

8(a) Competitive Business Mix Requirements

AUDIT REPORT NO. 5-3-E-101-021

September 29, 1995

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8(a) COMPETITIVE BUSINESS MIX REQUIREMENTS

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

AUDIT REPORT
Issue Date: September 29, 1995
Number: 5-3-E-010-021

TO: Calvin Jenkins
Associate Administrator for Minority Enterprise Development
[FOIA Ex. 6]

FROM: Peter L. McClintock
Assistant Inspector General for Auditing

SUBJECT: Audit Report on the 8(a) Competitive Business Mix Requirements

We performed an audit of the 8(a) competitive business mix requirements. The summary section on page i of the report provides a synopsis of the audit findings and recommendations.

The findings included in this report are the conclusions of the Auditing Division based upon the auditors' testing of the auditee's operations. The findings and recommendations are subject to review and implementation of corrective action by your office following existing Agency procedures for audit follow-up and resolution.

Please provide us your management decisions for the recommendations within 30 days. Record your management decision on the attached SBA Form 1824, "Recommendation Action Sheets" and show either your proposed corrective action and target date for completion, or an explanation of your disagreement with our recommendations.

Should you or your staff have any questions, please contact Garry L. Duncan at 205-7732.

SUMMARY

Competitive mix regulations for the Minority Small Business and Capital Ownership Development Program (8(a) Program) established required targets in 1989 for 8(a) companies to obtain an increasing percentage of non-8(a) business during their last 5 years (the Transitional stage) in the Program. This was to assure that 8(a) companies prepare for the competitive marketplace after 8(a) Program assistance ends, instead of becoming unduly reliant on sole source 8(a) contracts. The Auditing Division of the Office of Inspector General (OIG) reviewed SBA's implementation of the statutory competitive mix requirements, i.e., the percentage of total revenue that has to be non-8(a), to determine whether these requirements were achieved and whether meeting them improved 8(a) participants' chances for success after leaving the Program.

We found that SBA's actions to ensure that companies met applicable competitive mix targets were not effective. At February 9, 1995, 36 percent of the companies reporting 8(a) revenues and subject to the competitive mix requirements did not comply with these requirements. More significantly, these noncomplying companies received about \$1.4 billion, or 63 percent, of total 8(a) revenues reported by companies subject to the mix requirements in their prior fiscal year. Although SBA regulations identified a range of remedial actions that could be taken to improve compliance, the specific actions were left to the discretion of the individual SBA Business Opportunity Specialist (BOS). We found that when 8(a) companies did not meet the required competitive mix target, SBA personnel often took minimal or no action. Thus, companies were not compelled to comply with the regulations.

SBA did not measure the success of the 8(a) Program, as defined by the Congress, namely ". . . the number of firms that exit the Program without being unreasonably reliant on section 8(a) contracts and that are able to compete on an equal basis in the mainstream of the American economy." Procedures did not provide for compiling and reporting data on the number of companies that met their competitive mix requirements while in the 8(a) Program and those that remained in business after they no longer had 8(a) revenues. Thus, SBA could not determine whether the 8(a) Program was successful in relation to competitive mix requirements.

As a result of this lack of data, we could not accomplish the second objective of this audit, i.e., to determine whether there was a correlation between good competitive mix and "success." Although we developed and sent questionnaires to former 8(a) participants and SBA BOS's to obtain information on competitive mix, the results were inconclusive. Questionnaire responses showed that many companies that remained in business for several years after program exit still had substantial revenue from carryover 8(a) contracts. By including companies with 8(a) revenues in the number of companies still in business after leaving the 8(a) Program, SBA did not report on the number of former 8(a) companies

that are able to compete on an equal basis in the mainstream of the American economy.

We are recommending that the Associate Administrator for Minority Enterprise Development (1) implement mandatory limits on the dollar value of 8(a) contracts that can be awarded to any 8(a) company not meeting its competitive mix requirement and (2) establish procedures to determine whether the 8(a) Program is successful, as defined by Congress.

The AA/MED generally concurred with our recommendations. We evaluated his comments, and based on them, modified one recommendation. His comments are Appendix 1 of this report. Our analysis of these comments is contained on pages 9 and 13 of this report.

The findings included in this report are the conclusions of the OIG Auditing Division based upon testing of the auditee's operations. **The findings and recommendations are subject to review, management decision and corrective action by Minority Enterprise Development according to existing Agency procedures for follow-up and resolution.**

INTRODUCTION

Background

The Small Business Act of 1953, as amended, authorizes the 8(a) Program. The 8(a) Program provides assistance to small businesses owned and controlled by socially and economically disadvantaged individuals. The assistance is primarily directed toward ensuring a successful transition into the mainstream of the free enterprise system.

The 8(a) Program is administered by the Office of Minority Enterprise Development (MED). Under the 8(a) Program, SBA, as the prime contractor for other Federal agencies, subcontracts with an 8(a) company for needed supplies and/or services. Participation in the 8(a) Program is limited to a maximum of nine years: four years in the Developmental stage and five years in the Transitional stage.

The legislative history of Public Law 100-656, the "Business Opportunity Development Reform Act of 1988," reflects that

. . . too few concerns that have exited the Program have been prepared to compete successfully in the open marketplace on competitive procurement, and many concerns have developed an unhealthy dependency on sole-source contracts by the time they are required to leave the Program. . . .

and declares that one of the Law's purposes is to encourage the development of companies that would not become over reliant on 8(a) contracts and would be successful in competing on an equal basis in the American economy. Pursuant to Public Law 100-656, Title 13, Code of Federal Regulations, §124.312 requires firms to achieve certain targets of non-8(a) contract revenue in each year of the Transitional stage. The targets are known as "non-8(a) business activity targets" and are expressed as a percentage of total revenue. These regulations also provide various remedial measures that SBA district offices can take when a participant has not achieved these requirements.

Program participants are required to provide SBA annual financial statements with breakdowns of 8(a) and non-8(a) revenues. At the end of each transition year, the SBA Business Opportunity Specialist (BOS) is required to determine and document whether the participant has met competitive mix requirements.

Objectives, Scope, and Methodology

The audit objectives were to determine (1) whether non-8(a) competitive mix requirements were effectively carried out and (2) if meeting these requirements improved 8(a) participants' chances of success after leaving the 8(a) Program.

Questionnaires were mailed to all 649 former 8(a) participants we identified that exited the 8(a) Program between October 1, 1988, and September 30, 1992. We received 157 usable responses to these questionnaires, a 24 percent response rate. Of those, 139 stated they were still in business and 18 stated they were not. For those companies that did not respond, we requested Dun and Bradstreet reports to determine whether each company still existed. We obtained the 8(a) and non-8(a) revenues on these companies from the 8(a) Financial Information System (FIS) and calculated the percentage of non-8(a) revenue to total revenue. The universe of participants was developed from the MED data system, regional office data, and other information maintained by the MED Central Office. To assist us in the development and testing of the questionnaire, we visited 19 8(a) companies.

A second questionnaire was mailed to 141 BOS's. We received 90 responses, a 64 percent response rate.

We analyzed the data contained in the FIS to determine whether 8(a) companies in the Transitional stage and reporting 8(a) sales were in compliance with their competitive mix requirements. We used FIS data as of February 9, 1995, which contained 8(a) and non-8(a) sales for the most recent period reported by the companies. Transition years were determined by calculating the difference between the financial statement ending date and scheduled program exit dates. Non-8(a) mix percentages from reported data were calculated and compared with applicable competitive mix requirements. While the financial information may not coincide exactly with program year dates, the data provided a good indication of compliance with competitive mix requirements.

We reviewed the applicable laws, regulations and procedures, interviewed SBA management officials, and analyzed data in the Atlanta, Birmingham, and Washington district offices. The audit was performed between August 1993 and February 1995. The completion of the audit was extended due to the initial lack of responses to our questionnaires. The audit was conducted according to Government Auditing Standards.

Prior Audits

No prior audits of 8(a) competitive business mix requirements have been conducted by the Office of Inspector General.

RESULTS OF AUDIT

Finding 1 - SBA Has Not Effectively Enforced Compliance With Competitive Mix Requirements

SBA did not ensure that 8(a) competitive mix requirements were met by 8(a) companies. Over one-third of 8(a) companies in the Transitional stage with 8(a) revenue were out of compliance with competitive mix requirements. More significantly, 63 percent of the 8(a) revenues awarded to Transitional stage companies in the last financial period reported went to companies that did not comply. Congress amended the Small Business Act in November 1988, directing SBA to establish business activity targets applicable during each company's Transitional stage (years five through nine) in the 8(a) Program. Each year's required non-8(a) business target, expressed as a percentage of total revenue, reflects a gradual increase from the previous year in business activity outside the 8(a) Program. SBA personnel had the discretion of selecting which remedial actions to impose on 8(a) companies not meeting the required targets. For the most part, SBA personnel took minimal or no action; therefore, 8(a) companies were not compelled to comply with the regulations. The lack of enforcement contributed to the concentration of 8(a) dollars with a few companies and many 8(a) companies were not developing their non-8(a) business. Further, companies continued to have the privilege of obtaining sole source 8(a) contracts even though they were not complying with the regulations to effectively develop non-8(a) business.

Pursuant to Public Law 100-656, Title 13, Code of Federal Regulations, § 124.312 established non-8(a) business activity requirements for 8(a) companies in the Transitional stage. In the first transition year, 15 to 25 percent of all revenues should be non-8(a). The percentage basically increases 10 percent each year and, in the fifth transition year, non-8(a) revenue is supposed to be 55 to 75 percent of total revenue.¹ Section 124.312 also provides remedial measures that SBA can take when 8(a) companies do not meet the required business activity targets. The remedial actions include, but are not limited to

- obtaining counseling or management/technical assistance,
- conditioning future 8(a) sole source contracts on the Participant's taking affirmative action to expand its competitive business activity,
- reducing the Participant's approved level of 8(a) support,
- reducing or eliminating sole-source 8(a) contracts, and

¹ Firms with fewer than 5 years in the 8(a) Program, as of August 15, 1989, were subject to lower targets or other less specific requirements.

- terminating the Participant from the 8(a) Program where a company made no effort to obtain non-8(a) revenues.

The regulations further state that new 8(a) contracts should only be approved if the 8(a) company would remain in compliance with the competitive mix requirement if they received the contract. According to 13 CFR § 124.308(e):

If the procuring agency identifies a particular 8(a) concern for a sole source award, SBA will determine whether an appropriate match exists. (1) Once a procurement is deemed suitable for acceptance as an 8(a) sole source contract, it will normally be accepted on behalf of the participant recommended by the procuring agency, provided that: . . . The award of the contract would not result in the Participant exceeding its . . . business mix requirements established under § 124.312.

SBA did not take effective action to enforce compliance with competitive mix requirements. Based on the responses of 90 BOS's to our questionnaire, 65 percent of the actions were "minimal" or "no action," permitting continued award of 8(a) contracts that could preclude the company from reaching its competitive mix target. Only 32 percent of the actions BOS's stated they took were substantive actions to increase the company's non-8(a) business by limiting the 8(a) contracts it could receive. Table 1 shows the breakdown.

TABLE 1

Action Taken ²	Percentage of total action taken	Number of times action taken
1. Minimal or no action	65	186
a. No action taken	7	20
b. Required a remedial action plan.	39	112
c. Required participant to obtain business development assistance.	19	54
2. Substantive actions.	32	92
a. Reduced approved level of support.	17	48
b. Reduced or eliminated sole source 8(a) contracts.	15	42
c. Recommended participant for termination.	1	2
3. Other	3	8

² In some instances of non-compliance, more than one action may have been taken.

Some 8(a) companies have been significantly out of compliance with the competitive mix requirements for successive years and SBA has taken minimal or no action to rectify this. In reviewing files of four 8(a) companies in two district offices, SBA personnel only recommended significant remedial measures for one company. For two companies, SBA took minimal or no action to bring them into compliance even though both companies were significantly out of compliance during all three transition years. Below are summaries of SBA's minimal actions to bring these two companies into compliance.

Company No. 1

Transition Year	Minimum Non-8(a) Target	Non-8(a) Business Obtained	SBA Action Taken
1	15%	3%	No remedial action recommended. The district office incorrectly reported the company complied with the mix requirements because of an incorrect calculation.
2	25%	4%	No remedial action recommended. The BOS approved contract matches by incorrectly stating that the company complied with mix requirements.
3	35%	4%	SBA required the company to obtain 7(j) assistance in evaluating their marketing plan and report their non-8(a) sales activity on a more frequent basis.

Company No. 2

Transition Year	Minimum Non-8(a) Target	Non-8(a) Business Obtained	SBA Action Taken
1	15%	3%	SBA recommended monitoring, working with the company and providing 7(j) assistance "if suitable." The BOS wrote, "In the field this firm pursues, it is unreasonable to hold it to %."
2	25%	3%	SBA reduced requested 8(a) support levels for years 3 and 4, advising the company that non-8(a) sales must be more in line with the law or it may be ineligible for future 8(a) contracts. Later, the BOS approved 2 contracts after requiring submission of a remedial plan. The files contained no analysis of the company's progress in meeting its non-8(a) business targets.
3	35%	10%	Although the company submitted the required annual update information about 2 months prior to our review, the BOS had not determined whether the company was in compliance with its business mix target. Therefore, no action had been recommended or taken.

In the final instance (Company No. 3), the company was significantly out of compliance at the end of each of the first three transition years, and SBA took minimal or no action. Three months after the end of the fourth transition year, SBA finally recommended strong action to attempt to bring the company into compliance. At this point, SBA significantly reduced the company's 8(a) support level in an attempt to have the company increase its non-8(a) business. At the time of this action, the company only had 9 months remaining in the 8(a) Program. Therefore, this action may not have had much effect on promoting non-8(a) business. Below is a summary of SBA's actions.

Company No. 3

Transition Year	Minimum Non-8(a) Target	Non-8(a) Business Obtained	SBA Action Taken
1	15%	2%	No remedial action taken. SBA did not conduct an annual review.
2	25%	3%	No remedial action taken. SBA did not conduct an annual review. The district office continued to approve large dollar value 8(a) contracts.
3	35%	18%	The matter of non-compliance was discussed with the 8(a) owner. SBA stated that the district office "will follow-up with 7(j) assistance & training workshop." The district office continued to approve 8(a) contracts.
4	45%	4%	SBA recommended a reduction in the 8(a) support level from \$8.5 million to \$3 million.

Large amounts of 8(a) contract revenues were received by companies that did not comply with their competitive mix targets. In fact, 63 percent (\$1.4 billion) of the \$2.2 billion annual 8(a) revenues reported by 8(a) companies in the Transitional stage went to companies failing to meet their competitive mix targets.³ Thirty-six percent, or 372, of the 1,037 companies in the Transitional stage, which had some 8(a) revenue, were not in compliance with their required competitive mix targets. Details are provided in Table 2.

³ This is based on the latest financial information in the FIS at February 9, 1995. The universe of companies was all 8(a) companies in the Transitional stage with scheduled exit dates after September 30, 1994.

TABLE 2

Transition Year	Non-8(a) mix target	No. of companies in Transition having 8(a) revenue	No. of companies not meeting minimum mix	Percent of companies not meeting minimum mix	8(a) Revenues of Firms Not Meeting Mix (In Millions)
1	15 - 25%	345	96	28%	\$235
2	25 - 35%	374	113	30%	401
3	35 - 45%	161	65	40%	302
4	45 - 55%	138	86	62%	393
5	55 - 75%	19 ⁴	12	63%	44
Total/average		1,037	372	36%	\$1,376

These non-complying companies were located throughout the 10 SBA regions. Non-compliance ranged from a high of 53 percent of the companies in Region III to a low of 19 percent of the companies in Region V. Additionally, the longer a company was in the Transitional stage, the more likely that the company was out of compliance with the competitive mix requirements.

Although SBA did not effectively enforce competitive mix requirements and many companies were not in compliance with these requirements, an overwhelming majority of the BOS's and former 8(a) participants, who responded to our questionnaires, agreed that a high or increasing level of non-8(a) support was important to success after leaving the 8(a) Program. Ninety-two percent of the BOS's agreed that companies having maintained a high ratio of non-8(a) sales have a greater chance of continuing in business after leaving the 8(a) Program. None disagreed with the statement, while 8 percent stated they didn't know. In a separate survey we conducted, 83 percent of the former 8(a) participants agreed that increasing the level of 8(a) sales prior to exit from the 8(a) Program was of somewhat to extreme importance. Ten percent stated it was of little or no importance, and 7 percent did not respond.

SBA personnel had the discretion to select the type of remedial action that was needed to bring a company into compliance with competitive mix requirements. Based on the questionnaire responses and the extent of non-compliance with these requirements, the remedial measures taken were ineffective. Many BOS's recommended milder courses of action due to various circumstances. To determine why BOS's would choose a mild

⁴ The number of companies in Year 5 is small since not many companies had reached the fifth transition year at the time of our data collection.

course of action, we asked them: "Have any of the following circumstances influenced your decisions about the extent of actions taken/recommended for an 8(a) concern's failure to meet competitive mix targets? (Please check all that apply.)" Table 3 reflects the answers of those having firms out of compliance.

TABLE 3

Circumstance	BOS's responding affirmatively
Restricting 8(a) contracts could severely hurt the concern's financial posture.	68%
SBA approved a large 8(a) contract and concern could not get non-8(a) contracts large enough to achieve target.	50%
The concern had competitive 8(a) contracts.	48%
Concern was close to graduation.	37%
Concern exerted pressure or had other influential connections.	7%
Other circumstances	42%

In May 1995, SBA initiated and later withdrew a proposed rule requiring BOS's to take strong action against 8(a) companies out of compliance with the competitive mix requirements. This proposed rule is planned for inclusion in a proposal for more wide ranging changes in the 8(a) Program. The Office of Inspector General recommended and MED proposed that non-complying companies would be limited in the following year to an amount of 8(a) contracts that would bring it into compliance with mix requirements, assuming the companies had the same non-8(a) sales as in the prior year. The then Associate Administrator for Minority Enterprise Development (AA/MED) wrote:

This rule, if adopted in final form, would make SBA's policy on the computation and effect of non-8(a) business activity targets more consistent with the Small Business Act. Recent audits and reports have revealed that the SBA's current regulations fail to encourage companies to develop in ways that will ensure their success in the commercial marketplace after program graduation. This is attributed in part to the SBA's failure to ensure that the companies meet non-8(a) business activity targets during the transitional stage of program participation. . . .

. . . When a firm fails to meet its non-8(a) business activity target, the SBA would limit the amount of 8(a) contracts a firm could receive during the following year.

Because SBA employees did not effectively enforce compliance with competitive mix requirements, large 8(a) companies continued to obtain sole source 8(a) contracts even though they did not meet the competitive mix targets. These companies were not developing their non-8(a) business so they could effectively compete for business after completion of their term in the 8(a) Program. Further, this permitted some companies to amass extraordinarily large amounts of revenues from 8(a) contracts, thereby exacerbating the concentration of 8(a) contracts with a few companies.

Recommendation

- 1A. We recommend that the Associate Administrator for Minority Enterprise Development implement mandatory limits on the dollar value of 8(a) contracts for every 8(a) company not meeting its competitive mix requirement. Each non-complying company's 8(a) support level for the next year should not exceed the amount that would bring it into compliance with competitive mix requirements assuming its non-8(a) revenues from the prior year remained constant.

SBA Management's Response

The AA/MED concurred with the recommendation. Additionally, according to the AA/MED, MED is considering issuing the proposed regulation they withdrew in June 1995 (see page 8 of this report for a discussion of the proposed regulation) independent of the more wide ranging changes included in the Office of General Counsel regulatory streamlining initiative. The complete text of his response is contained in Appendix 1.

Evaluation of Management Response

The AA/MED's concurrence is responsive to the recommendation.

Finding 2 - SBA Did Not Determine Whether The 8(a) Program Was Successful

SBA did not measure the success of the 8(a) Program as defined by Congress. Specifically, SBA did not determine or report on the number of former 8(a) companies that (1) had not met their competitive mix requirements while in the 8(a) Program, and (2) were still in business after they were no longer receiving 8(a) revenue. Procedures did not provide for determining and reporting this data. Further, MED did not have the necessary data in the 8(a) Financial Information System (FIS) to determine whether the 8(a) Program was successful. Therefore, SBA and the Congress could not determine whether the 8(a) Program was creating viable, sustainable businesses.

Congress, as cited in Public Law 100-656, determined that 8(a) Program success would be measured by using the following criteria:

... the number of competitive firms that exit the Program without being unreasonably reliant on section 8(a) contracts and that are able to compete on an equal basis in the mainstream of the American economy.

Public Law 100-656 also requires the Administrator to

- develop and implement a process for the systematic collection of data on the operations of the Program, and
- analyze and report the causes of success and failure of small business concerns participating in the Program.

SBA did not determine the number of 8(a) companies "... that exit the Program without being unreasonably reliant on Section 8(a) contracts," i.e., companies that did not meet competitive mix requirements. While MED required companies in the 8(a) Program to provide a breakout of 8(a) and non-8(a) revenues for MED's use in evaluating compliance with competitive mix requirements, MED did not analyze the information to determine whether companies leaving the 8(a) Program had adequate experience with non-8(a) work. Further, the FIS did not contain the necessary data for MED to determine 8(a) companies' experience with non-8(a) work over time. While SBA personnel input each year's annual revenues into the FIS, the most current input replaced the previous revenue data, leaving no historical data. The U. S. General Accounting Office (GAO) recently criticized SBA for not having an adequate data system to produce basic management information reports needed for 8(a) Program monitoring and analysis. The GAO concluded that program managers did not have the needed data to determine whether companies nearing the end of the program have sufficient experience with non-8(a) contracting to provide a reasonable chance of success after exiting the Program.

MED also did not compile enough data for SBA to report on the number of companies exiting the Program that are able to compete on an equal basis in the

mainstream of the American economy. MED annually collected information about former 8(a) companies for three years after they exited the Program, citing the percentage of these companies still in business in an annual report to Congress. Based on the responses we received to our questionnaire, it appears that many of the companies used in this presentation were still reliant on uncompleted 8(a) contracts. Companies still dependent on 8(a) revenues cannot be considered companies competing on an equal basis in the mainstream of the American economy. The companies we mailed our questionnaire to had been out of the 8(a) Program for approximately 1.5 to 5.5 years. Almost 50 percent of those companies that responded to our questionnaire stated they had 8(a) revenue during their most recent fiscal year prior to receipt of the questionnaire. Fifteen percent reported that their 8(a) revenue was more than 75 percent of their total revenue. See Table 4 below.

TABLE 4

8(a) Revenue as Percent of Total	Percent of Companies
0%	43%
more than 0% and less than 25%	14%
more than 25% and less than 50%	10%
more than 50% and less than 75%	8%
more than 75%	15%
no response	10%

The data SBA compiled in the FIS was insufficient for us to meet the second objective of our audit, to determine if meeting competitive mix requirements improved 8(a) participants chances of success after leaving the Program. This information is, in effect, the definition of success contained in Public Law 100-656. To be able to effectively determine this, the FIS should contain

- the competitive mix for each company during all 5 years of the Transitional stage,
- the percent of 8(a) revenue to total revenue for the years after the company left the 8(a) Program, and
- the current address of each company or 8(a) participant for three years after the company no longer has any 8(a) revenue.

MED was not required to determine, and the FIS did not contain, the necessary data to track (1) the reliance 8(a) companies leaving the 8(a) Program had on 8(a) contracts, or (2) the number of former 8(a) companies that were still in business without 8(a)

revenues. As a result, SBA and the Congress could not determine whether the 8(a) Program was accomplishing what it should, or whether any changes to the 8(a) Program were needed.

Recommendations

We recommend that the Associate Administrator for Minority Enterprise Development take the following actions:

- 2A. Compile, on an annual basis, the number of companies exiting the 8(a) Program that were and were not unreasonably reliant on 8(a) contracts.
- 2B. Track former 8(a) companies during the fifth, sixth and seventh years after each completed the 8(a) Program to determine whether they are still in business. Annually, determine (1) the percentage of these firms that were unreasonably reliant on 8(a) contracts that are still in business, and (2) the percentage of these firms that were not unreasonably reliant on 8(a) contracts that are still in business.
- 2C. Ensure that the data needed to determine the above are maintained in the FIS.

SBA Management's Response

The AA/MED concurred with recommendations 2A and 2C. He stated that MED plans to track the monitoring of competitive mix through their new data system and will define "not unreasonably reliant," as stated in finding 2A, to mean firms that have met their competitive mix. The AA/MED did not comment on whether MED plans to track the success rate of firms after they leave the 8(a) Program in their new data system.

The AA/MED suggested we modify the first sentence of the original Recommendation 2B, which read:

Track former 8(a) companies for three years after they no longer have 8(a) revenue to determine whether they are still in business.

The AA/MED was concerned about implementing the recommendation, writing:

... we do not have the inhouse capability required to effectively analyze this data and support specific conclusions concerning the success rate of 8(a) firms that complete their term. We are willing to work with the OIG and possibly a private contractor to develop the necessary expertise to ensure that data is properly collected and supported by professional analysis.

The complete text of the AA/MED's response is contained in Appendix 1.

Evaluation of Management Response

The proposed action on Recommendation 2A is responsive to the recommendation.

We modified Recommendation 2B based on the suggested change. We are willing to work with MED officials to implement this recommendation.

Until MED officials determine how they will implement Recommendation 2B, they cannot determine how the new data system should maintain the needed data to implement that recommendation. As such, we believe that MED's agreement to track the monitoring of competitive mix through the new data system is responsive to Recommendation 2C at this time. When the methodology is established under Recommendation 2B, MED officials should determine the feasibility of maintaining such data in their data system.



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

Date: September 29, 1995
To: Peter McClintock, AIG/Auditing
From: Calvin Jenkins, AA/MED [FOIA Ex. 6]
Subj: OIG Draft Report Concerning Competitive Mix Requirements

MED concurs with recommendation 1A of subject report, that the AA/MED implement mandatory limits on the dollar value of 8(a) contracts for every 8(a) company not meeting its competitive mix requirement. A proposed regulation to effect this recommendation was written by MED (with significant input from the OIG), but was withdrawn from clearance in June of this year. The proposed regulation was withdrawn for future inclusion in the regulatory streamlining initiative that was recently developed by OGC. MED is currently considering the issuance of this regulation independent of the OGC streamlining initiative.

I also concur with recommendation 2A that the AA/MED will compile, on an annual basis, the number of companies exiting the program that were not unusually reliant on 8(a) contracts. We interpret the language "not unreasonably reliant" to mean firms that have met the appropriate competitive mix. We are currently tracking this information manually as we monitor district compliance of annual review completion through the District Director goaling process. During the next fiscal year this monitoring will be automated through our new data system, SACS/MEDCOR.

I agree that recommendation 2B would allow us to assess the success of 8(a) firms that exit the program. However, we do not have the inhouse capability required to effectively analyze this data and support specific conclusions concerning the success rate of 8(a) firms that complete their term. We are willing to work with the OIG and possibly a private contractor to develop the necessary expertise to ensure that data is properly collected and supported by professional analysis. Also, it is recommended, due to the fact that many contracts are for a base year and four option years, that the time period be extended to five years after program completion.

In terms of recommendation 2C, the monitoring of competitive mix will be tracked through our new data system.

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