

# AUDIT REPORT

## IMPROVEMENTS NEEDED IN SBA'S OVERSIGHT OF 8(A) CONTINUING ELIGIBILITY PROCESSES





# EXECUTIVE SUMMARY

## IMPROVEMENTS NEEDED IN SBA'S OVERSIGHT OF 8(A) CONTINUING ELIGIBILITY PROCESSES

Report No.  
18-22

September 7,  
2018

### What OIG Reviewed

The Small Business Administration's (SBA's) 8(a) Business Development Program (8(a) program) provides economically and socially disadvantaged small business owners with business development assistance and greater access to Federal contracting opportunities.

Our objective was to determine whether SBA's oversight ensured 8(a) program participants met continuing eligibility requirements. To answer our objective, we judgmentally selected two samples for review. First, we reviewed 15 individually owned 8(a) firms, with the highest 8(a) set-aside contract dollars in FY 2016. The 15 firms received \$461 million, or 3.96 percent, of the \$11.6 billion in 8(a) set-aside contract dollars awarded to individually owned firms in FY 2016. Second, we reviewed 10 individually owned 8(a) firms based on complaints that the OIG Hotline referred to SBA between October 1, 2015, and May 4, 2017, regarding the continuing eligibility of 8(a) participants to assess SBA's complaint review process as part of its oversight of the program.

We also met with SBA officials to gain an understanding of the current 8(a) program structure and processes. Additionally, we reviewed documents associated with the firms' annual and continuing eligibility reviews, information in SBA's 8(a) information systems, and third-party sources for indications of ineligibility.

### What OIG Found

SBA did not consistently identify ineligible firms in the 8(a) program and did not always act to remove firms it determined were no longer eligible for the program. In addition, SBA did not perform required continuing eligibility reviews when it received specific and credible complaints regarding firms' eligibility and did not log all complaints. We found that 20 of 25 firms we reviewed should have been removed from the 8(a) program. These firms received \$126.8 million in new 8(a) set-aside contract obligations in FY 2017 at the expense of eligible disadvantaged firms.

### OIG Recommendations

We made 11 recommendations to improve the overall management and effectiveness of 8(a) program continuing eligibility processes.

### Agency Response

SBA management agreed with 7 of the 11 recommendations and partially agreed with the other 4 recommendations. Management's planned actions resolved five recommendations. SBA plans to conduct continuing eligibility reviews for the firms that OIG identified as ineligible and take appropriate action. Additionally, SBA plans to include a module in Certify.SBA.gov to capture adverse actions and voluntary withdrawals and develop and implement a system to track received complaints regarding firms' continuing eligibility and actions taken.

We did not reach resolution on recommendations 1, 2, 3, 4, 7, and 9. While SBA agreed or partially agreed with the six recommendations, the proposed actions did not fully address the recommendations.



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

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**Final Report Transmittal**  
Report Number: 18-22

**DATE:** September 7, 2018

**TO:** Linda E. McMahon  
Administrator

**FROM:** Hannibal "Mike" Ware  
Inspector General

A handwritten signature in black ink, appearing to be "H. Ware", written over the printed name of the sender.

**SUBJECT:** Improvements Needed in SBA's Oversight of 8(a) Continuing Eligibility Processes

This report presents the results of our audit of the Small Business Administration's (SBA's) oversight of the 8(a) Business Development Program continuing eligibility processes. We conducted this audit in accordance with generally accepted government auditing standards.

We considered management comments on the draft of this report when preparing the final report. Management either agreed or partially agreed to address our 11 recommendations identified in the report; however, 6 recommendations are pending resolution.

We appreciate the courtesies and cooperation extended to us during this audit. If you have any questions, please contact me at (202) 205-6586 or Andrea Deadwyler, Assistant Inspector General for Audits, at (202) 205-6616.

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## Table of Contents

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Introduction.....	1
8(a) Program Oversight.....	1
8(a) Program Eligibility .....	1
8(a) Program Continuing Eligibility.....	1
<i>Annual Reviews</i> .....	2
<i>Continuing Eligibility Reviews</i> .....	2
Prior Work.....	2
Objective.....	3
Finding 1: SBA’s Reviews Did Not Consistently Identify Ineligible Firms in the 8(a) Program.....	4
OCE Did Not Perform Continuing Eligibility Reviews for Most High Risk Firms .....	4
OCE and District Office Reviews Did Not Consistently Identify Indications of Ineligibility .....	4
Recommendations.....	5
Finding 2: SBA Did Not Remove Ineligible Firms in a Timely Manner From the 8(a) Program.....	7
Requirements to Remove Ineligible Firms.....	7
Firms Identified as Ineligible Not Removed .....	7
Internal Control Deficiencies Permit Ineligible Firms to Remain in the 8(a) Program.....	8
Recommendations.....	8
Finding 3: SBA Did Not Investigate or Log All Complaints Regarding 8(a) Firms’ Eligibility.....	9
Requirements to Conduct Reviews in Response to Complaints.....	9
SBA Did Not Address Complaints.....	9
SBA’s SOP Does Not Mandate the Required Review of Complaints.....	10
SBA Did Not Log All Complaints .....	10
Recommendations.....	11
Analysis of Agency Response.....	11
Summary of Actions Necessary to Resolve and Close Recommendations.....	11
Appendix I: Objective, Scope, and Methodology.....	14
Use of Computer-Processed Data.....	15
Review of Internal Controls.....	15
Appendix II: Questioned Costs.....	16
Appendix III: Agency Comments.....	17

## **Introduction**

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In 1978, Congress amended the Small Business Act of 1958 (the Act) to give the Small Business Administration (SBA) statutory authority for its 8(a) Business Development Program (8(a) program) for minority-owned businesses. The purpose of this program is to promote the business development and competitive viability of small business concerns owned and controlled by socially and economically disadvantaged people.

In fiscal year (FY) 2017, Federal agencies awarded \$16.3 billion, or 3.7 percent, of total small business eligible Federal contracting dollars, using 8(a) sole-source and set-aside contracts. As of April 2018, the 8(a) program had 4,903 participants.

### **8(a) Program Oversight**

Two SBA program offices—the Office of Government Contracting and Business Development (GCBD) and the Office of Field Operations (OFO)—share responsibility for overseeing the 8(a) program.

GCBD works toward maximum participation by small, disadvantaged, and woman-owned businesses in Federal contracting. Within GCBD, business opportunity specialists (BOSs) assigned to the Office of Certification and Eligibility (OCE) evaluate all 8(a) program applications and conduct continuing eligibility reviews of high risk 8(a) firms.

OFO is responsible for delivering SBA's programs and services through 68 district offices spread across the United States and territories. Within each district office, BOSs are responsible for executing the 8(a) program by working directly with their assigned 8(a) firms, providing technical assistance to the firms, and coordinating additional training and assistance. In addition, the district offices BOSs conduct annual reviews of 8(a) firms' business development progress and compliance with continuing eligibility requirements.

### **8(a) Program Eligibility**

A firm must meet several eligibility requirements to qualify for and remain in the 8(a) program. Generally, a small business concern must be at least 51 percent owned and controlled by one or more socially and economically disadvantaged individual(s) to qualify for the 8(a) program.<sup>1</sup> Furthermore, the individuals must be of good character, be citizens of and reside in the United States, and demonstrate a potential for success. Firms participate in the 8(a) program for a 9-year period, which may be shortened by termination, early graduation, or voluntary withdrawal.

### **8(a) Program Continuing Eligibility**

In order to remain eligible for the 8(a) program, firms must continue to meet all eligibility criteria. SBA may graduate a firm from the program before it completes its 9-year term if it has substantially met the targets, objectives, and goals set forth in its business plan and has demonstrated the ability to compete without the assistance of the 8(a) program. SBA can remove firms from the 8(a) program if, among other things, one or more of the disadvantaged owners upon whom the participants' eligibility was based was no longer economically disadvantaged, or if a firm no longer

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<sup>1</sup> Firms owned by Indian tribes, Alaska Native Corporations, Native Hawaiian Organizations, and Community Development Corporations have different ownership requirements.

met the other eligibility standards. SBA conducts two types of reviews each year to ensure that 8(a) participants meet program targets and remain eligible for the 8(a) program.

### *Annual Reviews*

SBA's procedures require BOSs located in SBA's district offices to conduct annual reviews of all 8(a) program participants to assess each firm's progress toward achieving the targets, objectives, and goals set forth in its business plan.<sup>2</sup> BOSs also assess the overall competitive strength and viability of an 8(a) participant by considering the participant's degree of sustained profitability, sales trends, capital, financial profiles, strength of management, and ability to operate successfully without 8(a) set-aside contracts. As a part of the annual review, each 8(a) participant must review its business plan with its BOS and modify the plan as appropriate.

### *Continuing Eligibility Reviews*

The Act references OCE's duty to ascertain an 8(a) participant's continued eligibility for the 8(a) program.<sup>3</sup> Continuing eligibility reviews determine if 8(a) participants continue to meet all eligibility criteria listed in the regulations. In practice, district office BOSs and OCE BOSs both have responsibilities for continuing eligibility reviews depending on the status of the firm. The standard operating procedure (SOP) required that OCE conduct continuing eligibility reviews for "high risk" or "complex" firms, including those firms with total 8(a) revenue over \$10 million, joint ventures, mentor-protégé agreements, and firms owned by entities such as Alaska Native Corporations. While the SOP states that district office BOSs conduct continuing eligibility reviews for all other firms, in practice, district offices BOSs continue to assess continuing eligibility as part of annual reviews for all 8(a) firms, including high risk/complex firms.

SBA is also required to review the participant's eligibility for continued participation in the program upon receipt of specific and credible information alleging that a participant no longer meets the eligibility requirements. Generally, SBA receives this information from SBA OIG Hotline complaints.

### **Prior Work**

In 2016, we conducted an audit to determine whether SBA's procedures ensured that only eligible participants were admitted into the 8(a) program.<sup>4</sup> We found that the Associate Administrator for Business Development (AA/BD) approved 30 firms into the 8(a) program without fully documenting how all areas of concern raised by lower-level reviewers were resolved. We recommended changes in SBA policy related to documenting justification for approving or denying 8(a) applications. In a 2017 follow-up audit of the 30 firms, we continued to question the eligibility of 10 of the 30 firms because the AA/BD did not sufficiently establish that the 10 applicants met the eligibility requirements of the 8(a) program.<sup>5</sup> Consequently, SBA had no assurance that only eligible firms benefited from the 8(a) program.

In 2010, the Government Accountability Office (GAO) issued two reports related to the initial and continuing eligibility for the 8(a) program. In the first report, GAO noted that 8(a) firms were able

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<sup>2</sup> SOP 80 05 5, Office of Business Development, effective September 23, 2016.

<sup>3</sup> Section 7 (j)(11)(F)(iv).

<sup>4</sup> SBA OIG Report 16-13, SBA's 8(a) Business Development Program Eligibility (April 7, 2016).

<sup>5</sup> SBA OIG Report 17-15, Reassessment of Eligibility Requirements for 30 Firms in SBA's 8(a) Business Development Program (July 17, 2017).

to make false statements, such as underreporting income or assets, to qualify for or remain in the 8(a) program.<sup>6</sup> The report also noted substantial vulnerabilities in SBA's monitoring of eligibility for 8(a) program participants. Among other actions, GAO recommended that SBA assess the workload of business development specialists, and evaluate the feasibility of increasing independent verification of firm-reported data.

In the second report, GAO indicated that inconsistencies in annual review procedures limited program oversight and that SBA's program offices did not have a system to track complaints on the eligibility of 8(a) firms.<sup>7</sup> Among other actions, GAO recommended that SBA monitor, and provide additional guidance and training to, district offices on continuing eligibility procedures; and implement a standard process for documenting and analyzing complaints.

### **Objective**

Our objective was to determine whether SBA's oversight ensured 8(a) Business Development Program participants met continuing eligibility requirements.

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<sup>6</sup> GAO-10-425, 8(a) Program-Fourteen Ineligible Firms Received \$325 Million in Sole-Source and Set-Aside Contracts (March 30, 2010).

<sup>7</sup> GAO-10-353, Steps Have Been Taken to Improve Administration of the 8(a) Program, but Key Controls for Continued Eligibility Need Strengthening (March 30, 2010).

## **Finding 1: SBA's Reviews Did Not Consistently Identify Ineligible Firms in the 8(a) Program**

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SBA's annual and continuing eligibility reviews of 8(a) program firms in FYs 2016 and 2017 did not consistently identify ineligible firms enrolled in the program. Despite OCE and district offices having shared responsibility for assessing 8(a) firms' continuing eligibility, they did not detect that 4 of the 15 individually owned 8(a) firms we reviewed were ineligible for the 8(a) program. This occurred because (1) OCE did not perform the required continuing eligibility reviews for most high risk firms and (2) OCE and district offices did not detect indicators of ineligibility. As a result, these firms remained in the 8(a) program and continued to receive set-aside contracts at the expense of truly disadvantaged firms. For the four firms in our sample that SBA did not detect as ineligible, we question \$46.6 million in new 8(a) set-aside contract obligations that they received in FY 2017. (See Appendix II for a schedule of our questioned costs.) Additionally, the indications of ineligibility within the Agency's files may present an obstacle to pursuing potential fraud cases against certain ineligible parties.

### **OCE Did Not Perform Continuing Eligibility Reviews for Most High Risk Firms**

OCE did not review most of the firms that it identified as high risk in FYs 2016 and 2017. For FY 2016, OCE identified 859 of the 4,692 firms in the 8(a) program, or approximately 18 percent, as high risk. Despite requirements to perform continuing eligibility reviews of all high risk firms, OCE reported that it completed reviews for 352 of the identified high risk firms, or approximately 41 percent.<sup>8</sup> Similarly, for FY 2017, OCE identified 798 of the 5,028 firms in the program, or approximately 16 percent, as high risk. OCE BOSs reviewed 350 firms, or approximately 44 percent, of the identified high risk firms.

OCE program officials attributed the difficulties of conducting continuing eligibility reviews to challenges in obtaining documents from the district offices and to a ransomware data loss incident in May 2016. However, OCE program officials did not contact OFO officials to request assistance regarding the difficulties they experienced obtaining documents from district offices. The 8(a) SOP states that district offices upload documents from high risk firms into a GCBD shared drive. In practice, firms' lengthy hard copy documents require significant time for BOSs to scan, and OCE requires 3 years of documents to assess some areas of continuing eligibility. In March 2018, SBA officials implemented a new web-based portal to accept firms' annual review submissions, which they anticipated will streamline access to documents needed to assess continuing eligibility.

Additionally, OCE did not identify 5 of the 15 firms in our sample as high risk in FY 2016 or FY 2017, although these 5 met the high risk criteria for both years. Specifically, OCE did not consistently identify firms with joint venture agreements because district offices approved these agreements but did not consistently forward this information to OCE. Further, the lists of high risk firms prepared by OCE did not consistently include all firms with total 8(a) set-aside contract dollars over \$10 million.

### **OCE and District Office Reviews Did Not Consistently Identify Indications of Ineligibility**

We found that OCE did not identify that 4 of the 15 firms in our sample were ineligible for the 8(a) program. OCE was responsible for conducting continuing eligibility reviews for these firms, given their high risk status. However, OCE did not conduct continuing eligibility reviews for these

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<sup>8</sup> SOP 80 05 5, Office of Business Development, effective September 23, 2016.



four ineligible firms because it failed to identify one of them as high risk and did not receive documents from the district offices needed to conduct continuing eligibility reviews for the other three. While the district offices conducted annual reviews that included examining continuing eligibility for the four firms, they did not detect any areas of ineligibility based on the documents submitted by the firms.

Three of these firms had indicators of ineligibility in annual review documents that the firms submitted to SBA. District office BOSs did not consistently detect indications of ineligibility present in financial statements or tax returns. While we found information highlighting areas of ineligibility in financial statements or tax returns submitted by the firms, the firms sometimes omitted this information on SBA summary forms, such as SBA Form 413 Personal Financial Statements listing income and assets. Additionally, reviewers did not always detect discrepancies in firms' documents regarding executives' titles or compensation, which indicate concerns regarding who controls the firms.

This occurred because the 8(a) SOP did not include a process for district offices to evaluate continuing eligibility for firms not identified as high risk, and SBA did not have any other guidance regarding the continuing eligibility portions of annual reviews. Further, the 8(a) SOP did not provide guidance on financial calculations to determine continued eligibility for all firms. Although the 8(a) SOP contains guidance on calculating adjusted personal gross income for initial eligibility, it does not explain whether distributions from the firm should be included in SBA's calculations of adjusted personal gross income, particularly because distributions are not necessarily reported as income under the Internal Revenue Service rules. The SOP also does not clarify how the finances of an owner's spouse should be considered when the owner's spouse has a role in the business.

Further, district offices used different annual review forms to assess continuing eligibility, and some of them did not include all of the continuing eligibility requirements. For example, one office's forms did not include average adjusted gross income. Although 9 out of 11 district offices in our sample used different annual review forms, all district offices in our sample used the Risk Management Association (RMA) Financial Calculator to assess economic disadvantage measures. However, this financial calculator does not correspond with 8(a) regulatory requirements regarding calculating adjusted gross income, personal net worth, and excessive withdrawals.

Overall, OCE was not involved in district offices' efforts to assess continuing eligibility although the Act identifies OCE as responsible for reviewing 8(a) continuing eligibility. OCE did not examine district offices' reviews of continuing eligibility unless there was a recommendation for adverse action. OCE and district offices' functions related to continuing eligibility were duplicative, without adequate coordination between the two groups. Consequently, district offices had insufficient guidance and tools to assess continuing eligibility, while OCE did not have documents and information from district offices needed to assess continuing eligibility.

## **Recommendations**

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

1. Coordinate with the Associate Administrator for the Office of Field Operations to improve the transfer of continuing eligibility review documents for high risk firms from the district offices to the Office of Certification and Eligibility.

2. Revise its current process to ensure that it accurately identifies all high risk firms to receive continuing eligibility reviews from the Office of Certification and Eligibility.
3. Establish and implement clear policies and procedures for evaluating 8(a) continuing eligibility, including ensuring that district offices use standardized analysis tools that conform with 8(a) continuing eligibility requirements found in 13 CFR 124, and train employees on these procedures.
4. Develop and implement a comprehensive oversight plan to ensure completion of continuing eligibility reviews of all 8(a) firms, monitor the quality of continuing eligibility reviews, and eliminate duplication between the Office of Certification and Eligibility and the district offices.
5. Conduct continuing eligibility reviews for the firms that we identified as ineligible that are still active in the 8(a) program, and take timely action to remove firms found to be ineligible.

## **Finding 2: SBA Did Not Remove Ineligible Firms in a Timely Manner From the 8(a) Program**

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Although SBA previously identified eligibility concerns as part of its annual reviews and/or continuing eligibility reviews for 6 of the 15 firms we reviewed, it did not remove those firms or document resolution of eligibility issues. This occurred because SBA had not established effective internal controls to manage and guide the removal of ineligible 8(a) firms. As a result, we questioned \$47.8 million in new 8(a) contract obligations that these six ineligible firms received in FY 2017. (See Appendix II for a schedule of our questioned costs.) Allowing ineligible firms to remain in the 8(a) program undermines program integrity and diverts 8(a) contract opportunities and business development assistance away from eligible firms.

### **Requirements to Remove Ineligible Firms**

SBA's 8(a) regulations state that the Agency may terminate a firm's participation in the 8(a) program for good cause, including the firm's failure to maintain its 8(a) eligibility and submission of false information to SBA.<sup>9</sup> The regulations also state that SBA may graduate a firm prior to the end of its program term if it achieved its targets, objectives, and goals in its business plan; one or more disadvantaged owners is no longer economically disadvantaged; or excessive funds have been withdrawn from the firm.<sup>10</sup>

Additionally, the 8(a) regulations state that SBA will send a Notice of Intent to Terminate or Graduate Early to those firms it believes should be terminated or graduated early. Firms then have 30 calendar days to respond.<sup>11</sup> Ultimately, the Associate Administrator for Business Development decides whether to remove the firms and communicates this decision to the firms in writing.<sup>12</sup>

### **Firms Identified as Ineligible Not Removed**

SBA had identified eligibility concerns through its annual reviews and/or continuing eligibility reviews for 6 of the 15 firms we reviewed. However, SBA did not take timely action to remove these firms from the 8(a) program or document resolution of eligibility issues. Of the six firms, SBA sent Notices of Intent to Terminate or Graduate Early to four and did not document why it did not initiate the process to remove the other two. The three firms that responded to the notices provided insufficient information to resolve the eligibility concerns; however, SBA did not remove those firms. For example, one of the three firms that responded did not address all issues cited in a May 2016 Notice of Intent to Early Graduate, and SBA did not pursue early graduation. Subsequently, in March 2017, SBA again found that the firm was ineligible and sent a Notice of Intent to Terminate. Ultimately, the firm voluntarily withdrew in April 2017, 8 months before its scheduled graduation date. The other five firms with identified eligibility concerns, including the one firm that did not respond to the notice, either remained in the program or completed their normal program term.

Further illustrating this reoccurring problem, in FY 2014, a district office's annual review found that a firm's disadvantaged owner's withdrawals and income exceeded 8(a) limits. However, district office personnel did not take action to remove the firm from the 8(a) program, and did not

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<sup>9</sup> 13 CFR 124.303.

<sup>10</sup> 13 CFR 124.302 (a) and (d).

<sup>11</sup> 13 CFR 124.304 (b) and (c).

<sup>12</sup> SOP 80 05 5, Office of Business Development, effective September 23, 2016.

document whether the firm had resolved the concerns. Subsequently, in July 2017, as part of the firm's continuing eligibility review, OCE found the same issues with excessive withdrawals and excessive income. Although SBA had first identified eligibility concerns in FY 2014, it did not issue a Notice of Intent to Graduate Early to the firm until October 1, 2017. Ultimately, the firm did not exit the 8(a) program until its scheduled graduation date on January 15, 2018. This firm received \$12.8 million in 8(a) contract obligations in FY 2017, diverting these 8(a) contract opportunities from eligible firms.

### **Internal Control Deficiencies Permit Ineligible Firms to Remain in the 8(a) Program**

We found internal control deficiencies that permitted firms to remain in the program after SBA found them to be ineligible. Specifically, SBA did not have an adequate system to track the removal of firms or the resolution of eligibility issues once district offices or OCE recommended removing firms. While OCE has a tracking spreadsheet, it does not capture all recommendations from district offices to remove firms. In addition, the 8(a) SOP does not include timelines for OCE or district offices to send Notices of Intent to Terminate or to Graduate Early to firms after identifying an eligibility issue.

### **Recommendations**

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

6. Develop and implement a centralized process to track and document all adverse actions and voluntary withdrawals from the 8(a) program, from recommendation through resolution.
7. Establish and implement clear policies and procedures that include timelines for sending Notices of Intent to Terminate and to Graduate Early firms after eligibility issues are first identified.
8. Conduct continuing eligibility reviews for the firms we identified as ineligible that are still active in the 8(a) program, and take timely action to remove firms found to be ineligible.

## **Finding 3: SBA Did Not Investigate or Log All Complaints Regarding 8(a) Firms' Eligibility**

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SBA did not conduct continuing eligibility reviews or log all complaints referred by the OIG Hotline regarding 8(a) firms' eligibility.<sup>13</sup> Our review of the 10 firms referred by the OIG Hotline revealed that they were all ineligible for the 8(a) program, based on issues such as excessive income and lack of good character. This occurred because SBA's 8(a) SOP was not consistent with SBA's 8(a) regulations' requirement to conduct continuing eligibility reviews upon receipt of specific and credible information regarding the eligibility of 8(a) firms. Furthermore, the SOP did not provide guidance on logging, tracking, and disposition that should be completed to adequately address complaints. We found that the 10 firms we reviewed from OIG Hotline complaints were ineligible for the 8(a) program. As a result, we question \$32.5 million in new 8(a) set-aside contract obligations that these 10 ineligible firms received in FY 2017. (See Appendix II for a schedule of our questioned costs.)

### **Requirements to Conduct Reviews in Response to Complaints**

The 8(a) regulations state that upon receipt of specific and credible information alleging that a participant no longer meets the eligibility requirements for continued program eligibility, SBA will review the concern's eligibility for continued participation in the program.<sup>14</sup> Similarly, SBA's 8(a) program SOP states that a district office BOS or OCE BOS can initiate a continuing eligibility review upon receipt of specific and credible information alleging that a participant no longer meets the 8(a) program eligibility requirements or when anything else raises a question regarding a participant's eligibility.

### **SBA Did Not Address Complaints**

During our audit, we found that SBA did not conduct continuing eligibility reviews for any of the OIG Hotline complaints that were referred to GCBD.<sup>15</sup> Of the 44 complaints logged by GCBD from October 7, 2015, through May 4, 2017, GCBD closed 42 based on "no merit," labeled 1 as "in progress," and incorrectly described 1 as "under OIG investigation."<sup>16</sup> Even though 8(a) regulations require a review upon receipt of specific and credible information regarding a firm's eligibility, the SBA official responsible for reviewing and addressing OIG Hotline referrals reported that GCBD did not conduct continuing eligibility reviews based on OIG Hotline complaints. The official mistakenly stated that additional reviews were not within 8(a) regulations. In addition, GCBD did not inform district office BOSs of complaints filed against firms within their purview, and therefore district office BOSs took no action regarding the complaints.

We selected 10 OIG Hotline complaints with specific and credible information regarding the firms' eligibility that OIG referred to GCBD for their review, and we found that GCBD did not conduct any continuing eligibility reviews based on the complaints. We found information, using the firms' annual review documents and third-party sources, that validated 9 of the 10 specific continuing eligibility issue(s) alleged in the complaints and found additional eligibility concerns. For the

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<sup>13</sup> OIG's Hotline frequently refers complaints to SBA program officials for review and any regulatory action SBA may deem necessary. If program officials identify indications of fraud, they are directed to refer such matters back to OIG.

<sup>14</sup> 13 CFR 124.112(c).

<sup>15</sup> The majority of the complaints referred to GCBD from October 7, 2015, through May 4, 2017 included specific and credible information regarding the firms' eligibility.

<sup>16</sup> GCBD indicated that the final complaint was being investigated by SBA OIG; however, the Investigations Division of SBA OIG reported that the firm was not under investigation.

remaining complaint, though we did not validate the specific allegation, we found other eligibility concerns for the firm.

For example, on August 24, 2015, and February 23, 2016, GCBD received two complaints from the OIG Hotline about a particular 8(a) participant. The complaints alleged that the participant’s owner exceeded the 8(a) program limits for net worth (less than \$750,000), gross income (less than \$350,000 averaged over the three preceding years) and total assets (less than \$6 million). We found that the participant’s owner exceeded the 8(a) program limits for net worth (the owner’s net worth was at least \$906,449), gross income, and total assets (the owner’s business equity alone, without the inclusion of any other asset, was over \$6 million). Besides confirming the allegations in the complaint, we also found that the owner vastly exceeded the withdrawal limit of \$400,000 (the owner withdrew \$1,144,618 in FY 2016) and that the firm exceeded the industry size standard each year beginning in 2012. Based on this information, which was available in the firm’s annual review documents, SBA should have begun termination proceedings before the complaints were made. From the date that SBA received the first complaint the firm was awarded a total of \$26.1 million in 8(a) set-aside contracts.

**Table 1. Sampled Firms’ Continuing Eligibility Issues**

Hotline Complaint Allegations		Firm									
		A	B	C	D	E	F	G	H	I	J
Size		x			x	x					
Ownership					x						
Control					x						
Economic Disadvantage				x	x						
Good Character				x	x	x			x	x	
Other 8(a) Requirement			x		x	x	x	x		x	x
Potential Continuing Eligibility Issues Found	Size	x		x	x	x					
	Ownership		x		x						
	Control		x		x			x			
	Economic Disadvantage	x		x	x	x			x		x
	Good Character (including false statements to SBA)	x	x	x	x	x	x	x	x	x	x
	Other 8(a) Requirement		x		x	x	x	x	x	x	x

Source: Generated by OIG based on audit analysis of 8(a) records and third-party sources.

### SBA’s SOP Does Not Mandate the Required Review of Complaints

Despite the requirement that SBA complete a continuing eligibility review upon receipt of specific and credible information that a participant is no longer eligible for the 8(a) program, SBA did not conduct continuing eligibility reviews for OIG Hotline complaints that included specific and credible information. Although SBA’s 8(a) program SOP allows for a continuing eligibility review in these cases, the SOP does not require a continuing eligibility review, in conflict with the regulatory mandate. Further, the SOP does not provide guidance, including timelines and communication with district offices, on the tracking, action, and disposition that must be completed to adequately address complaints.

### SBA Did Not Log All Complaints

Additionally, we found that GCBD did not log all of the OIG Hotline complaints that were referred for action. Of the 77 complaints that OIG Hotline sent to GCBD between October 7, 2015, and May 4,

2017, GCBD only logged 44, or 57 percent, of the complaints received. GCBD's method for logging complaints, namely an Excel spreadsheet developed, maintained, and reviewed by one person, was inadequate to ensure that all complaints were acknowledged and entered into the tracking sheet.

## Recommendations

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

9. Establish and implement clear policies and detailed procedures, consistent with 13 CFR 124.112(c), to timely and effectively review and address complaints regarding 8(a) continuing eligibility, including communicating the content of the complaint to the district office, and train employees implementing the 8(a) program on the updated procedures.
10. Develop a robust system for tracking complaints that are received regarding firms' continuing eligibility for the 8(a) program, and tracking the actions taken to address the complaints.
11. Conduct continuing eligibility reviews, including assessing the allegations in the 77 OIG Hotline complaints, for the firms that were the subject of the complaints that are still active in the 8(a) program, and for which the complainant provided specific and credible information, and, if necessary, take appropriate action to remove ineligible firms from the 8(a) program.

## Analysis of Agency Response

SBA management provided formal comments, which are included in their entirety in Appendix III. SBA management concurred with recommendations 2, 3, 6, 7, 9, 10, and 11, and partially concurred with recommendations 1, 4, 5, and 8. Management's proposed corrective actions for five of the recommendations were responsive; however, their proposed corrective actions for the remaining six recommendations did not fully address the recommendations. In accordance with our audit follow-up policy, we will attempt to reach agreement with SBA management on the unresolved recommendations within 60 days after the date of this final report. If we do not reach agreement, OIG will notify the audit follow-up official of the disputed issues.

## Summary of Actions Necessary to Resolve and Close Recommendations

The following provides a status of the recommendations and the actions necessary to resolve and close them.

1. **Unresolved.** SBA management partially concurred with this recommendation but did not explain why it did not fully concur. Management stated that it will continue coordinating and implementing Certify.SBA.gov as a single portal to transfer documents needed for continuing eligibility reviews. Management asserted that it began implementing this procedure in June 2018 and requested that this recommendation be closed. However, management did not provide any documentation to demonstrate that it had initiated this procedure or a date specifying when it would be fully implemented. This recommendation can be closed when management provides evidence that it has implemented corrective actions to improve the transfer of documents for continuing eligibility reviews for high risk firms from the district offices to the Office of Certification and Eligibility.

2. **Unresolved.** SBA management concurred with this recommendation and stated that at the beginning of each fiscal year, OCE will develop a list of high risk firms, including firms with 8(a) mentor-protégé agreements, joint ventures, or high contract dollars. Management plans to complete final action on this recommendation by March 31, 2019. However, management did not state how OCE will change the current process of identifying high risk firms to address deficiencies noted in this audit report. This recommendation can be closed when management demonstrates that it has implemented a revised process to accurately identify all high risk firms, in accordance with its SOP definition, to receive OCE continuing eligibility reviews.
3. **Unresolved.** SBA management concurred with this recommendation and stated that it is working with OFO to develop standardized analysis tools and that OFO was leading the implementation effort to train district office employees. Management plans to complete final action on this recommendation by September 30, 2019. Management's response did not address parts of the recommendation pertaining to clear policies and procedures. This recommendation can be closed when management provides evidence that it has implemented clear policies and procedures for evaluating continuing eligibility, including standardized analysis tools for district offices that conform to regulatory continuing eligibility requirements, and training on these procedures for employees.
4. **Unresolved.** SBA management partially concurred with this recommendation but did not explain why it did not fully concur. Management plans to provide OFO with a list of high risk firms that will receive continuing eligibility reviews, and OCE and OFO will review their respective SOPs to identify and eliminate any duplication of effort. Management plans to complete final action on this recommendation by September 30, 2019. Management's response did not address parts of the recommendation pertaining to a comprehensive oversight plan to ensure completion of continuing eligibility for all 8(a) firms and monitoring the quality of continuing eligibility reviews. This recommendation can be closed when management provides evidence that it has implemented a comprehensive oversight plan to ensure completion of continuing eligibility reviews of all 8(a) firms, monitor the quality of continuing eligibility reviews, and eliminate duplication.
5. **Resolved.** SBA management partially concurred with this recommendation but did not explain why it did not fully concur. Management plans to conduct continuing eligibility reviews for the firms that OIG identified as ineligible and to take action if it finds any ineligible firms. Management plans to complete final action on this recommendation by September 30, 2019. Management's planned actions are responsive and sufficient to resolve this recommendation. This recommendation can be closed when management provides evidence that it has conducted continuing eligibility reviews for the firms we identified as ineligible that are still active in the 8(a) program, takes timely action to remove any firms found to be ineligible, and provides a determination of whether questioned costs should be disallowed for the firms that it reviewed.
6. **Resolved.** SBA management concurred with this recommendation and stated that Certify.SBA.gov will include a module to capture adverse actions and voluntary withdrawals. Management plans to complete final action on this recommendation by September 30, 2019. This recommendation can be closed when management provides evidence that it fully implemented the Certify.SBA.gov module to track and document all adverse actions and voluntary withdrawals.



7. **Unresolved.** SBA management concurred with this recommendation and stated that it will establish and implement internal goals beginning with receipt from the OFO or district offices. Management plans to complete final action on this recommendation by September 30, 2019. However, management did not address establishing clear policies and procedures to address the issues identified. This recommendation can be closed when management provides evidence that it has implemented clear policies and procedures that include timelines for sending Notices of Intent to Terminate and to Graduate Early to firms after eligibility issues are first identified.
8. **Resolved.** SBA management partially concurred with this recommendation but did not explain why it did not fully concur. Management plans to conduct continuing eligibility reviews for the firms that OIG identified as ineligible and to take action if it finds any ineligible firms. Management plans to complete final action on this recommendation by September 30, 2019. Management's planned actions are responsive and sufficient to resolve this recommendation. This recommendation can be closed when management provides evidence that it has conducted continuing eligibility reviews for the firms we identified as ineligible that are still active in the 8(a) program, takes timely action to remove any firms found to be ineligible, and provides a determination of whether questioned costs should be disallowed for the firms that it reviewed.
9. **Unresolved.** SBA management concurred with this recommendation and stated that it will develop a chapter in the 8(a) SOP on processing complaints about 8(a) continuing eligibility. Management plans to complete final action on this recommendation by September 30, 2019. Management's response did not address training employees on the updated procedure. This recommendation can be closed when management provides evidence that it has implemented clear policies and detailed procedures to timely and effectively review and address complaints, including communicating the complaints to the district office and training employees on the updated procedures.
10. **Resolved.** SBA management concurred with this recommendation and stated that it will develop and implement a system to effectively and efficiently track complaints received and actions taken. Management plans to complete final action on this recommendation by September 30, 2019. This recommendation can be closed when management provides evidence that it has implemented this tracking system.
11. **Resolved.** SBA management partially concurred with this recommendation but did not explain why it did not fully concur. Management plans to conduct continuing eligibility reviews for the firms that OIG identified as ineligible and to take action if it finds any ineligible firms. Management plans to complete final action on this recommendation by September 30, 2019. Management's planned actions are responsive and sufficient to resolve this recommendation. This recommendation can be closed when management provides evidence that it has conducted continuing eligibility reviews for the firms we identified as ineligible that are still active in the 8(a) program, takes timely action to remove any firms found to be ineligible, and provides a determination of whether questioned costs should be disallowed for the firms that it reviewed.

## **Appendix I: Objective, Scope, and Methodology**

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This report presents the results of our audit of SBA's oversight of the 8(a) continuing eligibility processes. Our objective was to determine whether SBA's oversight ensured 8(a) program participants met continuing eligibility requirements.

To answer our objective, we reviewed the sections of the Small Business Act and Federal regulations pertinent to the 8(a) program and pending changes to the regulations in the Federal Register. In addition, we reviewed SBA's SOP 80 05 5 for the 8(a) program. Further, we met with GCBD officials to discuss the history, structure, and implementation of the 8(a) program and the processes for determining continuing eligibility. Additionally, we obtained lists of all 8(a) program participants, 8(a) firms identified as high risk requiring OCE continuing eligibility reviews, continuing eligibility reviews completed by OCE in FY 2016 and FY 2017, and 8(a) firms with approved joint ventures and/or mentor-protégé agreements. We also obtained source documents related to annual and continuing eligibility reviews. Further, we interviewed OFO employees to understand the district level involvement with annual and continuing eligibility reviews. Finally, we obtained and analyzed all OIG Hotline complaints sent to SBA related to the 8(a) program and SBA's 8(a) complaint tracking spreadsheet.

We selected and reviewed a judgmental sample of 15 individually owned 8(a) firms with the highest 8(a) contract dollars in FY 2016, that were scheduled to have continuing eligibility reviews within the first half of FY 2017. The firms we sampled were selected from the universe of 8(a) firms with an active status in FY 2017. The 15 firms in this sample received \$461 million in 8(a) set-aside contract obligations, or 3.96 percent of the \$11.6 billion in 8(a) set-aside contract obligations awarded to individually owned firms in FY 2016 according to data in the Federal Procurement Data System-Next Generation. The \$461 million that firms in our sample received in 8(a) set-aside obligations in FY 2016 is 2.71 percent of the \$17 billion in total 8(a) set-aside obligations in FY 2016. We determined whether OCE completed continuing eligibility reviews in FY 2016 and FY 2017 for the sample firms. We used a data collection tool, developed by the audit team, to assess the continuing eligibility portion of the firm's annual and continuing eligibility review. We reviewed documents from these reviews and information in the Business Development Management Information System and the Electronic 8(a) Review System for indications of ineligibility and determined whether any indications of ineligibility resulted in a recommendation for adverse action or a request for additional information which resolved the issue.

Additionally, we selected and reviewed a judgmental sample of 10 OIG Hotline complaints, with specific and credible information regarding firms' eligibility, sent to GCBD from October 1, 2015, through May 4, 2017. We compared the universe of complaints provided by SBA OIG Hotline to the SBA complaint log to determine if GCBD was aware of all Hotline complaints that were referred. Additionally, for our sample, we determined if GCBD conducted a continuing eligibility review in response to the complaint. Finally, we used third-party sources to obtain information that supported or refuted the allegations in the complaint.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## **Use of Computer-Processed Data**

We relied on computer-processed data from GCBD's 8(a) program information systems. Specifically, we used data from the Business Development Management Information System and the Electronic 8(a) Review System that included information about 8(a) firms' eligibility. We compared the information received from these sources to supporting documentation obtained from GCBD officials and district offices and to information from CLEAR to assess data accuracy.<sup>17</sup> We believe the information was reliable for the purposes of this audit. We also used data obtained from the Federal Procurement Data System-Next Generation to select our sample and to calculate set-aside contracts received by 8(a) participants. This was the best source of information on Federal contracting, so for the purposes of our review, we deemed it sufficient.

## **Review of Internal Controls**

SBA's internal control systems SOP provides guidance on implementing and maintaining effective internal control systems, as required by OMB Circular A-123.<sup>18</sup> 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.<sup>19</sup>

We assessed the control environment in which SBA conducted annual and continuing eligibility reviews as well as the control environment in which SBA tracked and evaluated public complaints regarding the 8(a) program. We also interviewed SBA officials with the responsibility for 8(a) program oversight, reviewed guidelines for conducting continuing eligibility and annual reviews, reviewed information in SBA databases, and reviewed public complaints regarding 8(a) program eligibility. We found weaknesses in SBA's effectiveness and efficiency in assessing continuing eligibility. Additionally, we found that SBA did not comply with regulations and SOPs related to continuing eligibility reviews. Cumulatively, the weaknesses we identified diminished SBA's ability to effectively oversee 8(a) continuing eligibility. We made recommendations in this report to address these deficiencies.

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<sup>17</sup> Thomson Reuters CLEAR is a collection of public and proprietary records related to people, businesses, assets and affiliations.

<sup>18</sup> SOP 00 02, Internal Control Systems (January 1986).

<sup>19</sup> OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control (July 15, 2016).

## Appendix II: Questioned Costs

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Table 2. OIG Schedule of Questioned Costs for the 8(a) Program<sup>20</sup>

Description	Amount	Explanation
Ineligible Costs	\$46,552,779	The Office of Certification and Eligibility did not remove ineligible firms from the 8(a) program.
Ineligible Costs	\$47,827,454	The Office of Certification and Eligibility did not remove firms from the 8(a) program that it identified as having eligibility concerns through 8(a) annual or continuing eligibility reviews.
Ineligible Costs	\$32,467,934	The Office of Certification and Eligibility did not remove ineligible firms from the 8(a) program following specific and credible Hotline complaints.
<b>Total Questioned Costs</b>	<b>\$126,848,167</b>	

Source: Generated by OIG based on OIG's analysis of 8(a) participants' new 8(a) set-aside contract obligations in FY 2017.

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<sup>20</sup> Questioned costs are expenditures that are not supported by adequate documentation at the time of the audit or otherwise do not comply with legal, regulatory, or contractual requirements.

SBA

ASSOCIATE ADMINISTRATOR,  
OFFICE OF GOVERNMENT CONTRACTING AND  
BUSINESS DEVELOPMENT

RESPONSE TO AUDIT REPORT



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DATE: August 24, 2018

TO: Hannibal M. Ware, Inspector General  
Office of Inspector General (OIG)

FROM: Robb Wong, Associate Administrator  
Office of Government Contracting & Business Development (GCBD)

Subject: OIG Project Number: 17002 “Improvements Needed in SBA’s Oversight of 8(a) Continuing Eligibility Processes”

I appreciate the opportunity to respond to your draft report of July 9, 2018, on 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.

### **SBA Responses to OIG’s Recommendations**

#### **OIG Recommendation 1:**

We recommend that the Administrator require the Associate Administrator for Government Contracting and Business Development to: Coordinate with the Associate Administrator for the Office of Field Operations to improve the transfer of continuing eligibility review documents for high risk firms from the district offices to the Office of Certification and Eligibility.

#### **GCBD’s Response to Recommendation 1:**

BD concurs, in part, with this recommendation. The AA for BD will continue coordinating the implementation of Certify.gov as the single portal for document transfer of Annual Review documents required to conduct continuing eligibility reviews from District Offices (DO). BD began implementing this procedure in June of 2018. GCBD is requesting closure of this recommendation.

#### **Recommendation 2:**

We recommend that the Administrator require the Associate Administrator for Government Contracting and Business Development to: Revise its current process to ensure that it accurately identifies all high risk firms to receive continuing eligibility reviews from the Office of Certification and Eligibility.

**G CBD’s Response to Recommendation 2:**

BD concurs with this recommendation. At the beginning of each FY, OCE will develop a listing of high risk firms, i.e., those firms having received a contract in excess of \$10M; those firms having an approved 8(a) MPP agreement and having formed a JV and having received a contract, to be vetted through OFO.

**OIG Recommendation 3:**

We recommend that the Administrator require the Associate Administrator for Government Contracting and Business Development to: Establish and implement clear policies and procedures for evaluating 8(a) continuing eligibility, including ensuring that district offices use standardized analysis tools that conform with 8(a) continuing eligibility requirements found in 13 CFR 124, and train employees on these procedures.

**G CBD’s Response to Recommendation 3:**

BD concurs with this recommendation. BD is collaborating with OFO to develop standardized analysis tools that conform with 8(a) continuing eligibility requirements found in 13 CFR 124. OFO is leading the implementation effort to train DO employees.

**OIG Recommendation 4:**

We recommend that the Administrator require the Associate Administrator for Government Contracting and Business Development to: Develop and implement a comprehensive oversight plan to ensure completion of continuing eligibility reviews of all 8(a) firms, monitor the quality of continuing eligibility reviews, and eliminate duplication between the Office of Certification and Eligibility and the district offices.

**G CBD’s Response to Recommendation 4:**

BD partially concurs with this recommendation. BD will identify and provide, to OFO, a listing of continuing eligibility reviews to be conducted on high risk firms, as identified by BD and will obtain OFO concurrence. OCE will review its current SOP and will request OFO/DO to review their SOPs to identify and eliminate any duplication of efforts.

**OIG Recommendation 5:**

We recommend that the Administrator require the Associate Administrator for Government Contracting and Business Development to: Conduct continuing eligibility reviews for the firms that we identified as ineligible that are still active in the 8(a) program, and take timely action to remove firms found to be ineligible.

**G CBD’s Response to Recommendation 5:**

BD partially concurs with this recommendation. BD will conduct CE reviews of the firms identified as ineligible by OIG. If BD then determines any one of the firms identified as ineligible by OIG, BD will take the appropriate course of action.

**OIG Recommendation 6:**

We recommend that the Administrator require the Associate Administrator for Government Contracting and Business Development to: Develop and implement a centralized process to track and document all adverse actions and voluntary withdrawals from the 8(a) program, from recommendation through resolution.

**GCBD's Response to Recommendation 6:**

BD concurs with this recommendation. Currently, BD is utilizing an ad-hoc excel spreadsheet to capture and track all adverse actions and voluntary withdrawals. However, Certify.gov is developing a module to capture adverse actions and voluntary withdrawals in FY 19.

**OIG Recommendation 7:**

We recommend that the Administrator require the Associate Administrator for Government Contracting and Business Development to: Establish and implement clear policies and procedures that include timelines for sending Notices of Intent to Terminate and to Graduate Early firms after eligibility issues are first identified.

**GCBD's Response to Recommendation 7:**

BD concurs with this recommendation. BD will establish and implement internal goals beginning with receipt from the OFO/DO.

**OIG Recommendation 8:**

We recommend that the Administrator require the Associate Administrator for Government Contracting and Business Development to: Conduct continuing eligibility reviews for the firms we identified as ineligible that are still active in the 8(a) program, and take timely action to remove firms found to be ineligible.

**GCBD's Response to Recommendation 8:**

BD partially concurs with this recommendation. BD will conduct CE reviews of the firms identified as ineligible by OIG. If BD then determines any one of the firms identified as ineligible by OIG, BD will take the appropriate course of action.

**OIG Recommendation 9:**

We recommend that the Administrator require the Associate Administrator for Government Contracting and Business Development to: Establish and implement clear policies and detailed procedures, consistent with 13 CFR 124.112(c), to timely and effectively review and address complaints regarding 8(a) continuing eligibility, including communicating the content of the complaint to the district office, and train employees implementing the 8(a) program on the updated procedures.



**G CBD's Response to Recommendation :**

BD concurs with this recommendation. BD will develop a chapter, to be included in its 8(a) Program SOP, to specifically state how complaints regarding 8(a) continuing eligibility will be processed.

**OIG Recommendation 10:**

We recommend that the Administrator require the Associate Administrator for Government Contracting and Business Development to: Develop a robust system for tracking complaints that are received regarding firms' continuing eligibility for the 8(a) program, and tracking the actions taken to address the complaints.

**G CBD's Response to Recommendation :**

BD concurs with this recommendation. BD will develop and implement a system to efficiently and effectively track received complaints and actions taken.

**OIG Recommendation 11:**

We recommend that the Administrator require the Associate Administrator for Government Contracting and Business Development to: Conduct continuing eligibility reviews, including assessing the allegations in the 77 OIG Hotline complaints, for the firms that were the subject of the complaints that are still active in the 8(a) program, and for which the complainant provided specific and credible information, and, if necessary, take appropriate action to remove ineligible firms from the 8(a) program.

**G CBD's Response to Recommendation :**

BD concurs with this recommendation. BD will obtain the 77 OIG Hotline complaints from the IG and identify those that are current in the 8(a) program, determine if the complaint had specificity. Those complaints having specificity will be subject to a continuing eligibility review and based upon BD's finding, appropriate course of action will be taken.