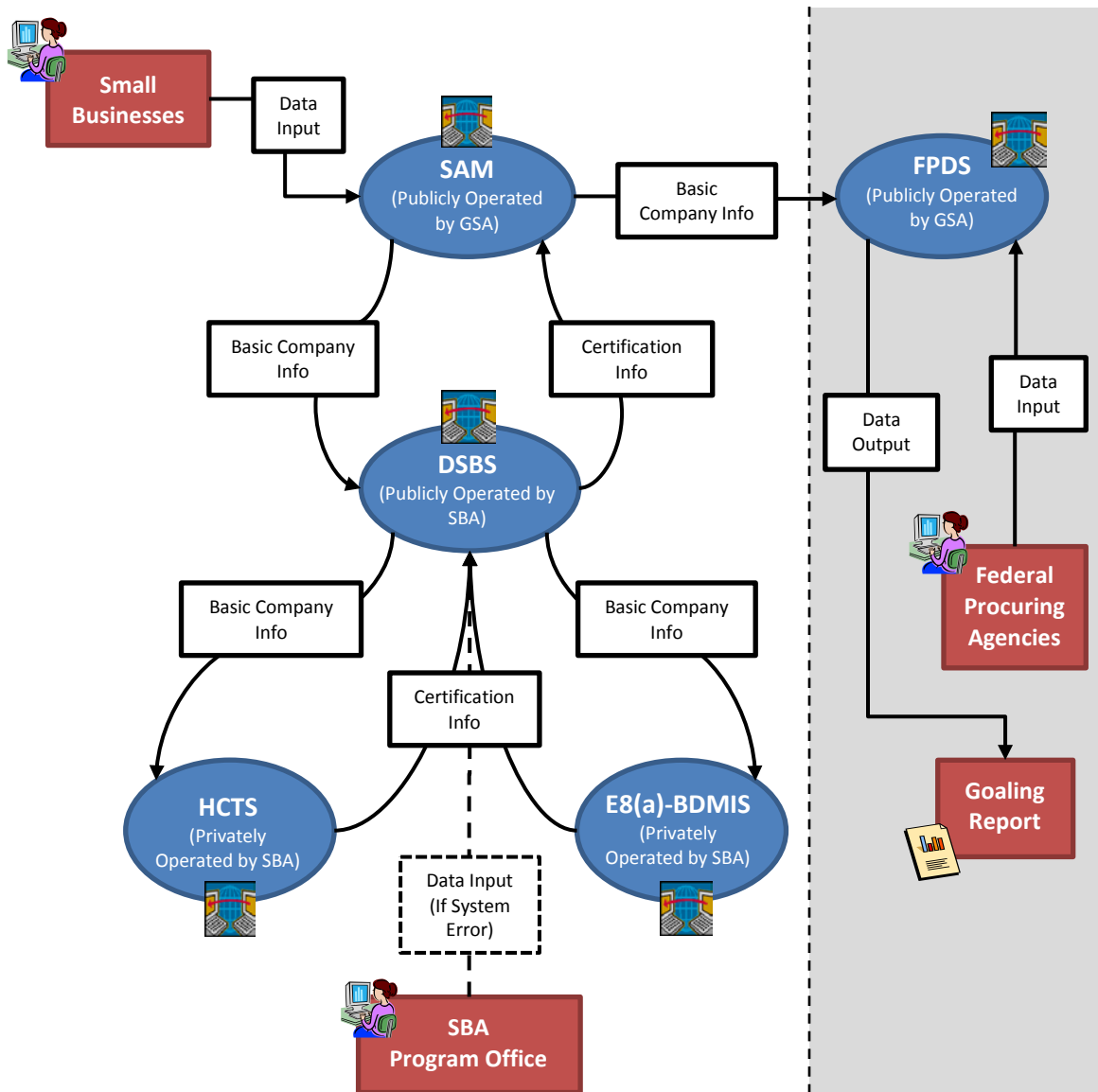
Appendix IV. The Procurement Systems

The Federal Procurement Data System-Next Generation (FPDS-NG) is the Federal Government database for almost all contract actions using appropriated funds and that are over \$3,000. Vendor information is retrieved from System for Award Management (SAM).

SAM established a common source of vendor data for the Government. Contractors are required to be registered in SAM prior to being awarded most contracts, and contracting officers are generally required to verify that contractors are registered in SAM before awarding a contract to a particular contractor. According to Office of Government Contracting and Business Development (GCBD) personnel, DSBS updates SAM with 8(a) and HUBZone certification information.

The SBA operates DSBS. SAM populates vendor information into DSBS and firms are directed by SAM to create a DSBS profile if they are applying to the 8(a) or HUBZone Program. Vendor information is auto-populated by SAM, and HCTS and E8a-BDMIS upload certification data into these systems. The HUBZone Certification Tracking System (HCTS) is the system the SBA uses to certify HUBZone firms. This system is not publicly available; however, HUBZone certification and decertification information is uploaded to DSBS. For HUBZone contracts, the contracting officers search DSBS to obtain HUBZone certification information in order to award HUBZone contracts. The E8a is an SBA database that stores information related to 8(a) firms, such as entry and exits dates from the 8(a) program, and is not publicly available. On a daily basis, data is uploaded from E8a and HCTS to DSBS. Appendix V depicts how the various systems interact.

Appendix V. Systems Interface Among Small Business Systems and Users



Appendix VI. Agency Comments



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

DATE: September 4, 2014

TO: Robert A. Westbrook
Deputy Inspector General

THRU: Calvin Jenkins
Deputy Associate Administrator
Office of Government Contracting and Business Development

A. John Shoraka, Associate Administrator
Office of Government Contracting and Business Development

FROM: Robert Watkins, Acting Associate Administrator, Office of Business
Development

Mariana Pardo, Director, Office of HUBZone

SUBJECT: Evaluation of Selected 8(a) Business Development and HUBZone
Contract Awards, Project No. 14001

Thank you for the opportunity to respond to the Office of Inspector General's Draft Report of July 24, 2014 regarding an Evaluation of Selected 8(a) Business Development and HUBZone Contract Awards. Based on our review, the Office of Government Contracting and Business Development generally concur with your recommendations with the following comments and suggested changes to the draft report.

Recommendation No. 1 – In coordination with the Office of Federal Procurement Policy and the General Services Administration strengthen controls between the SBA's Dynamic Small Business Search Database and the System for Award Management to ensure accuracy of 8(a) and HUBZone certification data in FPDS-NG.

Response – SBA GCBD will continue assessment and root cause analysis in the interfaces between the Certification Program Source Systems and the DSBS Database (SBSS-CCR), as

well as between DSBS and SAM. Current issues reported are being tracked and analyzed but are not consistently repeatable, making assessment of the root cause(s) difficult to ascertain. As the root causes are identified we will coordinate with GSA SAM team to determine the appropriate fix and implement. This is an on-going O&M effort with no specific timeline for completion.

Recommendation No. 2 – Modify the Dynamic Small Business Search so that a firm’s profile and certification information for HUBZone and 8(a) status remains visible and accurate to agency contracting officers or develop an alternate list to verify a firm’s status.

Response – GCBD will continue assessment and root cause analysis in the interfaces between the Certification Program Source Systems (HUBZone and 8(a)) and the DSBS Database (SBSS-CCR). Current issues reported are being tracked and analyzed but are not consistently repeatable, making assessment of the root cause(s) difficult to ascertain. As the root causes are identified we will determine the appropriate fix and implement. This is an on-going O&M effort with no specific timeline for completion.

1. Page 6, paragraph header “*Procurement System*” should be revised to read “*Procurement and Certification Systems*” (8(a) and HUBZone systems are certification systems)
2. Page 6, last paragraph, line four, replace “*electronic 8(a) database (E8a)*” with “*Business Development Management Information System (BDMIS)*”. E8a is a database, while BDMIS is the 8(a) certification system and operates similar to HCTS.
3. Page 7, third paragraph titled “*Result*”, starting on line five, replace “...*Business Development systems...*” with “*certification systems*”. Both the HUBZone and 8(a) transmit data from their respective certification systems.
4. Page 8, under third paragraph three, third bullet, of the 15 firms that received 23 contracts after the graduated from the 8(a) program. The report does not state whether the firms were or were not eligible to receive the contract awards under 13 CFR 124.508(d). SBA rules allow a firm to be eligible for competitive 8(a) contracts after its program term has expired, if it was eligible for award on the initial date specified for receipt of offers.
5. Page 19, Appendix V., replace the bobble which contain “*E8(a)*” with BDMIS. E8a is a database, while BDMIS is the 8(a) certification system and operates similar to HCTS.