

# 8 A Minority Business Development Program(2)

## United States. Congress. Senate. Committee on Small Business. Subcommittee on Urban and Minority-Owned Business Development

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United States. Congress. Senate. Committee on Small Business,1995 Distributed to some depository libraries in microfiche.

**The 8(a) Program for Small Businesses Owned and Controlled by the Socially and Economically**

**Disadvantaged** Congressional Research Congressional Research Service,2014-11-26 Commonly known as the 8(a) Program, the Minority Small Business and Capital Ownership Development Program is one of several federal contracting programs for small businesses. The 8(a) Program provides participating small businesses with training, technical assistance, and contracting opportunities in the form of set-asides and sole-source awards. A set-aside is an acquisition in which only certain contractors may compete, while a sole-source award is a contract awarded, or proposed for award, without competition. In FY2013, the federal government spent \$14 billion on contracts and subcontracts with 8(a) firms. Other programs provide similar assistance to other types of small businesses (e.g., women-owned, HUBZone). Eligibility for the 8(a) Program is generally limited to small businesses unconditionally owned and controlled by one or more socially and economically disadvantaged individuals who are of good character and citizens of the United States that demonstrate potential for success. Each of these terms is further defined by the Small Business Act, regulations promulgated by the Small Business Administration (SBA), and judicial and administrative decisions. A business is generally a for-profit entity that has a place of business located in the United States and operates primarily within the United States or makes a significant contribution to the U.S. economy by paying taxes or using American products, materials, or labor. A business is small if it is independently owned and operated; is not dominant in its field of operations; and meets any definitions or standards established by the Administrator of Small Business. Ownership is unconditional when it is not subject to any conditions precedent or subsequent, executory agreements, or similar limitations. Control is not the same as ownership and includes both strategic policy setting and day-to-day administration of business operations. Members of certain racial and ethnic groups are presumed to be socially disadvantaged, although individuals who do not belong to these groups may prove they are also socially disadvantaged. To be economically disadvantaged, an individual must have a net worth of less than \$250,000 (excluding ownership in the 8(a) firm and equity in one's primary residence) at the time of entry into the program. This amount increases to \$750,000 for continuing eligibility. In determining whether an applicant has good character, SBA looks for criminal conduct, violations of SBA regulations, or debarment or suspension from federal contracting. For a firm to have

potential for success, it generally must have been in business in the field of its primary industry classification for two years immediately prior to applying to the program. However, small businesses owned by Indian tribes, Alaska Native Corporations, Native Hawaiian Organizations, and Community Development Corporations are eligible for the 8(a) Program under somewhat different terms. The 8(a) Program has periodically been challenged on the grounds that the presumption that members of certain racial and ethnic groups are disadvantaged violates the constitutional guarantee of equal protection. The outcomes in early challenges to the program varied, with some courts finding that plaintiffs lacked standing because they were not economically disadvantaged. Most recently, a federal district court found that the program is not unconstitutional on its face because breaking down barriers to minority business development created by discrimination constitutes a compelling government interest, and the government had a strong basis in evidence for concluding that race-based action was necessary to further this interest. However, the court found that the program was unconstitutional as applied in the military simulation and training industry because there was no evidence of discrimination in this industry.

**Progress Report, the Minority Business Enterprise Program** United States. Office of Minority Business Enterprise, 1976

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