

## Fact Sheet: 8(a) Program

### 8(a) Program Features:

- \* The government has solicitations set-aside exclusively for 8(a) firms.
- \* 8(a) firms potentially can win sole-source contracts as well.
- \* A company can participate in the 8(a) program for a maximum of 9 years.
- \* Apply electronically at <https://sba8a.symplicity.com/applicants/guide>

### 8(a) Status Requires Certification

- \* The SBA must certify that an 8(a) company:
  - Is a small business in its *primary* NAICS code.
  - Has the *potential* to be successful.
  - Is *unconditionally owned and controlled* by one or more *socially and economically disadvantaged* individuals who are *citizens* of the United States and who possess *good character*.

### 8(a) Primary NAICS Code

- \* To be eligible to be certified, a company must qualify as small under the NAICS code in which the firm did the most business in the past fiscal year.
- \* To bid on contracts after receiving certification, the company must be small:
  - Under its primary NAICS code, AND
  - Under the NAICS code assigned to each solicitation that is advertised as an 8(a) set-aside.

### 8(a) Potential for Success

- \* An 8(a) applicant has to convince the SBA that the business has a good chance to thrive.
- \* Judgment is involved here, so the SBA will place emphasis on the firm's financial history.
- \* Financial statements (balance sheets) are required.
- \* Businesses that are less than 2 years old generally are not considered for certification review.

### 8(a) Socially and Economically Disadvantaged

- \* To qualify as an 8(a), a small business must be at least 51% owned and controlled by one or more "socially disadvantaged persons."
  - A person who has been subjected to racial or ethnic prejudice or cultural bias within American society due to the person's identity as a member of a particular group.
  - Certain persons are presumed socially disadvantaged: African Americans, Hispanic Americans, Native Americans, and certain Asian Americans.
- \* You do not need to be a member of a particular racial or ethnic minority group in order to be socially and economically disadvantaged.
  - You must show SBA that you have a distinguishing feature that has contributed to social and economic disadvantage and explain how that has a negative impact on your entry or advancement in the commercial sector.
- \* Remember, you also must demonstrate economic disadvantage.
  - Socially disadvantaged owner's net worth must be less than \$250,000 – not including ownership of small business and primary residence.
  - Retirement account also may be excluded if funds are not available until retirement.
  - Determine your ability to meet net worth requirement by filling-out SBA Form 413
  - Also must have adjusted gross income (AGI) of \$250,000 or less, averaged over past 3 years.

### **8(a) Residency Requirement**

- \* In order to apply for 8(a) certification, the 51% owner(s) must be a U.S. citizen who is currently residing in this country.
- \* If born outside the U.S., proof of citizenship must be provided.
- \* Others may be non-U.S. citizens.

### **8(a) Good Character Requirement**

- \* All owners of 10% or more of the 8(a) applicant company as well as key employees and directors must have “good character.”
  - \* SBA will look at criminal record, civil judgments, contract suspensions and debarments, and delinquent federal debts such as SBA loans and IRS taxes.
  - \* These factors do not automatically disqualify, but failure to disclose such factors certainly will.

### **8(a) Ownership Requirements**

- \* Ownership must be:
  - Unconditional – no strings attached.
  - Direct – not through a parent company.
  - Not overlapping.
    - Only one 8(a) firm per family.
    - A non-disadvantaged individual (or corporation) who owns 10% of one 8(a) firm cannot own more than 10% of another 8(a) firm in the first 4 years, or more than 20% in the last 5 years of participation in the 9-year 8(a) program.

### **8(a) Control Requirements**

- \* The socially and economically disadvantaged owner must also *control* the business.
  - This includes the long-term decision-making as well as the day-to-day management and administration of the business.
  - Must be the highest-ranking officer in the company.
  - Must have sufficient managerial experience to successfully run the business.
  - Must work full-time in the business.
  - Must be the most highly compensated.

### **After 8(a) Certification**

- \* All requirements remain in effect, except:
  - The owner’s net worth may grow from less than \$250,000 up to \$750,000.
  - Salary cap of \$250,000/year may increase as long as 3-year average does not exceed \$350,000.
  - Owner may not withdraw too much money from the business.

### **8(a) Mentor-Protégé**

- \* Once certified as an 8(a), consideration should be given to finding a strong and experienced firm to serve as the 8(a) firm’s mentor.
- \* The SBA will formally recognize this relationship through a written mentor-protégé agreement.
- \* Once SBA approves the agreement, an 8(a) firm may receive any form of assistance from mentor – without penalty of “affiliation.”