

104

# REVIEW OF SBA BUSINESS DEVELOPMENT PROGRAMS

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Y 4. SM 1:104-15

Review of SBA Business Development...

## HEARING BEFORE THE COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTH CONGRESS FIRST SESSION

WASHINGTON, DC, MARCH 6, 1995

Printed for the use of the Committee on Small Business

Serial No. 104-15



OCT 25 1995

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# REVIEW OF SBA BUSINESS DEVELOPMENT PROGRAMS

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MONDAY, MARCH 6, 1995

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON SMALL BUSINESS,  
*Washington, DC.*

The committee met, pursuant to notice, at 2 p.m., in room 2159-A, Rayburn House Office Building, Hon. Jan Meyers (chairwoman of the committee) presiding.

Chairwoman MEYERS. The committee will come to order. This afternoon the committee will be reviewing the Small Business Administration's 8(a) Business Development Program, which was created to assist businesses owned by individuals who are socially and economically disadvantaged.

As part of the series of hearings scheduled to conduct the top-to-bottom review of the entire agency, today we will receive testimony for use in evaluating the efficiency and effectiveness of the 8(a) Program. It is our responsibility to review the 8(a) Program and recommend what actions, if any, should be taken in relation to the program as mandated in the oversight plan adopted by this committee on February 13, 1995.

In preparation for this hearing, our staff and I worked diligently to ensure a fair and impartial hearing. I believe a frank, honest discussion of the successes and problems of the 8(a) Program is essential if the committee is to make informed recommendations on this program.

One thing that troubles me about the 8(a) Program is that many of the problems that existed in the program 20 years ago continue to mar the effectiveness of the program today. Some progress has been made since reforming the program in 1988. However, in these times of austere budgets, comprehensive change may be necessary if programs like 8(a) are to remain viable.

I welcome our witnesses who will be testifying this afternoon. Each of you brings a unique perspective on 8(a) to the table, and I look forward to hearing your comments and recommendations on this important program.

Before introducing the Ranking Minority Member, Mr. LaFalce, for an opening statement, I would like to take a moment to address protocol for this hearing. I know there is a great deal of interest in the proceedings. We have two very full panels with 12 witnesses testifying, and to ensure that all witnesses are heard and that the committee can complete this hearing in a reasonable amount of time. I would advise members and witnesses that we will try to

abide as closely as possible by the 5-minute rule, and we do have lights on the table.

When the red light comes on, if the witnesses would try to wrap up just as soon as they can, we don't want you to break off in mid sentence or anything, but just finish up as soon as you can. We will probably allow a little more time than that to Robert Neal from the SBA and to Judith England Joseph from GAO, both of whom have spent a great deal of time with this program. At this time the Chair recognizes Mr. LaFalce for an opening statement.

Mr. LaFALCE. Thank you very much, Madam Chairman, for calling this hearing. The Small Business Administration Program we are examining today, the Minority Small Business and Capital Ownership Development Program, better known as 8(a), is one whose creation was prompted by the realities of an America we do not want to think ever existed or exists today and whose intent has been laudable, but whose implementation has often been poor and whose results therefore have been uneven.

Indeed, three public laws have been enacted to reform the program, the most recent being the one I introduced in 1988, which was signed into law as the Business Development Reform Act, Public Law 100656. The purpose of these laws was to tighten the program requirements for both the SBA and participating businesses so that the program could better achieve its objective, which is essentially to foster the business development of small minority firms so that there is after a fixed period of time for receiving guidance and assistance a reasonable expectation of business success in the competitive marketplace, at least equal to that of small business concerns generally — an expectation of business success, not a guarantee.

All entrepreneurs, whatever their class, race or gender are not equal, and no Government program can or should try to make them so. Some are smarter, some are luckier, but Government can and should provide all entrepreneurs with the equal opportunity to be what they have the potential to be and to give them the chance that society and the marketplace has not historically given them and may not now afford them in the normal course of events.

How this is best accomplished is a matter about which reasonable persons of good faith can disagree. On the one hand, it is important to point out that the House approved the conference report on the 1988 reform bill in a bipartisan manner with a voice vote, which I believe to have been unanimous and the 8(a) Program has survived Democratic and Republican administrations as both Democratic and Republican administrations have sought to perfect and improve it.

On the other hand, individuals of every stripe and strata of society agree that the program has not been and is not now perfect. Almost everyone has an opinion of this program or at least what they think is this program. 8(a) has accumulated, unfortunately, a number of misperceptions and misinformation about its objectives, what it is authorized to do, and how it actually works.

I look forward to today's hearing as an opportunity to get the facts, positive and perhaps not so positive, out in the open for discussion, as well as to hear suggestions for improving the program and for making it better, for making it more effective.



I think, Madam Chairman, I would also, with your permission and the unanimous consent of Members, like to introduce the opening statement of Representative Kweisi Mfume, who very much regrets that he couldn't be here at 2 o'clock, but hopes to be here within an hour or so, so he can listen to, at the very least, the second panel. As you know, he has had extremely strong interest in this program.

Chairwoman MEYERS. Thank you, Mr. LaFalce. Without objection, all Members will be allowed to submit opening statements for the record.

[The information may be found in the appendix.]

Our first witness will be Mr. Robert Neal. Mr. Neal is the Associate Deputy Administrator for Government Contracting and Minority Enterprise Development for the Small Business Administration. Mr. Neal.

**TESTIMONY OF ROBERT NEAL, ASSOCIATE DEPUTY ADMINISTRATOR, GOVERNMENT CONTRACTING AND MINORITY ENTERPRISE DEVELOPMENT, SMALL BUSINESS ADMINISTRATION, ACCOMPANIED BY HERBERT L. MITCHELL, ASSOCIATE ADMINISTRATOR FOR MINORITY ENTERPRISE DEVELOPMENT**

Mr. NEAL. Good afternoon, Madam Chair and members of the committee. I appreciate this opportunity to appear before the committee and discuss the Small Business Administration's Minority Enterprise Development Program. I am accompanied by Herbert L. Mitchell, the Associate Administrator for Minority Enterprise Development. I ask that my written comments be accepted for the record.

Chairwoman MEYERS. Without objection.

Mr. NEAL. The Office of Minority Enterprise Development assists small, disadvantaged businesses in developing the capacity to successfully compete in the mainstream economy. It is a part of the SBA's Office of Government Contracting and Minority Enterprise Development.

This new organizational placement brings together pure contracting assistance and 8(a) Program functions as advocated by Vernon Weaver in his recent testimony before you. Under Section 8(a) of the Small Business Act, SBA works with procurement officials of other Federal agencies to help small businesses that are owned by socially and economically disadvantaged persons become competitive by providing access to training and sole source and limited competition contracts for up to 9 years.

As you can see, from the first chart, there has been an overall decline in the number of total Federal contracts that have been awarded, but during this period of decline, small businesses have been able to hold their own. In fact, small businesses have been able to, on a percentage basis, increase their share of the Federal procurement pie.

If you look at the little blue bar which represents small disadvantaged businesses, of which the 8(a) Program is a part, you will see that we haven't fared as well. The 8(a) Program and small disadvantaged businesses in general have not been able to hold

their own as the total Federal procurement market has been shrinking.

From our standpoint, we believe that this demonstrates that there is still a need for assistance to small disadvantaged businesses. We currently have 5,356 certified firms in the program. You will see from this chart that there has been a substantial increase in the number of firms that are participating in the program with a slight decline taking place over the past year.

We believe that the program efficiencies that we have brought to bear on the application process and the work that we have done to address many of the problems that have been cited has increased the number of firms that participate in the program and will continue to increase and strengthen the firms that are in the program.

During fiscal year 1994, 5,990 contracts and approximately 20,000 modifications were awarded to 8(a) firms representing only 1.6 percent of all Federal procurement actions for that year. While the program has been cited for problems, there are many successes. Let me share some observations with you. Our review of Black Enterprise Magazine's June 1994 edition reveals that 32 of the top 100 African American-owned businesses are or were in the 8(a) Program.

Of the top 100 Hispanic-owned businesses, as related to us by Hispanic Business Magazine in their June 1994 issue, 17 of the top 100 firms are or were in the 8(a) Program. Let me give you a good example of the type of firms that benefit from the 8(a) Program. Diggs Construction Co., Inc., of Wichita, Kansas. It entered the program in 1981 and has since become a graduate of the program. The employment for the firm has grown threefold, from 26 to 60 full-time employees. This is just one of the many successes for the 8(a) Program.

We have been invited here to talk about the problems that exist with the program and some solutions. There have been many problems cited by oversight committees. The major problems identified by the General Accounting Office and the Small Business Administration's Inspector General is a good place to begin. The major problems cited by them are, first, delays in processing applications; second, a concentration of contracts among a smaller number of firms in the program; and, third, a failure of the agency to implement a comprehensive management information system.

I am pleased to report that during fiscal year 1994 we addressed each of these problems by reengineering our programs and taking aggressive management actions.

Let me address the first problem — applications processing. We have dramatically reduced the application processing time and we continue to do so. As you can see from this chart, when former Administrator, Erskine Bowles, testified before you in 1993, the average application processing time was 207 days.

We have significantly reduced this processing time while the number of applications have increased. The blue line is the applications, and the purple line is the processing time. By the end of the fiscal year, we will be processing consistently below the 90-day statutory timeframe. However, we are not satisfied with this

progress and have developed a pilot program to test a simplified application certification process.

The simplified application form is only 3 to 4 pages and can be reviewed in considerably less time than we use on the applications today. This pilot will be implemented very soon. We believe that the application process could be further streamlined if Congress would amend the Small Business Act to allow the Associate Administrator to delegate determination of program eligibility.

The second major area of concern and the one that concerns us most is the concentration of 8(a) contracts. We are reducing the concentration of 8(a) contracting awards among a small number of firms. SBA has taken aggressive actions to address this issue.

The first and most important thing that we have done is to refocus our program emphasis on those firms that have never received an 8(a) contract. How do we do this? We have executed a memorandum of understanding with the Department of Defense to increase DOD's award to these firms. We are also negotiating with other major procurement agencies similar agreements where we believe that these agreements will yield a substantial reduction in the number of firms that have never received an 8(a) contract.

Second, we have proposed regulatory revision to prevent circumvention of the 8(a) competitive thresholds via the IDIQ or indefinite delivery/indefinite quantity contracts. These contracts allow agencies to make sole source awards that are above the 8(a) competitive thresholds. This final rule will be published very soon.

Third, we have focused on compliance with competitive mix requirements. Under the competitive business mix requirements, 8(a) firms must attain specific percentages of non-8(a) business in each of the 5 years of program participation. We have stepped up enforcement of this requirement which will result in a wider distribution of contracts to qualified firms.

We have taken several steps to address the concentration of contracts. We have proposed a regulatory revision to eliminate the distinction between local and national buys. This change will allow more 8(a) firms that are located outside of the Washington, DC area to self-market in the largest sector of the Federal procurement market.

The final major problem area is automation. We are fixing this problem. Historically, SBA has been criticized for failure to develop a reliable automated information system. We recognize that automation is not a cure-all, but a tool that will help us to better manage our program. We are building an information system that will help us to monitor assistance provided, contract support, firm development, and to measure program performance and accomplishment.

Last summer, Deputy Administrator Cassandra Pulley testified before the Senate Small Business Committee and said very simply that we will complete our information system by the end of fiscal year 1995. We can and will honor that commitment. These are all recent process improvements, but we have not stopped with correcting these problems.

Last year, we held town hall meetings and sessions with 8(a) graduates and program participants to determine what additional steps were necessary to improve the program. The result of this



process is the proposal that was released in July 1994. Briefly, this proposal will focus our efforts on providing business development services that will truly develop eligible businesses.

An example of a MED Program participant that reflects the comprehensive and integrated business development assistance that we will provide and focus on under the MED proposal is Murdock and Sons Construction of Indianapolis, Indiana. Calvin Murdock started his firm as a 25-year-old graduate with very little money in 1977. The firm received two SBA loans in 1979 and entered the 8(a) Program in 1983. Both the loans are now paid in full and the company has graduated from the program.

Since 1979, sales for the firm have increased 1,000 percent, to \$8 million. Profits are up 1,300 percent, and the firm's net worth has increased 450 percent, to over a half million dollars. Bonding capacity is in excess of \$3 million, but most importantly, the firm has created 217 jobs.

Chairwoman MEYERS. Could you summarize as soon as possible?

Mr. NEAL. Yes, ma'am. In conclusion, the 8(a) Programs' management are making the necessary changes to make the program much more efficient and effective. The chart shows that our success with 8(a) firms surviving after graduation has steadily increased.

These figures are from the annual report that we provided to Congress at the conclusion of each fiscal year, and it shows the percentage of the firms that remain in business among the firms that have graduated in 3 years prior to the report. In each of the last three reports that figure has been increasing.

Over the past 25 years, SBA has used its 8(a) contracting authority to do much to assist socially and economically disadvantaged entrepreneurs. The 8(a) Program has spurred the creation of minority-owned businesses in all industrial sectors, and unleashed tremendous creative potential. It has fostered the formation of capital and increased access to credit in the minority business community.

The program has provided diverse employment opportunities for economic and socially disadvantaged employees. In short, the program is a valuable tool in broadening our small business base and developing small disadvantaged businesses. This concludes my remarks, Madam Chairman. I will be pleased to respond to any questions.

[Mr. Neal's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Mr. Neal.

Our next witness is Ms. Judy England Joseph, Director, Housing and Community Development Issues, Resources, Community and Economic Development Division, General Accounting Office.

**TESTIMONY OF JUDITH ENGLAND JOSEPH, DIRECTOR, HOUSING AND COMMUNITY DEVELOPMENT ISSUES, DIVISION OF RESOURCES, COMMUNITY, ECONOMIC DEVELOPMENT DIVISION OF THE GENERAL ACCOUNTING OFFICE (GAO)**

Ms. JOSEPH. Thank you, Madam Chair and members of the committee. I am pleased to be here today to discuss the Small Business Administration's 8(a) Business Development Program.

As you may recall, Madam Chair, our testimonies over the years have discussed the difficulties that SBA has had in implementing



many of the changes mandated by the Congress. Our testimony today is based on the work we did in 1992 and 1993 and updated to reflect recent activities.

We will focus on SBA's progress in implementing key changes that are designed to make the 8(a) Program an effective business development program. In summary, Madam Chair, while SBA has made progress in improving certain aspects of the 8(a) Program, it has not yet achieved key changes mandated by the Congress. Although the total dollar value of new contracts awarded competitively grew during fiscal year 1994, Federal procuring agencies limit firms' opportunities for competition under the 8(a) Program.

The concentration of contract dollars in a few firms continued in 1994, limiting the developmental opportunities available to many firms. While SBA has approved business plans for most firms, it has not given the same attention to annually reviewing these plans to ensure that they accurately reflect the firms' development goals and contract needs.

Moreover, many firms nearing the end of their program terms are still dependent on 8(a) contracts. These firms will thus leave the program without an adequate base of non8(a) work, raising doubts about the firm's viability of success in a commercial marketplace. The 8(a) Program, administered by SBA's Office of Minority Enterprise Development, is one of the Federal Government's primary vehicles for developing small businesses that are owned by socially and economically disadvantaged individuals.

As of January 1995, 5,293 firms were in the 8(a) Program, and in fiscal year 1994, \$4.37 billion in new contracts and contract modifications were awarded to 8(a) firms. Firms can participate in the 8(a) Program for a maximum of 9 years. In updating our previous work for this hearing, we found that competitively awarded 8(a) contracts have increased. New contracts that were awarded competitively during fiscal year 1994 totaled about \$383 million. This amount represented about 18.5 percent of the \$2.06 billion in new 8(a) contracts that were awarded during fiscal year 1994, and an 11 percent increase over the contract dollars that were awarded competitively in the prior fiscal year.

We also found that contract dollars are still concentrated in a small percentage of firms. In fiscal year 1994, 50 firms or about 1 percent of the firms in the program received about 25 percent of the total 8(a) contract dollars awarded during the fiscal year.

Furthermore, as 8(a) contract dollars continue to be concentrated in a few firms, many firms do not receive any 8(a) Program contracts. According to SBA, about 53 percent of the firms did not receive any program contracts during fiscal year 1994. A key reason for the continuing concentration of contract dollars among relatively few firms is the conflicting objectives confronting procuring office officials. The primary objective of agency-procuring officials is accomplishing their agency's mission at a reasonable cost and the business development objectives of the 8(a) Program are a secondary objective. Moreover, agency procurement goals for the 8(a) Program are stated in terms of dollar value of contracts awarded. The easiest way for agencies to meet this goal is to award a few large contracts to a few firms, preferably firms they have had experience with and know the capabilities of.

Also, in preparing for this hearing, we found that business plans are not annually reviewed. Business plans help develop firms by setting forth, among other things, the firm's business development goals and objectives, estimates of its future 8(a) and non8(a) contract activity, and specific steps for ensuring profitable business operations after the firm completes its term in the program.

The 1988 act requires SBA to annually review each business plan. Data provided by SBA's field offices as of September 30, 1994, showed that about 85 percent of the firms in the program at the end of fiscal year 1994 had new or revised business plans approved by SBA. However, at the same time the data also showed that SBA field offices were not conducting annual reviews of these business plans. About 57 percent of the firms with approved business plans had annual reviews conducted of their plans during fiscal year 1994.

Finally, we found that success in meeting 8(a) and non8(a) business mix levels is limited. To increase the program's emphasis on business development and the viability of firms leaving the program, the act directed SBA to establish levels of contract dollars that firms in the last 5 years of their program terms must achieve from non8(a) sources.

SBA field offices, as part of their annual reviews of firms, are responsible for determining whether firms achieve their non8(a) business levels. In February 1995, SBA provided us with data that showed that 63 percent of the firms in their fifth through ninth year of the program met or exceeded the minimum non8(a) business levels, while 37 percent did not meet those minimum levels. Furthermore, for those firms in their final year that did not meet their non8(a) business levels, their non8(a) business on average comprised only 34 percent of their total contract dollars.

As you requested, we also provided information in my statement on DOD's Program for small disadvantaged businesses, commonly referred to as the 1207 Program. The DOD 1207 Program is of particular interest because last year's procurement legislation authorized a program for civilian agencies modeled after DOD's Program. As in DOD's Program, civilian agencies will be allowed to limit competition on some contracts to small disadvantaged businesses and to use price preferences in others.

In closing, while SBA continues to make progress in improving various aspects of the 8(a) Program, key changes that the Congress mandated in 1988 to make the 8(a) Program an effective business development program have not yet been achieved. Over the past 5 years there has been virtually no improvement in the dispersion of program contracts among 8(a) firms, with the result that contract dollars remain concentrated in a small number of firms.

While the 8(a) Program is intended to facilitate the entry of firms into Government procurement and aid their development, the concentration of contract dollars among a few firms denies or limits development opportunities for many of the firms.

Over the past several years, SBA has paid considerable attention to ensuring that firms have new or revised business plans, but it has not given the same attention to annually reviewing these plans to ensure that they accurately reflect the firm's business development goals and 8(a) and non8(a) contract needs. In addition, when

such annual reviews have occurred, SBA has not focused sufficient attention on the actions needed to improve firms' development of their non8(a) Program.

Madam Chair, the limited success that firms are having in reducing their dependence on the 8(a) Program as they near the end of their program term is perhaps the most significant issue facing SBA. The transition from the 8(a) Program to the commercial market can be difficult, even in those cases where the firm has developed a solid base of contracts outside the 8(a) Program. However, for firms leaving the 8(a) Program still heavily dependent on the program for its livelihood, as is the case with many firms nearing completion of their program term, survival outside the program will be even more challenging. This concludes my prepared remarks. I would be happy to answer any questions you or the Members may have.

[Ms. Joseph's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Ms. Joseph.

Our next witness will be Mr. Ralph Thomas, the Associate Administrator for Small and Disadvantaged Business Utilization for NASA.

#### TESTIMONY OF RALPH THOMAS, ASSOCIATE ADMINISTRATOR, NASA

Mr. THOMAS. Thank you, Madam Chair. Madam Chair, I have submitted my comments for the record in total, so I will just give brief remarks and you have the other details of my statement in the record.

Chairwoman MEYERS. Be sure you are close enough to that mike.

Mr. THOMAS. As I was saying, good afternoon, Madam Chair and members of the committee. Madam Chair, I have submitted my entire statement for the record, so I will just give brief remarks here as a summary, if that is OK.

For the past 15 years I have worked exclusively with small and disadvantaged businesses as an attorney, as an executive head of a major minority business trade association, and now as the principal advocate and administrator of a small and disadvantaged business utilization program for a Federal agency, that being NASA. So, I am able to observe the workings of the 8(a) Program from several different perspectives.

I want to express, first of all, that the purpose of the 8(a) Program, as you mentioned, is to increase the participation of socially and economically disadvantaged individuals, particularly minority individuals in our Federal procurement system. The 8(a) Program is one way to do that. It is important to point out, however, that Congress has authorized similar programs whenever it has decided that our country needed to preserve or facilitate the participation of a certain sector of our economy within the Federal contracting system.

For example, Congress passed the Buy American Act to make sure that suppliers of domestic products had a competitive advantage over suppliers of foreign products. Under that program, suppliers of American products received 6 to 12 percentage preference points over suppliers of foreign goods in certain procurements. That program has been with us since 1933.



Similarly, when Congress wanted to ensure that a fair proportion of Federal contracts went to small businesses, it authorized the small business set-aside initiative in which certain contracts are set aside for competition among small businesses only. That initiative has been with us since 1958.

Our purpose here, of course, is to assess the strengths and weaknesses of a major initiative we have to facilitate the utilization of minority-owned businesses in Federal contracting, that is, of course, the 8(a) Program. I believe that the 8(a) Program is over-emphasized by Federal agencies as a vehicle to increase minority participation in Federal contracting, and because of this over-emphasis, the 8(a) Program attracts a disproportionate amount of criticism and oversight.

Any shortcomings of the 8(a) Program, however, must be shared by the Federal agencies as a whole. We are not fully utilizing all of the vehicles that Congress has given us to increase minority business participation. Public Law 95507, enacted in 1978, in fact, the same law under which the 8(a) Program is codified, allows Federal agencies to require that small disadvantaged businesses are provided maximum practicable subcontracting opportunities on many Federal prime contracts. But we are falling woefully short of that.

While one-third of all Federal contract dollars going to small businesses are for subcontractors, only one-sixth of all Federal contract dollars going to small disadvantaged businesses are for subcontracting. This points out a gross underutilization of the subcontracting provisions in 95507. We submit if that were fully utilized, it would provide more opportunities for not only 8(a) contractors, but also other small disadvantaged businesses.

At NASA, we have almost doubled our awards to small disadvantaged businesses in the last 5 years, and we have doubled our subcontracting dollars to SDB's and in the last 4 years. The 8(a) Program represents about one quarter of our total dollars to SDB's. Now we did this by taking a business approach to the problem.

First of all, we decided that we would have a vision, and our vision was that we wanted to fully integrate small disadvantaged businesses into our competitive base of contractors, and that being our vision, we then got the participation of every senior official at NASA to participate in a plan of action and the implementation of that plan of action. Everyone signed off on it, including the NASA administrator. But even if all the Federal agencies operated at the optimum level, using all of the tools at our disposal, we would still need an 8(a) Program.

There must be a vehicle to ensure that small disadvantaged businesses are being developed business-wise as a part of an overall plan, and most of the Federal agencies are just not equipped to do that. The certification features of the 8(a) Program are also very necessary. They certify socially and economically disadvantaged business status for not only candidates for the 8(a) Program, but they also adjudicate protests in Federal subcontracts of unsuccessful SDB bidders in Federal subcontracting opportunities as well as in non-8(a) competitions. So, most Federal agencies would not have the expertise or the information needed to accommodate this additional burden.

In summary, any shortcomings of the 8(a) Program are Governmentwide problems. They are not just an SBA problem. The Federal agencies must provide a collective solution. If we are successful, I believe it would take a lot of the pressure off of the SBA and allow it to focus on those things that it does best. Thank you, Madam Chairman. My 5 minutes are up, I see.

[Mr. Thomas' statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Mr. Thomas.

Our next witness is Mr. Fernando Galaviz. He is vice chairman of the National Federation of 8(a) Companies.

**TESTIMONY OF FERNANDO GALAVIZ, VICE CHAIRMAN,  
NATIONAL FEDERATION OF 8(A) COMPANIES**

Mr. GALAVIZ. Thank you, Madam Chairman, and distinguished members of the committee. My eyesight is not too good, so please forgive me. I am Fernando Galaviz, the vice chairman of the National Federation of 8(a) Companies, and we have over 200 associate members throughout this country.

The National Federation has a 12-member national board. The Federation's testimony focuses on specific recommendations to improve the 8(a) Program and to meet the political challenges of our time by presenting specific initiatives which we submit in the spirit of a changing economic and political environment.

It is important to state that minority entrepreneurs who choose to apply and participate in the 8(a) Program finance their own business through personal access and professional methods for financing.

Madam Chairman, it is important that America knows that the Federal Government does not give us money to start our business and to operate our business. We risk our homes, we risk all our assets to enter into this program to help us get into the mainstream of economic America. It is the cost to the taxpayer of the administration of the SBA that costs the taxpayer money.

The present debate on affirmative action and set-asides has created a perception that minority businesses have gained parity. If this is the case, why is it when you go to any national trade show, whether it is the housewares show, whether it is the AFCEA show, whether it is the electronics show, why is it throughout this country there are very few minority business participants in those shows, but more important why is it that the staffs that work those shows for these major corporations is mainly men, white males and a very few white females, but almost no minorities?

You can have all the GAO studies, you can have all the statistics, but if you and your colleague Members can go to any of these trade shows to clarify that fact, you would ask yourself why is this the case? We in the Federation basically are proposing our own Federation's contract with the 104th Congress. We propose that in order to cut down the cost of doing business in the Federal Government that the SBA, which some of these initiatives are worked in, approved by the SBA, elimination of the involvement of SBA with the third party contract, eliminate the local/national buy concept, allow competitive contracts within the 8(a) Program's competitive business mix to include 8(a) competitive contract awards to meet the

non8(a) business mix requirements. This has not been approved by SBA.

It is important to note that when we compete on an 8(a) contract, it costs us the same money, the same effort as an open competition requirement, and yet the 8(a) Program is supposed to be a development program, not a contracting program, but yet we have gone through all the expense and the risk and yet we are not given credit for that effort.

We recommend that it is important that as people enter the program, new members of the program, they understand what it is to be a Government contractor. We also recommend that in order to cut down the cost of running the Government that throughout the United States there is a similar amount of programs through many Federal agencies in every city which the SBA has one, Commerce has one. We recommend you consolidate those programs throughout this Nation.

The other point of the 25 years, the 30 years I have been involved in this, no one has ever been able to answer, not SBA, not this body or anyone else, when is a small business viable. If you are talking about a manufacturing firm, what are the statistics you get from Commerce, from GAO that can say a small manufacturing business is viable at this stage of their development. I have never been able to get anyone to help us answer when is a business viable.

We also feel that the community, we the community should do better in participating. We, for example, propose that if any 8(a) firm is doing over \$10 million worth of revenue that those firms should provide scholarships by supporting the Urban League or the NAACP or the organizations to improve education. We also support the fact that if a minority firm goes into a depressed area and the owner lives in that economically depressed area, the business is in that economically depressed area and that firm is hiring at least 30 percent middle managers and managers who are minorities, we recommend that that firm should be given some special consideration because they are helping, like for example, establish a lot of 8(a) firms in southeast Washington.

We also recommend the issue of mentoring, that firms that are developed should on their own resources help in developing smaller firms without making the deal that that firm has to share the business that they get. There must be something that the 8(a) firms must do to pay back to the country for the privilege of operating the 8(a) Program.

We also know that there is no question there is a lot of discussion right now that what is economically disadvantaged. We recommend there should be some candid dialogue. There has never been a time where we in the community have been able to get this body, the SBA, and ourselves in one room where we can discuss the problems that we have in a business sense. All the decisions that have been made throughout the years have been political decisions. My time has run out. We have other suggestions. They are for the record, and we thank you very much for giving us this time.

[Mr. Galaviz' statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Mr. Galaviz.



Our next witness will be Mr. Walter Sorg. Mr. Sorg was the Director of the Office of Minority Business in the Commerce Department under President Nixon.

**TESTIMONY OF WALTER SORG, DIRECTOR, OFFICE OF  
MINORITY BUSINESS, COMMERCE DEPARTMENT**

Mr. SORG. Thank you, Madam Chairman. Madam Chairman, committee members, thank you for providing me this opportunity to discuss my concerns with the minority enterprise 8(a) Program and the reforms I believe are necessary to make it more responsive to the needs of minority business.

On March 5, 1969, within 2 months of his inauguration, President Nixon signed Executive Order 11458, establishing minority business enterprise as a national priority. Shortly thereafter, I received an appointment to assist in the organization of the Office of Minority Business Enterprise under the U.S. Department of Commerce, and to serve as its Assistant Director.

I remained with the program through 1976. Our mission was to confirm each citizen's right to participate in the American enterprise system as a business owner, to validate the concept that every individual should have the opportunity to take a turn at bat with the understanding that some will bunt, single or walk, some will hit a home run, and many will strike out.

The important thing is that we are all entitled to step up to the plate as a matter of choice, to exercise our right to venture, our right to succeed, and indeed our right to fail. As originally conceived, the Minority Enterprise Program was intended to foster opportunities for business ownership aimed at assisting socially or economically disadvantaged individuals.

For example, we were just as interested in helping an affluent socially disadvantaged person get a piece of the action as we were in helping an economically disadvantaged person living in Appalachia. Our job was to break through the discriminatory barriers which have precluded these people from participating in a capitalistic system as business owners.

In support of our mission, we set about the task of identifying sources and securing commitments of capital, management assistance and market opportunities which could be deployed for the startup and/or growth of minority businesses. Thanks to the full force of President Nixon's commitment, prejudicial walls gradually began to crumble and these ingredients became increasingly more available.

Paralleling the development of capital and management assistance was that of opening up public and private sector marketing channels for minority-produced output. In 1969 Federal purchases from minority companies were a scant \$11 million. Casting about for a way to involve the Government in the procurement process, we uncovered section 8(a) of the Small Business Act of 1953. It was perfectly suited to our needs.

Acting in concert with the SBA, the Office of Minority Business Enterprise, OMBE as it was then known, encouraged minority firms, which offered a reliable product or service to apply for 8(a) certification. At first, relatively few minorities deemed their companies to be capable of servicing the Federal market, but as the pro-

gram took hold and the word got around that we meant business, more and more came forward for certification, and the program took off.

The 8(a) Program came into being as an element of a business opportunity program open to all qualified minority businesses which met basic criteria. Public Laws 95507 and 96481 and the regulations thereto altered that equation. Under these laws the minority enterprise initiative has been converted into a Business Development Program, which unduly favors the select few companies which have the good fortune to be 8(a) certified.

If one accepts the premise that Federal market opportunities for minority firms should be equally available to all who qualify, then one must conclude that the present restrictive arrangement under which the 8(a) Program operates is grossly unfair to thousands and thousands of companies which have virtually no prospect of ever gaining certification. Simply stated, too few minority businesses receive too many benefits, too many minority businesses receive too few benefits.

I believe that the 8(a) Program has lost its way, and that legislation should be enacted which will enable it to regain its original purpose, that of being available to all legitimate aspirants. In this context, I recommend rescinding the 8(a) legislation presently on the books and replacing it with legislation which will enable the promulgation of a minimum of restrictive, cumbersome regulations.

Among the elements I suggest for inclusion in the 8(a) Reform Act are, first, redefine a minority enterprise as a business which is owned by socially or economically disadvantaged people.

Second, confine the program to one of negotiating for the purchase of goods and services for minority companies.

Third, develop basic criteria and a specific timetable for 8(a) certification. Provide for automatic certification if the certifying authority is unable to react to an application within the prescribed timeframe.

Fourth, set a fixed term — no exceptions — for participation in the program, such term to begin upon the successful negotiation of the first contract.

Fifth, place the authority and responsibility to negotiate and execute 8(a) contracts directly with the contracting officer of the buying agency. Eliminate SBA as the middleman.

Sixth, pinpoint responsibility for price, quality, reliability, and delivery on the contracting unit in the buying agency.

Seventh, establish thresholds which more nearly reflect particular industry norms.

Eighth, do away with artificial geographic boundaries that confine 8(a) companies to marketing their products or services inside a given region. Such restrictions punish an aggressive business and its opportunities for growth. Permit 8(a) companies to engage in self-marketing activities on a national basis.

Nineth, complete the offering when two or more companies identify the same requirement.

I believe that the 8(a) Program has and can continue to serve a valuable function in fostering access into the Federal marketplace for companies owned by socially or economically disadvantaged persons. But to the extent that the program continues to be encum-



bered by restrictive legislation and paternalistic regulatory shackles, its full potential will never be realized. Thank you again for giving me the opportunity to testify.

[Mr. Sorg's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Mr. Sorg.

At this time I would ask the committee if they have questions. To start with, I think I will ask the first question today. I usually start with others, but this question will be directed to Ms. Joseph.

Ms. Joseph, I think I was troubled to read the GAO report on energy management and it's entitled, "DOE Can Improve Distribution of Dollars Awarded Under SBA's 8(a) Program." This was in February of 1994, so it is 1 year old. But it said that the contract dollars awarded by DOE under the 8(a) Program are concentrated among a relatively small number of firms, about 58 percent of DOE's \$1 billion worth of active contracts or about \$580 million were awarded to 13 firms.

I would like you to comment on that, and to see if you think that in the last year since that report there has been any improvement. I noticed that in the same report that you say the Federal Government as a whole follows a similar pattern, awarding about 95 percent of its 8(a) contracts noncompetitively. You go on to comment that, at least in the DOE, and it seems to be happening throughout Government, these contracts are deliberately kept below the \$3 million mark so that they can be granted rather than competed, and that 95 percent Governmentwide are not awarded on a competitive basis. Will you comment on those?

Ms. JOSEPH. Yes, ma'am. I think the first question was in the DOE, as an example, has there been a change since we issued this report. We have not gone back to look at whether any progress has been made to increase the amount of competition under the 8(a) Program at DOE. But when we did this work, I don't think anyone in the procurement business probably would be surprised with the findings of this report because this situation is not unusual. It is certainly not illegal to allow these kinds of things to occur, so this is not surprising. It allows procurement officials to move quickly in making contracting decisions, especially if they have already developed experience with a firm and the firm has a good track record. The officials can very quickly contract on sole-sourced basis. The DOE experience is not something that we feel would be unique.

It is probably something that you would find fairly widespread. In terms of percentage of competition, in our testimony before you today and in Appendix 1, we talk about competition within the 8(a) Program. We see that in fiscal year 1994, about 18 percent of the 8(a) contract dollars were competed, and so we are not seeing a significant growth in the amount of competition that is occurring in the 8(a) Program.

Chairwoman MEYERS. Thank you very much, Ms. Joseph.

Mr. Torkildsen.

Mr. TORKILDSEN. Thank you, Madam Chair. Appreciate the witnesses' testimony. Just a few questions. Mr. Galaviz, you started to get into the definition of disadvantaged and your time ran out.

Would you expand upon that a little bit? How do you think the definition is not sufficient now and how would you recommend changing it if at all.

Mr. GALAVIZ. At the present time, economically disadvantaged, the SBA has a formula that requires going into the program, your net worth cannot be higher than \$250,000, not counting your home and your business. Then after you are in the program——

Mr. TORKILDSEN. That was 250 or 750?

Mr. GALAVIZ. To enter the program it is 250. My colleagues from SBA will correct me if I am mistaken. I believe right now that once you are in the program you cannot exceed \$750,000 net worth, not counting your home and your business.

Because there has been a few firms that have had considerable great success and being this is a capitalist America and a free society, some entrepreneurs have tried to get bigger houses and maybe a little better cars once they have been successful and, therefore, it is OK for that to happen in mainstream America, but it becomes critical when it happens to us disadvantaged. So, on that basis, we recommend that to have a very streamlined formula that, for example, that the whole family's net worth to enter the program should not exceed a particular threshold.

In this case we are suggesting \$850,000 and that once you are in business, if your total assets, including the business and home and your personal assets, go beyond \$1.7 million, then on that basis you no longer qualify as economically disadvantaged.

Chairwoman MEYERS. Did you have a follow-up?

Mr. TORKILDSEN. Yes. If I may just very quickly, it is not a related subject. I appreciate you expanding on that, and perhaps we can go into further detail if we have time for a second round.

On Friday, President Clinton had a press conference and made some statements, which I would just like to ask anyone on the panel who wishes to comment on to do so. I know some of you working for the administration may choose not to comment on it, but President Clinton said, "I want us to emphasize need-based programs where we can because they work better and have a bigger impact and generate broader support."

President Clinton also said, "Our administration is against quotas and guaranteed results." Would any of you like to comment, just in general, on that, agree or disagree?

Mr. GALAVIZ. In general terms on one hand we like to agree that maybe, this being a business program, we should focus more on economic disadvantaged, but I think it is important to note that major corporations and large organizations are nonprofit. Today, you follow that 60 Minutes program that appeared a Sunday ago, it showed like, for example, E Systems. They get almost a third of what the whole 8(a) community gets. They get a sole source, and even today after the reform of many years ago on contract competition, there is a lot of business that is done sole source for major corporations.

Also, it is important to note, earlier in relation to, focusing on economically disadvantaged is a fact that we feel we are economically disadvantaged when we, for example, say 8(a) firms are not going to transition well into the private sector into diversified business.

Sir, if you take right now Martin Marietta, Lockheed, and all the corporations, you take their defense and total dollar value business that they get, they are basically — there would be a difficulty in

expanding the business into mainstream even with all their assets, so we would like you to treat economically disadvantaged in equal terms. So, right now everyone right now is dealing with political reactions.

Last comment. They say that we want to have a colonist society. In a way that is an insult because we are still, I am still a Mexican-American. My friends are still black. My own friends are Haitians. I think that basically we need to acknowledge the fact that even the Federal Government throughout the history always arranges to treat us equally. The fact is that we are all different.

Mr. TORKILDSEN. Thank you, Madam Chair. Yield back.

Mr. NEAL. Congressman, if I might answer on that question.

Mr. TORKILDSEN. Please. Thank you.

Mr. NEAL. With the 8(a) Program, what we want everyone to focus on is that the program's benefits accrued to those individuals are not solely based on race and ethnicity. Those benefits accrue to individuals who have suffered from some type of long-term discrimination or hurdles put up in front of them.

The program focuses on assisting those individuals. We have had instances where individuals who have applied for the program, who have been of the classes that we have determined to be of racial origin where there is a presumption that they are socially disadvantaged, and those individuals have not been economically disadvantaged and they have been denied access to the program.

So, this program does address what the President stated — the needs of the individuals, because this program is focused on individuals. When you look at the makeup of the individuals in the program, while there are not overwhelming numbers, it does show that individuals who demonstrate a need can access the program.

Mr. TORKILDSEN. Thank you very much. I yield back, Madam Chair.

Chairwoman MEYERS. Thank you, Mr. Neal. Mr. LaFalce.

Mr. LAFALCE. Thank you, Madam Chair. I think the testimony this afternoon pointed out one of the difficulties, and that is conflicting opinions as to what the true purpose of the 8(a) Program is, much less what it ought to be.

Some individuals will view the success of the program by the number of participants within it. Some will view the success of the program by the number of contracts that are awarded, and yet it is not a numerical program. It is a qualitative program. It is one that is intended, by law, whether you agree or disagree with the law, to help socially and economically disadvantaged businesses develop so that they can participate in the mainstream of our business economy without the 8(a) Program. So, the 8(a) Program will be successful when the firms can compete without 8(a) assistance. I think it is very important to point that out.

Now, whether we can go from 3,000 participants to almost 6,000 participants and still have a business development program is somewhat problematic. Further, there is oftentimes a lumping together of the 8(a) Program and the 1207 Program, and they are decidedly different, both with legitimate purposes but decidedly different purposes and they need different approaches.

That is why for the 8(a) Program it was important to have a fixed period of time but to wean businesses off of the 8(a) contracts



toward the end of that period of time rather than have them existing fully on 8(a) contracts the day before they have to get out. That was not the purpose.

Further, because the purpose is to develop them to compete, we had to change the law to make sure that we introduced an element of competition into it so that it wasn't solely a sole-source program. I am grievously disappointed in those agencies of the Federal Government that have subverted the legislative intent of introducing competition above a certain dollar threshold amount. They may have done it legally, but it violated, clearly, the spirit of what we were attempting to do.

Now, it was probably done in full concurrence with the participating contractors and they are often some of the biggest obstacles because they are shortsighted. They want as many contracts as they possibly can get. That is their primary purpose. It is not to wean themselves off. But I do not know that we are ever going to be successful unless we understand what the purposes are and we stick to it. Unless we realize that we cannot play a numbers game in what has to be a qualitative approach of business development. It would be a shame if we did not develop this program the way it was intended to be developed.

With that, I thank the Chair.

Chairwoman MEYERS. Thank you, Mr. LaFalce.

Because I recognized two on this side of the aisle in a row, to even things up again I am going to recognize Mrs. Clayton next.

Mrs. CLAYTON. All right. You got to me before I thought you were going to get to me. That is all right.

Ms. Joseph and Mr. Thomas, both of you, I think my comments and questions are addressed to both of you. In the GAO overview of the SBA 8(a) set-aside, you pointed out some of the failures of the SBA to meet the reforms that were instituted in 1988, was it?

Ms. JOSEPH. In 1988?

Mr. THOMAS. I had that in my statement. I referred to performance; that in 1988 the GAO report assessed the performance of 8(a) contractors in the program.

Mrs. CLAYTON. Well, she also mentioned, I think—

Mr. THOMAS. Hers is more recent.

Mrs. CLAYTON [continuing]. some of the agencies — maybe I have the date wrong — some of the individual agencies had purposely, I guess, or had failed to allow the competition. Following on the same line of what we had just finished, can you explain to me how the program is operated that would allow the 8(a) Program itself to have control over that from the agencies? If in fact you just finished giving DOE as an example, how then would 8(a) and the Small Business Administration be able to control the competitive nature of the contracts that are administered through DOE? Would that be the administrative purview of DOE?

Ms. JOSEPH. The type of things we reported in the Department of Energy, and if there are other agencies like the Department of Energy doing the same thing, it would be very difficult for the Small Business Administration to do much about it.

Mrs. CLAYTON. I didn't see any recommendations in your statement about that. Am I missing that?

Ms. JOSEPH. No, ma'am, we did make a recommendation in our Department of Energy report to the Secretary of DOE. But because it is not illegal to do what is being done, it is, in fact, an allowable procurement activity.

The place where the SBA could do something about the issue of competition would really be in the area of whether 8(a) firms have up-to-date business plans. Firms are required to have a mix of 8(a) and non8(a) business, as they progress in the program. SBA could, in fact, enforce these requirements to ensure that in order for a 8(a) firm to continue, it would need to have some competition rather than strictly depend on sole source contracts. Firms need to try to get to non8(a) businesses as well as 8(a) business to balance their portfolio of work experiences and contracts.

Mrs. CLAYTON. I guess the point you would make is that what you have cited in GAO's audit, that deficiency is not solely the responsibility of 8(a)?

Ms. JOSEPH. Of the SBA.

Mrs. CLAYTON. SBA. That they could have noted it if they had 100 percent of their business plan rather than 80 percent of their business plan cited annually.

Ms. JOSEPH. But the DOE example, and you are quite correct, the DOE example we reported very much rests within the purview of the agencies their procurement offices.

Mrs. CLAYTON. We are going to correct that, but my point, there has to be some acknowledgment of the capacity or the lack thereof of 8(a) in SBA to do it, or they need to bring to the attention of the agencies through their monitoring of the 8(a) firms.

By the way, I want to just tell Mr.—

Mr. LAFALCE. If the gentlelady would yield a minute.

Mrs. CLAYTON. Sure.

Mr. LAFALCE. In looking at the agencies, one of the difficulties you have, one, they can see the legislative objectives to business development; the other is a numbers game. They, by breaking a contract down to noncompetitive, can increase their numbers absolutely, and—

Mrs. CLAYTON. That is to the agency's advantage to do that, but not to SBA's advantage in 8(a). I am just saying—

Mr. LAFALCE. There is a bordering between 8(a) and 1207, and that could make those numbers look good.

Mrs. CLAYTON. I understand. Thank you. I appreciate my colleague bringing that to my attention. I understand that. But I am correcting the record here and I want the record to show that the deficiency is not entirely the SBA 8(a), it is to be shared.

I think Mr. Thomas brought it up too, that if this is something individual agencies are doing, if DOE is typical, then there has to be some correctiveness in those individual agencies, not blame SBA 8(a) entirely for it. That is really what I am trying to bring to your attention.

The other point I was also going to tell Mr. Neal, you are quite correct that all minority business owners do not get certified 8(a). I am a small business person who applied for 8(a) certification and I was denied and told I was not economically disadvantaged, although I met one of those classifications.

In the CRAS — and I will not have time, Madam Chair, but I would commend our colleagues to review that — it was done for, I guess Senator Dole, where they did a review of all the procurement, all the affirmative action programs, but they cite the SBA 8(a). The issue there was, indeed, to how we file any evidence contrary that they were not disadvantaged; and, obviously, there has to be some procedure, that is a board, where people are comfortable with to show that people you are turning down or people you are accepting are in need. I mean the need factor has to have some evidence on that. I just commend that.

I know my time is about out. That yellow light means I can still go; is that what that yellow means? I will yield back my time, and if we have a second round, I will take it then.

Chairwoman MEYERS. Thank you, Mrs. Clayton. Mr. Bartlett.

Mr. BARTLETT. Thank you very much. I have a question I would like to address to the panel generally, to any who would like to respond.

Before I came to the Congress, and before my retirement, I was among other things involved in the business world working for some very large businesses and also started my own small business and ran it successfully for 10 or 12 years before I retired. I know how difficult it is to start and succeed in a small business.

My question relates to a statistic that has been mentioned here several times and that is a very large percent of all of the contract awards are noncompetitive. This clearly, I think everyone understands, does not prepare these businesses for the real world experience when they are going to have to compete for contracts.

What can be done to change this so that this is not simply a program for nursing some companies along only to have them fail when the 8(a) support is no longer available to them but truly prepares these companies so that they can be successful in the real business world? What kind of changes can we make? What do we need to do? Because clearly what we are doing now is counterproductive to the goals and aspirations of this program.

Mr. SORG. I will take a crack at that. I find the whole concept of nursing companies along, which is endemic to this minority enterprise program, I find it unnecessary and demeaning. It seems to me the important things to deal with here is opportunity. Let people have an opportunity to come to the public trough to sell their goods and services to the Government.

Now, if you have a program that selects a few out of the hundreds of thousands of minority companies that are going to be certified and then you are going to hold their hands and take them through developmental stages and transitional stages, to me it is an act of foolhardiness.

What we should be doing is seeing to it that if a person is entitled to get certification, that the doors be open to let that person be certified. After he or she is certified then let that person know where the opportunities to sell are in the Federal Government and turn that person loose. Let him know or her know, in 9 years you are out of the practice once you get your first contract.

If you want to get in and get at private practicing, that is wonderful. If you want to get into the private market. If you do not, that is your business. But at the end of 9 years, you are out of this



program. That is what I call a business opportunity program. I do not think that is at all demeaning, as I see it.

Mr. GALAVIZ. The Federal Government has a program called small business set-aside. So, anyone who basically has already developed some expertise can participate in the shelter of the small business set-aside market. It is unfortunate that year after year we forget that the purpose of the 8(a) Program is not supposed to be a contracting program. The purpose of the program is to assist in this country the expansion of the technical and management capability of the minority business community, a community that, prior to the 1960's, was having no access into the marketplace.

Now, who are the people who generally want to enter the program? They are employees that work for the Federal Government; they are the employees, the people who work for large companies would have been able to achieve a certain amount of sophistication, who want to have a chance of the piece of the American pie. Generally speaking, they would be afraid to death to risk their homes and go bankrupt if they had to go into this new avenue without any assistance.

The purpose of the 8(a) sole-source program is to provide the opportunity for that firm to gain experience, but, more importantly, to develop the assets of the GNA overhead to buy the proposal manager, to buy the marketing director, to buy the people who can do the intelligence. It is something we in this community sometimes are confused, why is it in these type of discussions there is not the emphasis; do you know what it takes to be viable in a small business?

If this whole hearing could only come up with one result — SBA has never been able to answer that. Do you know what it takes for a computer company who is only doing \$2 million worth of revenue, how much of that \$2 million they have for GNA and overhead to expand their business? Very little. Very little. Do you know how much it costs for a computer company to hire a good proposal manager; \$75,000 to \$85,000. Where are you going to get that money?

My time is up. I have other comments but I won't break the rules.

Mr. NEAL. We have looked at this issue very carefully because we realize it is the two competing goals of the program, and there is a lot of confusion whether this program is a contracting program or business development program. The SBA has taken the view it is a business development program, and we focused on that in our revised proposal which was released last year.

The emphasis is on business development using the contracts for business development. We have suggested that the competitive portion be eliminated because by restricting ourselves to contracts below the competitive thresholds, those small contracts will be used to develop the capacity and the experience within the small, disadvantaged firms so that they can become competitive and graduate on to the small disadvantaged business program which will be implemented Governmentwide. So, our focus has been on the program not being a competitive contracts program, but being a developmental program and using the contracts under the sole-source authority as a tool for developing the skills, wherewithal and capacity of the firms.

Chairwoman MEYERS. Mr. Neal — will the gentleman yield for a moment — Mr. Neal, are you saying you want to focus all of your programs in the noncompetitive area? All of the 8(a) contracts?

Mr. NEAL. No, what we have done with the proposal is that as we have structured our revised MED Program, it would focus on business development while there still would be a component that would be contracting and the contracting portion would be used as a training tool to develop not only the experience within the small disadvantaged firm but to help to develop the economic capacity that they need in order to be competitive, as Mr. Galaviz has pointed out. They need to develop some economic wherewithal where they can go out and get the talent and the skills necessary for them to be a viable enterprise once they leave the program.

Chairwoman MEYERS. I am not sure you answered my question. Have you said a couple of times that you want SBA to focus on the under \$3 million, under \$5 million threshold?

Mr. NEAL. What we are concerned with is that with the expansion of the small disadvantaged business program to all civilian agencies—

Chairwoman MEYERS. Yes.

Mr. NEAL [continuing]. that program, in many respects, is a duplication of our competitive portion of the 8(a) Program.

Chairwoman MEYERS. That is right.

Mr. NEAL. So we wanted to eliminate the duplication and overlap and that will force us as an agency with the 8(a) Program to focus on contracts below the competitive thresholds, contracts below the \$3 to \$5 million, and most of those contracts are really there to help develop the economic capacity and the experience within the firms so that they can be capable of getting out of the 8(a) Program and competing in the open market or competing in the SDB market once that is established.

Chairwoman MEYERS. I will agree with you very much that I think the 8(a) Program is now a duplication of the program that we passed last year that would say that each agency has a 5 percent goal that they can meet with set-asides and bid preferences. We have heard some suggestions here today that the SBA should not be involved in the program; that it should be simply at the agency level.

But what you are suggesting is limiting the SBA to sole-source 8(a) contracts.

Mr. NEAL. That is what we are suggesting in our revised MED plan that we are looking at just the sole-source contracts. We also believe that in doing that our focus would be on developing the capacity within the firms.

Mrs. CLAYTON. Madam Chairwoman, may I ask you to expand your question so I can understand perhaps the rationale. Because I think he might have responded where he is setting himself up for a downfall, and I don't want you to set him up here.

Chairwoman MEYERS. Well, I think we understand each other now.

Mrs. CLAYTON. I hope he does.

Chairwoman MEYERS. I believe we do.

Last year when we passed the procurement legislation, you will recall that there has been for some time a 5 percent goal that agen-



cies were called upon to meet for minority firms. After the legislation was passed last year, it said that the 5 percent goal would remain but that it could be met by set-asides and bid preferences, which means that each agency can select a program and set it aside for a minority firm.

It has seemed to me since the passage of that legislation that there was then no reason, really — why would they be able to do it themselves and still want to take a contract and send it over to SBA?

Mrs. CLAYTON. Do you understand that?

Mr. LAFALCE. Would the Chair yield for a second, please?

Chairwoman MEYERS. Yes.

Mr. LAFALCE. If I may, I think the primary effect of last year's procurement legislation was to extend the section 1207 Program from what had been exclusively a Department of Defense Program to a Governmentwide program. I think that was the primary effect of it.

Second, with respect to the statements of Mr. Neal, I must inquire now whether this is something that is administration policy; whether it has yet received the clearance of OMB; or whether this is still something that is ruminating within the various offices of the SBA?

Chairwoman MEYERS. This is the first I have heard of this suggestion.

Mr. NEAL. The MED proposal that was announced last July cleared OMB and at the time it was administration policy. We have received nothing to indicate that that has changed. To further elaborate on the issue that you were talking about, Mr. Mitchell will talk about the developmental aspects of why we were suggesting that sole-source contracts could be used in that capacity.

Mr. LAFALCE. But you are talking about sole sources with a finite dollar limit not to be exceeded; is that correct?

Chairwoman MEYERS. Currently it is \$3 million and \$5 million.

Mr. LAFALCE. And that dollar amount would be the threshold amount that under current law kicks in competitive bidding.

Chairwoman MEYERS. Oh, excuse me, Mr. Bartlett, I am sorry.

Mr. BARTLETT. I did not know my simple question would generate so much discussion.

If you are going to award your contracts sole source in order to develop businesses so that they have the resources and the finances and so forth to be competitive, unless someone else is going to take over and help develop what I think are two other crucial needs to be successful, that is, how to compete, and the skills and so forth necessary to compete. Part of it is just the skills of writing a proposal. Other than that, you really have to have something to sell, too.

Unless someone else is going to take over to development these capabilities on the part of the companies you are working with, are you not simply setting them up for a fall?

Mr. MITCHELL. We agree and that is one of the things we have addressed in the MED proposal is the recognition that some of the companies coming to the program do not have the wherewithal or the capability to develop even with the 8(a) sole-source vehicle, because they become captive to that process.

That is why we are suggesting that they get the training, the necessary infrastructure that they need, quality control systems, all of those things in place as part of the developmental tool that prepares them to enter the marketplace in terms of the Government sole-source arena.

The other issue is that we may need to look at whether or not we require competition or competitive business mix requirements at an earlier stage. Currently, right now under the statute they do not have to meet certain targets until the fourth year in the program. Some of that is compounded because there are no limits during the first 4 years and so it is difficult for them to make that transition of going from 35, 45, 55, and 75 percent in the last 4 or 5 years sometimes.

Mr. LAFALCE. Mr. Mitchell, it was difficult enough to get it in the fourth year. You should try to get it earlier.

Mr. MITCHELL. Absolutely.

Chairwoman MEYERS. I think your time is up. Thank you, Mr. Bartlett.

Ms. Velazquez is our next questioner. I wonder if after that we could go on to our second panel. Now, I am hoping — did you have questions for this panel?

Mr. HILLIARD. I have some questions, yes.

Chairwoman MEYERS. All right. Well, let us go to Ms. Velazquez and then we will do the best we can here. I want to make sure all our people are heard from today because some of them have come from a long ways away and we want to make sure that they are heard from.

Ms. VELAZQUEZ. Thank you, Madam Chair.

I hope that everyone recognizes on this panel that while certainly the 8(a) Program is an economic issue, population trends suggest that we will see in the next 10 years that people called minorities in this country will be the majority. If we as policymakers do not take steps to increase business development and entrepreneurship among this population, then America's productivity as a whole will suffer. We all recognize that there are problems with the program but we do not resolve the problems by terminating rather than strengthening the program.

Mr. Neal, speaking about fixing the program, I want for you to elaborate on the high concentration of contracts among firms.

Mr. NEAL. With respect to the high concentration of contracts among firms, we have recognized that this is a critical issue that we have to address. We are doing that by, first of all, implementing the program where we are sitting down with the agencies and pointing out to them that we are very much aware of how they are using sole-source contracts to circumvent the intent of the program, which is to spread it out and use it as a developmental tool.

We have sat down with the Department of Defense, which has the largest share of Government contracting, and we have gotten them to agree that they will make a special concerted effort, that is being directed by Under Secretary John Deutsch through his staff, that they will look at 8(a) firms that have never received contracts and work with them in identifying opportunities for them to receive contracts.

Also, we have put out a regulatory proposal that would address two areas that are of critical concern to the Inspector General and the GAO in reviewing our program. First of all, addressing what we consider to be a real problem with us, and that is the use of IDIQ contracts, indefinite delivery and indefinite quantity contracts. We believe changing our structure for how we deal with that regulatory will allow us to once again spread out the contracts among other firms.

We also took the goaling process that is run by the other part of my organization, the Government contracting portion, and as we sat down and negotiated goals with each of the agencies. Not only do we negotiate dollars, but we are working with them to negotiate contracts for the number of firms to ensure that the dollars are spread out among the firms and that they do not concentrate awards within one or two or three 8(a)s that they have familiarity with.

We have been very aggressive in pursuing this because we realize that this is an area that if we are going to move to our new program, that agencies have to get into the spirit of things. They cannot just walk the letter of the law. They have to believe in the spirit and function along the lines of the spirit.

Ms. VELAZQUEZ. Ms. Joseph, would you please comment on his comments?

Ms. JOSEPH. I am familiar with some of the changes that they have proposed in an attempt to try to reduce the concentration of a significant number of dollars in a small number of firms. I think the IDIQ issue, as well as the goaling, might help, but I think that we have to spend some concerted effort in understanding what benefits the small business firms that are in the 8(a) Program.

I think we need to think about outcomes and to understand what would be the most useful tools to actually assist small disadvantaged businesses in becoming viable businesses once they depart the 8(a) Program. That is something that I do not hear a lot of out of SBA. I know they are collecting a lot of information in attempting to get a much better handle on what is happening within the 8(a) Program, but I am concerned that we do not really know the effectiveness of the program as it relates to the health of firms once they have departed the 8(a) Program.

Something that was mentioned earlier was the number of firms that have departed the program. Their success rates, once departed, is a piece of information in the annual 8(a) Program report SBA sends to Congress. My concern is that I do not know any firm that has officially graduated from the 8(a) Program. Many of them exit the program for any number of reasons, but to truly graduate from the program, meaning that they have met all their business development goals, prior to the end of their program term, and are, therefore, viable in the marketplace, is something that I do not believe has actually happened in the 8(a) Program.

So, I think we need to spend some time understanding what is the need out there and how can we most effectively provide that need in terms of assistance. Then we can look at issues like competition and concentration, although I think all of these are indicators that maybe we are not approaching this program in a way that



benefits all the businesses, or most of the businesses that are certified.

Ms. VELAZQUEZ. Thank you. Thank you, Madam Chair.

Mr. THOMAS. Excuse me. If I could add, I think we do have good examples of companies that have graduated and have accomplished the purposes of the program. Maxima Corp., right here locally, is a very successful company; INET, which was graduated by them, a very successful company. I think we have some, many examples of successful companies, 8(a) companies that have graduated and are doing very well today.

Ms. VELAZQUEZ. Thank you, Madam Chair.

Chairwoman MEYERS. Ms. Smith.

Mrs. SMITH. Thank you, Madam Chair. I would like to address my question to Ms. Joseph with a statement before that is very brief.

I have listened a lot on the competitive issue and have, I guess you might say, a bias to begin with. I do not think you ever learn to compete unless you compete, and you learn to compete better every time you take on a race. The one statement that you made and I am going to briefly read it back to you because it seems to be — well, I would like you to comment on a section of it and it seems to be some of the problem that I am having with this discussion.

It says, the limited success that firms are having in reducing their dependency on the 8(a) Program as they near the end of their program term is perhaps the most significant issue facing SBA. You then go on to say that they have not been able to develop a solid basis of contracts on their own. Otherwise, they have maintained Government contracts, and I call it crutches, and then when they get out, they cannot make it.

That is my concern. I have listened a lot today with a lot of terms and a lot of words that we are making these companies dependent, not tough. I agree with access. I agree with getting in. But dependency, I adamantly, as a woman who developed a relatively decent sized business, I adamantly oppose.

Is that what you are saying here, they are not learning to compete because they are propped up too long or is that too simplified?

Ms. JOSEPH. Within the 8(a) Program there are requirements under the law in terms of the balance between 8(a) and non-8(a) contracts that a firm must have as it progresses in this program toward graduation. That balance is to move the firm from almost total dependency on 8(a) contracts toward a nice balance of non8(a) business. That can still be Federal business, it is just non8(a) business. You are competing with everyone else out there in the marketplace trying to get Federal procurement dollars.

Yes, how you interpreted that statement is in fact what we are concerned about, because as these firms are progressing through their transition period within the 8(a) Program, we do not see that balance shifting from predominantly 8(a) dependent to predominant non8(a) dependent. Of the firms in their last year of the program, 63 percent were not meeting the requirements or the goals set up by SBA for non-8(a) business. So, that concerns us, if in fact in order to be viable once a firm leaves the program it should have a pretty good base or a pretty good foundation of non8(a) business.

Mrs. SMITH. Mr. Neal, then I guess I would have to ask you, what would be the plan to, say, make sure that they are on track in the first third of the time they are going to be in the program? I can't see keeping people on year after year.

But, in part, you have a plan. I heard you talk about programs, management programs, and I tell you, if somebody does not have a business heart and they do not have it in them, you will not train it into them. But are you planning to come up earlier so that there is better compliance in tangible ways other than training a manager to train a manager?

Mr. NEAL. Basically, we are going to start with, in the beginning, year one, once they have submitted the business plan and it is reviewed annually, we will be sitting down with them pointing out that there are certain things they need to do in order to be prepared to meet the competitive mix requirements in year four. We are very adamant in doing that.

There is a statutory requirement that we have to review those plans and ensure that they meet the competitive mix requirements. So, we will start, at year one, with training and working actively with the firms to make sure that they understand what their requirements are and what has to be done to meet the requirements in order for them to develop a viable business.

Now, we recognize some of the businesses are not going to make it. We have looked at our portfolio and now we are going through it routinely and reviewing the firms and pointing out to them that if they are not viable firms and are not participating in the program then we are going to take action and eliminate them from the program.

Mrs. SMITH. So you are going to do that now. You were out of compliance with the law in the past.

Mr. NEAL. We have been actively doing that since my management team has been in place. We have been actively and aggressively addressing this issue of concern and we are dealing with it. Last year, we had 304 terminations from the program, and a lot of them just turned out to be firms that were on the books that were not really actively participating in the program.

Mrs. SMITH. Thank you.

Chairwoman MEYERS. Thank you. Mr. Tucker.

Mr. TUCKER. Thank you, Madam Chair. The questions I had in mind were really raised by Ms. Smith, and let me just kind of scratch the surface a little more and expatiate on that information with Mr. Neal and Mr. Mitchell, if you want to jump in, and Ms. Joseph.

Ms. Joseph seems to point out two areas of real concern. One of them has to be with the maturation or the viability and development of these 8(a) companies through and after the program, and you just responded to her, to some degree, Mr. Neal, as to some progress that is being made and that you expect to be made.

I guess my first question would be why this has not happened up to this point? Was it just an administrative thing? Are you saying without pointing fingers at anyone that in terms of some of the personnel or administration that was in place that they were not adhering to the laws and to the statutes and that under your administration you are being much more aggressive now in that area?

Mr. NEAL. Well, it is a combination of factors that have led to that. Fortunate for me, by having Mr. Mitchell as the Associated Administrator there, who has actually grown and developed the program, he has seen what has taken place. He knows where the management stumbles have been and having him as the senior manager for that area it has really helped us in recognizing what needs to be done and what issues need to be corrected.

Mr. TUCKER. So it is a learning curve, so to say.

Mr. MITCHELL. Competition and the competitive business mix requirements were initiated as a result of P.L. 100-656 in 1988. So, we have only had the benefit of statutorily required competitive business mix requirements since 1989 when the regulations were actually put in place.

So, in fact, a lot of those companies that are currently in years 7, 8, and 9 were not subject to the full impact of the competitive business mix requirements. The statute basically only requires that beginning in year five SBA is to apply competitive business mix requirements.

Now, what we have seen since, over the last 3 years, is that the success rate of the firms that are still operational after leaving the program has gone up. Now, whether that is attributable to the fact that early on a lot of those firms were not subject to the targets and did not have to meet them, it may have attributed to the high failure rate in the beginning.

Now, the question I think we probably need to explore at this point is should there be competitive business mix requirements in year one as opposed to waiting until year 5 to determine to enforce those targets. I think that is a legitimate issue that we ought to probably discuss and look at so that we do not allow firms in the first 4 years to become captive to the 8(a) sole-source arena. There are a lot of issues that drive that: The desire for the procuring agency to deal with firms; if the firm is successful, the likelihood of additional contract opportunities with no, basically, restrictions in the first 4 years other than that they maintain their initial base when they came into the program.

Mr. TUCKER. My second question had to do with the concentration of firms or the lack of competition, which Ms. Joseph brought up again in her remarks and in her written testimony.

You touched on the issue of sole-source enfranchisement and how under I think it was the \$3 million ceiling that you have now promulgated for the sole-source policy, but at the same time you talked about how sole source has been abused, at least statistically by other agencies.

How do you reconcile those two things? Is it just that SBA has a better handle on the whole exercise of sole source?

I know you want to use sole source in order to enfranchise other companies that have been left out, but do you not have a kind of inherent pitfall there of the statistics game, like other agencies do?

Mr. MITCHELL. You are exactly right. I think Ralph Thomas at NASA hit on the issue. If in fact SBA has a concentration problem, it is the result of the entire Federal procurement community. The fact is that the procurement community generates the requirements. Obviously, their motivation is a lot different than business development, it is to get the contract awarded fair market price



with the firm that has the capability. So, they have a different motivation.

The other issue is part of the goaling process. The goaling process statutorily is driven entirely by dollars, which means the easiest way possible is certainly to make the largest number of awards to the fewest number of firms in terms of meeting your goal. Obviously, different firms have different capabilities. What we would suggest and what we have proposed is that we be allowed statutorily to negotiate goals not only based on dollars but based on number of firms, number of contracts, and within industries that are currently under represented at particular procuring agencies.

I think that gets to the issue of starting the process of how we basically answer the question of concentration. But it is a structural problem with competing objectives within the Federal procurement market that causes that.

Mr. TUCKER. Lastly, I know my time is out, do you and Mr. Neal and Ms. Joseph ever sit down and have meetings with one another or is this kind of a — do you all get together and discuss these things or you only wait to come to Congress to find out what each other are thinking?

Ms. JOSEPH. It is interesting, but I did just meet Mr. Neal today, but our staffs have, obviously, been working quite a bit on both this and other work that we do in the SBA area. I think it would merit our sitting down and talking in more detail about some of the recommendations that they are trying to promulgate

Mr. TUCKER. Seems to be an intelligent proposition. Thank you.

Chairwoman MEYERS. Thank you, Mr. Tucker. Mr. Metcalf.

Mr. METCALF. Thank you, Madam Chair.

This morning I spoke with several graduates from the 8(a) Program, and prior to listening to these individuals, I did not necessarily have negative feelings about the 8(a) Program but, at the same time, I was not sure that there were positive results.

Mr. Adrian Lugo, owner of Lugo Construction in Fife, Washington, in my State made some valid points I agree with. He said, When attempting to help minorities, why do we look to welfare when programs like the 8(a) are working so effectively in training those able and willing and committed to work?

From what I can tell, the 8(a) Programs have helped many minorities understand the rules, graduate from the 8(a) Program after the 9 years, and become competitive tax-paying players in the business world.

I am wondering, are you, panel members, aware of others? Is this very unique to Washington or have I gotten some information, but that is my question.

Mr. THOMAS. If I could say, Mr. Metcalf, some of our people, in fact, that contract with NASA, have graduated and they are now within our competitive system. Three percent of our top 100 contractors are large minority firms, formerly 8(a) firms.

We keep a record of even how much business we award to them, and last year it was \$164 million to large minority businesses. So, of course once again it depends on the agency and their interest in making sure that companies that have provided outstanding goods and services to them that they continue to open up opportunities that they can compete for and win.

Chairwoman MEYERS. Thank you.

Mr. GALAVIZ. May I make a comment?

Chairwoman MEYERS. Oh, yes.

Mr. GALAVIZ. It is important to note that this, again being a free America and capitalist society, that, for instance, my company, if I decide, which I do cut my salary considerably in order to bring marketing people in, and if I go ahead and really work to support our customers, I have a good reputation, and it is through the free enterprise system that I and others work hard.

By the way, my company is very small. I don't see why there is so much concern about the fact that a few companies have been getting most of the contracts. In the Super Bowl there are only two teams that come out on top. The fact is that all of us have different kinds of commitments, different kinds of expertise. The effort to, obviously, keep talking down to the people who clearly work hard to succeed, like INET or NEMA or Maxima, and all the other companies, the perception is all the minority firms that graduate, the owners, after seeing how much more net profit they get doing business with the Federal Government, they decide — and I have never seen the SBA address this issue — to say, hey, I am not going to continue in this business. I am going to take the assets that I earned while working in the 8(a) Program and I am going to go and get a McDonald's franchise or go get a car dealership or diversify a business.

So, I think, basically, that we, particularly with the Republican Congress, and the fact that Eisenhower started this under his administration, Nixon was the godfather of minority enterprises, President Bush and President Reagan were highly supportive of the program, is to say we are talking here about creating entrepreneurs. Let us not forget, after all is said and done, 98 percent of the Federal dollars go to nonminority firms. We only get the crumbs.

Chairwoman MEYERS. Thank you. Mr. Hilliard.

Mr. HILLIARD. Thank you very much, Madam Chairman.

Mr. Neal, I want to make sure there is no misunderstanding before you leave. Someone stated there was duplication between the 8(a) Program and the Procurement Act that we passed last year. In fact, you don't have to be 8(a) certified to participate in the Procurement Act of last year; is that correct?

Mr. NEAL. That is correct.

Mr. HILLIARD. So, actually, there is no duplication because both of them have different objectives.

Mr. NEAL. They have different objectives, except an individual could possibly participate in the—

Mr. HILLIARD. If he is 8(a) certified.

Mr. NEAL. If he is 8(a) certified.

Mr. HILLIARD. But that is an alternative objective. It doesn't have to be that way.

Mr. NEAL. Right.

Mr. HILLIARD. I want to ask Mr. Walter Sorg a question. Let me make sure I understand you. You are actually saying that you think that the program should be reformed and not terminated?

Mr. SORG. No, do not terminate it but a major reform.

Mr. HILLIARD. I understand.



Now, Ms. Joseph, whether a company graduates or whether it exits the program, has GAO done any studies on the survivorship rate?

Ms. JOSEPH. No, sir, as far as I can—

Mr. HILLIARD. So you really do not know what has taken place after the companies leave the program; is that correct?

Ms. JOSEPH. First of all, according to information that we have, there have been no firms that have officially graduated out of the 8(a) Program. There have been firms that have exited.

Mr. HILLIARD. Well, I don't want to argue about exit or graduation, but they have left for one reason or the other and my concern is whether or not you have done any studies to base — first of all, I need to know whether you have done any studies beyond post exit or post graduation.

Ms. JOSEPH. No, sir, we have not.

Mr. HILLIARD. Some of the conclusions you made based on whether or not the program was effective, to me, would not be supported. Some of the statements you made, unless you would have that information. I mean how can you tell whether a company has satisfied its objectives if you do not know what has happened once they left the program? They may have left the program a year into it because of the fact they did satisfy it or because something else took place that was greater. But that is argumentative.

But let me ask you about your business types, the 13 companies you said that are receiving the majority of the business. Would it be a fair statement to say that those 13 companies or most of them, the majority of them, are construction firms?

Ms. JOSEPH. No, sir.

Mr. HILLIARD. What type companies are they?

Ms. JOSEPH. Management services and consulting.

Mr. HILLIARD. All of the 13?

Ms. JOSEPH. Are you talking about 13 percent of the companies? Which 13 are you talking about?

Mr. HILLIARD. I thought that you stated that approximately 13 companies receive about 51 percent of the business. Are you talking about 13 percent?

Ms. JOSEPH. You must be talking about the Department of Energy study that we did.

Chairwoman MEYERS. That was a figure I mentioned, Mr. Hilliard, and it was from the Department of Energy study; that about \$600 million went to 13 firms out of the \$1 billion that went to small and disadvantaged firms. Socially and economically disadvantaged firms, \$1 billion went to those firms and \$600 million of it went to 13 firms.

Mr. HILLIARD. All right. Well, let me make a comment about that. Because you have to really look at the type of industry when you start dealing with the amount of money that goes to a particular firm, and those 13 firms may be in the construction industry, and I can understand the large amount of money, percentage wise; but when you really look at the profit line, because you are talking about gross dollars, it may be far smaller than the other 47 percent or 49 percent.

But that is also argumentative. The only thing I want to say is even if it is 13 companies or if it is 1,300 companies or 13 percent,

the most important thing is that they had an opportunity to participate based on the law. The only thing the law is trying to do objectively, I would think, is to make sure that they are able to participate.

Chairwoman MEYERS. Thank you, Mr. Hilliard.

Are there those on either side of the aisle that have a burning question? Otherwise I would like to move to the second panel. Yes, sir, Mr. Poshard.

Mr. POSHARD. Madam Chairman, I have questions but if we can get unanimous consent to submit them in writing to this panel in the interest of time. I know you want to move on.

Chairwoman MEYERS. Yes, I am just concerned that we may start voting at 5 p.m. and miss the second panel.

I would like to mention that some Members may wish to submit questions in writing. Those questions and the written responses will appear in the record. So, Ms. Kelly has one quick question.

Mrs. KELLY. Thank you, Madam Chair. My quick question is for Mr. Neal.

Mr. Neal, I do not have in front of me and wonder if you could supply us with the amount you budget for this 8(a) Program administration per year?

Mr. NEAL. The annual budget right now is \$20 million, and that is basically the salaries of the 384 employees that are serving as business opportunity specialists in the field and in central office.

Mrs. KELLY. Could I just follow that up? You are serving in fiscal year 1994, 5,613 businesses; is that correct? Is that what this graph shows?

Mr. NEAL. The current figure is 5,356 firms. We have purged the portfolio recently.

Mrs. KELLY. Thank you. Thank you, Madam Chair.

Chairwoman MEYERS. Thank you, Ms. Kelly.

We will move to the second panel and I would like to thank the first panel very much and you will probably be getting some questions in writing from Members. Thank you again for participating.

[The information may be found in the appendix.]

Chairwoman MEYERS. Our second panel, Mr. Melvin Clark, Mr. Lloyd Parker, Joe Gomez, Arnold O'Donnell, Kemma Walsh, Robert McCallie, and Nancy Archuleta will come to the table.

Mr. Clark. Where is Mr. Clark? We have you in that order from left to right; Mr. Clark, Mr. Parker.

The committee will come to order and we will begin with Mr. Melvin Clark, who is president of Metroplex Corp. of Washington, DC Mr. Clark.

#### TESTIMONY OF MELVIN CLARK, PRESIDENT, METROPLEX Corp.

Mr. CLARK. Good afternoon, Madam Chairperson.

Chairwoman MEYERS. Good afternoon.

Mr. CLARK. And Members of this distinguished panel. My name is Melvin Clark, president and chief executive officer of the Metroplex Corp.. My father, Bishop Melvin E. Clark, Sr., is the chairman of the board and we are the sole owners of Metroplex.

It is a pleasure and honor to appear before this committee to discuss the section 8(a) Program, and in the brief time that I have

available, I would like to attempt to address two topics: First, I want to address the specific experience that Metroplex has had with the 8(a) Program, and two, as a member, various members of minority trade organizations, I would like to make some sort of recommendations for the efficiency and efficacy of the 8(a) Program.

Metroplex is the minority-owned and operated construction company specializing in railroad construction. Our work ranges from light rail transit systems found in our major cities to heavy industrial rail—

Mr. TUCKER. Madam Chair, can we have the doors closed so we can hear? We are competing with some noise out in the hall.

Chairwoman MEYERS. Yes, thank you. Proceed.

Mr. CLARK. As I was saying, our work ranges from the light rail transit systems found in our major cities to heavy industrial rail systems found on the military bases throughout the country. Our work has included contracts with the Department of Transportation, the Department of the Navy, the Army Corps of Engineers, and the Department of Agriculture. In addition to that, we have worked on several of the mass transit administrations throughout the country.

We were incorporated in 1983 and we graduated from the (8)a Program in January of 1995.

One of the major factors that inspired me to become an entrepreneur and to found Metroplex was the existence of the minority business programs, such as the 8(a) Program. Now, this program provided to me an opportunity to participate in an industry that heretofore did not include minorities.

Another factor that encouraged me to start the company was President Reagan's signing of the Surface Transportation Act of 1982 wherein Congress mandated that at least 10 percent of the work or the funds for the repair of the Nation's infrastructure should be designated for minority businesses. When Metroplex was founded, there was only one other minority contractor in the country. Today, because of these business development programs, there are several, some dealing with multimillion-dollar revenues.

Mr. CLARK. The program has been absolutely critical to our success in penetrating the railroad construction industry. We started as an inexperienced, undercapitalized company with great ambitions. We needed help, and we got it from the 8(a) Program. We were able to obtain our first major piece of equipment by utilizing the SBA's Business Development Expense Program. The SBA was instrumental in helping us to finance our initial contracts.

The program offered marketing and managerial assistance which enabled us to penetrate a lily white marketplace and survive our formative years as long as we produced high-quality work and delivered on time.

The program clearly opened access to the Federal markets that we never would have had. It provided the assistance which allowed Metroplex to amass the technical, management and financial resources to compete today. In fact, the banks, the surety bond companies, the suppliers and subcontractors are all much more receptive to 8(a) companies because they are aware of the unique and invaluable assistance offered to us.



The 8(a) Program has enabled Metroplex to become a vibrant and award-winning business. We are currently providing high-quality workmanship, we are creating jobs, we are hiring minorities and women, we are providing more competition in the Federal marketplace, and we are generating tax revenues. In fact, Metroplex has paid over \$1.5 million in taxes since our inception.

Now, we have accomplished our initial goals with a mixture of contracts from governmental procurement agencies, as well as non8(a) customers. The ratio of 8(a) revenues to non8(a) revenues throughout the years showed a decreasing dependence on 8(a) revenues.

We are saying that the program worked for Metroplex. A review of our awards and commendations, which we have attached to our testimony — and we call it “A proven commitment to excellence” — shows that the Army, the Navy, the Department of the Interior and the Department of Transportation are well pleased with our development. Without this program, Metroplex would not be the company it is, and indeed may not even be in existence as a substantial contributor to our Nation’s economy.

Now, I am an 8(a) graduate, and we are aware and concerned about the so-called “high business failure rate” among graduated firms. In the construction industry, we are, for all practical purposes, limited to being the subcontractors to the large contractors and corporations; and the major reason they use our services is because the Government requires them to have minority participation. There definitely remains a substantial need for affirmative action in our industry.

Now, the program we feel was created to ensure that firms such as ours — in which the Federal Government has made major investments — should continue as viable businesses, contributing and functioning as a constructive part of our diversified economy. This failure rate can and should be reversed. The Senate in 1986 indicated that the greatest single problem with the program was a need for a postgraduate program to transition graduate firms into the competitive economic mainstream.

Now, I am a member of several minority business trade organizations. What I have done today is to bring several proposals for 8(a) reform which most of the organizations and members of the organizations support. One, in particular, is the 8(a) graduate mentor/protege program. We feel as though there is an untapped wealth of knowledge that could contribute enormously to SBA’s efforts to assist current participants in understanding how to gain the optimum benefit from the program. We feel as though they could be structured similar to the DOD mentor/protege program, and provide benefits for emerging companies, for the graduate 8(a) companies, for the procuring activities, and for the SBA. I have outlined all of those in my written testimony.

As I said, we also have 11 other specific recommendations which we would like for this panel to consider in considering 8(a) reform.

I know my time is up. I want to conclude by saying that I appreciate the efforts that this committee has made to increase the effectiveness of the programs intended to promote the development of minority businesses. These programs, particularly this one, have

played a vital role in the development and success of Metroplex as well as many other programs.

I would ask for your favorable consideration and action on the proposals that I have submitted. I would be glad to take questions on this. My father, who is chairman of the board and is also a bishop in the Church of God in Christ, often spoke of a scenario recorded in the Book of Ruth where God gave a specific mandate to ancient Israel to never reap all the products of the land but to leave some to the poor, to the less fortunate, and to the disenfranchised so that they, too, may live.

I believe that God is saying to us today, as we stand on the threshold of the 21st century, don't forget the forgotten, the down-trodden, the shut-outs, shut-ins, and shut-aways, let them eat some of the fruit of the land. We need to hold on to affirmative action in these minority business programs and help us to fulfill what we call the American dream.

Chairwoman MEYERS. Thank you very much for being with us, Mr. Clark.

[Mr. Clark's statement may be found in the appendix.]

Chairwoman MEYERS. Mr. Parker is chairman and CEO of Contract Services Inc. of Junction City, Kansas.

#### TESTIMONY OF LLOYD PARKER, CHAIRMAN AND CEO, CONTRACT SERVICES INC.

Mr. PARKER. Thank you, Madam Chair and distinguished members of the committee. It is a privilege and honor to testify before this distinguished body, the Committee on Small Business of the U.S. House of Representatives.

As a historically underutilized business, I am testifying concerning the 8(a) Program, so named for the section of the Small Business Act that contains it. The 8(a) Program was created by an Executive order by President Richard Nixon in 1969.

I am confident that you recognize the importance of the 8(a) Program and the urgent need to make it more effective. The 8(a) Program remains the most successful program ever for including minorities and other disadvantaged individuals in the multimillion dollar Federal procurement arena. It has created successful minority-owned companies and will continue creating successful businesses with support such as yours. Documentation supporting my position is hereby submitted for the record.

The 8(a) Program is designed to help counter societal discrimination. However, I think it should be reviewed from top to bottom. The 8(a) Program is necessary, even with the creation of the Governmentwide SDB Program, which allows Federal agencies to accept as much as 10 percent price preference from minority-owned firms.

Contract Services, Inc. is not your typical 8(a) firm. We had a sizable contract with the Government before we were certified in the 8(a) Program. But if we did not have a Government contract and had been wholly dependent upon the Small Business Administration's 8(a) Program, we would have starved to death. We did not receive our first 8(a) contract until 2½ years after becoming certified. We are a technical, financial, and managerial firm capable of performing on most contracts because of the expertise of our

labor force. Firms have to be looked at individually in terms of the scope and magnitude of the contracts they can perform. We should not limit firms based on the SBA perception of "small." The 8(a) Program still does not meet the 5 percent goal in Government procurement that should be going to minorities.

We have benefited from the 8(a) Program in the areas of business development, marketing, financing, and writing businesses and marketing plans. Specifically, the financial assistance and management support/assistance with our accounting system has been very beneficial. The major source of the system came from our Section 7(j) Program, which provided industry-specific technical assistance through providers or consultants.

We think that there is a duplication of effort between the 7(j) Program, the Minority Business Development Agency, MBDA, and the Small Business Development Center. We don't think the three entities are working in conjunction with one another. The general feeling is that the 7(j) Program, the MBDA and SBDC are needed because of the scarcity of resources in the Nation for minority businesses. There is a need for as much as we can get to help firms.

We have received benefit from the 7(a) loan program. Based on my experience, the decisionmakers relative to loans don't have a clue as to what it takes to maintain a business, to meet a payroll or pay taxes or the relationships between vendor, customer or supplier. 8(a) firms are eligible for both direct and SBA-guaranteed loans; however, criteria used to grant or deny the loans are very subjective.

We think it would be a strategic advantage for an 8(a) firm to be located in Washington, DC or 150 miles within the Federal Agency/Department or Southern California, where the defense industry is concentrated. I have read solicitations which have stated you must have a home office within 150 miles of the Federal agency or department in order to qualify for award of the contract. The President's commission on Minority Business Development reinforces the complaint by so many other 8(a) firms in the testimony of Joshua Smith.

It is very costly to market your services through telephone calls, trips back to Washington, leasing facilities and setting up home offices to accommodate the minimum requirement for award of contracts. The requirement, if any, should be limited to opening an office upon contract award.

We like most of the Business Opportunity Development Reform Act of 1988, Public Law 100656, such as the regulation that requires an 8(a) firm to build a "mix" of 8(a) contract awards and non8(a) awards. As long as there is a progression of Standard Industrial Classification allocations, this does not impede a company's growth. In counting its commercial contracts, a firm could exceed its size standard and be considered too large to participate in the program. Again, based on my experience, you can be performing on a non8(a) contract in an excellent manner and have a good performance record, a high percentage of award fees, and still not be able to convince the Agency that the contract should be awarded to an 8(a) company because there are many agencies out there that are anti-SDB and anti-8(a) — see documented evidence of paper trail from SBA to contracting agency and final disposition from



Garrison Commander submitted as a matter of record with this testimony.

The maximum period of program participation has been increased and we agree with that. We support additional years for business development stages.

The 8(a) firms are required to compete under special competition criteria. We think this dollar threshold is significantly low in today's economy.

My recommendation for the House with regards to how the 8(a) Program could be effectively changed for the better and provide more opportunity for some well-deserved, prepared and talented minority business owners:

Return to the completely sole-source procurement program;

Eliminate arbitrary personal net worth requirements;

Create an office of Minority Business Contract Compliance to monitor the utilization of Small Disadvantaged Business or Historically Underutilized Business by Federal agencies that are not prime contractors.

Eliminate the anti8(a) regulations;

Simplify and introduce postgraduate 8(a) Programs;

Enforce Public Laws 95-507, 96-481, and 100-656;

Increase the dollar threshold for sole-source awards from outdated numbers to more realistic, updated numbers;

Set separate goals for utilizing 8(a) firms;

Allow 8(a) firms to obtain contracts nationwide;

Discourage requirements for an office in a region as a basis for qualification to submit an offer.

In closing, I would like to thank you for taking the time out of your very busy schedules and hearing my presentation. I really appreciate the job you are doing for America.

Chairwoman MEYERS. Thank you very much for being with us, Mr. Parker.

I am sure I will be forgiven if I give you a special welcome as coming from God's country, and I appreciate the long trip all of you were willing to make to be with us today.

[Mr. Parker's statement may be found in the appendix.]

Chairwoman MEYERS. Mr. Gomez, president and owner of Gomez Electric of Albany, New York.

#### TESTIMONY OF JOE GOMEZ, PRESIDENT AND OWNER, GOMEZ ELECTRIC

Mr. GOMEZ. Thank you, Madam Chairwoman. Thank you for inviting me here today. I also want to thank the panel for hearing my presentation.

I am not going to read through the written statement. I am merely going to point out the highlights.

I have been in business for some 16 years now. I am an 8(a) graduate. I am quite active in the minority community in the Albany area.

The 8(a) Program is a viable, or was a viable program; however, it needs some redoing. I think it is important to point out some of the flaws, as well as some of the recommendations that I think need to be implemented.

Some of the flaws of the program are as follows:

The program does not sufficiently review the backgrounds of the applicants to ascertain the level of expertise;

The program does not enforce the 2-years-in-business requirement;

The program often awards contracts outside the area of expertise;

The program fails to provide a keen sense of competitive bidding;

The program does not enforce a required level or ratio between competitive work and 8(a) work;

The program also provided assistance to firms not in need;

Participants considered are at times from outside the work geographical area; and

Favoritism does exist.

I would like to briefly go over some of the recommendations. I think it is important to ascertain that this program is not — should not be a crutch; it should be a business development program. As such, we should have some measure to be guided by.

I think it is important to have a size of qualifying business and minimum size standard that should be established and adhered to in order for a business to participate. I would like to suggest \$200,000 annual sales for construction and \$400,000 for manufacturing. With a minimum size, participation increases as inflation increases. Forbid the program for starting up businesses.

Prequalification of participating business principal: I think it is important to prequalify a business principal to assure that he or she has the related experience and possesses the educational background necessary to manage a firm. Provide counseling prior to application to inform applicants of the expectations, requirements and other prerequisites.

The ownership — and that is a very important point — tighten up ownership rules. Make at least 80 percent of the ownership of the business by a disadvantaged person a requirement of the program. I think important enough is to mention that an increase in penalties and provide legislation to debar “parent companies” using fronts from doing other — any and all — Federal work.

Marginal cases: Make educational needs mandatory as a condition of continuance in the program.

Competition: This is probably the most important part of this program, and it is not being followed. The most important business aspect is the ability of the firm to survive in the competitive world. To this end, mandatory competition for 8(a) contracts among participating firms should be implemented right from the onset of participation. Needless to say, penalties associated with collusion and any other form of price fixing should be implemented as well.

Strict enforcement of SIC codes: It has been the practice of SBA to recommend to some of the 8(a) firms to use more than one SIC code, and to that effect, I would like to see firms being prevented from crossing into areas where no experience exists or where the possibility for subcontracting a related task will result in no significant experience gain by the participant.

An internship program: In areas where the applicant is marginal and lacks the necessary experience, an internship program of up to 3 years should be established as a precondition of entering the program.

Participation time and termination: I would like to recommend that we adjust the time of participation to a maximum of 5 years and terminate participants upon reaching a net worth of \$300,000 for construction firms and \$400,000 for manufacturing concerns.

As far as the General Accounting Office reports, SBA should enact recommendations made by the GAO in their reports on Small Business of January 1992 and September of 1993.

Set-asides: Promote with 8(a) firms their participation in comparative set-asides, and what I mean by that, instead of providing sole-source contracts, SBA should be guiding the firms to get into the competitive arena by participating in those set-aside programs.

Consolidation of programs: Again, the various agencies with Minority Business Development programs — I think we should promote again with the 8(a) firms their participation with other agencies' Minority Business Development programs to provide better access and avoid wasteful duplication.

I would like to thank this committee for the time afforded, and I would like to offer my time and services if they are needed. Thank you very much.

Chairwoman MEYERS. I thank you, Mr. Gomez. I think we are very fortunate to have so many people testify for us today who have obviously given a great deal of thought to their testimony. We appreciate it tremendously, and it will be very helpful.

[Mr. Gomez' statement may be found in the appendix.]

Chairwoman MEYERS. Mr. Arnold O'Donnell is vice president of O'Donnell Construction of Washington, DC.

#### TESTIMONY OF ARNOLD O'DONNELL, VICE PRESIDENT, O'DONNELL CONSTRUCTION

Mr. O'DONNELL. Thank you. Mrs. Meyers and members of the committee, I am Arnold O'Donnell, vice president and 50 percent owner of O'Donnell Construction Co., which is a small business located in Washington, DC, and specializes in the construction, repair of streets, sidewalks, and underground utilities. Thank you for inviting me here today to testify about my experiences with the Small Business Administration's 8(a) Program.

I have been involved with 8(a) construction contracts since 1978. Since that time, I have worked for several companies that were certified in the 8(a) Program and several companies that worked as subcontractors to 8(a) firms. My company currently has an application to the 8(a) Program pending in the SBA's Office of Hearings and Appeals.

I heard mention earlier about a 3-page application. This is my company's application to the 8(a) Program; it is 580 pages long, and we had to supplement that. The SBA's 8(a) Program is one of the most expensive and socially divisive procurement systems I have encountered.

The SBA awards more than \$4 billion a year in sole-source or restricted competition contracts to a handful of individuals, some of whom came to the U.S. long after the passage of the 1964 Civil Rights Act and have never encountered the kind of discrimination that was used as a basis for enacting a procurement program of questionable constitutional merit. The program does very little to compensate actual victims of racial discrimination; it does abso-



lutely nothing to identify and punish organizations and the individuals in those organizations that practice racial discrimination in the contracting process. Instead, the 8(a) Program punishes small businesses such as mine by excluding us from competing for a very large segment of publicly funded contracts.

The adverse impact of the 8(a) Program on small, non-minority-owned businesses cannot be assessed in a reasonable manner without looking at the total effect of all racially based procurement programs. The effect is not limited, it is not widely dispersed, it is not consistent with fundamental fairness. It is an undue burden.

Attached is a letter to the GAO which identifies several dozen programs I have personally encountered just in the Washington metropolitan area. During the past 6 years, the SBA has denied my brother and me an equal opportunity to participate in the 8(a) Program simply because we are not members of one of the SBA's many designated minority groups who only have to check a box on a form to prove beyond a shadow of a doubt, without the slightest possibility of a challenge, that they are socially and economically disadvantaged. We, on the other hand, were required to submit clear and convincing evidence of racial discrimination to a group of bureaucrats who have used delay and misrepresentation to impose their personal bias on a Federal Program that purports to assist the victims of racial discrimination and which Federal Program was supposed to make no distinction between the applicants based on the race of the owners.

The 8(a) Program as enacted by Congress and signed into law is a racially neutral program. There is no mention of any presumption of social and economic disadvantage for any racial group in the law. The presumption was simply created by bureaucratic decree when the SBA prepared its regulations. The presumption based on race was discussed during the legislative process and removed before the passage of the final bills. The SBA also used its power of bureaucratic decree to require nonminority applicants to meet the burden of furnishing clear and convincing evidence.

A decision on our application to the 8(a) Program was due on December 26, 1994. However, the administrative law judge that was assigned to our case retired on January 5, 1995. He has not been replaced. In violation of Federal law, the SBA no longer employs an administrative law judge. It is unlikely that we will get a final decision from the SBA on our application before the Supreme Court issues a decision in the *Adarand Constructors v. Secretary Pena* case. That case challenges the Department of Transportation's disadvantaged business enterprise program. The scope of that decision will determine what course we will pursue.

The SBA's 8(a) Program does have some good points. Participants must graduate from the program after 9 years, and individual owners must be U.S. citizens. However, these worthwhile aspects of the 8(a) Program do not justify a process that is so fundamentally flawed. The constitutionally guaranteed right to equal treatment under the law has been restricted for some individuals that have lost contract opportunities while the number of designated groups that receive a benefit from this and similar programs has been expanded to such a degree that the original intent

of compensating actual individual victims of past racial discrimination has been greatly diminished.

African American-owned companies received 37 percent of the contract dollars awarded by the SBA's 8(a) Program during fiscal year 1994. Under the SBA 7(a) loan guarantee program in fiscal year 1994, 13 percent of the minority loans went to businesses owned by African Americans. In fiscal year 1992, black-owned DBE's received only 16 percent of the total dollars awarded to DBE's under the Department of Transportation's Program that is under review by the Supreme Court in the Adarand case.

While I continue to agree with the original intent of the 8(a) Program to assist the owners of small businesses that were denied economic opportunities because of their race or ethnic background, I am convinced that it is impossible to administer the 8(a) Program or any similar program in a manner that is fair to the individuals that are excluded, that actually helps the individuals that are the intended beneficiaries, and that does not evolve into a bureaucratic quagmire of arcane regulations.

I hope that this committee will move to discontinue the 8(a) Program and refocus its efforts to guarantee the equality of opportunity rather than mandate the conformity of results to predetermined levels.

Thank you for allowing me to testify. I would be glad to answer any questions.

Chairwoman MEYERS. Thank you, Mr. O'Donnell, for that perspective.

[Mr. O'Donnell's statement may be found in the appendix.]

Chairwoman MEYERS. Our next witness is Ms. Kemma Walsh, President of Lake Michigan Contractors, Inc. of Holland, Michigan.

#### **TESTIMONY OF KEMMA WALSH, PRESIDENT, LAKE MICHIGAN CONTRACTORS INC.**

Ms. WALSH. Thank you, Madam Chair and members of the committee. My name is Kemma Walsh. I own and operate Lake Michigan Contractors, Inc., a marine contracting firm located in Holland, Michigan. My primary business has been maintenance dredging for the U.S. Army Corps of Engineers.

On June 22, 1994, I was certified by the SBA to participate in the 8(a) Program. I have been asked to testify on my experience with the 8(a) Program, how it has helped or hindered my business and what changes I would recommend to improve the program.

I wish to convey to you the urgency to continue the 8(a) Program and make changes that I feel are pertinent to better use of the program. I have included a brief history of my company's involvement in the program and also provided a perspective of the dredging industry and how it relates to my company, which is included in my written remarks.

Since my certification in the 8(a) Program, I have yet to be awarded a project. I am in the process of negotiations on my first self-marketed project that I will not start before I have been in the program for a year of my 9-year term. Currently, nationwide, there are four participants in the 8(a) dredging program, one of which is near graduation, one woman-owned, which is myself, and two other companies certified and located in Michigan within my region.

My recommendation would be to establish a broader distribution of 8(a) awards by eliminating the local buy requirements in place, the self-marketing program that allows a firm to market itself nationwide. However, the local buy requirement stops this from happening. Therefore, the best interests of the contracting agencies and program participants is not served. My experience has been that I have proven my company's capabilities to agencies that want me to work for them, but because I am not in their region, I cannot negotiate the work. Elimination of the local buy gets rid of this problem.

These are some of the problems I have had with the local buy. I was told by my business opportunities specialist that I could self-market my company anywhere I wanted. Upon doing this, I was readily accepted by several districts which were familiar with my company and its equipment from past projects; however, the SBA in that region told the agency that I was out of my region and said they must give it to the agency — or give the project to a firm in their region. There was one firm that walked into the agency that I had self-marketed to successfully, not owning his own equipment and demanding the projects be set aside for his company.

Dredging contractors are nomadic by nature. With the floating equipment they have access to all major waterways in the country. An 8(a) contractor should be allowed to travel from region to region because once graduated from the program, this is what they must do to stay competitive in the industry.

To effectively implement these items, I recommend that you allow the 8(a) firm to self-market itself nationwide, letting the agency pick the best firm for the job rather than forcing the local firm down its throat. Require the SBA to reduce the \$3 million competitive threshold to \$1 million; return size standards for dredging back to \$9.5 million — \$13.5 million seems artificially high for a small dredging business. Keep in mind that some SBA regions have no 8(a) dredging firms at all.

Make the program easier for the agencies and firms, use program guidelines that encourage direct marketing by the 8(a) firm with the contracting agency rather than letting the SBA take all the burden. Let the SBA do its job, but do not limit the firm. Reward the firm for its efforts by making sure it is elected for the sole-source award. This will allow a better rapport between the parties and consuming negotiations.

The cost negotiations and timeframe could be cut significantly if a firm could just fill out a bid schedule similar to a competitive project, and if the prices fell within reason to the engineers' estimate, the project could be awarded to that firm.

Also, to fight brokerage, to establish a standard industrial code for dredging, currently the Code 1629 allows construction firms that have no specialized dredging equipment to be accepted by the SBA to do dredging work. The dredging industry is specialized and should not be intertwined with building and general construction. Without its own SIC code, this adds to non-bona fide 8(a) firms securing equipment and bonding from other sources, costing the agencies additional monies.

Second, require evidence of dredging equipment ownership. The equipment requirement allows a person with dredging expertise



the desire to work for an 8(a) firm because of the financial commitment.

The next best thing would be to require a nondredging 8(a) firm to acquire the equipment and expertise from another 8(a) dredging firm. This is similar to the SBA's existing rule for emerging and small business programs in dredging.

Program benefits that have helped my firm, that under normal circumstances would not be able to compete against a large firm. It is a proven fact that socially and economically disadvantaged persons will not be as accepted into the dredging industry if the program would be phased out. The changes I have recommended previously will allow the program to get better for all those involved. A dredging contractor must make a large capital investment purchasing this type of equipment. I have benefited just from being certified. My loan officer and bonding agent seem much more willing to negotiate terms and conditions.

If I were not a participant in this program I would not be taken as a serious competitor. Because I am in the program, I now have large dredging firms treating me as an equal; also being able to enter a male-dominated industry, where previously I had limited success; and most of all, the ability to succeed.

My recommendation is to keep the program and make the following changes that will effectively reduce cost to the Government, stop the abuse in the program, and make for fair and equitable contracting for all those involved.

Thank you for giving me this opportunity today.

Chairwoman MEYERS. Thank you very much, Ms. Walsh; we are glad to have you with us today.

[Ms. Walsh's statement may be found in the appendix.]

Chairwoman MEYERS. Mr. Robert McCallie, president of McCallie Associates, Inc., of Omaha, Nebraska.

#### TESTIMONY OF ROBERT MCCALLIE, PRESIDENT, MCCALLIE ASSOCIATES INC.

Mr. MCCALLIE. Good afternoon, Madam Chairwoman and members of the committee. My name is Bob McCallie. My wife and I are the principal stockholders of a small business contracting firm in Bellevue, Nebraska. Our business provides vital computer and communication services to the Department of Defense. As a member of the National Federation of Independent Business, local chambers of commerce, and other organizations representing the business community, I would like to thank you for reviewing SBA's 8(a) set-aside program. I believe that experiences of myself and others will demonstrate to Congress that this program has serious problems and should be radically revised or eliminated altogether.

In addition to my own testimony, I have taken the liberty of submitting a letter from John Bowman, Inc., a company that has been severely damaged by minority set-aside programs.

In 1982, after agonizing with the difficulty and risk of starting a business, my wife and I decided to invest much of our life savings into a venture dedicated to supporting our country's defense. It was a difficult business and took some years of struggling before things finally started to go our way.

From initial sales of approximately \$100,000 and two employees, we grew to about \$3 million in sales and about 50 employees within 10 years. Over those years, we built excellent management and technical teams and supported the Strategic Air Command and others with high technology goods and services. Furthermore, we learned a lot about business and competition.

By 1985, we were winning significant Federal subcontracts and some small Federal prime contracts. In 1990, we won our first major prime contract called the Executive Support System to manage and maintain the large office automation network for Strategic Air Command. That same year we had other significant successes. Our business was starting to grow and our future looked bright.

In 1992, we were recognized by the Small Business Administration as 1 of the top 10 small business prime contractors in the United States and were honored with that award here in Washington.

Since 1992, we have found it more difficult to obtain new contracts. On several occasions, large prime contractors have reviewed our subcontract proposals, commented positively about our credentials, our technology, our approach and our competitive rates, but lamented that they could not do business with our company. The reason they gave was that we represented no recognized minority group. Furthermore, since 1992, it seems that more prime contract work is either set aside for minority competition or simply given to selected minority companies.

During this time period, I have participated in small business conferences at various locations. At those conferences, I have always heard two versions of the success of minority set-aside programs, the official version touting the success of the programs, claiming success because a lot of money was diverted from the competitive process to selected companies. However, individual contracting officers had a different version. Their experience showed that minority set-asides had a high failure rate, and this is not surprising since many of those companies had not been tempered by competition.

The harsh impact of this approach was recently demonstrated to our company with great force. When the Executive Support System contract for which we were honored in 1992 was up for rebid, we were told that we could not participate because the Government had decided not to compete it but to give it to an 8(a) firm without competition. This was not a local firm, but one that the Government brought from 400 miles away, St. Louis, Missouri, to start fresh to do this work. Furthermore, it was assumed, or it was the Government's assumption that this firm would not only take over the contract, but also hire our employees since they had the desired expertise to perform the work. We made a decision then to move these employees into commercial areas and even restructured the company to utilize the skills of one of the key individuals.

After our reorganization, these employees received offers that were difficult to refuse from the 8(a) firm. Apparently money was no object in these negotiations. This is particularly frustrating since we have had to cut our costs to the bone to compete in this marketplace.

I can't begin to describe the negative effect that this process has had on our employees. Incidentally, this contract accounted for about 10 percent of our Federal business when we learned that it was going to be taken away. The Government did not consider the impact upon our business when making their decision.

Over the years that I have been in business, it has been rather difficult to comply with all the requirements of Government. However, with good management and attention to detail, we have done just that. We have always been in compliance with Government requirements, and furthermore, we have exceeded the customer's performance expectations. What we cannot do is survive Government preventing us from competing for contracts.

I believe that this is a situation. Companies like mine will lose; in fact, they will go out of business. Minority companies will lose after short-term gains since they will know nothing of competing in the open market. Government will lose since lack of competition will drive prices up and quality down.

I do not ask Congress to do anything for me or my company. I simply ask that you give back the free market and let nature take its course. I thank you.

Chairwoman MEYERS. Thank you very much, Mr. McCallie.

[Mr. McCallie's statement may be found in the appendix.]

Chairwoman MEYERS. Ms. Nancy Archuleta, president of MEVATEC Corp. of Huntsville, Alabama.

#### **TESTIMONY OF NANCY E. ARCHULETA, PRESIDENT, MEVATEC Corp.**

Ms. ARCHULETA. Yes, ma'am, thank you. Thank you, Chairman Meyers and members of the Small Business Committee for the opportunity to submit testimony today on the Small Business Administration's 8(a) Program.

My name is Nancy E. Archuleta. I am the chief executive officer and owner of MEVATEC Corp. located in Huntsville, Alabama. I am a science and engineering company and provide high-tech services to the Federal Government and in the commercial sector. I am also the Chairman of LAMA, an association devoted to the promotion of opportunities for Hispanics and other minority businesses.

I was designated to testify as a representative of the Coalition of Minority Business Associations. This coalition has been recently reconstituted as the council on Minority and Women-Owned Business. The council, originally comprised of 12 minority associations, is growing to include many women's groups and regional 8(a) associations throughout the country. In the audience today are members of our council, and I would particularly welcome the Region X 8(a) association here from the Seattle area and the Region IV 8(a) association here from as far south as Georgia, Florida, and Alabama.

Collectively, our council represents thousands of women- and minority-owned businesses nationwide. A list of the founding associations and some of their comments and positions is included in our written testimony, which I would respectfully request to be included as a part of the record.



Today, I would like to testify about my company and the significant contributions that the SBA 8(a) Program has made to its success, but first I would like to present two thoughts from President Bush's U.S. Commission on Minority Business. First, the Commission's chairperson, Joshua Smith, noted that "Civil rights without economic strength is a borrow event. It can be taken away at any time."

The Commission urged that "minority-owned firms not be viewed in isolation of other national economic priorities. Above all, well-conceived and executed minority business programs must be considered as a tool of solution and not a burden that the Nation is made to carry on the road to sustained economic growth. In short, such programs will generate far more national wealth than they may consume, and by so doing, are well worth the investment."

I believe my company serves as an example of the latter statement. In 1985, I started MEVATEC Corp. in Las Cruces, New Mexico as a manufacturing business created to serve the maquiladora industry in trade along the U.S.-Mexican border. As a single parent for over 8 years, my primary concern was to generate a source of income and provide security for my family and to avoid dependency on social welfare and social programs.

The business faced numerous obstacles in the first few years and, despite my best efforts, we struggled to stay afloat. Then, at the end of 1987, we lost a major contract to offshore competition, and my business plummeted. Fortunately at that time I learned of the 8(a) Program through an acquaintance who put me in contact with someone who said the 8(a) Program was working for his company. He told me that the 8(a) Program was created under President Nixon to assist minority entrepreneurs and to move socially and economically disadvantaged individuals into the economic mainstream of society.

I subsequently was admitted to the 8(a) Program and I can tell you that without the assistance I received, I would not be testifying before you today as the owner of a successful small business recognized as Prime Contractor of the Year, Entrepreneur of the Year by Ernst & Young, Inc. magazine and Merrill Lynch. Quite simply, I would not have had the opportunity to participate in the American Dream.

The 8(a) Program provides unique and vital assistance to the business development of minority-owned firms. Unlike the circle of reliance common under the social welfare legacy, participation in the 8(a) Program is strictly limited to 9 years. More importantly, there are no giveaways or entitlements in the program.

First of all, all applicants to the program must complete a rigorous application process that is designed to ensure that only truly socially and economically disadvantaged individuals are admitted in the program. I had to submit testimony proving that I had been discriminated against.

Moreover, once a firm gets into the program, there is no guarantee that it will receive contractual assistance. Rather, I have had to put substantial amounts of time and effort into each and every contract I obtained. Only firms that can provide the highest quality services at fair market prices receive contracts under the 8(a) Program.

In addition, the program is structured to ensure that a firm does not become unduly reliant on 8(a) contracts. During the second stage of the program, participating companies are required to obtain a proportionate share of contracts outside the program. This again is a unique aspect of the 8(a) Program.

The program is also needed to promote diversity within Government contracting which maximizes competition and ultimately provides the Government with higher quality goods and services at competitive prices.

Historically, 80 percent of Federal procurement dollars are awarded to large businesses with over 1,000 employees, and only 25 percent of those dollars are normally competed. In Mr. Barber's victory speech, I was very proud to hear him say, "Ours is a party of small business, not big business, of Main Street and not Wall Street."

The target sitting before you today, I submit, Madam Chairman, should be big business and the disproportionate number of dollars that they get under sole-source contracts. However, less than 4 percent of the procurement dollars have historically been awarded to minority-owned businesses, 20 percent of those dollars to small businesses. We are here today pitted against each other to fight over 20 percent of the Federal procurement dollars versus the 80 percent that hasn't been addressed.

The assistance provided by the 8(a) Program not only helps businesses such as mine, but it also benefits the American public as a whole. I am going to submit a few more statistics, and I ask that the balance of my remarks be made a part of the testimony. Let me give you just a number of points that I would like to make.

I would propose that you have noncompetition during the first 4 to 5 years of the 8(a) Program, assuring that GNA dollars in the form of bidding proposal dollars would go to bidding competitive work, not 8(a) work. That way, we could assure that we have a distribution of those dollars to make us competitive.

Quotas — large dollar amounts that we hear about, the megamillions of dollars that are put into the 8(a) Program is somewhat of a distorted figure. Many of those are awarded under IDIQ and never even met. We may get a small percentage of those dollars, so a skewed number is shown as being the number that we are actually participating in.

I could go on and on, but I do want to summarize by saying that we as a coalition ask you to please review the bipartisan bill presented by Senators Kerry and Pressler in the 103rd Congress in the Senate, and we propose that that is a good place to start, where the 8(a) Program should be addressed.

Thank you very much.

Chairwoman MEYERS. Thank you very much, Ms. Archuleta.

[Mr. Ms. Archuleta's statement may be found in the appendix.]

Chairwoman MEYERS. To start our questioning, I will call on Mr. Thompson.

Mr. THOMPSON. Thank you, Madam Chairman. Let me say you have indeed impaneled a diverse group, obviously.

I would like to ask Mr. Clark, in terms of your participation in the program, can you indicate to me whether or not you think it

is a good program that your company could have survived without the support given you by 8(a)?

Mr. CLARK. As I indicated earlier in our testimony, the 8(a) Program was absolutely essential to our success as a construction company.

As you may know or may be aware, there are very, very few minority railroad contracting companies in the country, and this market was previously unavailable for us to penetrate. Through the program, we were able to obtain access to this Federal market through set-aside programs. We negotiated the programs, the contracts, and we also bid them in a competitive 8(a) situation. We were able to provide to the Government outstanding quality work, and indeed after they got — after they saw the work that we did, they asked us to come back again and again; we have continuously repeat customers because we were given that opportunity. We would never have been given that opportunity otherwise. We have to deal with the “old boy” networks and the situations like that, where we are not permitted an opportunity.

Mr. THOMPSON. Thank you.

One of the things I think some people perhaps misinterpret is the fact that many of the people who lose contracts attribute that to minority companies. It might be something internal to that company, but I think the perception that the reason my company fails is because these programs are giving an unfair advantage to minorities is not looking at the bigger picture.

The bigger picture is that historically in this country minority companies are at the bottom of the totem pole, and it is a recognition that those companies, just like every other American citizen, deserve an opportunity to participate in that American Dream that was referred to earlier.

So, we all look for common ground, but we also look at what the facts are, and the facts say that even with 8(a), even with affirmative action, we still have a long way to go. I think you want to say something else, Mr. Clark.

Mr. CLARK. Absolutely, that is the case. In industries, such as construction, which are capital intensive, we have to be given a helping hand in order to compete; and we have competed very well over the last 9 years in the 8(a) Program. As I said, we have a decreasing amount of our revenues outside of the — we have a decreasing amount of revenues in the 8(a) Program, and we are basically dealing with the commercial markets.

But the fact of the matter is, the companies who have been in business for hundreds of years, who have tremendous capital, who can underbid us each and every time will continue to dominate the market.

We have only asked for a small percentage of the work here. There is over \$1.2 billion of railroad work done every year. The maximum that Metroplex can do would be \$17 million. You should see how the National Association of Railroad Contractors and AGC attack companies such as Metroplex because we are asking for, again, a crumb.

We appreciate the opportunity that the 8(a) Program has given us to be successful and to show the kind of quality work that we can do as a company.



Mr. THOMPSON. Thank you very much. I guess on a personal note, Bishop Ford is a personal friend of mine; Saints Academy in Mississippi is located in my district. That is a religious reference. Chairwoman MEYERS. That is allowed.

Mr. THOMPSON. You have a strong bishop. Thank you very much.

Mr. CLARK. Thank you. Thank you.

Chairwoman MEYERS. Mr. Bartlett.

Mr. BARTLETT. If you didn't believe that a thin sheet of paper had two sides, you would certainly believe that after the testimony today. We have heard testimony indicating strong support for the 8(a) Program and other testimony indicating that the program is disadvantageous to both those that it was designed to help and to others. But if you sit and listen to the testimony, as we have now for 3 hours, I think that the message that comes through is that there is a concern that there will really be a truly level playing field for everyone to compete on, that the concern is not so much minorities as it is discrimination which can be anywhere.

In listening this afternoon, I thought about Martin Luther King and his dream that there would be an America in which he could be judged by the content of his character and not the color of his skin; and I think that that is what all of the panelists are asking for.

My personal feeling is that he would be somewhat distressed at the implementation of some of these programs which are really still judging people by the color of their skin and not the content of their character, and I think that the desires of those who have argued most eloquently on both sides of this issue could be met if we truly had a playing field that represented that dream that Martin Luther King had, where every company could be judged on the content of its proposal and not the color or sex of the person who wrote the proposal; and I wonder if any on the panel — particularly Mr. McCallie; I was impressed with your testimony — if you have a comment on what I have just said.

Mr. MCCALLIE. As far as the desire to have equal access to the market, is that what—

Mr. BARTLETT. Yes. This program — obviously this program was initiated with the best of intentions.

Mr. MCCALLIE. Right.

Mr. BARTLETT. No one argues about the intention in initiating the program, but the implementation of the program, in the view of many people, leaves a whole lot to be desired as benefiting — you hear some success stories; what we haven't heard today are the failures of all of those firms that were misled, given money, could not be competitive, dropped out of the program. We haven't heard from those firms.

Mr. MCCALLIE. I think equal access is very important, and I think you would hear among nonminority small businesses the same complaints about access to the market, the Federal marketplace. I think part of the problem is that the work packages, in many cases, are very large. Neither a small business nor a small — or any kind of small business, whether they be minority or otherwise, really doesn't have a shot at those huge contracts; and often they could be broken, and it would make sense to break them, into smaller work packages.

But I agree with your statement that I think that we have gotten off track somewhere. I think that the dream of Dr. King isn't being realized in either the 8(a) or a number of other minority or set-aside programs of that nature, social set-aside programs.

Mr. BARTLETT. Mr. McCallie, if you had made your wife the President of your company, would you not then have been a minority company?

Mr. MCCALLIE. I guess actually there are three ways I could accomplish that, or two that I know for sure. I could have — when I started the business, I certainly would have qualified financially, and I could, as you say, give my wife one more share and qualify for certain set-aside work. I also have Native American blood, which I have never bothered to certify, and possibly that would lead somewhere if I wanted to do that, but it is not a route that I have chosen or would ever choose to go.

Mr. BARTLETT. Thank you very much.

I think there is no one who argues that we should not have unlimited opportunities for everyone in our society, and there are a number who would argue that if you provide special preferences for some that that augurs against the unlimited opportunities for all. What we want is a program in which Dr. King's dream can be realized, and I hope that we will be moving in that direction.

Thank you very much.

Chairwoman MEYERS. Mr. Tucker.

Mr. TUCKER. Thank you, Madam Chairman. I am so happy to follow my colleague, especially when he starts talking about Dr. King's dream.

What Dr. King talked about when he came to this fine city was not only a dream, but the fact that there was a check that was written but there was a big NSF that was stamped on it, non sufficient funds, the debt was unpaid. The debt is still unpaid, and I find it very disingenuous when people come up here and they tell us that these programs are not working because they are not working for white male companies, that they are not being fair to them, that they are not working or that the dream is not being realized because there is some kind of reverse discrimination.

It seems to me pretty clear, Madam Chairman, that these programs were engendered to deal with the problem of discrimination for those persons who were socially and economically disadvantaged. Now, maybe the bath water is a little dirty, but let's not throw the baby out with the bath water.

I think that we should refine and retool the 8(a) Program; I think there have been some excellent suggestions here as to how we can do that. If there is a problem in terms of the concentration of participation, then let it be a problem that we need to address to decentralize the participation for those who are socially disadvantaged, not for that 80 percent, as Ms. Archuleta has informed us about, who traditionally and perennially get the contracts.

So, I think it is really disingenuous when we talk about fixing the problem, to use that as a platform, as a springboard for those who all of a sudden want to come here and talk about their rights and how they are disadvantaged. I just think it is incredible. Dr. King is turning over in his grave right now when he hears that kind of language.

Lastly, I just want to say, Mr. Clark, I read your statement, you had some very excellent recommendations in there as to how we can redefine and refine the 8(a) Program. I know you talked about the mentor/protege program. I wish you would have spent more of your time — I know time is of the essence — I wish you would spend more time laying out specific recommendations. I thought there were some real good specific recommendations in there.

Ultimately, my point is that we need to do better with the 8(a) Program. Yes, we need to make sure that the graduates of that program do compete, but when we start talking about lowering the competitive thresholds, then it just undermines in my mind the whole spirit of why we have an 8(a) Program from the very beginning. If it is supposed to be a totally competitive, free market program, then what the hell do we need an 8(a) Program for? What do we need one for?

We were trying to address the current and present effects of past racism and discrimination, whether it has to do with women or whether it has to do with minorities, and whether the law comes out and says race, Mr. O'Donnell, that is irrelevant. It is irrespective of the point.

I think the whole intent in the history of the program has pointed to the fact that it is not race neutral, this society is not race neutral; it does take into account who you are, it does take into account the color of your skin, and you can't change that, and that is why I believe we need an 8(a) Program.

Chairwoman MEYERS. Thank you. I wish we could not have demonstrations from the audience.

I do think, obviously, this is an issue that raises strong feelings on all sides. I do not want to feel like anyone on this committee cannot speak their mind, however, as obviously Mr. Bartlett was. I think that whenever you lock someone in, you lock someone out; and although this may not have been started by law to be a program that was defined entirely by race, that is what it is now, and I think it is interpreted that way.

I know that I have talked to a number of Caucasian women who felt that they were a great deal more disadvantaged than some of those who were in the program, and they have tried and tried to become a part of the 8(a) Program, and it is denied them.

So, this is something that does arouse very strong feelings, but I think the feelings on all sides of the issue are very respectable.

Can I ask, what enforcement have any of you seen of the competitive business mix requirement after you have been in the program 5 years? 20 percent, and a growing percentage of your contracts, are supposed to be non8(a), but I wonder if that is enforced in any way. Has SBA ever denied an award of a contract because of a firm was not meeting its business mix requirement?

Ms. ARCHULETA. I would like to address that question, Madam Chair.

Chairwoman MEYERS. Go ahead.

Ms. ARCHULETA. Yes, I have been denied access to a contract because of the issue of competitive mix; we must prove that consistently in our business plan. We actually have to submit that through our quarterly financials that are reviewed, depending on where our gross revenues are coming from, and unless that infor-



mation is in and it is accurate and it is on time at SBA, my SBA office in Birmingham, Alabama, will not sign off on an 8(a) contract.

So, yes, I have seen very strict enforcement of that. They are willing to work with us to get to that point, but that is something that I have seen.

While I have the floor, I would like to make just one comment regarding the proportion of 8(a) contracts amongst a few contractors. I would submit again that — and, really, my heart bleeds for Mr. McCallie because I happen to sit on the Huntsville Association for Small Businesses in Advanced Technology, which is a group founded in Huntsville, Alabama and is made up of all elements of small business, not just minority business; and we sit around the table and we lament, and our position has now come to be that we must not fight amongst each other for that mere 20 percent, that we must target on who the real culprit in all of this is. You will find that those 80 percent dollars that go to the Federal — the Federal procurement dollars go to approximately 20 percent of all of the large businesses in the country. So, you have a disproportion there.

The fundamental way the Government does business — I have shared the experience Mr. McCallie has, where I have had to lose employees, and their position was, I do not become loyal to a company because all I do is trade badges. The way the Government does business, they perpetuate that, because they use the 8(a) Program to identify simple ways to offer those contracts.

Let us look at the fundamental way the Government does business and the procurement process that is followed, and let us look at why those 80 percent dollars are not being redistributed amongst all of us at this table.

Thank you.

Chairwoman MEYERS. Mr. McCallie, did you want to comment on that, or Mr. Gomez, I think it was that raised his hand, and then I will come back to you, Mr. McCallie.

Mr. GOMEZ. Thank you. In our neck of the woods we have a totally different experience. Towards it is the tail end of our participation, I became aware of at least two firms that were not in compliance with the private or, if you will, the competitive portion of the program. SBA went ahead and awarded a contract to those firms even though there were written complaints about those firms.

The intent of the program is a business development program. I cannot see why we cannot have some level of competition right from the outset among firms beginning, and say the second year firms have another level of competition, and again for third-year firms, so that there is a taste of what it is to compete. I am not saying, throw somebody starting out and let them compete with General Motors; that is not feasible. But let a firm compete with another minority firm at the same level.

I think it is very important to emphasize that the spirit of competition is when that firm graduates, they are not dependent on the system.

Chairwoman MEYERS. Thank you.

Mr. McCallie.

Mr. McCALLIE. Thank you.

I think Ms. Archuleta hit on something very significant. I am not one, you have probably gathered, that promotes Government intervention in the free market to any great degree, but there are steps taken by our Government — Securities and Exchange Commission tries to prevent the domination of a marketplace by any business or small group of businesses; and there is a dominance by large business in the Government marketplace, as I said before, because of the size of the work packages.

Now, I do not know exactly what you do about that, but if we had to rely on small business set-asides, we would not be in business. We win contracts in the open market, but they are all small, comparatively small. We could not win a \$100 million contract. We might win a \$3 million contract, and that \$3 million contract might not be set aside for anyone, but if there were more of those kinds of work packages — and in some cases, it would make sense. I know work that we have looked at and were amazed that these groups of unlike things were brought into this huge umbrella contract, and you wonder how anyone, even large businesses, could make any sense of it.

But I think there is something to be said — and maybe that is what is putting us all at odds with each other; it is a tough market for small business the way it is currently defined.

Chairwoman MEYERS. Yes, Mr. Clark.

Mr. CLARK. With regard to your question regarding the competitive business mix, I must say that our district office was very, very strict in making sure that we complied with those before any contract was given to us; and I have to commend them for again following the law, but I do have to just say a couple of things.

First, because of the vestiges of discrimination — we are talking about having a level playing field, but the majority was ahead in the game before we even got to the field. When I was in Chicago, I was working on what was called a Chicago plan, a plan to increase minority participation in the construction trades industry. The fact is that they would not even let black people into the unions until the Federal Government required them to do so. So, how can we begin to develop skills until we have a chance to get a job?

Also, I want to point out again, in the *Richmond v. Crossing* case in Richmond, Virginia, at the end, when the decision was made, the percentage participation in the construction trades there went from 35 percent to 1 percent; and this is a perfect example of the need for affirmative action and for these type programs, because we would not get an opportunity to compete and really to be in the program, to be in the picture otherwise. It is absolutely necessary.

In railroad construction, it was unheard of for a minority to come into this area. When I came into the industry, everyone fought me because they did not want me to succeed; I had suppliers who would not work with me; I had subcontractors who would not work with me; I had bankers who would not give me credit, bonding companies were all afraid of us. It was because of the 8(a) Program and people recognizing the protection or the assistance that we got that we were able to succeed.

Once we did get into the program, once we did the job, we won all kinds of awards and people were continually asking us to come back.

Chairwoman MEYERS. Well, thank you very much for that contribution.

Mr. O'DONNELL. Could I make one comment about that?

I don't disagree with what Mr. Clark said. The problem is we keep talking about this level playing field. This is a zero sum game. When you put a job in the 8(a) Program or the SDB Program for the Department of Defense, or the DB Program for the Department of Transportation, or it used to be the MBE Program for the District of Columbia government here, you are taking an opportunity from my company to submit a bid.

Now, people may think this is a minor inconvenience. Before we filed suit against the District of Columbia in 1989, they set aside 98.4 percent of our work over a 5-year period. We were allowed to submit 1 bid on 300 contracts over a 5-year period.

When the 8(a) Program expanded from the early 1970's and then the 1207 Program was added by the Department of Defense, that killed us. We are not even allowed to pick up plans and specs on many of the jobs in this area. When I filed a Freedom of Information Act to try to get one at Walter Reed Army Medical Center, they withdrew it from competition, put it in the 8(a) Program, so I was not even allowed to look at the drawings. I think that is just bizarre.

We talk about leveling the playing field. I am not allowed into the stadium, and my brother and I have done nothing wrong. We started our company 10 years ago, it will be 10 years ago in May, and we faced many of the same problems that many of these company owners faced here.

It is difficult to start a small business. It is difficult to succeed. Most small businesses fail. That is a fact of life. The percentage is huge; I think it is 90 percent over a 5-year period will eventually go out of business for one reason or another. I do not think that the reason is discrimination; I think something needs to be done to eliminate the discrimination. But the burden is being borne by small businesses that are least able to support that burden. This is just an inconvenience to large firms.

Most firms have someone they can do a joint venture with or they will subcontract a large amount of that project to, and many of these firms now look on it as a competitive advantage.

You asked earlier about the percentage of being a problem toward graduation. Some of the firms that I worked with that were in the 8(a) Program, the percentage was nothing. It was just a windfall to them. They were well-managed, well-funded firms that happened to meet the qualification; and it really might have only been 10 or 20 percent of the work anyway. But the profits generated from those firms allowed them — those contracts would range anywhere from 50 to 100 percent and allowed them to bid work in an open market setting at cost.

Chairwoman MEYERS. All right. I thank you.

Mr. Souder, do you have questions?

Mr. SOUDER. I have a couple. I am sorry if any of these are repetitive; let me know. I apologize for being late. Did you talk about



minority business enterprises in the sense of fraudulent MBE's, and how many of you have seen of those in your areas where — could you elaborate on that a little, Mr. Clark?

Mr. CLARK. One of the things that my industry did to try to compete with Metroplex would be to try and form their own MBE's, and they would put their wives in charge of their businesses, and all of a sudden the major competitor, major majority competitor became a minority business. It was the same people, but they changed their names and came in and took a large percentage of the DB requirements on major contracts.

I found this to be the case very often. Again, you would be surprised how often it would happen with a company as small as mine. We were not taking up a big percentage of DB, of the railroad construction work.

Mr. SOUDER. Have any of the others seen that, where you have the wife of a nondisadvantaged person, say, being the head of a company and all of a sudden they are one of the main minority enterprises in that area?

Mr. O'DONNELL. I saw it several times, and not necessarily the wife, but sometimes another relative, sometimes another firm. Some of these firms set up many other firms.

The other problem with the fraud was, you are talking about so much money involved in one contract. Generally, on construction contracts, you might be looking at 4 or 5 percent net profit on a small job. It might even go down lower on a larger job, 8(a) firms, to a very competitive company, competitive in the open market at the same time they are in the 8(a) Program. As I say, 50 to 100 percent was not that unusual. When you take away the low price as a criteria for receiving your — I am not making this up, OK? I am not.

I have worked for many — somebody was talking about me coming in here lately. I have been doing this for 25 years. I started opposing these programs 8 years ago when it was clear to my brother and I that we were not going to be allowed to stay in business if these programs continued and promulgated.

Last year, I could not believe it when Congress passed that program extending the 1207 Program to every agency in Congress. We are shut out completely. We cannot submit bids to publicly funded Federal construction contracts in the Nation's capital. We are not out in the backwoods someplace. We are right here, right under the nose of Congress, and it is absolutely repugnant that these programs have been allowed to go along so long, and they do so little for the people they were supposed to help. I am sorry.

Ms. ARCHULETA. May I address your question?

Yes, I have seen it happen and, in fact, if you would pick up — not promoting any magazines or anything — but if you would pick up the February issue of Inc. Magazine, I took a very strong position against it. I believe that earlier we had discussions about regulating that, and I do have a concern about the streamlined process for admission into the 8(a) Program. Yes, it took me 2 years, but, boy, I earned it when I got there.

Mr. SOUDER. Are there other ways to anonymously challenge at this point in most agencies?

Do anonymous challenges to phony MBE's exist? In other words, does it work that you can call in somebody and they get audited?

Ms. ARCHULETA. I believe that that may result in some protest, but I could not address that intelligently.

Mr. O'DONNELL. I can. I started my challenge procedure, the first one, under the Department of Transportation in May of 1989; I challenged the social and economic disadvantaged status of eight individuals I knew for a fact are neither socially nor economically disadvantaged. I have yet to get a final decision from the Office of Civil Rights from the Department of Transportation on those challenges.

It does not work; you are not allowed to get the information. I tried to get the information under the Freedom of Information Act; they will not send it to you. We are trying to prove a negative, that somebody is not socially disadvantaged, that somebody is not economic disadvantaged; it is almost impossible.

Chairwoman MEYERS. I am going to have to conclude the hearing — I am sorry, Mr. Clark — because we have a vote. The two lights on the clock indicate we have a vote. We have about 8 minutes yet to get there and register our vote.

I appreciate very much all of you being here today, and I can tell there is a lot of intensity and a lot of concern and we have learned a great deal from it.

We will keep the record open for written testimony.

[The information may be found in the appendix.]

Chairwoman MEYERS. Thank you very much.

[Whereupon, at 5:15 p.m., the committee was adjourned, subject to the call of the chair.]

**APPENDIX****STATEMENT OF REPRESENTATIVE FLOYD H. FLAKE  
BEFORE THE COMMITTEE ON SMALL BUSINESS**

THANK YOU, MADAM CHAIRMAN AND COMMITTEE MEMBERS FOR PROVIDING THIS OPPORTUNITY TO REVISIT THE CONCERNS OF THE 8(a) PROGRAM, AND THE POTENTIAL REFORMS NECESSARY TO MAKE IT MORE RESPONSIVE TO THE NEEDS OF THE MINORITY BUSINESS COMMUNITY.

THE 8(a) PROGRAM WAS INTENDED TO FOSTER BUSINESS PARTICIPATION AND OWNERSHIP, SPECIFICALLY DESIGNED TO LEVEL THE BUSINESS PLAYING FIELD, FOR SOCIALLY DISADVANTAGED INDIVIDUALS. DUE TO DISCRIMINATORY BARRIERS TO BUSINESS ENTRY, THE PROGRAM'S INTENT WAS TO PROVIDE EXPOSURE AND ACCESS TO GOVERNMENT PROCUREMENT CONTRACTS THROUGH A BUSINESS DEVELOPMENT PROGRAM.

I BELIEVE THAT WE SHOULD CONTINUE TO ENSURE ACCESS TO CAPITAL, BUSINESS OPPORTUNITY, AND MANAGEMENT ASSISTANCE THROUGH THE 8(a) PROGRAM FOR YOUNG DEVELOPING COMPANIES WHICH ARE THE ENGINES OF JOB CREATION IN OUR ECONOMY. I ACCEPT THE FACT THAT IN MANY INSTANCES 8(a) HAS STRAYED FROM ITS INTENDED MISSION AND WE SHOULD ADDRESS THESE ISSUES IMMEDIATELY. HOWEVER, I DO NOT BELIEVE THAT WE SHOULD ELIMINATE THIS WORTHY PROGRAM DUE TO POLITICAL BACKLASH.



IN CLOSING, I CONGRATULATE MADAM CHAIRMAN FOR HOLDING THIS HEARING AND THANK THE DISTINGUISHED PANEL OF WITNESSES FOR TAKING TIME TO SHARE THEIR VIEWS ON THIS IMPORTANT ISSUE.

THE HONORABLE EARL F. HILLIARD

MEMBER OF CONGRESS

**8(a) REFORM/THE FUTURE OF THE 8(a) PROGRAM.**

OPENING STATEMENT SUBMITTED TO THE FULL  
SMALL BUSINESS COMMITTEE.

THANK YOU MADAM CHAIR FOR THE OPPORTUNITY  
TO ISSUE THIS STATEMENT. FIRST LET ME EXPRESS  
MY APPRECIATION TO THE PANELISTS FOR THEIR  
PARTICIPATION IN TODAY'S VERY IMPORTANT  
HEARING.

THE 8(a) PROGRAM HAS BEEN SCRUTINIZED SEVERAL TIMES SINCE IT'S INCEPTION TWENTY FIVE YEARS AGO. YET, THE SCRUTINY THIS YEAR IS PERHAPS THE MOST SEVERE SEEN SINCE THE PROGRAM BEGAN. I AM HERE TO ATTEST TO THE FACT THAT THE 8(a) PROGRAM IS AN EFFECTIVE PROGRAM, WHICH IS ESSENTIAL TO THE GROWTH OF MINORITY BUSINESSES. THIS POINT MUST BE BROUGHT TO LIGHT, ESPECIALLY IN RELATION TO THE BROADER ISSUE OF AFFIRMATIVE ACTION.

THE 8(a) PROGRAM WAS CREATED TO AID MINORITY FIRMS IN GAINING ACCESS TO FEDERAL CONTRACTING OPPORTUNITIES. THE PROGRAM HAS HELPED THOUSANDS OF FIRMS WHO HAVE



HISTORICALLY BEEN SHUT OUT OF THE FEDERAL CONTRACTING PROCESS. YET, THE NUMBER OF FIRMS THAT HAVE BEEN ABLE TO "GET THEIR FOOT IN THE DOOR" IS DISMAL, COMPARED TO THE BROADER PICTURE OF FEDERAL CONTRACTING.

CURRENTLY, THERE ARE 5,300 8(a) CERTIFIED FIRMS WHO RECEIVE A MERE 2.5% OF THE 180 BILLION DOLLARS IN CONTRACTS THAT THE GOVERNMENT ISSUES EVERY YEAR. IT IS CLEAR THAT A LEVEL PLAYING FIELD FOR MINORITY FIRMS DOES NOT EXIST IN THE FEDERAL CONTRACTING ARENA. THEREFORE, CURRENT MECHANISMS WHICH ENSURE THAT WE CONTINUE WORK TOWARD ESTABLISHING A LEVEL CONTRACTING PLAYING FIELD MUST BE

PRESERVED AND ENDORSED. THIS POINT LEADS TO THE BROADER ISSUE OF AFFIRMATIVE ACTION.

JUST AS THE 8(a) PROGRAM IS DESIGNED TO AID IN MOVING TOWARD A LEVEL ECONOMIC PLAYING FIELD, OTHER AFFIRMATIVE ACTION PROGRAMS ARE DESIGNED TO MOVE TOWARD LEVEL PLAYING FIELDS IN THE SOCIAL AND POLITICAL ARENAS. THOSE PROGRAMS MUST ALSO BE MAINTAINED AND SUPPORTED. THE TRUE ISSUE IS NOT DENYING OPPORTUNITIES FOR ANY AMERICAN; THE TRUE ISSUE IS PROVIDING OPPORTUNITIES FOR ALL AMERICANS.

THANK YOU AGAIN MADAM CHAIR FOR THE

OPPORTUNITY TO ISSUE THIS STATEMENT.



Opening Statement of  
The Honorable John J. LaFalce  
Ranking Minority Member  
Committee on Small Business  
Hearing on the Minority Business Development Program (8(a))  
March 6, 1995

Thank you, Madame Chairman, for calling this hearing.

The Small Business Administration program we are examining today -- the Minority Small Business and Capital Ownership Development Program, better known as 8(a) -- is one whose creation was prompted by the realities of an America we don't want to think existed or exists, and whose intent has always been laudable, but whose implementation has often been poor and whose results, therefore, have been uneven.

Indeed, three Public Laws have been enacted to reform the program, the most recent being the one that I introduced in 1988, which was signed into law as the Business Development Reform Act, Public Law 100-656. The purpose of these laws was to tighten the program requirements for both the SBA and participating businesses so that the program could better achieve its objective, which is, essentially, to foster the business development of small minority firms so that there is -- after a fixed period of time for receiving guidance and assistance -- an expectation of business success in the competitive marketplace at least equal to that of small business concerns generally.

An expectation of business success. Not a guarantee. All entrepreneurs, whatever their class, race, or gender, are not equal and no government program can or should try to make them so. Some are smarter, some are luckier, etc. But government can and should provide all entrepreneurs with the equal opportunity to be what they have the potential to be, and give them the chance that society and the marketplace may not afford them in the normal course of things.

How this is best accomplished is a matter about which reasonable persons can disagree. On the one hand, the House approved the conference report on the 1988 reform bill by a voice vote and the 8(a) program has survived Democratic and Republican administrations. On the other hand, individuals of every stripe and strata of society agree that the 8(a) program is not perfect.

Almost everyone has an opinion of this program -- or at least what they think is this program. 8(a) has accumulated a number of misperceptions and misinformation about its objectives, what it is authorized to do, and how it actually works. I look forward to today's hearing as an opportunity to get the facts -- positive and not so positive -- out in the open for discussion as well as to hear suggestions for making the program better.

**STATEMENT BY CONGRESSMAN METCALF  
FOR THE RECORD  
SMALL BUSINESS COMMITTEE 3/6/95**

Thank you Madame Chairman. Also, thank you to the panel for your testimony.

I have a brief comment.

This morning I spoke with a number of “graduates” from the 8(a) program. Prior to listening to these individuals, I didn’t necessarily have negative feelings about the 8(a) program but, at the same time, I wasn’t sure it produced positive results.

Mr Adrian Lugo, owner of Lugo Construction in Fife, Washington made valid points I agree with: He said, ““When attempting to help minorities, why do we look to welfare when programs like the 8(a) are so effectively training those able, willing and committed to work?””

From what I can tell, the 8(a) program has helped many minorities understand these rules, “graduate” from the 8(a) program and become competitive, tax-paying players in the business world.

As a side-note, When Mr. Manzullo’s Sub-Committee meets to look at procurement, perhaps we should review the agency set-aside programs that, unlike the 8(a) program, have less rigorous standards for inclusion and no sunset-clause on participation.

Are you panel members aware of other such success stories?

Thank you.

STATEMENT OF JAN MEYERS, CHAIR  
REVIEW OF THE SBA 8(A) PROGRAM  
COMMITTEE ON SMALL BUSINESS  
U.S. HOUSE OF REPRESENTATIVES  
MARCH 6, 1995

The Committee will come to order.

This afternoon, the Committee will be reviewing the Small Business Administration's 8(a) business development program, which was created to assist businesses owned by individuals who are socially and economically disadvantaged. As part of a series of hearings scheduled to conduct a top-to-bottom review of the entire agency, today we will receive testimony for use in evaluating the efficiency and effectiveness of the 8(a) program.

It is our responsibility to review the 8(a) program and recommend what actions, if any, should be taken in relation to the program, as mandated in the Oversight Plan adopted by this Committee on February 13, 1995.

In preparation for this hearing, my staff and I have worked diligently to insure a fair and impartial hearing. I believe that a frank, honest discussion of the successes and problems of the 8(a) program is essential if the Committee is to make informed recommendations on this program. One thing that troubles me about the 8(a) program is that many of the problems that existed in the program 20 years ago continue to mar the effectiveness of the program today. That is not to say that progress has not been made, particularly since reforming the program in 1988. However, in these times of austere budgets, comprehensive change may be necessary if programs like 8(a) are to remain viable.

I welcome our witnesses who will be testifying this afternoon. Each of you brings a unique perspective on 8(a) to the table, and I look forward to hearing your comments and recommendations on this important program.

Before introducing the Ranking Minority Member, Mr. LaFalce, for an opening statement, I would like to take a moment to address protocol for this hearing. I know there is a great deal of interest in these proceedings. We have two very full panels with 12 witnesses testifying. To insure that all witnesses are heard, and that the Committee can complete this hearing in a reasonable amount of time, I would advise Members and witnesses that the 5 minute rule for giving oral presentations, and for questioning, will be strictly enforced, via the electronic timing system. When the red light appears, your time is up. I thank the Members and our distinguished witnesses for their cooperation in this matter.

At this time, the Chair recognizes Mr. LaFalce for an opening statement.



OPENING STATEMENT  
OF  
REPRESENTATIVE KWEISI MFUME (D-MD)

Hearing to examine the SBA's 8(a) Minority Business Development Program.

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Madam Chair, I hope our review, today, of the effectiveness of the 8(a) program and its impact on the small business community will be viewed from the proper perspective. I have consistently testified about the need for this government and this country to realize that the interest of minority-owned firms should be viewed alongside other national economic priorities. Seeing minority business programs as tools for economic solutions is absolutely essential in the ongoing efforts to foster the understanding that efforts to develop minority businesses are investments in America's economic system and not social programs.

If we take the posture that we are discussing a national economic priority, then we should be determining how we buttress these forces rather than criticizing and attempting to dismantle any efforts geared toward this group. Regarding the 8(a) program, strong starts have been made in addressing the persistent problems of the program, and hopefully we can make changes geared toward developing a strong and vibrant minority small business community.

The need to develop the minority business segment of our economy remains evident. National statistics show that while minorities comprise nearly 20 percent of the population, they own less than nine percent of American

businesses. Also, these businesses account for less than 4 percent of the nation's gross business receipts and generate less than 3 percent of the employment produced in the country annually--figures, unfortunately, that have changed very little over the past 20 years.

Madam Chair, notwithstanding the problems that have been cited in the 8(a) program--problems which I believe are correctable--minority enterprise development operating expenditures for FY 1994 of \$20.5 Million helped assist minority-owned firms to secure 5,990 federal contracts valued at over \$4.3 Billion. It is estimated that tax revenue of an estimated \$60 Million was generated from these awards. This revenue exceeded minority enterprise development program costs by nearly \$40 Million. Still, minorities have a business participation rate only one-fourth of that found among non-minorities.

With the kind of return on investment cited, we should be finding ways to make the program work better--not considering dismantling the program like some forces in this Congress are doing. Moreover, while I encourage and applaud the establishment of a government-wide 5% goal for disadvantaged business enterprise, this notion that 37 percent of the population (white men) are entitled to 95% of the opportunity is absurd. The 8(a) program is the only program that attempts to level the playing field for minority-owned businesses that have encountered inequities in their attempts to develop, grow and prosper. The 8(a) program assists minority-owned businesses gain access to the resources necessary to develop and compete on an equal basis. Without

development, the government-wide goal just provides an arena to compete. In fact, I believe that establishing only a government-wide competitive program would exacerbate the problem of concentration among a few firms; those more developed and equipped for competition would consistently beat out start-up firms and mid-level firms. There should remain an arena for development.

I think we all can agree that we want a viable business community inclusive of all segments of our population in order to secure the well-being of our Nation and to advance our status in the global marketplace. Let's work today toward that goal and find ways to improve upon programs designed to foster economic development in underutilized areas. The 8(a) program has tried to address the issue of minority alienation in the federal marketplace and we must help it continue to do so.

Lastly, Madam Chair, I would like to say that I believe the minority business community deserves to be heard on this very important matter. I know of only one minority business person who has experience as an 8(a) contractor before us today out of 12 witnesses. The companies that have a stake in this program, the companies that this program was created for, deserve an opportunity to impact their own futures through offering testimony. I would hope that the Chair will look toward additional hearings specifically inclusive of testimony from the impacted group of businesses.

Thank you.

**WALTER R. TUCKER, III**

**OPENING STATEMENT ON 8(A) HEARING**

**MARCH 6, 1995**

**MADAME CHAIR, MEMBERS OF THE  
COMMITTEE, I WANT TO TAKE THIS  
OPPORTUNITY TO EXPRESS MY FULL  
SUPPORT FOR THE 8 (A) PROGRAM AND TO  
URGE ITS CONTINUED FUNDING.**

**ACCORDING TO THE NATIONAL  
PERFORMANCE REVIEW OF SEPTEMBER, 1993:  
..."RECENT STATISTICS FROM THE U.S.  
CENSUS BUREAU INDICATE THAT WHILE  
MINORITIES COMPRISE NEARLY 20% OF THE  
POPULATION, THEY OWN LESS THAN 9% OF**



AMERICAN BUSINESSES. THESE BUSINESSES ACCOUNT FOR LESS THAN 4% OF THE NATION'S GROSS BUSINESS RECEIPTS AND GENERATE LESS THAN 3% OF THE EMPLOYMENT PRODUCED IN THIS COUNTRY ANNUALLY--FIGURES THAT HAVE CHANGED VERY LITTLE OVER THE PAST TWENTY YEARS.

MINORITIES HAVE A BUSINESS PARTICIPATION RATE ONLY ONE-FOURTH OF THAT FOUND AMONG NON-MINORITIES. DESPITE ACTIONS TAKEN TO DATE, IT IS CLEAR THAT MUCH REMAINS TO BE DONE TO BRING THE NATION CLOSER TO THE GOAL OF ENSURING EQUAL PARTICIPATION OF ALL AMERICANS IN THE FREE ENTERPRISE

SYSTEM."

MADAME CHAIR, LESS THAN 3% OF FEDERAL PROCUREMENT DOLLARS ARE AWARDED TO MINORITY SMALL BUSINESSES. THIS IS CLEARLY NOT GOOD ENOUGH!

AS WE MOVE TOWARD THE 21ST CENTURY, POPULATION TRENDS SUGGEST THAT MINORITIES WILL BECOME THE MAJORITY. WITHIN THIS CONTEXT... IT IS VITALLY IMPORTANT THAT THIS COMMITTEE DO ALL IT CAN TO FOSTER AND ENSURE THAT A VIABLE MINORITY ENTREPRENEURIAL BASE IS IN PLACE.

**BEFORE THE  
U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SMALL BUSINESSES**

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**TESTIMONY**

**OF**

**NANCY E. ARCHULETA**

**Chairman & CEO  
MEVATEC Corporation  
1525 Perimeter Parkway  
Suite 500  
Huntsville, Alabama 35806**

**On Behalf of MEVATEC Corporation,  
the Latin American Management  
Association and the Council on Minority  
and Women Owned Business**

Testimony of Nancy E. Archuleta  
Before The  
House of Representatives Committee on Small Business

Thank you, Chairman Meyers and members of the Small Business Committee for the opportunity to submit testimony today on the Small Business Administration's 8(a) Program.

My name is Nancy E. Archuleta. I am the Chief Executive Officer, and owner of MEVATEC Corporation, a science and engineering company. I am also the chairman of LAMA, an association devoted to the promotion of opportunities for Hispanic and other minority businesses.

I was designated to testify as a representative of the Coalition of Minority Business Associations. This coalition has been recently reconstituted as the Council on Minority and Women Owned Business ("Council"). The Council, originally comprised of twelve minority associations, is growing to include many women's groups and Regional 8(a) associations throughout the country. In the audience today are many members of our Council. I would particularly welcome the Region X 8(a) association here from the Seattle area and the Region IV 8(a) association here from as far south as Florida and Alabama. Collectively, our Council represents thousands of women and minority-owned businesses nationwide. A list of the founding associations is included in our written testimony, which I would respectfully request be included as part of the record.



Today I would like to testify about my company and the significant contributions that the SBA 8(a) program has made to its success. But first, I would like to present two thoughts from President Bush's U.S. Commission on Minority Business.

First, the Commission's Chairperson, Joshua Smith, noted that:

Civil rights without economic strength is a borrow event. It can be taken away at anytime.

Second, the Commission urged that:

Minority-owned firms not be viewed in isolation of other national economic priorities. Above all, well conceived and executed minority business programs must be considered as a tool of solution and not a burden that the nation is made to carry on the road to sustained economic growth. In short, such programs will generate far more national wealth than they may consume and, by so doing, are well worth the investment.

I believe my company serves as an example of the latter statement.

In 1985, I started MEVATEC Corporation in Las Cruces, New Mexico as a manufacturing business created to serve the maquiladora industry and trade along the U.S./Mexican border. As a single parent for over eight years, my primary concern was to generate a source of income and provide security for my family.

The business faced numerous obstacles in the first few years and despite my best efforts, we struggled to stay afloat. Then, at the end of 1987, we lost our major contract to an off-shore business and my business plummeted.

Fortunately, at that time I learned of the 8(a) program through an acquaintance who put me in contact with someone who said the 8(a) program was working for his company. He told me that the 8(a) program was created under President Nixon to assist minority entrepreneurs and to move socially and economically disadvantaged individuals into the economic mainstream of society. I subsequently was admitted to the 8(a) program, and I can tell you that without the assistance I received, I would not be testifying before you today as the owner of a successful small business. Quite simply, I would not have had the opportunity to participate in the American Dream.

The 8(a) program provides unique and vital assistance to the business development of minority-owned firms. Unlike the circle of reliance common under the social welfare legacy, participation in the 8(a) program is strictly limited to nine years. More importantly, there are no give-aways or entitlement in the program. First of all, all applicants to the program must complete a rigorous application process that is designed to ensure that only truly socially and economically disadvantaged individuals are admitted in the program.

Moreover, once a firm gets into the program, there is no guarantee that it will receive any contractual assistance. Rather, I have had to put substantial amounts of time and effort into each and every contract I obtained. Only firms that can

provide the highest quality services at fair market prices receive contracts under the 8(a) program.

In addition, the program is structured to ensure that a firm does not become unduly reliant on 8(a) contracts. During the second stage of the program, participating companies are required to obtain a proportionate share of contracts outside the program. This again is a unique aspect of the 8(a) program that, when properly administered, ensures that participants will gain the business development and experience necessary to compete following graduation from the program.

The 8(a) program has proven successful because it provides a tool by which federal agencies can obtain the goods and services they need through a streamlined contracting process. Likewise, companies can obtain contracts without becoming embroiled in lengthy solicitation and protest processes. This unique aspect of the program allows agencies to save time and money, while at the same time providing an effective means for new companies to gain a contract base which enables them to compete in broader markets.

The program is also needed to promote diversity within government contracting which maximizes competition and ultimately provides the government with higher quality goods and services at competitive prices. Historically, 80% of federal procurement dollars are awarded to large businesses with over 1000 employees.

Twenty percent of the procurement dollars go to small businesses under the small business set-aside program. However, less than 4% of the procurement dollars have historically been awarded to minority-owned businesses. Without programs like the 8(a) program, you can be assured that the percentage of dollars going to minority businesses will be even less than the minuscule 5% that they receive with these programs.

The assistance provided by the 8(a) program not only helps businesses such as MEVATEC, but it also benefits the American public as a whole. By helping minority businesses, the program in turn creates jobs and tax revenues for federal, state and local government. More importantly, it provides role models to the minority community that, as you know, has the greatest drop-out, illiteracy and crime rates in the country.

For example, I have been asked to speak at high school graduations, school functions and community programs in Don Ana County, where I am seen as a role model for minorities and women. In addition, the program creates mentors for other minority businesses. A graduate of the program mentored me at his own time and expense, and now that I am more established, I also serve as a mentor to other minority businesses. I also donate a significant portion of my annual profits to the Hispanic scholarship fund. In short, 8(a) businesses assisted by the program do give back to the community. We simply do not do a



very good job of getting this word out.

In conclusion, I urge the Committee to recognize the value and need for programs such as the 8(a) program. While there is always room for improvement, it is undeniable that the 8(a) program provides vital and much needed assistance to minority owned small businesses. Without the 8(a) program, these businesses and their employees will quite simply not be a part of the American Dream.

TESTIMONY OF  
MELVIN E. CLARK, JR.  
PRESIDENT & CEO  
METROPLEX CORPORATION

BEFORE THE  
HOUSE OF REPRESENTATIVES  
SMALL BUSINESS COMMITTEE

REGARDING  
THE SMALL BUSINESS ADMINISTRATION  
SECTION 8(A) PROGRAM

MARCH 6, 1995

TESTIMONY OF MELVIN E. CLARK, JR.

BEFORE THE  
HOUSE SMALL BUSINESS COMMITTEE

GOOD AFTERNOON, CHAIRPERSON MEYERS AND DISTINGUISHED MEMBERS OF THE PANEL.

MY NAME IS MELVIN E. CLARK, JR., PRESIDENT AND CHIEF EXECUTIVE OFFICER, ALSO MAJORITY OWNER OF METROPLEX CORPORATION. MY FATHER, BISHOP MELVIN E. CLARK, SR. IS CHAIRMAN OF THE BOARD AND THE ONLY OTHER OWNER.

INTRODUCTION

IT IS A PLEASURE AND HONOR TO APPEAR BEFORE THIS COMMITTEE TO DISCUSS THE SMALL BUSINESS ADMINISTRATION'S ("SBA") SECTION 8(A) PROGRAM.

IN THE BRIEF TIME AVAILABLE TODAY, I WILL ATTEMPT TO ADDRESS TWO TOPICS:

- FIRST, I WILL ADDRESS THE SPECIFIC EXPERIENCE AND SUCCESS OF MY COMPANY, METROPLEX CORPORATION, WHICH HAS RECENTLY GRADUATED FROM THE SECTION 8(A) PROGRAM.
- SECOND, AS A MEMBER OF THE NATIONAL COALITION OF MINORITY BUSINESSES, THE NATIONAL ASSOCIATION OF MINORITY BUSINESSES, THE NATIONAL ASSOCIATION OF MINORITY CONTRACTORS AND THE LATIN AMERICAN MANUFACTURER'S ASSOCIATION,

I WILL OFFER CERTAIN RECOMMENDATIONS FOR IMPROVING THE EFFICIENCY AND EFFICACY OF THE SECTION 8(A) PROGRAM.

I. METROPLEX CORPORATION

METROPLEX IS A MINORITY OWNED AND OPERATED CONSTRUCTION COMPANY SPECIALIZING IN RAILROAD CONSTRUCTION. OUR WORK RANGES FROM LIGHT RAIL TRANSIT SYSTEMS FOUND IN OUR MAJOR CITIES TO HEAVY INDUSTRIAL RAIL SYSTEMS FOUND ON THE MILITARY BASES THROUGHOUT THE COUNTRY. OUR WORK HAS INCLUDED CONTRACTS WITH THE DEPARTMENT OF TRANSPORTATION, THE DEPARTMENT OF THE NAVY, THE ARMY CORPS OF ENGINEERS AND THE DEPARTMENT OF AGRICULTURE. IN ADDITION TO FEDERAL CONTRACTS, WE HAVE PERFORMED A SIGNIFICANT NUMBER OF MASS TRANSIT-RELATED PROJECTS WITH THE SOUTHEASTERN PENNSYLVANIA TRANSIT AUTHORITY, THE PITTSBURGH PORT AUTHORITY, THE BALTIMORE MASS TRANSIT ADMINISTRATION, AND THE BI-STATE DEVELOPMENT AGENCY.

METROPLEX WAS INCORPORATED IN 1983. WE GRADUATED FROM THE 8(A) PROGRAM IN JANUARY 1995.

ONE OF THE MAJOR FACTORS THAT INSPIRED ME TO BECOME AN ENTREPRENEUR AND TO START METROPLEX WAS THE EXISTENCE OF MINORITY BUSINESS DEVELOPMENT PROGRAMS, SUCH AS THE 8(A) PROGRAM, THAT WOULD PROVIDE



TO ME THE OPPORTUNITY TO PARTICIPATE IN AN INDUSTRY THAT HERETOFORE DID NOT INCLUDE MINORITIES. ANOTHER IMPORTANT FACTOR THAT ENCOURAGED ME WAS PRESIDENT REAGAN'S SIGNING OF THE SURFACE TRANSPORTATION ACT OF 1982 WHEREIN CONGRESS MANDATED THAT AT LEAST 10% OF THE FUNDS FOR THE REPAIR OF OUR NATION'S INFRASTRUCTURE SHOULD BE DESIGNATED FOR MINORITY BUSINESSES. WHEN METROPLEX WAS FOUNDED, THERE WAS ONLY ONE OTHER MINORITY OWNED RAILROAD CONSTRUCTION COMPANY IN THE UNITED STATES. TODAY, BECAUSE OF THESE PROGRAMS, THERE ARE SEVERAL MORE, WITH MULTI-MILLION DOLLAR REVENUES.

THE 8(A) PROGRAM HAS BEEN ABSOLUTELY CRITICAL TO OUR SUCCESS IN PENETRATING THE RAILROAD CONSTRUCTION INDUSTRY. WE STARTED AS AN INEXPERIENCED, UNDERCAPITALIZED COMPANY WITH GREAT AMBITIONS. WE NEEDED HELP! WE GOT IT FROM SBA'S 8(A) PROGRAM. WE WERE ABLE TO OBTAIN OUR FIRST MAJOR PIECE OF CONSTRUCTION EQUIPMENT BY UTILIZING THE SBA'S BUSINESS DEVELOPMENT EXPENSE PROGRAM. THE SBA WAS INSTRUMENTAL IN HELPING US TO FINANCE OUR INITIAL CONTRACTS. THE 8(A) PROGRAM OFFERED MARKETING AND MANAGERIAL ASSISTANCE WHICH ENABLED US TO PENETRATE A LILY-WHITE MARKETPLACE AND SURVIVE OUR FORMATIVE YEARS, AS LONG AS WE PRODUCED HIGH QUALITY WORK AND DELIVERED ON TIME. THE 8(A) PROGRAM CLEARLY OPENED ACCESS TO THE FEDERAL MARKETS THAT WE NEVER WOULD HAVE HAD. IT PROVIDED THE ASSISTANCE WHICH ALLOWED METROPLEX TO AMASS

THE TECHNICAL, MANAGEMENT AND FINANCIAL RESOURCES TO COMPETE TODAY. IN FACT, THE BANKS, THE SURETY BOND COMPANIES, SUPPLIERS AND SUBCONTRACTORS WERE MUCH MORE RECEPTIVE TO METROPLEX BECAUSE THEY WERE AWARE OF THE UNIQUE AND INVALUABLE ASSISTANCE OFFERED TO 8(A) COMPANIES.

THE 8(A) PROGRAM HAS ENABLED METROPLEX TO BECOME A VIBRANT AND AWARD-WINNING BUSINESS. WE ARE CURRENTLY:

1. PROVIDING HIGH QUALITY WORKMANSHIP;
2. CREATING JOBS;
3. HIRING MINORITIES AND WOMEN;
4. PROVIDING MORE COMPETITION IN THE FEDERAL MARKET PLACE; AND,
5. GENERATING TAX REVENUES (METROPLEX HAS PAID OVER \$1.5 MILLION IN TAXES SINCE OUR INCEPTION).

WE ACCOMPLISHED OUR INITIAL GOALS WITH A MIXTURE OF CONTRACTS FROM GOVERNMENTAL PROCUREMENT AGENCIES AS WELL AS NON-8(A) CUSTOMERS -- THE RATIO OF 8(A) REVENUES TO NON 8(A) REVENUES THROUGH THE YEARS SHOWED A DECREASING DEPENDENCE OF 8(A) REVENUES.

THE 8(A) PROGRAM WORKED FOR METROPLEX. A REVIEW OF OUR AWARDS AND COMMENDATIONS, (ATTACHMENT 1 "A PROVEN COMMITMENT TO EXCELLENCE") WHICH I HAVE PROVIDED TO THIS COMMITTEE, PROVE THAT THE UNITED STATES ARMY, THE UNITED STATES NAVY, THE DEPARTMENT OF THE INTERIOR AND THE

DEPARTMENT OF TRANSPORTATION ARE WELL PLEASED WITH OUR DEVELOPMENT. WITHOUT THIS PROGRAM, METROPLEX WOULD NOT BE THE COMPANY IT IS AND, INDEED MAY NOT EVEN BE IN EXISTENCE AS A SUBSTANTIAL CONTRIBUTOR TO OUR NATION'S ECONOMY.

## II. RECOMMENDED IMPROVEMENTS TO THE SECTION 8(A) PROGRAM

AS AN 8(A) GRADUATE, METROPLEX IS AWARE AND CONCERNED ABOUT THE HIGH BUSINESS FAILURE RATE AMONG GRADUATED 8(A) FIRMS. IN THE CONSTRUCTION INDUSTRY, WE ARE, FOR ALL PRACTICAL PURPOSES, LIMITED TO BEING SUBCONTRACTORS TO THE LARGE CONTRACTORS AND CORPORATIONS. AND THE MAJOR REASONS THEY USE OUR SERVICES IS BECAUSE THE GOVERNMENT REQUIRES MINORITY PARTICIPATION. THERE REMAINS A SUBSTANTIAL NEED FOR AFFIRMATIVE ACTION IN OUR INDUSTRY.

THE 8(A) PROGRAM WAS CREATED TO ENSURE THAT GRADUATE FIRMS (IN WHICH THE FEDERAL GOVERNMENT HAS MADE MAJOR INVESTMENTS TO DEVELOP THEIR CORPORATE SKILLS AND EXPERTISE IN SERVING THE GOVERNMENT'S NEED) SHOULD CONTINUE AS VIABLE BUSINESSES, CONTRIBUTING AND FUNCTIONING AS A CONSTRUCTIVE PART OF A DIVERSIFIED UNITED STATES ECONOMY. CLEARLY, THE 8(A) PROGRAM'S FAILURE RATE CAN AND SHOULD BE REVERSED. THE UNITED

STATES SENATE IN A 1986 SURVEY AND REPORT, STATED THAT THE GREATEST SINGLE PROBLEM WITH THE 8(A) PROGRAM IS THE NEED FOR A POST-GRADUATE PROGRAM TO TRANSITION GRADUATE FIRMS INTO THE COMPETITIVE ECONOMIC MAINSTREAM.

A. SBA SECTION 8(A) GRADUATE MENTOR/PROTEGE PROGRAM

MANY COMPANIES HAVE "GRADUATED" FROM THE 8(A) PROGRAM, HAVING CAPITALIZED ON THE BENEFITS THAT THE PROGRAM PROVIDES TO ACHIEVE A MEASURE OF SUCCESS IN DEVELOPING THEIR BUSINESSES. THESE FORMER 8(A) PARTICIPANTS HAVE FIRST-HAND KNOWLEDGE OF THE PROBLEMS WHICH CURRENT PARTICIPANTS FACE IN DEVELOPING THEIR COMPANIES TO PERFORM EFFECTIVELY IN THE FEDERAL MARKETS. THEY HAVE ALSO DEMONSTRATED THE ENTREPRENEURIAL ACUMEN WHICH IS NECESSARY TO SUCCEED IN THIS ENVIRONMENT. THIS UNTAPPED WEALTH OF KNOWLEDGE COULD CONTRIBUTE ENORMOUSLY TO THE SBA'S EFFORTS TO ASSIST CURRENT PARTICIPANTS IN UNDERSTANDING HOW TO GAIN THE OPTIMUM BENEFIT FROM THE PROGRAM.

TO ACCOMPLISH THIS, MINORITY BUSINESS TRADE ASSOCIATIONS HAVE PROPOSED THAT THE SBA IMPLEMENT A SECTION 8(A) GRADUATE MENTOR/PROTEGE PROGRAM. I BELIEVE THAT SUCH A PROGRAM SHOULD BE STRUCTURED IN A MANNER WHICH WOULD FOSTER A STRONG BUSINESS RELATION BETWEEN THE MENTOR AND PROTEGE USING GUIDELINES SIMILAR TO THE DOD MENTOR/PROTEGE PROGRAM.



\* SUCH A PROGRAM WOULD PROVIDE THE FOLLOWING BENEFITS:

1. FOR THE EMERGING 8(A) COMPANY (PROTEGE) -
  - (A) TIMELY AND RELEVANT CRITICAL MANAGEMENT TRAINING BY SUCCESSFUL GRADUATES OF THE PROGRAM
  - (B) SUBCONTRACTING OPPORTUNITIES WITH THE GRADUATE 8(A) MENTOR
  - (C) TECHNOLOGY TRANSFER AND SKILLS ENHANCEMENT THROUGH ASSOCIATION WITH THE GRADUATE MENTOR IN CONTRACTS
  - (D) ACCESS TO SOURCES OF EQUITY CAPITAL FROM THE GRADUATE MENTOR, AND MENTOR ASSISTANCE IN SECURING CREDIT AND FINANCING
  - (E) COUNSELING IN SUCH AREAS AS CORPORATE STRUCTURE, DEVELOPMENT OF MANAGEMENT POLICIES AND PROCEDURES, MANAGING THE GROWTH OF THE COMPANY, FINANCE AND ACCOUNTING REQUIREMENTS, BUSINESS DEVELOPMENT AND MARKETING FEDERAL GOVERNMENT AGENCIES, POSTURING THE BUSINESS FOR SUCCESS, AND PREPARING FOR GRADUATION.
2. FOR THE GRADUATE 8(A) FIRM (MENTOR) -

- (A) ABILITY TO CONTINUE PARTICIPATION IN EFFORTS DEVELOPED WHILE AN 8(A) PARTICIPANT, THROUGH SUBCONTRACTS FROM THE PROTEGE
  - (B) ABILITY TO JOINT VENTURE WITH THE PROTEGE IN AREAS OF MUTUAL INTEREST
  - (C) ABILITY TO INVEST IN THE PROTEGE FIRM DESPITE BEING IN SIMILAR LINE OF BUSINESS, WHICH WILL HEIGHTEN THE MENTOR'S INTEREST IN THE SUCCESS OF THE PROTEGE
  - (D) ABILITY TO RECEIVE REIMBURSEMENT FOR DIRECT SERVICES PROVIDED THROUGH THE 7(J) PROGRAM
3. FOR THE PROCURING ACTIVITIES -
- (A) CONTINUED AVAILABILITY OF GRADUATING 8(A) FIRMS WHILE GAINING THE INTRODUCTION OF NEW 8(A) PARTICIPANTS BEING TRAINED BY PROVEN PERFORMERS
  - (B) CONTINUED FLEXIBILITY AND ACCELERATED PROCUREMENT OFFERED BY THE 8(A) PROGRAM, WHILE GAINING CREDIT FOR USING NEW 8(A) COMPANIES
4. FOR THE SBA -
- (A) PROVEN RESOURCES TO PROVIDE THE REQUIRED LEVEL OF PROGRAM ASSISTANCE TO CURRENT 8(A) PROGRAM PARTICIPANTS

- (B) UTILIZATION OF AN EXISTING PROGRAM, 7(J), TO PROVIDE THE RESOURCES
- (C) A FIRST STEP TOWARD RESOLVING THE ISSUE OF HIGH FAILURE RATE OF GRADUATED FIRMS
- (D) FURTHER STEPS WHICH ARE CONSISTENT WITH THE SPIRIT AND INTENT OF THE PROGRAM AND NATIONAL OBJECTIVES FOR:
  - (i) "INCLUSIONARY" FEDERAL PROCUREMENT PROGRAMS
  - (ii) INCREASED MINORITY EMPLOYMENT
  - (iii) INCREASED BASE OF TAX REVENUES
  - (iv) HEDGE ON URBAN UNREST

B. SBA SECTION 8(A) PROGRAM ISSUES

OVER THE PERIOD SINCE ITS INCEPTION, THE 8(A) PROGRAM HAS BEEN CONTINUALLY MODIFIED TO MEET A HOST OF CONCERNS ASSOCIATED WITH THE ADMINISTRATION OF THE PROGRAM, AS WELL AS TO ADDRESS SOCIAL ISSUES RELATED TO MINORITY BUSINESS PARTICIPATION. TIME LIMITS FOR PARTICIPATION IN THE PROGRAM WERE IMPOSED; STANDARD INDUSTRIAL CLASSIFICATIONS WERE INTRODUCED LIMITING THE SIZE OF THE PARTICIPANTS; AND VARIOUS LEGISLATIVE AND REGULATORY CHANGES HAVE BEEN INTRODUCED TO PREVENT THE POTENTIAL FOR ABUSE IN THE PROGRAM.

WHILE ALL OF THESE INITIATIVES WERE WELL-INTENTIONED, AND SOME WORKED FAVORABLY TO ACHIEVE THE OBJECTIVES OF THE PROGRAM, THERE ARE A NUMBER

OF MEASURES THAT HAVE NO BUSINESS BASIS, AND THEREFORE ARE PROVING COUNTERPRODUCTIVE TO GRADUATING SUSTAINABLE BUSINESSES FROM THE PROGRAM. THERE ARE A NUMBER OF AREAS OF CONCERN, WHICH WE CONSIDER FUNDAMENTAL TO FULFILLING THE SPIRIT AND INTENT OF FOSTERING MINORITY BUSINESS DEVELOPMENT IN THE FEDERAL SECTOR. I HAVE IDENTIFIED THE FOLLOWING SPECIFIC ITEMS THAT NEED TO BE ADDRESSED IN MAKING FUTURE CHANGES TO THE 8(A) PROGRAM. THEY ARE SUMMARIZED AS FOLLOWS:

1. BASE THE FIXED PROGRAM PARTICIPATION TERM (FPPT) ON INDUSTRY STANDARDS USING THE SIC CODES RATHER THAN ON AN ARBITRARILY CHOSEN TIME PERIOD. THE CURRENT NINE (9) YEAR FPPT HAS NO BUSINESS BASIS SINCE IT DOES NOT TAKE INTO CONSIDERATION ANY DIFFERENCES IN THE COMPLEXITY OF DEVELOPING A COMPANY WITHIN THE SPECIFIC INDUSTRY IN WHICH THE FIRM IS ENGAGED. FURTHER, THAT THE GRADUATION OF 8(A) FIRMS BE SUSPENDED UNTIL THIS ISSUE REGARDING THE FPPT IS RESOLVED. (ATTACHMENT #2, "STATEMENT BY SENATOR HEFLIN ON THE NEED TO EXTEND THE PARTICIPATION PERIOD FOR 8(A) PARTICIPANTS IN HIGH-TECH OR CAPITAL INTENSIVE INDUSTRIES.)



2. REMOVE THE SBA FROM THE CONTRACT AWARD AND ADMINISTRATION FUNCTIONS. THESE ARE MORE APPROPRIATELY PERFORMED BY THE EXPERIENCED STAFFS OF THE PROCURING ACTIVITIES, AND UNNECESSARILY DRAIN THE RESOURCES OF THE SBA TO ADMINISTER MORE IMPORTANT ASPECTS OF THE PROGRAM. THE SBA SHOULD RETAIN AN OVERSIGHT ROLE AND THE RESOURCE TO ASSIST PROGRAM PARTICIPANTS, AS REQUESTED BY THE FIRMS, TO NEGOTIATE EQUITABLE CONTRACT TERMS.
3. ELIMINATE THE "POTENTIAL FOR SUCCESS" CRITERIA AS A REQUIREMENT FOR ENTRY INTO THE PROGRAM. THIS IS, AT BEST, A VERY SUBJECTIVE EVALUATION, WHICH DIVERTS SUBSTANTIAL RESOURCES FROM MORE PRESSING AREAS OF PROGRAM SUPPORT.
4. RAISE THE \$3M AND \$5M COMPETITIVE THRESHOLDS TO \$10M AND \$15M ON SERVICES AND MANUFACTURING, RESPECTIVELY. PROGRAM PARTICIPANTS HAVE MANY ISSUES TO FOCUS ON IN TERMS OF BUILDING AN INFRASTRUCTURE TO CONDUCT BUSINESS IN THE FEDERAL SECTOR. HAVING TO BID FOR THE MAJORITY OF THEIR CONTRACTS DURING THIS PERIOD CREATES AN EXTREMELY DIFFICULT CHALLENGE. FURTHER, PROCURING

ACTIVITIES VIEW 8(A) PROCUREMENTS AS AN EXPEDITIOUS MEANS OF OBTAINING CONTRACT SERVICES, WHICH ARE GENERALLY NOT PROTESTABLE AWARDS. THIS HAS CONTRIBUTED SIGNIFICANTLY TO THEIR WILLINGNESS TO MAKE SUCH AWARDS. MAKING THE PROGRAM LARGELY COMPETITIVE ELIMINATES THIS ACCELERATED PROCUREMENT ADVANTAGE, WHICH HAS PROVEN TO BE VERY BENEFICIAL TO PROVIDING OPPORTUNITIES TO PROGRAM PARTICIPANTS.

5. THE NET WORTH REQUIREMENT SHOULD BE SUBSTANTIALLY RAISED, OR ELIMINATED ALTOGETHER, WITH THE SOLE EXCEPTION THAT FOR ENTRY, THE CURRENT \$250K LIMIT SHOULD BE MAINTAINED. IT IS EXTREMELY IMPORTANT THAT THE PRINCIPALS GAIN THE FINANCIAL ABILITY TO SUPPORT THE CREDIT NEEDS OF THE BUSINESSES AFTER LEAVING THE PROGRAM. IT IS SUGGESTED THAT A \$2M TO \$3M NET WORTH BASIS BE ESTABLISHED, IF THE REQUIREMENT CANNOT BE ELIMINATED ENTIRELY. ALTERNATIVELY, IF THIS WAS VIEWED ON A BUSINESS DEVELOPMENT BASIS, THE NET WORTH SHOULD BE DIRECTLY TIED TO THE PRIMARY SIC CODE OF THE FIRM. FOR EXAMPLE, IF THE COMPANY HAD AN 8711 PRIMARY SIC, THE NET WORTH LIMIT WOULD BE 25% (THE EQUIVALENT OF ONE OPERATIONAL BUSINESS QUARTER AT THE SIZE STANDARD) OF

THE \$13.5M LIMIT ON THAT SIC, OR \$3.375M. A SIMILAR ALGORITHM COULD EASILY BE DEVELOPED TO EQUATE THOSE STANDARDS BASED ON SIZE TO THE OWNER'S NET WORTH.

6. ELIMINATE UNNECESSARY REPORTING REQUIREMENTS BY PROGRAM PARTICIPANTS. THIS CREATES TREMENDOUS ADMINISTRATIVE BURDENS ON THE PARTICIPANTS DURING A PERIOD WHEN THEY ARE TRYING TO DEVELOP AS COST EFFECTIVE PARTICIPANTS IN THEIR PRIMARY MARKETS. SEMI-ANNUAL REVIEWS OF THE COMPANIES BY THE BUSINESS OPPORTUNITY SPECIALISTS SHOULD BE CONSIDERED TO ENSURE COMPLIANCE WITH PROGRAM REQUIREMENTS.
7. ELIMINATE "SUPPORT LEVELS" THAT LIMIT THE CONTRACT SUPPORT WHICH THE COMPANY CAN RECEIVE DURING A GIVEN PERIOD. THE NATURE OF THE PROGRAM IS SUCH THAT THE COMPANIES MARKET ALL OF THEIR CONTRACTS WITHIN THE PROCURING ACTIVITIES. IF THE COMPANY IS SUCCESSFUL AND LEARNS TO MARKET ITS CAPABILITIES, AND CAN MAINTAIN THE LEVEL OF FINANCING SUPPORT ITS ONGOING BUSINESS, IT APPEARS TO BE COUNTERPRODUCTIVE TO LIMIT THE SUPPORT LEVEL.
8. INCREASE THE LEVEL OF SBA ASSISTANCE TO 8(A) PARTICIPANTS IN OBTAINING FINANCING, INCLUDING:

- (A) ESTABLISHING A REQUIRED LEVEL OF 8(A)/SDB PARTICIPATION IN THE SBA DIRECT LOAN PROGRAM.
  - (B) ESTABLISHING LESS PROHIBITIVE GUIDELINES/CRITERIA IN QUALIFYING 8(A)/SDB FIRMS FOR THE SBA DIRECT LOAN PROGRAM
  - (C) ESTABLISHING LESS PROHIBITIVE CRITERIA AND HIGHER GUARANTY LIMITS (95 TO 100 PERCENT) FOR THE SBA GUARANTEED LOAN PROGRAM
9. PROMOTE THE INTERACTION OF CURRENT AND FORMER SUCCESSFUL PARTICIPANTS IN THE 8(A) PROGRAM TO HEIGHTEN THE PARTICIPANTS' UNDERSTANDING OF HOW TO EFFECTIVELY UTILIZE THE PROGRAM FOR DEVELOPING A COMPANY BY:
- (A) IMPLEMENTING AN SBA-SPONSORED MENTOR-PROTEGE PROGRAM BETWEEN FORMER AND CURRENT PARTICIPANTS; AND,
  - (B) RESTRICTING JOINT VENTURES IN THE PROGRAM TO PROGRAM PARTICIPANTS, OR PARTICIPANTS AND FORMER PARTICIPANTS.
10. ELIMINATE THE NON-ALLOWABILITY OF THE USE OF NORMAL BUSINESS PRACTICES, E.G., RETAINING QUALIFIED OUTSIDE DIRECTORS AND OBTAINING INVESTORS IN SIMILAR LINES OF



BUSINESS, TO FACILITATE THE PARTICIPANTS' ABILITY TO INCORPORATE LEGITIMATE BUSINESS STRATEGIES WHICH WILL STRENGTHEN THE COMPANY. THIS WOULD HAVE TO BE CLOSELY MONITORED AND CONTROLLED TO PREVENT THE POTENTIAL FOR NEGATIVE CONTROL OR ABUSE.

11. PERMIT 8(A) FIRMS TO COMPETE ON EXISTING CONTRACTS AFTER GRADUATION IF AT LEAST 20% (BUT NOT LESS THAN 50%) OF THE FOLLOW-ON CONTRACT IS SUBCONTRACTED TO A NEW 8(A) FIRM.

#### CONCLUSION

I APPRECIATE THE EFFORTS THAT THIS COMMITTEE HAS MADE TO INCREASE THE EFFECTIVENESS OF FEDERAL PROGRAMS INTENDED TO PROMOTE THE DEVELOPMENT OF MINORITY OWNED BUSINESS. THESE PROGRAMS, PARTICULARLY THE SECTION 8(A) PROGRAM, ALTHOUGH IMPERFECT, HAVE PLAYED A VITAL ROLE IN THE DEVELOPMENT AND SUCCESS OF METROPLEX CORPORATION AS WELL AS NUMEROUS OTHER MINORITY BUSINESSES THAT WOULD HAVE BEEN DENIED ACCESS TO FEDERAL CONTRACTS AND MAY NEVER HAVE MADE IT WITHOUT A HELPING HAND. (ATTACHMENT #3, ARTICLE BY WELDON LATHAN, ENTITLED "IN THE MINORITY; THE 8(A)PROGRAM ISN'T A GIVEAWAY.") IT IS ESSENTIAL THAT

PROCUREMENT PROGRAMS SERVING MINORITY-OWNED FIRMS, THAT HAVE LONG BEEN UNFAIRLY EXCLUDED FROM THE FEDERAL PROCUREMENT MARKET/PLACE, CONTINUE TO OPERATE AND OPERATE RESPONSIVELY TO THE MINORITY BUSINESS POPULATION THEY WERE CREATED AND MANDATED TO SERVE.

CERTAINLY WITHOUT THE 8(A) PROGRAM AND OTHER MINORITY BUSINESS DEVELOPMENT PROGRAMS, THE ECONOMIC AND SOCIAL CONDITIONS THAT PREVAILED PRIOR TO THEIR ESTABLISHMENT IN THE 1960'S COULD AGAIN REAR THEIR HEADS. AN ELIMINATION OR CURTAILMENT OF THE PROGRAM WOULD MEAN A LOSS OF JOBS HELD BY MINORITIES, A LOSS OF THRIVING BUSINESSES IN URBAN AREAS, A LOSS OF TAX BASE IN THESE AREAS, AND THE RISK OF URBAN UNREST IN ECONOMICALLY DEPRESSED COMMUNITIES BY PEOPLE WHO FEEL ABANDONED BY THEIR GOVERNMENT AND WITH LITTLE TO LOSE. THESE ARE AMONG THE COMMUNITIES AND LOCAL ECONOMIES THAT THE 8(A) PROGRAM INFUSES WITH JOBS AND PROSPECTS FOR SUCCESS, WHICH ARE THE KEYS TO GREATER EQUALITY AND SOCIAL HARMONY FOR THIS NATION.

I WOULD ALSO APPRECIATE YOUR FAVORABLE CONSIDERATION AND ACTION ON MY PROPOSALS WITH REGARD TO AN 8(A) GRADUATE MENTOR-PROTEGE PROGRAM, AS WELL AS OTHER URGENTLY NEEDED IMPROVEMENTS IN THE SECTION 8(A) PROGRAM, IN THIS SESSION OF CONGRESS.

MY FATHER, WHO IS A BISHOP IN THE CHURCH OF GOD IN CHRIST, OFTEN SPOKE OF THE SCENARIO RECORDED IN THE BOOK OF RUTH WHEN GOD GAVE A SPECIFIC MANDATE TO ANCIENT ISRAEL TO NEVER REAP ALL OF THE PRODUCTS OF THE LAND BUT LEAVE SOME FOR THE POOR, THE LESS FORTUNATE, THE DISENFRANCHISED THAT THEY TOO MIGHT LIVE. I BELIEVE THAT GOD IS SAYING TO AMERICA TODAY, AS WE STAND ON THE THRESHOLD OF THE TWENTY-FIRST CENTURY, DON'T FORGET THE FORGOTTEN, THE DOWNTRODDEN, THE SHUT OUTS, THE SHUT INS, THE SHUT AWAYS. LET THEM EAT SOME OF THE FRUIT OF THE LAND. HOLD ON TO AFFIRMATIVE ACTION AND THUS FULFILL WHAT WE CALL THE AMERICAN DREAM.

THANK YOU CHAIRPERSON MEYERS AND MEMBERS OF THE COMMITTEE.

## A PROVEN COMMITMENT TO EXCELLENCE

- A. OUTSTANDING PERFORMANCE EVALUATION RECEIVED FROM THE DEPARTMENT OF THE ARMY FOR FORT CAMPBELL RAILROAD BRIDGE REPAIR PROJECT. -- 1994
- B. OUTSTANDING PERFORMANCE EVALUATION RECEIVED FROM THE U.S. DEPARTMENT OF THE INTERIOR FOR THE STEAMTOWN NATIONAL HISTORIC SITE, TRACK AND BRIDGE REHABILITATION -- 1994
- C. SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY OFFICE OF CIVIL RIGHTS DISADVANTAGED BUSINESS ENTERPRISE AWARD -- 1994
- D. SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY AFFIRMATIVE ACTION AWARD -- THE RAILWORKS CONSTRUCTION PROJECT -- 1994 & 1992 -- 1994 & 1992
- E. U.S. DEPARTMENT OF THE NAVY FACILITIES ENGINEERING COMMAND "TRIPLE A" CONTRACTOR RATING -- 1993
- F. U.S. DEPARTMENT OF TRANSPORTATION AWARD - THE RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION'S OUTSTANDING MINORITY BUSINESS ENTERPRISE FIRM - 1992
- G. OUTSTANDING PERFORMANCE COMMENDATION RECEIVED FROM THE DEPARTMENT OF THE ARMY FOR FORT CAMPBELL RAILROAD REPAIR PROJECT. THIS \$15 MILLION PROJECT WAS ACCOMPLISHED APPROXIMATELY 7 MONTHS AHEAD OF SCHEDULE -- 1992
- H. OUTSTANDING PERFORMANCE EVALUATION RECEIVED FROM THE U.S. NAVAL FACILITIES ENGINEERING COMMAND, YORKTOWN (VIRGINIA) NAVAL WEAPONS STATION, PHASE II AND PHASE III RAILROAD CONSTRUCTION (\$10 MILLION) THIS PROJECT INCLUDED WORK ON CONCRETE PIERS AND WHARVES -- 1991
- I. OUTSTANDING PERFORMANCE EVALUATION RECEIVED FROM THE U.S. ARMY CORPS OF ENGINEERS FOR THE SAVANNAH RIVER NUCLEAR PLANT RAILROAD BRIDGE - NEAR AIKEN, SOUTH CAROLINA -- 1989
- J. OUTSTANDING PERFORMANCE EVALUATION RECEIVED FROM THE U.S. NAVAL FACILITIES ENGINEERING COMMAND CAMP LeJEUNE NORTH CAROLINA -- 1988





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### STATEMENT BY SENATOR HEFLIN ON THE NEED TO EXTEND THE PARTICIPATION PERIOD FOR 8(a) PARTICIPANTS IN HIGH-TECH OR CAPITAL INTENSIVE INDUSTRIES

Mr. Chairman, as you know, the Small Business Administration's 8(a) Program has a maximum participation period of nine years, regardless of whether a particular type of business may require extensive start up time or is capital intensive. If the objective of the Program is to assist a minority-owned company to develop to the point where it has the skills and infrastructure necessary to thrive in the mainstream economy, then it is essential that we consider suspending graduations from the Program while participation periods for capital intensive industries are redetermined. Too many capital intensive 8(a) companies are graduating after nine years into oblivion.

In 1988, Congress enacted the Business Opportunity Development Act (P.L. 100-656) which increased the 8(a) participation period from seven to nine years. Congress also established the U.S. Commission on Minority Business Development and directed it to:

review and assess...the appropriate maximum term for program participation; such evaluation shall take into account relevant industry data, the development cycles of particular industries, and the financial, managerial and technological needs of such concerns to become competitive; a study shall be conducted relating to the fixed program term allowed under statute and the advisability of adopting alternative terms based on Standard Industrial Codes or other economic indices. Reform Act, Section 505(b) (emphasis added).

In 1992, the Commission on Minority Business Development, established under P.L. 100-656, determined that businesses in capital intensive industries need up to 14 years, not nine, to properly develop under the 8(a) program. The Commission spoke emphatically and at length on this issue.

Based on all the evidence we have received, the Commission recommends that program participation terms be approved or the basis of four-digit SIC Codes. We believe that such terms can vary from as low as seven years to a maximum of fourteen years, depending upon the industry in which the firm is engaged. Preliminarily, the Commission views

manufacturing firms, and concerns engaged in high-tech or capital intensive industries, as generally requiring more time to develop because of the economic concentration in such areas and other significant market entrance barriers.

...For example, it should take no longer than seven years to determine whether a specialty contractor . . . has the potential to succeed, while a developer/heavy construction general contractor may take nearly twice as long.

The Commission realizes that the recommendation presents an extremely difficult challenge. However, we have concluded that such an effort is essential if the program is to be true to its stated purpose of economic development. In no event, however, do we condone the practice of setting a fixed term based on an exchange of political volleys or the search for simplistic administrative solutions.

Therefore, it is my belief that Congress should implement the Commission's recommendations by enacting legislation directing the SBA to issue regulations that would establish participation periods based on an industry's specific requirements. Congress should also temporarily suspend graduation from the 8(a) Program pending the establishment of these specific participation periods for individual industries. The suspension is critical for capital intensive firms that are now in the 8(a) Program but need the additional time to build their capital base. As a committee, I hope that we can address this issue as part of Senator Kerrey's 8(a) reform legislation.

Thank you Mr. Chairman.

*Harold Hepler*



procurement dollars, derived from tax dollars paid by all this nation's citizens, was overlooked in this article.

Further perspective can be gained by a review of basic facts and statistics. The U.S. population currently exceeds 250 million, approximately 20 percent or nearly 50 million of which are minorities. Additionally, the minority population is growing at a substantially faster rate.

According to statistics from the Department of Labor, there were approximately 193.5 million people 16 years of age or older in the civilian labor force. Of this amount, minorities represented 22.3 million, or 15 percent. Minority unemployment consistently runs as much as double that of majority population; even though minority-owned businesses have played a major role in providing employment opportunities for minorities. Their impact has been limited, however, because the number of minority-owned businesses account for just 9 percent of all business enterprises in the United States.

Federal contracting opportunities, worth nearly \$200 billion a year, are critical to the success of the entire economy, but particularly to the minority business sector. Of this amount, however, a mere 4 percent of the value of all federal contracts were awarded to small, minority-owned businesses via all forms of contracts (including the entire 8(a) program).

During fiscal year 1993, the 8(a) program had 4,848 participating business concerns. These 8(a) firms employed 105,800 individuals and received some \$4.3 billion worth of federal contracts. From year-end financial statements submitted by 8(a) program participants, SBA was able to determine that 8(a) firms made more than \$7.3 billion in total revenue, thus, 57 percent of which was earned outside the 8(a) program. This does not support the theory of "8(a) addiction."

SBA's Region III, which includes all of the companies headquartered in the Greater Washington metro area, has the largest number of 8(a) business concerns, because of their proximity to the nation's Capitol and the headquarters of the vast majority of federal procuring agencies. Based on the most recent information available from SBA,



## Commentary

# In the minority: The 8(a) program isn't a giveaway

*Weldon H. Latham, a partner in the law firm Shaw, Plimton, Potts & Trowbridge, is an expert in government relations law and has represented a number of 8(a) companies.*

As an admirer of the comprehensive and upbeat business reporting normally representative of the Washington Business Journal, I was quite distressed to read the July 15 article headlined "The Addition," regarding the 8(a) minority contracting program.

The article fell short of WBJ's high standards of journalism and would have better appeared as a Ruth Limbaugh commentary. It totally ignored the value that the 8(a) program has represented to the minority business community, the minority community generally, the federal government and the nation as a whole. It focused on a premise of alleged "addition" of companies in the program to the benefit of that program, but failed to objectively analyze or adequately discuss the reasons for, or benefits of the program to our entire society.

The article presented a misleading image of what the writers inaccurately suggested was a federal "giveaway" program, which allegedly provides unearned benefits to a "favored few companies."

whose only reasons for failure following program graduation, according to the article, are inadequacies of the minority business people or SBA's training regimen. Given the historical perspective of the program, which was created during the civil rights movement of the 1960s to address the disparity of treatment of minorities — causing urban unrest, race riots, lynchings, burnings and bombings — I was incredulous at the lack of understanding of the reasons President Nixon first implemented the 8(a) program by executive order, which, because of the urgency of the times, could not await congressional action.

History is particularly relevant, as is the legal predicament underlying the 27 year tenure of this program. Nixon first devised this program and referred to it as "black capitalism," which he deemed as a means of providing the African American community (then the predominant minority group) with a "business stake in America." He appropriately recognized that minorities had been unlawfully denied access to participation in the free enterprise system and that the largest single purchasers of goods and services in our nation was the federal government.

By granting access to these federal markets,

their lending, and the more significant the personal net worth, the greater the access to credit."

Thus, the Congress in determining what restrictions, if any, are appropriate for minority business procurement programs should certainly utilize the basic tenets of business and financial lending as opposed to political judgments, to enable these programs to accomplish what they were intended — job creation, as a creation, minority hiring and "mainstreaming" of minority businesses — all in the best interests of America.

There are clearly numerous 8(a) companies, that would be successful regardless of whether the program ever existed. In recent discussions with five such CEOs there was remarkable consistency, however, in their view of the vital importance of the program. C. Michael Gooden, Integrated Systems Analyst; Henry Nash, General Scientific Corp.; Samuel Metters, Metters Industries (African-American); Richard J. Olcro, RJP Enterprises (Hispanic American); and Roger Mody, Signal Corp., (Asian/Indian American), all share the view that the 8(a) program had been invaluable to them in opening access to federal markets and providing assistance which allowed them to amass the technical, managerial and financial resources to compete.

More importantly, these companies headquartered in Virginia and Maryland employing approximately 2,000 people, are neither addicted nor overly dependent upon the 8(a) program.

In recent discussions with SBA Administrator Erskine Bowles, it is clear that he recognizes and the program requires refinements and improvements, but the ultimate goal remains the creation of successful, mainstreamed companies that enhance this nation's ability to encourage minorities to fully participate in innovation, entrepreneurship and job creation.

Since the Clinton administration and Bowles have taken the helm of SBA, there have been marked efforts to improve the program. The Congress needs to defer to Bowles as a businessperson, and the press needs to recognize the positive side of a program that has been invaluable to the minority community, even given the normal warts of any government program.

In summary, the greatest concern I have with the July 15th WBJ article is that it ignores the problems that have been made the 8(a) program immovable.

in cities where there are concentrations of federal agencies. Not surprisingly, 8(a) companies in the Washington D.C. area (as is the case of all federal government contractors), receive more contracts than companies located in any other part of the country. Additionally, a small number of the most competitive, most sophisticated, most talented and best prepared (hardest working) minority companies, just like in the rest of America, win the largest percent of 8(a) contracts.

Why is it that, what works in America at large, is laudable for "majority" America but becomes problematic for "minority" America?

Lastly, the 8(a) Program has been modified several times, not to enhance the likelihood of success of its companies, rather to limit the propensity for fraud and abuse. As a result, the current program is extremely bureaucratic, over regulated and subject to numerous anti-business requirements that significantly inhibit the 8(a) firms' ability to function.

One such odious requirement was recently attacked by Rep. Plooy Flake (D—NY), a member of the House Small Business Committee, who sought to begin the process of eliminating unnecessary, anti-business, and some say discriminatory restrictions placed on participants in federal minority business programs (which, by the way, are not placed on any other federal procurement programs). During committee deliberations regarding H.R. 4263, a bill which creates a Government-wide Small Disadvantaged Business ("SDB") Procurement Program, Flake proposed the elimination of an unfair requirement of the new program.

Specifically, he sought to eliminate the economic disadvantaged criteria, because it restricts the ability of minority businesses to grow to a size, financial status, and capability to compete with their non-minority competitors. The economic disadvantaged regulations place a cap of \$750,000 on the personal net worth of the minority individual who owns and operates an SDB business.

In contrast, the similar "small business" set aside program, which primarily serves small majority companies, has no such restriction on net worth of its participants. Flake eloquently deflected misguided criticism of his amendment, by noting that billionaire H. Ross Perot was freely permitted to participate in the Small Business Set Aside program.

there were 1,365 8(a) business concerns in Region III, which provided 38,135 jobs. These 8(a) concerns earned \$2.5 billion in revenue during 1993; here too, non-8(a) concerns accounted for nearly 50 percent of the total revenues. Thus, it becomes obvious that the 8(a) program is not the only source of revenue for these companies. Rather, it is a catalyst for the additional economic development, job creation and tax generation by these companies.

Additionally, the 105,800 jobs created by 8(a) companies nationally in no way accounts for the substantial multiplier effect and indirect job creation for suppliers, vendors, banks, accountants, attorneys and other goods and service providers (including newspapers) that would not exist, but for this program. In January of 1994, the district offices of SBA conducted a survey of 710 firms that cited (which the Congress euphemistically refers to as "graduated") from the 8(a) program between Oct. 1, 1990 and Sept. 30, 1993. Of the 710 firms, 395 were determined to be independently operational, 41 had curtailed operations, 22 had been acquired by other firms owned and controlled by non-disadvantaged individuals, and 252 had ceased business operations. The total annual revenue of the 357 firms with reported earnings was an additional \$3 billion. Average revenue, for firms reporting revenue, was approximately \$8.3 million. These firms obviously provided additional direct employment for approximately 32,600 people, which does not begin to account for the additional jobs that were created by former 8(a) firms that continue in those companies that were acquired by non-disadvantaged individuals. Nor, for that matter, does it account for jobs that were created by 8(a) firms that graduated from the program prior to 1990.

All these firms pay corporate taxes, Social Security taxes, unemployment taxes, state and local taxes of all descriptions. These employees are also unusually represented in significantly larger than normal numbers of minorities — that are hired, retained and promoted in greater numbers than in majority-owned firms. The conservative total for more than 150,000 jobs related to current 8(a), and a small sampling of former 8(a) firms, suggests that, with an average household of four, probably at least four times that number of individuals are

non-disadvantaged individuals. Nor, for that matter, does it account for jobs that were created by 8(a) firms that graduated from the program prior to 1990.

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It should also be noted that 8(a) contracts are awarded by federal agencies seeking the provision of valuable goods and productive services. In 90 percent of the cases, 8(a) contracts are 8(a) companies themselves, known as "self-marketing." SBA does not create, control or generate the vast majority of contracts that are ultimately procured through the 8(a) program. These contracts result from the self-marketing efforts of aggressive entrepreneurial 8(a) firms that effectively convince procuring agencies, with legitimate needs for goods and services, that the 8(a) company can provide those goods and services in a more time-sensitive, efficient or economical manner. One benefit of the program itself, is that it usually permits an 8(a) sole source procurement to occur within several months rather than the normal 18-month to two-year competitive procurement cycle.

The criticism, that few companies receive the vast majority of the contracts, in relatively few locations in the country, is totally flawed and ignores the realities of the federal procurement system and competitive nature of our society.

The General Accounting Office in every study it performed of the 8(a) program spends an inordinate amount of our federal tax dollars in restating two obvious conclusions, suggesting a problem in the 8(a) program. First, most of the contract awards, as in the rest of the federal procurement system, occur

Specifically, he sought to eliminate the economic disadvantaged criteria, because it restricts the ability of minority businesses to grow to a size, financial status, and capability to compete with their non-minority competitors. The economic disadvantaged regulations place a cap of \$750,000 on the personal net worth of the minority individual who owns and operates an SDB business.

In contrast, the similar "small business" set aside program, which primarily serves small majority companies, has no such restriction on net worth of its participants. Fluke eloquently deflected misguided criticism of his amendment, by noting that billionaire H. Ross Perot was freely permitted to participate in the Small Business Set Aside program. Notwithstanding Fluke's explanation, a number of his Republican colleagues adamantly sought to retain the \$750,000 cap on the predominantly minority SDB program.

In discussions with local bankers regarding the personal net worth restriction, required of 8(a) and the SDB program participants, the comments were quite consistent. According to Hugh Long, area president of First Union Bank, "I can understand the political motivation for such a restriction, but as a banker, the net worth restriction runs counter to the program's goal of mainstreaming these companies into our American economic system. Any determination of credit worthiness, must include the personal net worth of the principal/guarantor of the debt — simply stated 'more is better!'"

Bill Nalls, Signet Bank senior vice president, stated that "it makes little or no sense to impose such an arbitrary limitation on a business person's personal net worth. It is only reasonable to expect companies that successfully participate in these federal minority business programs to simultaneously grow the company's revenues and the individual owner's personal net worth. When a company graduates from the 8(a) program and seeks to maintain its lines of credit, the bank must assess that company's track record of earnings, its current financial status, as well as the business owner's personal net worth. Invariably, principals of small companies often serve as personal guarantors of

creation of successful, mainstreamed companies that enhance this nation's ability to encourage minorities to fully participate in innovation, entrepreneurship and job creation.

Since the Clinton administration and Bowles have taken the helm of SBA, there have been marked efforts to improve the program. The Congress needs to refer to Bowles as a businessperson, and the press needs to recognize the positive side of a program that has been invaluable to the minority community, even given the normal warts of any government program.

In summary, the greatest concern I have with the July 15th WBJ article is that it ignores the problems that made the 8(a) program imperative, then and now; ignores the accomplishments of President Nixon in creating the 8(a) program; ignores the accomplishments of Bowles in seeking to enhance a needed program; ignores the accomplishments of numerous successful minority business people that effectively utilize the program; and ignores the continuing systematic and institutional racial discrimination that still denies minorities open, unencumbered access to federal and commercial dollars. Additionally, a number of the individuals quoted in the article ignore the fact that the 8(a) Program is funded in part by the tax dollars of minorities.

Without the benefit of historical perspective, these accomplishments have been overlooked; instead, relatively minor flaws in the 8(a) program, similar to those in any other imperfect federal program, have been greatly exaggerated. Clearly, the 8(a) program's failure rate can and would be reversed and Congress, specifically the Senate in a 1986 Senate Survey and Report, stated that the greatest single problem with the 8(a) program is the need for a postgraduate program to transition graduate firms into the competitive economic mainstream. As Congress seeks to again modify the Program, it should first recognize the major accomplishments already achieved by numerous companies, such as the ones noted above, and should then seek to enhance, not denigrate, the program's achievements.





**COMPANIES The National Federation of 8(a) Companies**

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**TESTIMONY FROM THE NATIONAL FEDERATION OF 8(A) COMPANIES TO THE HOUSE COMMITTEE ON SMALL BUSINESS FOR THE HOUSE HEARING ON MARCH 6, 1995. TESTIMONY PRESENTED BY MR. FERNANDO GALAVIZ, VICE CHAIRMAN OF THE NATIONAL FEDERATION OF 8(A) COMPANIES.**

Good afternoon Madame Chairwoman Myers and distinguished members of the House Committee on Small Business—I am Fernando Galaviz, Vice Chairman of the National Federation of 8(a) Companies. The Federation appreciates the opportunity to provide testimony on the SBA's 8(a) program.

The Federation is a non-profit organization in good standing with a 12-member National Board and 276 members nationwide.

In keeping with the five-minute limit on statements, the full written testimony is being submitted for the record. My testimony includes highlights of the views of the National Federation of 8(a) Companies, as well as some of my personal views.

Over the past 20 years, I and others have participated in working with the House and Senate small business committees on the design and the restructuring of the 8(a) program. It is unfortunate that many of the decisions that have been made in the past regarding the design of the 8(a) program, were political decisions, rather than business decisions, and usually made in the last minute rush to design important elements of the program in order to meet political deadlines. Admittedly, we sit in a very political environment here in Washington, D.C., whose presence influences many things. That is why, under your leadership, Chairwoman Myers, the Federation is hopeful that a series of working groups can be organized to include members of the House Committee on Small Business, the Small Business Administration, and the small business community to discuss and share our practical business experiences and how best these experiences can be applied to the re-design of the 8(a) Program. Therefore, Madame Chairwoman, before any changes to the 8(a) Program are made, we strongly urge you to consider the unorthodox approach of bringing the SBA, your Committee, and the 8(a) business community together to jointly design solutions to some elements of this very important program.

Our testimony today is focused on recommendations to you and your distinguished colleagues, so that you may seriously consider them as you deliberate on the next phase of enhancing and streamlining the effectiveness of the 8(a) program. Compared to the state of events 20 years ago, the 8(a) program has made a concrete and significant contribution to increasing capital assets in



the minority community. This investment has enhanced management practices and expanded the technical capabilities of minority owned firms, which in turn have resulted in a greater level of competition, and most importantly, (and something we may not take much notice of anymore because it has become a normal experience), the 8(a) program has brought together minority and non-minority communities through the working relationships of business.

The 8(a) program and the P.L. 95-507 program have created a true working partnership between the minority and non-minority communities given the undisputed fact that in many sophisticated and complex technical areas, we in the minority community have not reached parity with the non-minority community in the development of senior technical managers. This disparity is a direct result of past and present discrimination, limited access to education, capital, and the mainstream marketplace.

In order to provide effective assistance to 8(a) firms with the greatest economic and structural development needs, and, most important to the taxpayer, to reduce the cost of operating the 8(a) Program (which is an objective of the Republican Congress agenda to reduce government and its federal government influence), the Federation has found that the following recommendations, generally speaking, would help achieve this end and have claimed wide-spread support:

- Elimination of the involvement of SBA in the "third party" contracting process.
- Streamlining of the management process of assigning SIC codes to program participants.
- Elimination of the SBA program support planning process.
- Elimination of the local/national buy concept.
- Expansion of the definition of competitive contracts within the 8(a) Program's Competitive Business Mix to include 8(a) competitive contract awards for the purpose of meeting the SBA's non-8(a) Business Mix Requirements.
- Grant 8(a) certification to a firm only if the minority owner can demonstrate that he or she has the knowledge and experience necessary to successfully operate a government contracting firm.

Regarding the total number of federal government contracts awarded, recent figures produced by the SBA have revealed a consistent pattern that 98% of contract awards are made to non-minority firms. This means that minority firms have only been able to achieve a 2% market share penetration. One would have expected that after all these years of federally supported minority programs such as the 8(a) Program, we would celebrate in a much greater success than this. And yet, can it be that even this modest 2% achieved over a 25-year period poses such a threat to our society that Congress debates its destruction? Is the threat that the minority business community will gain more than 2% of the market share so frightening that Congress must abolish the programs which support the economic empowerment of the minority business community?

It is critical for the taxpayer to know that the government does not provide any money to start-up and operate an 8(a) business. It is true that in the late sixties and early seventies, the 8(a) Program did provide a very limited number of grants because there were very few minority firms of any consequence in the engineering, computer support services, or sophisticated sciences fields. The few minority firms that existed in the sixties were in janitorial, guard services, courier services, and the like low-tech fields.

Since the results of the November elections and the restructuring of Congress, there has been a considerable amount of National debate regarding affirmative action and set asides—set asides, generally known in our industry as sole source or limited competition awards. The focus of the debate has been on the perceived advantage that Small Disadvantage Businesses and 8(a) companies have had on federal, state, and local government contracting levels regarding set asides. It is important to note that a significant number of large, privately and publicly held mainstream non-minority, non-disadvantaged firms which have developed into organizations of 3,000 or more employees, got their start as government contractors through sole source awards. Further, it is important to note that today many large organizations, such as E-Systems (as shown by the recent television segment on 60 Minutes), Martin Marietta, TRW and others, obtain a significant number of contracts through the sole source vehicle, because the sole source awards to these very large corporations are deemed to be best for the National Interest.

The popularity of this contracting method is long-standing, and all the technologies, all the capabilities of firms such as the ones named, have been paid by taxpayers' money through sole source contracting to large non-minority firms. If indeed this Congress feels a strong need to eliminate or downsize the 8(a) Program, the Federation then finds it important and fair to respectfully submit that since the United States is no longer a nation dealing with the threat of Russia or a significant adversary, that Congress consider transferring those technologies and capabilities which the American taxpayers have paid for to the minority business community.

We realize that this may seem like an absurd and wild concept, however, if the 2% set-aside awards that minority firms receive is a concern, then there should be equal or greater concern for the 35% set-aside awards that major companies receive. Please, as you review concerns about the impact, both positive and negative, of the 8(A) program, also thoroughly research and measure the impact of Congress and the Executive Branch's continuous practice of allowing large companies to get sole source contracts.

If there lies a doubt in anyone's mind that the playing field for minority-owned businesses is today still as uneven as it was two decades ago, and that 20 years of the 8(a) Program has not catapulted minority-owned firms into the mainstream market, then Madame Chairwoman and members of the committee, I submit to you to go to any part of this country, go to any of the national industry trade shows, and whether it is the AFCEA, telecommunications, housewares show, hardware show, electronics show, COMDEX computer show, or any other national industry trade show, you will largely find that little or no minority firms are represented in the endless rows of exhibits that you pass. And, as importantly, you will find as you walk from booth to booth, whether it be at Hughes Corporation, General Electric Company, or any medium-

sized non-minority businesses, the company representatives waiting to receive you are for the most part white males, and now and again white females. Therefore, in practical terms, when go to these exhibits, ask yourself why the state of affairs is the way it is, and this can speak louder to you than all the statistics that the government can provide.

The greatest challenge to the small business community is how to handle growth. Non-minority business owners have ready access to "traditional sources of lending," an educated work force, and access to markets. Minority business owners, on the other hand, face great challenges finding traditional sources of lending. It has been proven again and again through different independent studies that a minority person has a higher probability of being turned down for a loan than a non-minority person. It is also a fact that minorities have higher high school and college drop out rates than non-minorities—this has led to a scarcity of qualified and educated minorities in the labor market. The 8(a) Program helps minority business owners meet the important challenge of handling growth. Without the 8(a) Program, minority firms currently in the Program would have a much higher failure rate, not because they are not good entrepreneurs and managers, but because there is very limited access to capital and technology.

History provides us with interesting and valuable hindsight. There is a great national hero, a great Republican, who will go down in history as one of the most accomplished men of our times. This man is Dwight D. Eisenhower, who started the Small Business Administration. It was another republican, President Nixon, who had a clear vision that beyond civil rights and beyond affirmative action, the most significant element of bringing reasonable civil peace to our country was to bring blacks and whites together. A person who knew Mr. Nixon well said that privately President Nixon used a phrase, "green power"—not black, brown, white, or yellow, but green power to mean that economic empowerment to minorities would bring the white and black communities closer to a productive and civil relationship. And in our country today, due to Public Law 95-507 and its subcontracting provisions, the positive impact of President Nixon's vision is clearly evident. White males, representing large corporations mostly, sit down with all races to talk business, and conduct business, to make a profit. But even in the case of inter-racial business dealings, it is important and necessary to be realistic by acknowledging that the only reason that non-minority and minority businesses are sharing the pie is because the federal government has mandated it. And if the federal government had not mandated that E-Systems, General Electric, Westinghouse, and others share a piece of the pie, albeit a very modest piece, than they would not be doing so today.

The case in point in modern times is with NASA. Large corporations that traditionally support NASA missions had been telling NASA management that there was no way that minority firms could perform on sophisticated engineering work which required a significant degree of proven experience or mission criticalness that NASA required. These large companies told NASA management that its staff was unrealistic for recommending initiatives that promoted expanded use of small minority firms. It was thanks to the commitment, courage, and persistence of the management of NASA, supported by a Republican President, that these large companies got the message: "If you think it's too difficult to work with minority firms than you better not bid NASA jobs."



With President George Bush, the industry knew that there would be full support for the development of minorities at NASA. The result was, Madame Chairwoman, that the same companies that had been convinced that it was impossible to increase the use of minority firms at NASA were now falling all over themselves to bring minority partners onto their teams for their competitive bids—Now isn't that remarkable? So Madame Chairwoman, everything starts from the top; it has to be the vision by you and the members of this Committee and legislators to really look each other eyeball to eyeball and ask yourselves: Do we want to take away from the minority community the very modest progress that it has made; and do we want to stunt the modest growth of the capabilities that minority enterprises have developed to date?

No one ever said life is fair. This is true for just about everything in life; however, the reality of the unfairness of life becomes far and away much more tangible when you are an 8(a) company or a minority business. We read in the newspapers that large companies such as G.E. or Unisys are been caught conducting illegal activities. . . and so indictments come, fines come, people might go to jail, and there are even some notices of debarment. Yet these large companies the following week are given contracts with the same agencies that initiated the legal proceedings and they continue to do business with the rest of the federal government. Now lets see what happens to a small minority firm whose case does not even go as far as an indictment, but only an investigation, or who is indicted for a lesser sin than the large corporations. . . what happens is the small minority firm is destroyed as a consequence.

No one said it would be fair, for example, with the minority subcontracting provisions. I know that there are many people in this audience who own minority firms and who would tell the Committee such true stories as this: A major corporation calls on a small minority firm to give it an opportunity to find ADA Programmers, or other specific technical professionals who possess a unique skill set, and the minority firm is pleased to fill the requirement knowing that it is going to be a tough assignment because it requires very unique capabilities. The minority business expends resources, time, money recruiting for the major corporation. It wants to meet the challenge and successfully earn the work. Then the minority firms discovers that the very company that gave the requirement to it had already advertised and recruited on its own, and has filled its own requirement. Why is it that company asked of you to conduct the search and spend your limited resources to do useless digging with no hope of coming up with a bone? Why is it that minority firms are given us the most difficult challenges? Is that so that the large business community can say that it gave us an opportunity but we didn't deliver?

The most important quality of a salesman is that he or she be a good listener—that he or she listen to what the customer needs, and what the customer wants. In all practical terms, Madame Chairwoman, you and your colleagues are our customers, and we have to listen to what it is that you want if we want to do business with you. Over the last three weekends, on all the Sunday and weekend network talk shows—from Meet the Press, to David Brinkley, to Face the Nation, and, of course, Nightline—the majority members of Congress have been conveying the message that, basically, as far as education, jobs, and economic development, the minority community is now empowered; that through whatever means it has reached that 2% market share that we talked about, that is enough and it is now in good shape.



We are prepared to address the challenges of the changing political realities that the last congressional elections have pulled into the fore-front and the widely publicized court cases challenging minority programs. Both series of events have augmented wide-spread national discussion of the need for a narrow definition of social and economic disadvantaged status.

We trust the members of the Small Business Committee of the House of Representatives are aware of the importance minority firms play in the economy and social fabric of our country, and that, in general terms, there is support by the majority of the members of this committee for the 8(a) Program.

Members of the Federation, the minority business community, and I realize that the dynamics of the present state of our economic environment require for all of us to be prudent and realistic by addressing the following question:

What is the best and most reasonable, common sense way, to modify and enhance the legislative and regulatory language of the 8(a) Program to focus limited federal resources to assist the development of the minority entrepreneurs who are the most disadvantaged and who need the most assistance?

Madame Chairwoman and members of the Committee, the time has come to redefine the term "disadvantaged" because this is not an affirmative action hearing, this is a hearing about business. And as such, we should not be addressing the issue of affirmative action, or the issue of social disadvantage—but we should take a long and hard look at the issue of economic disadvantage.

The following, Madame Chairwoman, are a few suggestions that you and your colleagues should consider:

1. To determine economic disadvantage to qualify for the 8(a) program, the following criteria should be used:
  - A. Personal (including spouse) net worth limit may not exceed \$250,000. This amount does not include home or business. Once in the program, personal net worth may not exceed \$750,000. If this amount is exceeded, the Program participant will be disqualified.
  - B. Equity in home may not exceed \$150,000. Any amount in excess of \$150,000 will count toward personal net worth. Once in the program, home equity may not exceed \$250,000. Any amount in excess of \$250,000 will count toward personal net worth.
  - C. The equity of the business after five (5) years of Program participation may not exceed \$2.0 million.

2. Promote the integration of 8(a) Program participants into the minority community. The 8(a) firms that meet the three elements below for at least four consecutive years during Program participation will be allowed to extend their Program participation for an additional two years (beyond the nine years), provided the 8(a) participant stays within its primary SIC code's small business size standard.
  - 8(a) firm whose owner lives in an economically depressed area;
  - 8(a) firm whose business operates in an economically depressed community, and
  - 8(a) firm in which 30% of its project and corporate management team are minorities.
3. 8(a) firms contribute to the minority community by providing jobs and sources of income to minority employees and vendors.
4. An 8(a) firm that has achieved gross annual sales in excess of \$7.5 million, will be required to sponsor a minority student (in the form of an educational, technical, or vocational scholarship) to the completion of a degree/certificate. The student may not be a family member of the 8(a) firm's owner.
5. The Federation board recommends that 8(a) company owners who have developed their businesses beyond 30% of their primary SIC code's size standard seriously consider implementing, on a voluntary basis, a Mentor-Protégé Program within their company to ensure that they set an example for other firms. Madame Chairwoman, 18 months ago in my company, The CENTECH Group, Inc., we formalized a program in which any employee, regardless of race, sex, age, creed, color, national origin, or disability, after serving in good standing at the CENTECH Group for a period of five years, can qualify for mentoring by The CENTECH Group in the start-up of his or her own business. The CENTECH Group will assist the employee and protegee firm in the business start-up process for 18 months. After the 18-month mentoring period, mentor firm and protégé firm will sever the business relationship. The reason for a total separation between the firms is to make it clear that The CENTECH Group has not established this volunteer mentor program for the purpose of developing and continuing a legacy for itself in the 8(a) Program. At this point, we have two employees who have applied for the program—Emma Vento, whose vision it is to start a recruiting firm, and Steve De Veranez, who intends to start a computer services firm. The CENTECH Group does not take any equity position in the new business.

It is reasonable to respond to the question, "Why do we have this entrepreneurship program at The CENTECH Group?" The reason is because at The CENTECH Group, we understand that even though the company is using its own capital and resources, we acknowledge that we are using a publicly-supported Program that is important to this

Nation—and this is our way of paying back for the privilege that we have enjoyed as an 8(a) firm, and the assistance we have received to develop The CENTECH Group.

There is general agreement with the fact that minority and non-minority businesses experience different degrees of success and development. We are not all the same, and it is unrealistic to have a "cookie cutter mentality." The Federation proposes that the focus should be: "How do we make sure that more firms reach their graduation date in a stronger business position?" Therefore, we support that the legislation permit those 8(a) firms that have not achieved average sales equaling at least 50% of their size standard dollar thresholds in their Primary SIC code by the end of their seventh year of participation in the 8(a) Program be granted an additional two years of Program participation, beyond the standard nine years for a total of 11 years of Program participation.

Madame Chairwoman, compared to the late 1960's, today in 1995 8(a) companies market Federal government program executives, managers, and procurement officials who are very familiar with the 8(a) Program, and who have a high level of respect for and appreciation of the accomplishments that the 8(a) Program has made. This is quite a dramatic difference from just 15 years ago, and of course we do not want to discount that there are still lingering poor perceptions of early experiences. But the fact today is that the 8(a) business community, in partnership with non-minority professionals and business community, can respectfully and proudly say that the minority-owned businesses can and do perform competently and successfully on complex and sophisticated requirements.

Madame Chairwoman and distinguished members of the Committee, it is necessary and critical that each and every member of this committee be able to answer a very important question: "How do I, as a legislator, know when a given business in a given industry is reasonably viable?" And, what does it really take to make a small business successful?

Is the critical information necessary to answer this question available to you, Madame Chairwoman, and your distinguished colleagues on the Committee. A clear definition is essential, if members of the Committee and Congress are to address where the Federal Government should focus its resources in order to assist those 8(a) firms that need the most assistance.

The reality today is the same as it has been since the beginning of federal programs that support the development of minority-owned businesses: The most critical business program decisions have been political in nature, instead of using reasonable and practical business sense.

Madame Chairwoman and members of the House Committee on Small Business, on behalf of the Federation I want to thank you for giving us the opportunity to present our views.

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**Congress of the United States  
House of Representatives  
Committee on Small Business**

**Hearing on Small Business  
March 6, 1995**

**Statement of Businessman****Joseph A. Gomez****Gomez Electrical Contractors Inc.****Small Business Administration 8(a) Graduate October, 1990**

**S.B.A. 8(a): Minority Enterprise Development Program VS.  
Business Subsidies**

In 1979 after having worked in the Electrical Construction industry for nearly eighteen years I went into business in my related field Electrical Contracting.

In 1979, I found the going tough. It was difficult to break into a new market as a new business for a number of reasons:

- a) I started a business in Albany, NY where I was a relatively new resident
- b) People have a tendency to do business with friends or people they know
- c) I had worked for an out of town contractor and had no "local" track record
- d) I had an accent which at the time was not quite "in style" in the area.

The business muddled in the competitive market and slowly began to grow. In July 1980, I heard of and applied to the United States Small Business Administration 8(a) Program. After several years of struggle the company began to grow more rapidly. In October 1984 a joint venture partner on a large state project (\$4,500,00.00) defaulted and eventually went bankrupt. This adversely affected my firm as we had to preserve our name and finish the project with the help of the bonding company. No other sizable work was contemplated for the remainder of 1984 and all of 1985. Our company nearly went under as a result of said joint venture.



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Statement of Businessman: Joseph A. Gomez (continued)

Gomez Electrical Contractors Inc.

S.B.A. 8(a) Graduate October, 1990

Rebuilding of our contracting program began in late 1985 and continued in 1986. In 1987 the firm had recovered well. Both competitive and 8(a) projects contributed to the recovery. Without some 8(a) portion of the work the firm would probably not be here. Though this firm was helped in this instance by the 8(a) Program there are some other factors which were detrimental and provided an excuse for complacency: Our firm became "addicted" to 8(a) work.

Because of on going projects the firm graduated in 1990.

As a result of our personal experiences in the program I would like to take advantage of this opportunity to give you some constructive criticism and provide you with some ideas on changes that need to be made.

## FLAWS OF THE 8(a) PROGRAM:

\* Program does not sufficiently review background of applicants to ascertain the level of expertise.

Not everyone has the experience, education and ability to produce a business organization.

\* The Program does not enforce the "2 years in business" requirement

The program frequently does not support a small disadvantaged business but rather it supports an unproved individual who is hoping to start a business - sometimes with no business experience.

\* The Program often awards contracts outside the area of expertise

Applicants are counseled by Small Business Administration representatives to apply to more S.I.C. codes and S.I.C. codes outside of the area of expertise to provide a broader field of contracts. In terms of the construction industry, it is dangerous for a specialized firm such as ours (Electrical Contracting) to engage in other broad forms of construction trades. In our case in spite of ample experience in the construction industry, we found it difficult to perform the tasks of other trades. This also reflected in our pricing structure while in the program.

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Statement of Businessman: Joseph A. Gomez (continued)  
Gomez Electrical Contractors Inc.  
S.B.A. 8(a) Graduate October, 1990

\* **The Program fails to provide a keen sense of competitive bidding**

This is probably the biggest problem with the program. Although during the period of time while I worked for other contracting firms, I developed a "keen" sense for competition, the program nevertheless took away some of the incentive to be competitive. Sole source, negotiated contracts were a hindrance to our development because we became accustomed to a different and a higher market level - a negotiated proposal.

Had I not been lucky enough to have priorly worked for some 12 years in the competitive bidding side of business, I truly believe it would have been nearly impossible for this firm to survive in a competitive environment after 8(a) graduation. All contracts in the program should be awarded competitively even if the competition is only among program participants.

\* **Program does not enforce required level of competitive work or ratio between competitive work vs. 8(a) work**

Our experience and that of other firms known to us in the 8(a) program is one of lax enforcement of these requirements of the program.

The most important facet of business is the ability of the small business owner to compete in the market place. Allowing or otherwise waiving the open market share of the business plan and allowing the participants to survive solely on the 8(a) work is a disservice to the clients.

Doing solely 8(a) work (sole source contracts) provides the participant with a false sense of security. Even during the period of participation when the 8(a) work dries up, it is difficult to find the desire to bid in the expectation of the "gravy work" - sort of waiting for the "Business Subsidy" work.

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Statement of Businessman: Joseph A. Gomez (continued)

Gomez Electrical Contractors Inc.

S.B.A. 8(a) Graduate October, 1990

- \* The program also provided assistance to firms not in need  
The program should concentrate on firms with true need. Program participants should truly be an economically and socially disadvantaged business. If the business doesn't meet both of this criteria or achieves good economic standing the firm should graduate. Realistic and reasonable net worth upper limits should be implemented to provide greater access to needy firms.
- \* Participants considered are at times from outside of the work's geographical area. Favoritism also exists.

This practice increases costs to facilities since traveling expenses are often considered in a cost's evaluation.

At least two General Accounting Office reports have been critical of the selection method and allege possible favoritism (G.A.O. Reports of September, 1993 and January, 1992 on Small Business). We also suspect favoritism in our district.

## RECOMMENDATIONS

The most important issue at hand is to create a program to give a small disadvantaged business the capability of competing in the free market system. The business should be capable of producing steady employment through a steady operation as the market place permits.

The program should also recognize the problems facing small business as they also relate to small disadvantaged businesses. These problems include access to capital, access to surety bonding and other barriers to business survival and growth.

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Statement of Businessman: Joseph A. Gomez (continued)  
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S.B.A. 8(a) Graduate October, 1990

The program should face the harsh realities of the business world and help the small economically and socially disadvantaged firms by emphasizing competition. The program should refrain from providing "Business Subsidies." We should be supporting business rather than providing pipe dreams, wishes or illusions for individuals.

Only those disadvantaged businesses with requisite credentials and expertise should be allowed to participate. Then provide the support to hone the competitive skills to achieve financial independence for the firms rather than perpetuating dependence on a government program with the accompanying larger bureaucracy to run it.

The Program should consider the following parameters:

- 1) **Size of Qualifying Business:** a minimum size standard should be established and adhered to in order for a business to participate - suggest \$200,000.00 annual sales for construction firms and \$400,000.00 for manufacturing concerns with minimum size participation increases tied to inflation increases.  
**Forbid** any business start-up using the program to kick off.
- 2) **Pre-Qualification of Participating Business Principal:** pre-qualification of business principal to assure he/she has at least 7 years of related experience and possess the educational background necessary to manage the firm. Provide counseling prior to application to inform applicants of the expectations, requirements and other prerequisites.
- 3) **Ownership:** Tighten up ownership rules. Make at least 80% ownership of the business by a disadvantaged person(s) a requirement of the program.

Increase penalties and provide legislation to debar "parent companies" using fronts from doing other (any and all) Federal work.



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S.B.A. 8(a) Graduate October, 1990

- 4) **Marginal cases:** Make educational needs mandatory as a condition of continuance in the program.
- 5) **Competition:** The most important business aspect is the ability of the firm to survive in the competitive world. To this end, mandatory competition for 8(a) contracts among participant firms should be implemented right from the onset of participation. Needless to say, penalties associated with collusion or any form of price fixing should be implemented as well.
- 6) **Strict enforcement of S.I.C. codes:** Prevent firms from crossing into areas where no experience exists or where the possibility of subcontracting a related task will result in no significant experience gain by the participant.
- 7) **Internship Program:**  
In areas where the applicant is marginal and or lacks the necessary experience, an internship program of up to 3 years should be established as a precondition for entering the program.
- 8) **Participation Time and Termination:**  
Adjust time of participation to a maximum of 5 years and terminate participants upon reaching a net worth of \$300,000.00 for construction firms and \$400,000.00 for manufacturing concerns.
- 9) **General Accounting, Office Reports:**  
S.B.A. should enact all the recommendations made by the G.A.O. in their reports on Small Business of January, 1992 and September 1993.

# *Gomez Electrical Contractors, Inc.*

*251 - 253 - 255 North Pearl Street*

*Albany, New York 12207*

*Tel (518) 427-8965. 785-3000. Fax (518) 427-8968*

Statement of Businessman: Joseph A. Gomez (continued)

Gomez Electrical Contractors Inc.

S.B.A. 8(a) Graduate October, 1990

10) Set Asides:

Promote with 8(a) firms their participation in competitive set asides  
(1994 Federal Acquisition Reform - 5% set Asides)

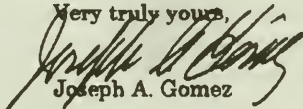
11) Consolidation of Programs:

Promote with 8(a) firms their participation with other  
Agencies' Minority Business Development programs to provide better  
access and avoid wasteful duplication.

I would like to thank Jan Meyers, Skip Leonard, and this Committee  
for the opportunity to testify at this Hearing.

Should you need any assistance, please do not hesitate to call on me.

Very truly yours,



Joseph A. Gomez

United States General Accounting Office

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**GAO**

**Testimony**

Before the Committee on Small Business,  
House of Representatives

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For Release on Delivery  
Expected at  
2 p.m. EST  
Monday  
March 6, 1995

**SMALL BUSINESS**

**Status of SBA's 8(a) Minority  
Business Development  
Program**

Statement of Judy England-Joseph,  
Director  
Housing and Community Development Issues,  
Resources, Community, and Economic Development Division



Madame Chair and Members of the Committee:

We are pleased to be here today to discuss the Small Business Administration's (SBA) 8(a) business development program. This program provides federal contracts to small businesses that are owned and controlled by socially and economically disadvantaged individuals to help these firms develop their business skills and become viable businesses. Firms in the program are eligible to receive financial, technical, and management assistance from SBA to aid their development.

As you may recall, Madame Chair, our testimonies over the years have discussed the difficulties that SBA has had in implementing many of the changes mandated by the Congress in the Business Opportunity Development Reform Act of 1988 and subsequent amendments. Our testimony today is based on the work we did in 1992 and 1993, updated to reflect recent activities.<sup>1</sup> We will focus on SBA's progress in implementing key changes that are designed to make the 8(a) program an effective business development program. These are (1) requiring the competitive award of large-dollar-value contracts, (2) distributing contracts so that a larger number of firms receive them, (3) improving business planning by firms, and (4) requiring firms to achieve a certain mix of 8(a) and non-8(a) contract dollars as they progress toward the end of their program terms. As requested, we will also discuss the Department of Defense's (DOD's) small disadvantaged business program.<sup>2</sup> This

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<sup>1</sup>See Small Business: Problems in Restructuring SBA's Minority Business Development Program (GAO/RCED-92-68, Jan. 31, 1992); Small Business: Problems Continue With SBA's Minority Business Development Program (GAO/RCED-93-145, Sept. 17, 1993); and Small Business: SBA Cannot Assess the Success of Its Minority Business Development Program (GAO/T-RCED-94-278, July 27, 1994).

<sup>2</sup>See Minority Contracting: DOD's Reporting Does Not Address Legislative Goals (GAO/NSIAD-93-167, July 27, 1993) and DOD Minority Contracting (GAO/NSIAD-94-117R, February 18, 1994).



program served as a model for a similar program established for other federal agencies in last year's procurement reform legislation.

In summary, Madame Chair, while SBA has made progress in improving certain aspects of the 8(a) program, it has not yet achieved key changes mandated by the Congress. Although the total dollar value of new contracts awarded competitively grew during fiscal year 1994, federal procuring agencies limit firms' opportunities for competition under the 8(a) program. The concentration of contract dollars in a few firms continued in 1994, limiting the developmental opportunities available to many firms. And, while SBA has approved business plans for most firms, it has not given the same attention to annually reviewing these plans to ensure that they accurately reflect the firms' development goals and contract needs. Moreover, many firms nearing the end of their program terms are still dependent on 8(a) contracts. These firms will thus leave the program without an adequate base of non-8(a) work, raising doubts about the firms' probability of success in the commercial marketplace.

#### BACKGROUND

The 8(a) program, administered by SBA's Office of Minority Enterprise Development, is one of the federal government's primary vehicles for developing small businesses that are owned by minorities and other socially and economically disadvantaged individuals. As of January 1995, 5,293 firms were in the 8(a) program. In fiscal year 1994, 6,012 new contracts and 19,790 contract modifications, together totaling about \$4.37 billion, were awarded to 8(a) firms. Firms can participate in the 8(a) program for a maximum of 9 years.

The 1988 legislation marked the third major effort by the Congress to improve SBA's administration of the 8(a) program and to emphasize its business development aspects. Over the years,

reports by GAO, SBA's Inspector General, and others have shown continuing problems with SBA's administration of the program and/or with the program's ability to develop firms that could compete in the commercial marketplace after leaving the program. A problem often cited in these reports was that a large percentage of the total number of contracts was being awarded to very few 8(a) firms. These reports made numerous recommendations for improving the 8(a) program.

#### COMPETITIVELY AWARDED 8(a) CONTRACTS HAVE INCREASED

To help develop firms and better prepare them to compete in the commercial marketplace after they leave the program, the act requires that 8(a) program contracts be awarded competitively when the total contract price, including the estimated value of contract options, exceeds \$5 million for manufacturing contracts or \$3 million for all other contracts.

New contracts that were awarded competitively during fiscal year 1994 totaled about \$383 million. This amount represented about 18.5 percent of the \$2.06 billion in new 8(a) contracts that were awarded during fiscal year 1994 and an 11 percent increase over the contract dollars that were awarded competitively in the prior fiscal year. While the total dollar value of new 8(a) contracts awarded in fiscal years 1991 through 1994 increased by about 29 percent, the total contract dollars that were awarded competitively increased about 81 percent. Most of this increase occurred in fiscal year 1992, with only a modest increase in competitive awards since then. Appendix I contains a table that shows the number and the total 8(a) contract dollars that have been awarded competitively since fiscal year 1991.

Despite the increase in total contract dollars that are awarded competitively under the 8(a) program, federal procuring agencies have limited firms' opportunities for competition under

the 8(a) program. Our February 1994 report<sup>3</sup> on contracting practices at the Department of Energy (DOE) revealed several examples where a procuring agency kept price estimates for 8(a) program contracts artificially low and structured contracts so that their estimated prices were below the competition thresholds specified in the act.

- In one case, a program office limited the length of an 8(a) support services contract and required the contractor to provide less-skilled personnel than originally planned, to ensure that the contract did not exceed the \$3 million threshold for competition. At the conclusion of that contract, the office made another noncompetitive 8(a) award to the same contractor for approximately \$2.9 million, to continue the support for another 12 months.
  
- In another case, a program office prepared price estimates for both 3- and 5-year 8(a) support services contracts. The estimate for the 3-year contract was \$2.95 million and for the 5-year contract was \$5.42 million. The office, citing the immediate need for a contractor's services, made a noncompetitive 8(a) award for 3 years. At the conclusion of that contract, the office awarded another noncompetitive 3-year 8(a) contract to the same contractor for the same services, priced at less than \$3 million.

Our work also showed that before the 8(a) competition thresholds took effect in October 1989, almost 40 percent of the support services procurements that the DOE offered to the 8(a) program carried price estimates above the \$3 million competition threshold. However, after the thresholds took effect, none of the support service procurements that the Department offered to the

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<sup>3</sup>Energy Management: DOE Can Improve Distribution of Dollars Awarded Under SBA's 8(a) Program (GAO/RCED-94-28, Feb. 23, 1994).

8(a) program were estimated to exceed the \$3 million competition threshold. In addition, over 60 percent of the procurements that the Department offered after the competition thresholds took effect had estimates between \$2.5 million and \$3 million, with half of those having estimated prices between \$2.9 million and \$3 million.

By avoiding the competition thresholds, agencies can direct sole-source contracts to firms with which they are familiar. SBA officials told us that agencies' procuring officials find the 8(a) program attractive because it allows them to develop a relationship with a firm and continue to make sole-source awards to that firm. It should be noted that the law generally requires SBA to award a sole-source contract to the 8(a) firm recommended by the procuring agency.

CONTRACTS DOLLARS ARE STILL CONCENTRATED  
IN A SMALL PERCENTAGE OF FIRMS

A long-standing concern has been the concentration of 8(a) contracts dollars among relatively few firms. In fiscal year 1994, 50 firms, or about 1 percent of the 5,155 firms in the program, received about 25 percent of the \$4.37 billion in total 8(a) contract dollars awarded during the fiscal year. In addition, 22 firms that were among the top 50 firms in fiscal year 1993 were also among the top 50 firms in fiscal year 1994.

As 8(a) contract dollars continue to be concentrated in a few firms, many firms do not receive any 8(a) program contracts. According to SBA, of the 5,155 firms in the program at the end of fiscal year 1994, 2,885 firms, or about 56 percent, did not receive any program contracts during the fiscal year. In the prior 3 fiscal years, 53 percent of the firms did not receive any program contracts.



A key reason for the continuing concentration of contract dollars among relatively few firms is the conflicting objectives confronting procuring officials. The primary objective of agency procuring officials is accomplishing their agency's mission at a reasonable cost. The business development objectives of the 8(a) program are a secondary objective. Moreover, agency procurement goals for the 8(a) program are stated in terms of the dollar value of contracts awarded. The easiest way for agencies to meet this goal is to award a few large contracts to a few firms, preferably firms they have had experience with and know the capabilities of.

Nonetheless, some efforts have been made to increase the award of 8(a) contracts to firms that have never received contracts. SBA is requiring that during 1995 each of its district offices develop specific initiatives for marketing the program to federal procurement offices in their jurisdictions in order to increase contracting opportunities for more firms. In addition, DOD has agreed to give special emphasis to firms in the 8(a) portfolio that have never received contracts. Similarly, the Department of Veterans Affairs has agreed to a goal that each of its 172 medical facilities will award a contract to an 8(a) firm that has never received a contract.

#### BUSINESS PLANS ARE NOT ANNUALLY REVIEWED

Business plans help to develop firms by setting forth, among other things, the firm's business development goals and objectives, estimates of its future 8(a) and non-8(a) contract activity, and specific steps for ensuring profitable business operations after the firm completes its term in the program. The 1988 act requires SBA to annually review each business plan with the firm and modify the plan, as needed, to ensure that the firm's business development goals are realistic and to help the firm achieve them. During its annual business plan review, each firm is required to provide SBA

with a forecast of the amount of 8(a) and non-8(a) contract dollars it will seek over its next 2 program years.

In July 1994, we testified that about 80 percent of the firms in the program had new or revised business plans approved by SBA. However, SBA could not tell us whether these plans were being annually reviewed or were being modified because it did not routinely collect these data from the field offices. However, SBA officials told us at that time that there is a need for this information and that SBA planned to direct its field offices to provide it.

Data provided by SBA field offices as of September 30, 1994, show that 4,393 firms, or about 85 percent of the firms in the program at the end of fiscal year 1994, had new or revised business plans approved by SBA. However, at the same time, the data also show that SBA field offices are not conducting annual reviews of these business plans. Of the 4,393 firms with approved business plans, 2,516 firms, or about 57 percent, had annual reviews conducted of their business plans during fiscal year 1994. To emphasize the importance of and need for annual reviews of business plans, SBA has made the annual review of each firm's business plan one of the three performance goals for its field offices in fiscal year 1995.

SUCCESS IN MEETING 8(a) AND NON-8(a)  
BUSINESS MIX LEVELS IS LIMITED

To increase the program's emphasis on business development and the viability of firms leaving the program, the act directed SBA to establish levels of contract dollars that firms in the last 5 years of their program terms must achieve from non-8(a) sources. The non-8(a) business mix levels that SBA has established increase during each of the 5 years, ranging from a minimum of 15 percent of a firm's total contract dollars during its fifth year to a minimum

of 55 percent of the total contract dollars in the firm's ninth or final year. SBA field offices, as part of their annual reviews of firms, are responsible for determining whether firms achieve their non-8(a) business levels. In July 1994, we reported that SBA could not provide us with information on the extent to which 8(a) firms were meeting the non-8(a) business levels because SBA headquarters did not routinely collect this information from its field offices.

In February 1995, SBA provided us with data that show that of 1,038 firms in the fifth through the ninth year of their program term, 63 percent of the firms met or exceeded the minimum non-8(a) business levels while 37 percent did not meet the minimum non-8(a) contract levels. However, these data also show that firms who have been in the 8(a) program longer are doing a poorer job of meeting minimum levels of non-8(a) business activities than newer firms. While 72 percent of the firms in their fifth year met or exceeded the minimum non-8(a) business level established for that year, only 37 percent of the firms in their eighth program year, and 37 percent of those in their ninth or final program year met or exceeded the minimum levels established for each of those two years. Furthermore, for those firms in their final year that did not meet their non-8(a) business levels, their non-8(a) business, on average, comprised only 34 percent of their total contract dollars. SBA, recognizing how important it is that it initiate remedial actions when firms are not in compliance with their non-8(a) business targets, has made this one of its district offices performance goals for fiscal year 1995.

Appendix II contains a table showing the extent to which firms met their non-8(a) business levels for each program year.

#### DOD'S PROGRAM FOR SMALL DISADVANTAGED BUSINESSES

In addition to SBA's 8(a) program, DOD has a preference program for small disadvantaged businesses commonly referred to as

the 1207 program.<sup>4</sup> This program (1) allows DOD to set aside contracts for competition among small disadvantaged businesses and (2) allows contracting officers, in evaluating other competitively offered prices, to provide price preferences to small disadvantaged businesses by increasing other offers by 10 percent.

DOD's 1207 program is of particular interest because last year's procurement legislation authorized a program for civilian agencies modeled after DOD's program. As in DOD's program, civilian agencies will be allowed to limit competition on some contracts to small disadvantaged businesses and to use price preferences in others.

Eligibility requirements for DOD's 1207 program are similar but not identical to those of the 8(a) program. As in the 8(a) program, participation is limited to concerns owned and controlled by socially and economically disadvantaged individuals. However, the 1207 program uses a less restrictive definition of economic disadvantage.<sup>5</sup> Moreover, while the 8(a) program requires SBA to certify firms' eligibility for the program, the DOD program relies on self-certification.

In fiscal year 1994, DOD awarded \$6.1 billion in prime contracts to small disadvantaged businesses. About 18 percent of these contract dollars were awarded through the 1207 set-aside, and about 6 percent were awarded using price preferences (or as modifications to such contracts). Close to half of the contracts

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<sup>4</sup>The program was created by section 1207 of Public Law 99-961, the Fiscal Year 1987 National Defense Authorization Act.

<sup>5</sup>Under the regulations applying to DOD's program, economically disadvantaged individuals are those individuals with a net worth of not more than \$750,000 (excluding equity in the business and in a primary residence). Currently, the 8(a) program sets the net worth limits at \$250,000 for individuals owning and controlling firms entering the program, which increases to \$750,000 as the firm progresses through the program.



awarded to small disadvantaged businesses were awarded through the 8(a) program, while 31 percent were awarded outside the 1207 and 8(a) programs. According to DOD officials, the heavy reliance on the 8(a) program is the result of the priority given to 8(a) under DOD procurement regulations. These regulations provide that contracts should initially be considered for the 8(a) program, then for the 1207 set-aside program, next for the small business set-aside, and finally to all businesses through full and open competition. DOD officials also indicated that contracting officials prefer the 8(a) program because it allows them to select a contractor they are familiar with. Appendix III shows the contract dollars awarded to small disadvantaged businesses under each program.

While concentration under the set-aside portion of the 1207 program is similar to that of the 8(a) program, contract dollars awarded through price preference are significantly more concentrated. Under the set-aside program, 1 percent of the firms, or 10 firms, received 15 percent of contract dollars in fiscal year 1993. For DOD awards under the 8(a) program, 1 percent of the firms, or 16 firms, accounted for 17 percent of the contract dollars. However, under the price preference, 1 percent of firms, or 13 firms, received 91 percent of the contract dollars. The high concentration is primarily the result of the award of large petroleum contracts. For all awards to small disadvantaged businesses, 1 percent of the firms, or 41 firms, received 24 percent of the total contract dollars.

#### CONCLUSION

While SBA continues to make progress in improving various aspects of the 8(a) program, key changes that the Congress mandated in 1988 to make the 8(a) program an effective business development program have yet to be achieved. Over the past 5 years, there has been virtually no improvement in the dispersion of program

contracts among 8(a) firms, with the result that contract dollars remain concentrated in a small number of firms. While the 8(a) program is intended to facilitate the entry of firms into government procurement and aid their development, the concentration of contract dollars among a few firms denies or limits development opportunities for many other firms.

Over the past several years, SBA has paid considerable attention to ensuring that firms have new or revised business plans, but it has not given the same attention to annually reviewing these plans to ensure that they accurately reflect the firms' business development goals and 8(a) and non-8(a) contract needs. In addition, when such annual reviews have occurred, SBA has not focused sufficient attention on the actions needed to improve firms' development of their non-8(a) program.

Madame Chair, the limited success that firms are having in reducing their dependence on the 8(a) program as they near the end of their program term is perhaps the most significant issue facing SBA. The transition from the 8(a) program to the commercial market can be difficult even in those cases where the firm has developed a solid base of contracts outside the 8(a) program. However, for firms leaving the 8(a) program still heavily dependent on the program for its livelihood, as is the case with many firms nearing completion of their program term, survival outside the program will be even more challenging.

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This concludes my prepared statement. I would be glad to respond to any questions that you or Members of the Committee may have.

INCREASE IN COMPETITIVE 8(a) CONTRACTS AND DOLLARS SINCE 1991

Dollars in billions

8(a) contracts	Fiscal Year 1991	Fiscal Year 1992	Fiscal Year 1993	Fiscal year 1994
Number of new contacts	4,576	4,693	5,481	5,990
Number of new contracts awarded competitively	86	139	202	174
Percent of new contracts awarded competitively	1.88	2.96	3.69	2.89
New contract dollars awarded	\$1.60	\$1.70	\$2.21	\$2.06
New contract dollars awarded competitively	\$0.21	\$0.34	\$0.34	\$0.38
Percent of new contract dollars awarded competitively	13.13	20.00	15.38	18.45

Source: SBA

ANALYSIS OF 8(A) FIRMS' COMPLIANCE WITH THEIR  
NON-8 (A) BUSINESS LEVELS

Program Year	Non-8(a) business mix level (percent of total revenues)	Total number of firms	Number of firms that met or exceeded levels	Percent of firms that met or exceeded levels	Number of firms that did not meet levels	Percent of firms that did not meet levels
5	15-25	345	249	72	96	28
6	25-35	375	260	69	115	31
7	35-45	161	92	57	69	43
8	45-55	138	51	37	87	63
9	55-75	19	7	37	12	63
Total		1,038	659	63	379	37

Source: SBA.



DOD CONTRACTS AWARDED TO SMALL DISADVANTAGED BUSINESSES (SDB)

Dollars in millions

Program	FY 1992		FY 1993		FY 1994	
	(in millions)	(percent)	(in millions)	(percent)	(in millions)	(percent)
SDB set-aside	\$ 796	15	\$1,002	16	\$1,089	16
SDB price preference	264	5	515	8	356	6
8 (a) <sup>a</sup>	2,566	49	2,773	45	2,754	45
Other awards to SDBs <sup>b</sup>	1,569	30	1,893	31	1,915	31
TOTAL	\$5,195	100	\$6,183	100	\$6,114	100

<sup>a</sup>May include awards to 8(a) firms made outside the 8(a) program.<sup>b</sup>Includes awards to SDBs made outside of the 8(s)/SDB program.

Source: DOD

TESTIMONY BY BOB McCALLIE  
McCALLIE ASSOCIATES INC.

Good afternoon Madam Chairman and Members of the Committee. My name is Bob McCallie. My wife and I are the principal stockholders of a small business government contracting firm in Bellevue, Nebraska. Our business provides vital computer and communication services to the Department of Defense.

As a member of The National Federation of Independent Business (NFIB), local chambers of commerce and other organizations representing the business community, I would like to thank you for reviewing the SBA's 8(a) set aside program. I believe that experiences of myself and others will demonstrate to Congress that this program has serious problems and should be radically revised or eliminated altogether. In addition to my own testimony, I have taken the liberty of submitting a letter from John Bowman, Incorporated, a company that has been severely damaged by the 8(a) set aside program.

In 1982, after agonizing with the difficulty and risk of starting a business, my wife and I decided to invest much of our life's savings into a venture dedicated to supporting our country's defense. It was not an easy business, and since the capitalization was minimal, it took several years to build it to a reasonable level. But after some years of struggling, things finally started to go our way.

From an initial annual sales of approximately \$100,000 and two employees, we grew to about \$3,000,000 and about fifty employees within ten years. Over those years, we built excellent management and technical teams and supported the Strategic Air Command (SAC) and others with high technology goods and services. Furthermore, we learned a lot about business and competition. By 1985, we were winning significant federal subcontracts and some small federal prime contracts. Between 1985 and 1987, we won a large subcontract to support TRW in the upgrade of SAC's underground command center and another large subcontract to support McDonnell Douglas on several mission planning projects. In 1990, we won our first major prime contract, called the Executive Support System, to manage and maintain a large office automation network for Strategic Air Command. That same year, we were a member of a team that won a major contract to manage and maintain the vital underground Command Center at SAC. Our business was starting to grow and our future looked bright. In 1992, we were recognized by the Small Business Administration as one of the top ten small business prime contractors in the United States and were honored with the award here in Washington.

Since 1992, we have found it more difficult to obtain new contracts. On several occasions, large prime contractors have reviewed our subcontract proposals, commented positively about our credentials, our technology, our approach and our competitive rates, but lamented that they could not do business with our company. The reason they gave was that we represented no recognized minority group. Furthermore, since 1992, it seems that more prime contract work is either set aside for minority competition or simply given to a selected minority company. During this time period, I have participated in small business conferences at various

locations. At those conferences, I have always heard two versions of the success of minority set-aside programs. The official version touted the success of the programs, claiming success because a lot of money was diverted from the competitive process to selected companies. However, individual contracting officers had a different version. Their experience showed that minority set-asides had a high failure rate. This is not surprising since many of these companies had not been tempered by competition.

The harsh impact of this approach was recently demonstrated to our company with great force. When the Executive Support System contract, for which we were honored in 1992 was up for rebid, we were told that we could not participate because the Government had decided not to compete it, but to give it to an 8(a) firm without competition. This was not a local firm, but one that the Government brought from four hundred miles away (St. Louis, Missouri) to start fresh to do this work. Furthermore, it was the Government's assumption that this firm would not only take over the contract, but also take over our employees, since they had the desired expertise to perform the work. We had made a decision to move these employees into commercial areas, and even restructured the company to utilize the skills of one of the key individuals. After our reorganization, these employees received offers that were difficult to refuse from the 8(a) firm. Apparently, money was no object in these negotiations. This is particularly frustrating since we have had to cut our costs to the bone to compete in this marketplace. I can't begin to describe the negative effect that this process has had on our employees. Incidentally, this contract accounted for about ten percent of our federal business when we learned that it was to be taken away. The Government did not examine the impact upon our business before making their decision.

Over the years that I have been in business, it has been rather difficult to comply with all of the requirements of government. However, with good management and attention to detail, we have done just that. We have always been in compliance with government requirements. Furthermore, we have exceeded the customer's performance expectations. What we cannot do is survive the Government preventing us from competing for contracts. I believe that this is a lose/lose/lose situation. Companies like mine will lose, in fact, they will go out of business. Minority companies will lose after short term gains, since they will know nothing of competing in the open market. The Government will lose, since lack of good competition will drive prices up and quality down.

I do not ask Congress to do anything for me or my company. I simply ask that you give back the free market and let nature take its course.

## JOHN BOWMAN, INC.

967 E. Fillmore Street • Colorado Springs, Colo. 80907-6315 • Phone: (719) 633 2469 • Fax: # (719) 633-0814

McCallie Associates, Inc.  
1501 J. F. Kennedy Drive  
Belevue, NE 68005

Dear Mr. McCallie,

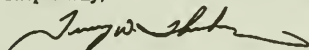
I would like first of all to thank you for your efforts regarding the inequities of the affirmative action programs. It takes a great deal of character in this day and age to speak out against affirmative action. Many do not realize that we are not bigots, but merely honest, hard working business men who have had our earning potential disintegrate as we have been denied the opportunity to bid for contracts awarded by our government.

It has not been a matter of losing work because of poor performance, management, or funding. Our firm has been nominated three times, and awarded twice, the honor of Small Business Administration Prime Contractor of the Year for Region VIII. As you know, it is our customer, the US Government, who nominates us for this award. Our continued excellent performance of contracts for our government has resulted in exclusion from even bidding on an estimated 80% of the work currently being let in the construction area.

I joined this firm in 1977, the first year we reached \$1 Million in volume. By 1989 we had gradually grown our business to an annual volume of \$14-15 Million. We are now performing \$2-4 Million in volume. It is not because we are not capable of superior performance, or a far greater volume, but because the majority of government construction work is currently being set aside for either 8-A contractors or Small Disadvantaged Business only.

Our firm has never asked for, nor have we received any special treatment. We are dedicated to outstanding performance, but we need to be able to compete fairly. The current affirmative action program disqualifies an exceedingly large number of sound, competitive business firms. It is not equitable to the contractors, it is not equitable to our Government, and it is not equitable to the tax paying public. We always want the best for ourselves, for our children. Don't we also want the best for our country?

Respectfully,

  
Terry W. Theken  
John Bowman, Inc.  
President





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



STATEMENT OF  
ROBERT L. NEAL, JR.  
ASSOCIATE DEPUTY ADMINISTRATOR  
FOR  
GOVERNMENT CONTRACTING & MINORITY ENTERPRISE DEVELOPMENT  
BEFORE THE  
U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SMALL BUSINESS

Madam Chairman and Members of the Committee, thank you for this opportunity to appear before you today to discuss the U.S. Small Business Administration's (SBA) Minority Enterprise Development Program.

I am accompanied by Herbert L. Mitchell, Associate Administrator for Minority Enterprise Development.

### PROGRAM SUCCESS

Before I discuss the progress that we have made since SBA testified before this Committee in September of 1993, allow me to share with you a few examples of the business success that 8(a) program participants have achieved.

Our review of Black Enterprise Magazine's June 1994 edition reveals that 32 of the top 100 African American owned businesses are or were in the 8(a) program. Of the top 100 Hispanic owned businesses (Hispanic Business Magazine, June 1994), 17 are or were in the 8(a) program.

One firm, Computer Systems Technology, Inc. (CST), provides a good example of how the SBA's programs work together to assist small business. The President, Ms. Bobby Bradley, tells us that as a start-up business in 1985, she and her two partners worked part-time in the business while receiving counseling assistance at the Small Business Development Center (SBDC) in Huntsville, Alabama. After 5 years in

business, with 10 employees and sales of over \$550,000, the SBDC helped CST prepare for and enter the 8(a) program. The SBA's Small Business Institute program helped CST to develop a policies and procedures manual and to prepare for expected growth. CST now has 80 employees and sales of \$8 million annually. Ms. Bradley still utilizes the SBDC services and is currently a protegee participant in the SBA Women's Network for Entrepreneurial Training program in Alabama.

We are particularly pleased to tell you about Carl Romero of Anaheim California, who not only turned a life-long love of plants into a booming landscape and construction business, but utilized the Minority Enterprise Development Program to help him grow from two employees in 1982 to 75 full-time employees today. Mr. Romero entered the 8(a) program in 1988 and received an SBA 8(a) loan to purchase equipment needed for major contracts with the Air Force. He was one of the 1993 participants in the Amos Tuck Graduate School of Management at Dartmouth College's Minority Business Education Program, sponsored by the 7(j) program. General Landscape and Maintenance Company has become a strong economic entity in Anaheim, California.

Another business development success story is the Diggs Construction Company, Inc., of Wichita, Kansas, a graduate of the 8(a) program. Since the firm's entry into the program in 1981, sales have grown from \$1.1 million to \$4.4 million in 1992. Employment has also grown almost threefold from 26 to 60 full-time

employees. Mr. Diggs prides himself on using minority subcontractors to do 70% of the subcontracted work in addition to maintaining a work force that is 60% minority.

When Calvin Murdock, of Indianapolis, Indiana, started Murdock and Sons Construction, Inc. in 1977, he was a 25 year-old college graduate with little money. Struggling to survive, he received two SBA loans in 1979 and entered the 8(a) program in 1983. Both guaranteed loans are now paid in full and the company has graduated from the 8(a) program. Growth in sales, profits, net worth and employment have all been steady. Since 1979 sales have increased over 1,100 percent to over \$8 million. Profits are up 1,300 percent and the firm's net worth has increased 450 percent to over a half million dollars. The firm has a bonding capacity in excess of \$3 million. More than 217 jobs have been created, 70 percent of which are filled by minorities. Mr. Murdock is also very aggressive in the use of minority suppliers and sub-contractors. The business continues to contribute to the economic well being of its community and the people of Indianapolis, Indiana.

Willie C. Roberson of W.C. Roberson Plumbing & Construction of Buffalo, New York has been a participant in the 8(a) program since July 18, 1985. Upon certification, the firm had annual sales of \$700,000 and five employees which have now grown to approximately \$3.5 million and thirty employees. Mr. Roberson serves as president of the New York State Association of Plumbing and Heating Contractors. He is an ordained minister and volunteers many hours to his church and community.



At Roswell Park Cancer Institute, Mr. Roberson volunteers his time with the "Health Express," an initiative of the cancer control epidemiology center. He is an active member of the McKinley Vocational High School Advisory Council and is a member of the Board of Directors for Blind Industries, Inc.

In addition to the success of individual firms, the percentage of firms that are still operational after leaving the program has shown improvement since the implementation of competitive business mix requirements in 1989. The Small Business Act as amended by Public Law 100-656, requires SBA to include in its annual report to Congress, a compilation and evaluation of those business concerns that have exited the 8(a) program during the immediately preceding three fiscal years.

A summary of this information for the last three annual reports is as follows:

Firms that exited the 8(a) Program Between:

<u>Status</u>	<u>1988 - 91</u>	<u>1989 - 92</u>	<u>1990 - 93</u>
Operational	246 (48.5%)	301 (53.3%)	395 (55.6%)
Ceased Operations	240 (47.3%)	235 (41.6%)	252 (35.5%)
Curtailed Operations	9 (1.7%)	24 (4.2%)	41 (5.8%)
Acquired by Others	<u>12</u> (2.4%)	<u>5</u> (.1%)	<u>22</u> (3.1%)
Total	507	565	710

**PROGRAM MISSION**

The Office of Minority Enterprise Development (MED) manages business development programs assisting businesses owned and controlled by socially and economically disadvantaged individuals to successfully compete in the mainstream national economy as required by Congress in the Small Business Act. Organizationally, MED is part of SBA's Office of Government Contracting and Minority Enterprise Development. The program provides managerial, technical, and marketing assistance to eligible concerns to aid them in achieving full competitive potential. Through these activities, MED ensures that its customers have access to the full range of developmental and financial services offered by the Agency through its field offices and resource partners, such as the Minority Business Development Agency's Business Development Centers and SBA's Small Business Development Centers.

Under Section 8(a) of the Small Business Act, SBA is authorized to provide sole source and competitive contracts to small businesses that are owned and controlled by socially and economically disadvantaged individuals. The goal of the program is to help these firms become competitive by providing access to sole-source and limited competition contracts for up to nine years. Manufacturing contracts offered to the program that exceed \$5 million and all other types of contracts that exceed \$3 million are required to be competed among eligible program participants.

Under the Section 7(j) Management and Technical Assistance Program, management and technical assistance is provided to 8(a) firms, to the disadvantaged owners of other small businesses, low-income individuals, and small business firms in either labor-surplus areas or areas with a high proportion of low-income individuals. Assistance is provided in four major areas: accounting and finance, marketing, proposal/bid preparation, and industry-specific technical assistance. In addition, funds are provided to support participation in executive education. SBA awards cooperative agreements to both public and private organizations for the delivery of program services. Competitive and 8(a) set-aside program announcements are issued annually to solicit proposals to provide 7(j) services.

Since the award of its first 8(a) contract in 1969, the 8(a) program has been responsible for the award of approximately 95,000 contracts valued at approximately \$48 billion. At present, there are approximately 5,400 certified 8(a) firms. During FY 1994, 8(a) program participants received approximately 5,990 contracts. The total of all contract actions, including contracts and modifications, was valued at approximately \$4.34 billion.

#### **SOCIAL AND ECONOMIC DISADVANTAGE**

The 8(a) Program was created by the Congress to promote and assist socially and economically disadvantaged business persons in gaining equal access to the

resources necessary to develop small businesses and thereby improve their ability to compete on an equal basis in the mainstream of the American economy. The Small Business Act states that "it is in the national interest to expeditiously ameliorate the negative conditions faced by many minority and socially and economically disadvantaged businesses." Clearly, the opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential if we are to obtain social and economic equality for such persons and improve the functioning of our national economy.

In order to participate in the 8(a) Program, a business must be at least 51% unconditionally owned, controlled and operated by an individual or individuals who are determined by the SBA to be socially and economically disadvantaged. As defined in Public Law 95-507, the Small Business Act [Section 8(a)(5)], socially disadvantaged persons are those who have been subject to racial or ethnic prejudice or cultural bias because they have been identified as members of certain groups without regard to their individual qualities. The Small Business Act [Section 2(f)(1)(c)], states that such groups include, but are not limited to, Black Americans, Hispanic Americans, Native Americans, Indian Tribes, Asian Pacific Americans, Native Hawaiian Organizations, and other minorities. This, however, does not preclude other Americans, who may have also suffered from social disadvantage because of racial or ethnic prejudice or cultural bias, from applying to the program. Individuals who are not members of the



designated groups may apply for 8(a) certification, however, social and economic disadvantage must be established on an individual basis.

The Small Business Act [Section 8(a)(6)] defines economically disadvantaged individuals as "socially disadvantaged" individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities the SBA shall consider, but not limited to, the assets and net worth of such socially disadvantaged individuals.

Whenever SBA computes the personal net worth for 8(a) program eligibility, the Small Business Act [Section 8(a)(6)(e)] directs SBA to exclude the value of investments that disadvantaged owners have in their concerns and the equity in their primary personal residences [except that any portion of such equity that is attributable to unduly excessive withdrawals from the concern shall be taken into account].

Unduly excessive withdrawals are not defined in statute, but the Act [Section 8(a)(6)(c)] does require SBA to initiate termination proceedings or require the owner to reinvest the "unduly excessive withdrawals" in the firm when SBA determines that unduly excessive withdrawals have been made that are detrimental to achieving the firm's business development objectives.

SBA's current regulations for determining economic disadvantage for 8(a) program participation sets the personal net worth (subject to the statutory exclusions) limit for program entry at \$250,000, during the developmental stage (first 4 years) at \$500,000 and during the transitional stage (last 5 years) at \$750,000.

#### MINORITY ENTERPRISE DEVELOPMENT

The majority of the criticism of the 8(a) program has focused mostly on internal processes and procedures at SBA such as the lengthy application process, lack of program data and delays in contract awards. We have acknowledged these problems and have addressed each one, placing a greater emphasis on providing assistance to the participants and making it easier for procuring agencies to utilize the 8(a) process. This has been our underlying approach and philosophy for all of the changes and proposals that we have made to improve the 8(a) Program. To do this, our focus has been on eliminating unnecessary requirements or processes, and improving the assistance that we provide to program participants by making better use of our limited personnel.

Prior attempts to improve the administration and management of the 8(a) Program have focused primarily upon processes and systems. This was in response to specific criticism concerning SBA's failure to effectively process applications,

review contract actions, market the Program and implement an effective management information system. Overall, Madam Chairman, the efforts of the SBA to assist the minority business community, unlike its efforts to assist other small businesses, have focused almost exclusively on providing access to and assistance with government contracting. In our analysis of portfolios of SBA programs, we discovered that minority owned businesses were underrepresented in almost all of the other programs and services of the Agency.

Our first step in improving the 8(a) program was included in the Agency's overall reorganization. The Offices of Government Contracting and Minority Enterprise Development were placed under a separate Associate Deputy Administrator. This was done to take advantage of the capabilities and resources of the Office of Government Contracting in marketing and identifying contract opportunities for the 8(a) program. We have also downsized our central and regional office staffs and redirected those resources to the district offices to better serve our customers.

Minority Enterprise Development (MED) represents a comprehensive approach to improve both the process operation of the 8(a) and, more importantly, to work toward providing more contract opportunities while also expanding Agency business assistance and training to a much broader base of eligible firms. The 8(a) program has served as a valuable tool in providing the disadvantaged owners of small businesses access to the federal procurement market, however, it has not fully met its business

development objectives. MED is an effort to expand the program's mission to include the provision of comprehensive technical, business and procurement training. We have revised our loan program to provide greater access to credit for minority small businesses. One of our Office of Government Contracting's major priorities is to identify procurement opportunities for program participants. In cooperation with our Office of Small Business Development Centers we are in the process of soliciting and evaluating proposals to provide a structured counseling and training program for start-up and developing small disadvantaged businesses.

On August 30, 1994, SBA published proposed regulatory changes to implement the major changes articulated in the MED Program. These changes would make concerns owned and controlled by Community Development Corporations eligible for the 8(a) Program to an extent that would not be inconsistent with requirements of the 8(a) program imposed by the Small Business Act. In addition, the concept of local and national buy (except construction) would be eliminated, allowing firms to market and compete for 8(a) contracts nationwide. The restrictions on obtaining SBA's approval for changes in capabilities would be eased; the mandatory requirement for quarterly financial statements would be eliminated; the competitive threshold for Indefinite Delivery/Indefinite Quantity (IDIQ) contracts would be based on the estimated value of the award, creating more opportunities for competition; and, artificially established support levels would be eliminated as a bar to contract awards so long as the firm has met its competitive business mix requirements.

**STATUS OF APPLICATION PROCESSING**

Historically SBA's Division of Program Certification and Eligibility (DPCE) has not met the 90-day statutory timeframe for processing 8(a) applications. However, in the last 10 months, I am pleased to report, that DPCE has decreased the average processing time of applications by 92 days while at the same time processing twice as many applications, going from 207 days in FY 93 to 114 days in FY 94, and processing 2066 certification actions in FY 94 compared to 1040 in FY 93. Since April 1994, during my tenure, the average processing time has been 98 days, a little over the statutory timeframe. We fully anticipate that by the end of the fiscal year our team will be processing consistently below the 90-day statutory requirement.

This improved trend in processing time was accomplished by applying basic management techniques including: training staff in proper case analysis, balancing workload, establishing productivity standards and monitoring performance. In November of 1993, to assist in monitoring performance, SBA placed its Certification Tracking System (CTS) in operation. Staff spent the ensuing five months perfecting the data in the system. In April we began generating management reports from CTS. The CTS now contains relevant, reliable, and timely information. It has become a valid source of statistical information regarding processing production and individual work



productivity. It is a management tool that enables SBA to identify processing delays, and to manage the workload. Accountability in both SBA Headquarters and in the field Central Office Duty Stations (CODS) has increased through its use.

#### **STATUS OF PROCESSING TERMINATIONS**

Over the past ten months we have moved aggressively to terminate those firms not in compliance with program regulations. By the end of FY 94 (September 30, 1994), 302 firms were terminated from the 8(a) program, 100 more than were terminated from FY 88 through FY 93. One hundred thirty-six firms have been terminated so far in FY 95. We have also aggressively handled all cases that have been referred to us by the Office of the Inspector General. We have also established as a goal for each district office to annually review each program participant to assure that they comply with all program requirements.

#### **EXPANDING 8(A) CONTRACT OPPORTUNITIES**

In prior reports, the General Accounting Office (GAO) and SBA Office of the Inspector General (IG) criticized the 8(a) Program because a few companies receive the majority of 8(a) contracts. We agree with their findings; however, we believe that factors

beyond the regulatory control of SBA also play a role in the inequitable distribution of 8(a) contracts.

8(a) firms are no different from other small businesses -- some will be more successful than others. Clearly, some 8(a) participants are more aggressive in marketing their firms than others, some have identified and developed a unique market niche, some provide outstanding customer service and contract performance, and some have the entrepreneurial spirit and tenacity that is necessary for effective market development and growth. Further, under the law, procuring agencies can nominate specific 8(a) firms for specific requirements. We believe these factors make a difference and often determine what firm will get a contract award.

It is important to realize that in federal contracting at large, a small percentage of firms also receive the majority of the federal procurement dollars. For example, in FY 93, 200 firms (representing the largest suppliers of federal goods and services) received approximately 65 percent of all contract dollars for contracts awarded over \$25,000 (\$117 billion out of \$180 billion). The concentration of contracts within the 8(a) program is not unique, but is actually consistent with the overall Federal marketplace.

The determination of which firms receive 8(a) contracts, to a large degree, is determined by such factors as: the firm's proximity to federal agencies, capabilities

of the firm, access to credit and capital, effective marketing, and the level of support received from each federal agency. The current goaling process, which focuses only on total contract dollar awards, provides very little incentive for procuring agencies to utilize a larger number of firms or to consider identifying contract opportunities in different industries. Dollar goals can be met by awarding a few large 8(a) contracts to a few firms.

We have taken several steps to broaden the distribution of 8(a) sole source contracts. One of the major priorities for the Office of Government Contracting is to identify contracting opportunities for the 8(a) program. The Administrator has issued a memorandum to all district directors directing each district to develop, in cooperation with our Office of Government Contracting staff, a strategic plan to increase the number of contract opportunities for a greater percentage of its portfolio.

SBA's Office of Government Contracting continues to take an active role in marketing and promoting the 8(a) Program. One of the major priorities of the Agency's Procurement Center Representatives is to work with SBA district offices and the 8(a) portfolio to identify additional contracting opportunities. We have executed a Memorandum of Understanding (MOU) with the Department of Defense (DOD) to increase DOD awards to small disadvantaged businesses by five percent, with emphasis on the utilization of firms in the 8(a) portfolio. A key feature of this initiative is a commitment by DOD to give special attention to firms that have never received

an 8(a) contract. In this way, we are working to increase the number of participants who actually receive contracts. We are negotiating with other federal agencies and expect to execute similar MOUs or other agreements with those agencies.

Additional measures have been proposed by SBA to address this issue. These changes were published for comment in the aforementioned proposed regulations. The final rule, which is being cleared for submission to the Office of Management and Budget (OMB), is summarized as follows:

The definitions for local buy (except construction) and national buy 8(a) offerings will be eliminated. A local buy item is a service or product purchased to meet the specific needs of one user in one location. The Small Business Act [Section 8(a)(11)] requires, to the maximum extent practicable, construction subcontracts awarded under section 8(a) shall be awarded within the county or state where the work is to be performed. Currently, contracts classified as "local buys" can only be performed by firms located within the district office where the work is to be performed. This will allow firms to market to the federal government without geographical restrictions.

To increase the number of contracts available for competition, the Indefinite Delivery/Indefinite Quantity (IDIQ) contract "loophole" will be closed in the 8(a) program. The current regulation allows IDIQ contracts with a minimum value (not

estimated value) below the competitive threshold to be offered on a sole source basis. Many of these contracts are allowed to grow (through the issuance of task orders) to amounts greatly in excess of the competitive threshold. The new 8(a) regulation will establish the estimated value of the contract as the standard for competitive threshold evaluation, creating more opportunities for competition.

Competitive mix requirement refers to the percentage of non-8(a) business a program participant must attain while in the transitional stage (last five years) of program participation. Enforcement of this requirement will provide opportunity for contract distribution to a wider range of qualified firms. Also, a proposed regulation has been drafted to clarify the procedure for determining compliance with competitive business mix requirements, and imposing remedial measures when companies do not achieve their non-8(a) sales target.

While we believe these steps will assist in providing better distribution of 8(a) contracts, we do not believe this will guarantee equitable distribution of all 8(a) contracts. The 8(a) Program is self-marketed. This means that each participant must market and seek out contract opportunities. While the 8(a) Program provides opportunity and assistance necessary for participating firms to become competitive, it does not guarantee contracts or success. It does, however, in collaboration with other federal agencies offer management, technical assistance, and access to capital that will assist a company in its efforts to grow.



**ELIMINATING UNNECESSARY PAPERWORK**

The administration of the program has been further streamlined with the elimination of MED Program responsibility at the Regional Office level in October 1994. This change moved many program responsibilities to the local district office, which empowered local officials and reduced the need for coordination, clearance and approval of specific actions at the regional level.

Program participants are now given the option of using their own business plan format or the SBA 8(a) business plan form, thus eliminating the need in some cases of maintaining two business plans.

An Electronic Mailbox has been established at MED Headquarters to provide paperless information flow between the Headquarters and district offices.

The proposed rule changes that are now being cleared for submission to OMB would eliminate the mandatory requirement on the part of the 8(a) firm for the submission of quarterly financial statements. Annual statements will still be required and quarterly statements will only be required in connection with a determination of capability to perform a specific contract or for an eligibility determination. The proposed rules also reduce the documentation required to obtain changes in the firm's business plans. In addition, those firms being considered for termination and/or

graduation would no longer be subjected to responding to duplicate notices of the proposed program action before a final decision can be rendered.

We also believe that the contracting process could be substantially streamlined if the Congress granted SBA the authority to allow federal procuring agencies to make direct awards of 8(a) contracts after SBA has determined that the firm is eligible for the award. This would free up our contracting personnel to provide assistance in marketing, bid and proposal preparation and negotiations rather than reviewing contract documents that have already been reviewed and executed by the procuring agency.

#### **SIMPLIFIED APPLICATION PROCESS**

MED has proposed an "8(a) Express" pilot program to test a simplified application and certification process. Under the proposal, application information will be verified prior to the newly certified firm receiving its first contract opportunity or at the annual review, whichever comes first. The application form is three pages, and can be reviewed in less time. This will allow SBA to streamline its application process, reduce paperwork, and significantly decrease processing time. We also believe that the application process could be further streamlined if the Congress would amend the Small Business Act to allow the Associate Administrator to delegate determinations of program eligibility.

**STATUS OF MED AUTOMATION**

Historically, the SBA has been criticized for its failure to properly plan, develop, and implement an automated information system that allows the agency to collect, assess, and evaluate information regarding MED's programmatic performance.

We recognize that automation is not a cure-all, but rather a tool that will help us to better manage our program. We are building an information system that will help us monitor assistance provided, contract support, and firm development, and to measure program performance and accomplishment.

On a number of occasions in the past, SBA has come before you and asserted that it would complete a MED information system by a certain date, and then failed to deliver a workable system. Last summer, Deputy Administrator Pulley testified before the Senate Small Business Committee, and said very simply that we would complete our information system by the end of FY 1995. I am pleased to tell you that we can and will honor that commitment.

We have streamlined our systems development, focusing our resources on systems that will give us an immediate return on our investment, and take us into the future. We have begun issuing a new release of the Servicing Component of Servicing and Contracts System (SACS) that automates business development activities. This

release addresses shortcomings identified in earlier versions. Shortly, we will complete the Continuing Eligibility Component of the Certification Tracking System (CTS) that will automate processing of program suspensions, graduations, and terminations. Most importantly, we have carefully phased FY 1995 systems development activities.

We have designed elements into our information system plan that will give us essential program management tools at the earliest opportunity. The centerpiece of our system is a Central Office Repository System containing information regarding all of our program areas, application processing and determination of continuing eligibility, award of 8(a) contracts, provision of 7(j) management and technical assistance, and processing of small and disadvantaged business set-aside protests. With this system, we will be able to use standard, off-the-shelf report generation software that will let us prepare management reports on an adhoc or pre-programmed basis.

#### **MINORITY LOAN PRE-QUALIFICATION PILOT PROGRAM**

This program, modeled on the Women's Loan Prequalification Program, will be established and administered by the Office of Financial Assistance in cooperation with MED. The program, which will be launched on a pilot basis this month, is designed to improve minority small business owners' access to capital by using SBA's guarantee authority to pre-qualify creditworthy applicants. The pre-qualification

concept is for those eligible businesses which have either been unsuccessful in obtaining credit or which perceive the obstacles to obtaining that credit to be so severe as to inhibit the very attempt. The cornerstone of this concept rests on the selection of a local intermediary organization capable of assisting the small business in putting together a realistic financing plan, performing basic commercial credit screening, and understanding the policies and procedures of SBA's loan programs.

#### **GOVERNMENT-WIDE SDB PROGRAM COMPARED TO SBA'S 8(a) PROGRAM**

Does the Government-Wide Small Disadvantaged Business (SDB) Set-Aside Program obviate the need for the 8(a) Program? This question is best addressed in terms of the stated purpose of both programs. 8(a) is a developmental program that addresses the historical lack of access to markets by disadvantaged owned firms. This program provides a logical, systematic approach to market access and enterprise growth over a nine year term. Development is tracked through a business plan which is submitted by the firm upon entry into the Program and annually reviewed by SBA to determine progress and the need for developmental support. The award of Federal sole-source contracts through the 8(a) Program (although a very important component) is only one element in the overall formula that is used to encourage the development of 8(a) firms. SBA employs several other resources to support 8(a) firms including specialized training opportunities, professional consultant assistance through the 7(j)



Program, and the opportunity to participate in high level executive development training.

The MED proposal recognizes that competition in the 8(a) program would be duplicative of the government-wide SDB Set-Aside Program and has recommended that the 8(a) program be used exclusively as a sole source (non-competitive) program. This is in recognition of the fact that a number of disadvantaged owned firms have no prior federal procurement experience and 8(a) would allow those firms the opportunity to gain this experience.

The SDB Set-Aside Program is intended to increase the amount of Federal contract dollars awarded to SDBs. This Program is a restrictive competitive procurement program. It does not include sole source contracting or any developmental features. Companies that are involved in this program are considered to have the experience and capability to bid and perform on Federal contracts. This program represents a logical next step for 8(a) firms in terms of business opportunity, but should not be viewed as a substitute for the 8(a) Program.

This comparison clearly indicates the distinction between 8(a), as a business development program, and the SDB Contract Set-Aside Program. 8(a) provides a long term commitment (through several modes of assistance) to the development of

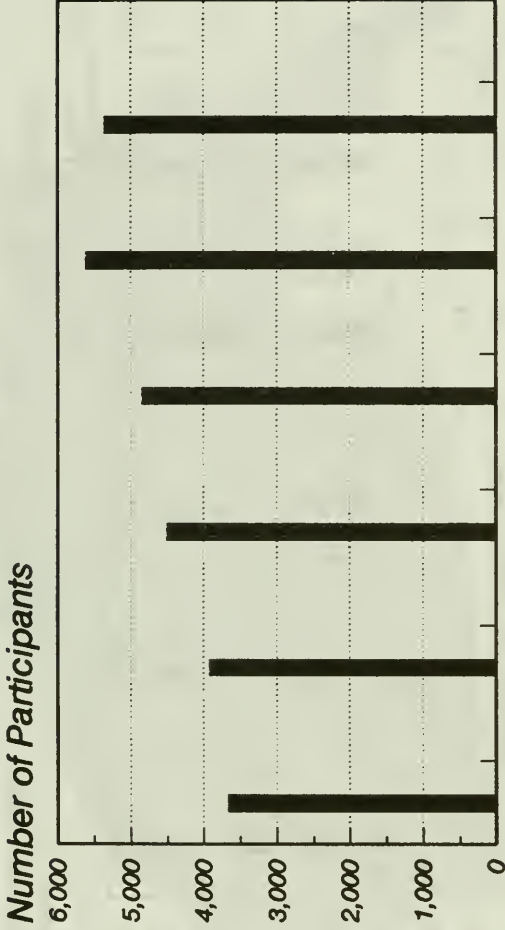
specific emerging firms, while the set-aside program has a singular focus -- opportunity for the participation of experienced SDBs within a restricted market.

### CONCLUSION

Over the past twenty-five years, SBA's use of its 8(a) contracting authority has done much to assist socially and economically disadvantaged entrepreneurs. The 8(a) program has spurred creation of minority-owned businesses in all industrial sectors, and unleashed innovative entrepreneurial potential. It has fostered formation of capital, and increased access to credit in the minority business community. The program also has provided diverse employment opportunities for economically and socially disadvantaged employees.

This concludes my testimony. I will be happy to answer any questions you may have.

# NUMBER OF 8(A) PROGRAM PARTICIPANTS



Fiscal Years	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
	3,673	3,925	4,509	4,848	5,613	5,356

ADVOCACY  
& CONTRACT  
OPPORTUNITIES

# SBA Government Contracting Prime Contracts

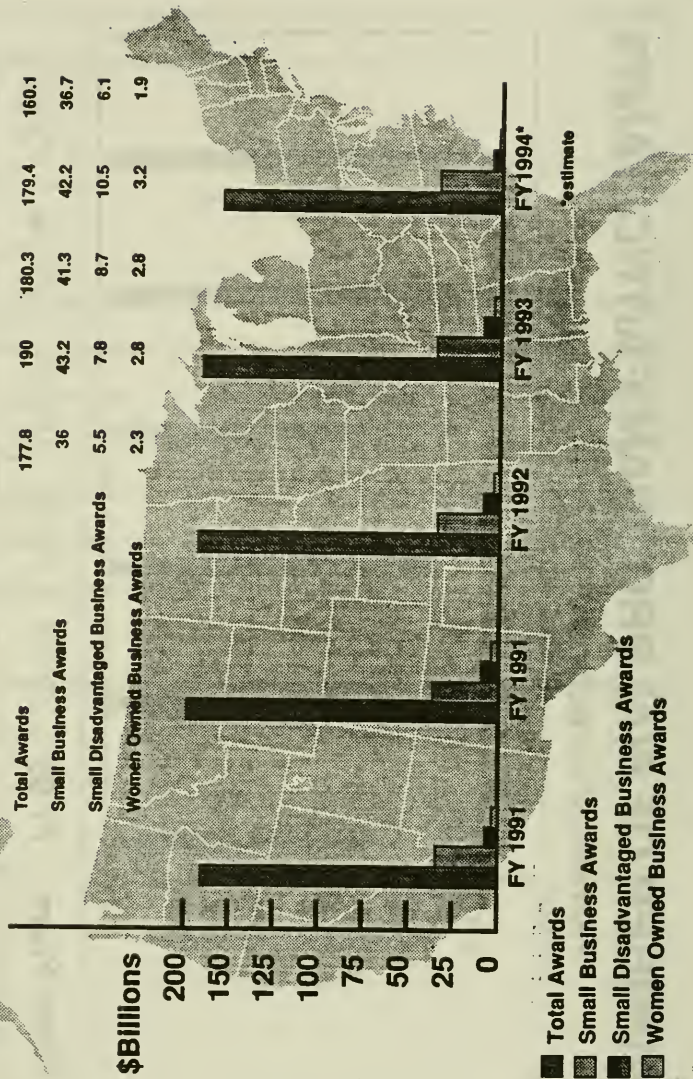
FY90 FY91 FY92 FY93 FY94\*

Total Awards 177.8 190 180.3 179.4 160.1

Small Business Awards 36 43.2 41.3 42.2 36.7

Small Disadvantaged Business Awards 5.5 7.8 8.7 10.5 6.1

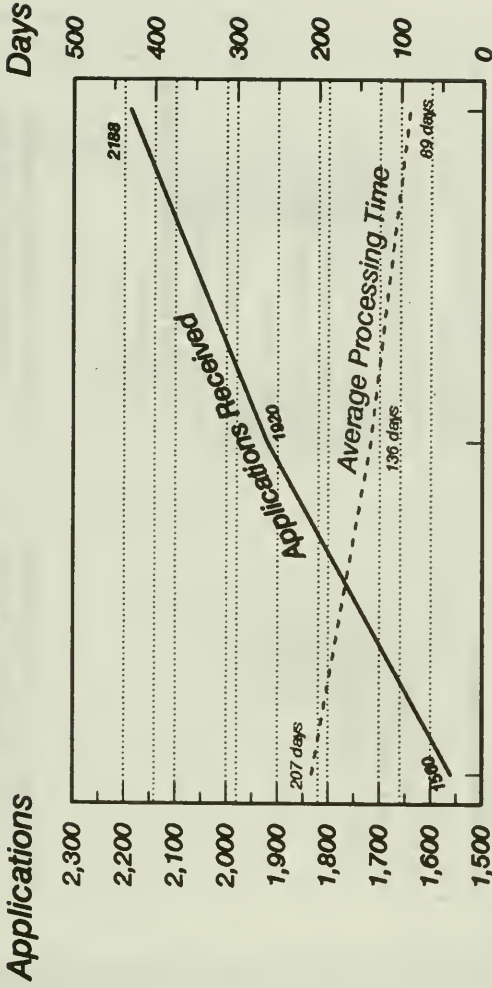
Women Owned Business Awards 2.3 2.8 2.8 3.2 1.9



- Total Awards
- Small Business Awards
- Small Disadvantaged Business Awards
- Women Owned Business Awards

**US SMALL BUSINESS ADMINISTRATION  
 MINORITY ENTERPRISE DEVELOPMENT  
 Division of Program Certification & Eligibility**

FY 93-95 APPLICATIONS RECEIVED  
 WITH AVERAGE PROCESSING TIME IN DAYS - AT YEAR END



	FY 93	FY 94	FY 95 PROJ
<u>Applications</u>	1,560	1,920	2,188
<u>Days</u> -----	207	136	89



# MINORITY ENTERPRISE DEVELOPMENT

## MSB & COD (OLD)

- 8(A) Contract Awards
- Sole Source
- Limited Competition
- 7(j) Assistance
  - Executive Development
  - Task Order Services
  - Other Group Training

FOR: Firms owned and controlled by economically and socially disadvantaged individuals.

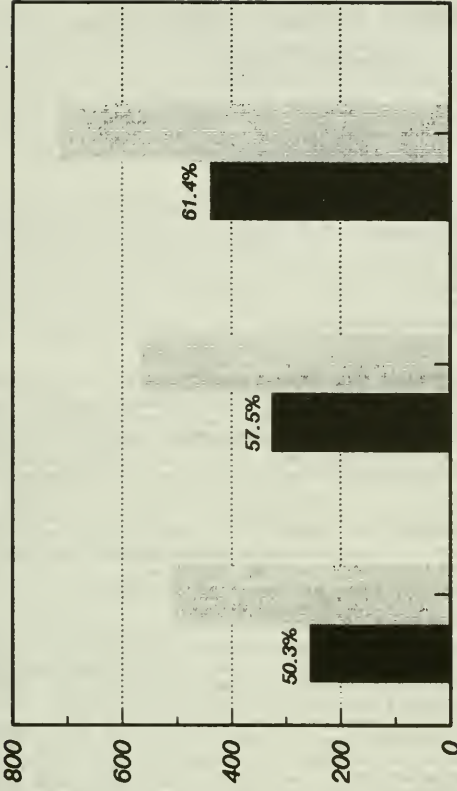
## MED PROGRAM

- Phase I - Start-up assistance to prospective and new entrepreneurs.
- Phase II - Developmental assistance.
  - Marketing, management, financial skills training
- Phase III - Business development assistance to enable firms to attain competitive viability.
  - 8(a) Awards.
  - Pre-loan qualification.
  - Mentor protege program.
  - Certified Development Company participation.
  - 7(j) assistance.

FOR: Firms owned and controlled by economically and socially disadvantaged individuals.

# SUCCESS RATE

## 8(a) FIRMS AFTER EXITING PROGRAM



	1988-91	1989-92	1990-93
<b>In Business</b>	255	325	436
<b>Total</b>	507	565	710

**NOTE:** Includes firms that completed the program, withdrew, or were terminated from the program.

## O'Donnell Construction Co.

2209 CHANNING STREET, N.E.  
WASHINGTON, DC 20018-2127  
(202) 529-7227 FAX (202) 529-3350

The Honorable Jan Meyers  
Chair, House of Representatives  
Committee on Small Business  
2361 Rayburn House Office Building  
Washington, D.C. 20515-0315

Re: U.S. Small Business Administration  
8(a) Program

Mrs. Meyers and Members of the Committee, I am Arnold O'Donnell, Vice President and 50% owner of O'Donnell Construction Company which is a small business, located in Washington, D.C., and specializes in the construction and repair of streets, sidewalks, and underground utilities. Thank you for inviting me here today to testify about my experiences with the Small Business Administration's 8(a) program.

I have been involved with 8(a) construction contracts since 1978. Since that time, I have worked for several companies that were certified in the 8(a) program and several companies that worked as subcontractors to 8(a) firms. My company currently has an application to the 8(a) program pending in the SBA's Office of Hearings and Appeals.

The SBA's 8(a) program is one of the most expensive and socially divisive procurement systems I have encountered. The SBA awards more than 4 billion dollars a year in sole source or restricted competition contracts to a handful of individuals, some of whom came to the U.S. long after the passage of the 1964 Civil Rights Act and have never encountered the kind of discrimination that was used as the basis for enacting a procurement program of questionable constitutional merit. The program does very little to compensate actual victims of racial discrimination and it does absolutely nothing to identify and punish organizations and the individuals in those organizations that practice racial discrimination in the contracting process. Instead, the 8(a) program punishes small businesses such as mine by excluding us from competing for a very large segment of publicly funded contracts. The adverse impact of the 8(a) program on small non-minority owned businesses can not be assessed in a reasonable manner without looking at the total effect of ALL racially based procurement programs. The effect is not limited, it is not widely dispersed, it is not consistent with fundamental fairness, it is an "undue burden". Attached is a letter to the GAO which identifies several dozen programs I have personally encountered just in the Washington metropolitan area.

During the past six years, the SBA has denied my brother an equal opportunity to participate in the 8(a) program simply because we are not members of one of the SBA's many designated minority groups

who only have to check a box on a form to prove beyond a shadow of a doubt (and without the slightest possibility of a challenge) that they are "socially and economically disadvantaged." We, on the other hand were required to submit "clear and convincing evidence" of racial discrimination to a group of bureaucrats who have used delay and misrepresentation to impose their personal bias on a federal program that purports to assist the victims of racial discrimination and which federal program was supposed to make no distinction between applicants based on the race of the owners.

THE 8(a) PROGRAM AS ENACTED BY CONGRESS AND SIGNED INTO LAW IS A RACIALLY NEUTRAL PROGRAM. THERE IS NO MENTION OF ANY PRESUMPTION OF "SOCIAL AND ECONOMIC DISADVANTAGE" FOR ANY RACIAL GROUP IN THE LAW. The presumption was simply created by "bureaucratic decree" when the SBA prepared its regulations. The presumption based on race was discussed during the legislative process and removed before passage of the final bills. The SBA also used its power of "bureaucratic decree" to require non-minority applicants to meet the burden of furnishing "clear and convincing evidence".

A decision on our application to the 8(a) program was due on December 26, 1994; however, the Administrative Law Judge that was assigned to our case retired on January 3, 1995, and he has not been replaced. In violation of federal law the SBA no longer employs an Administrative Law Judge. It is unlikely that we will get a final decision from the SBA on our application before the Supreme Court issues a decision in Adarand Constructors v. Secretary Pena. That case challenges the Department of Transportation's Disadvantaged Business Enterprise (DBE) program. The scope of that decision will determine what course we will pursue.

The SBA's 8(a) program does have some good points: participants must graduate from the program after nine years and individual owners must be U.S. citizens. However; these worthwhile aspects of the 8(a) program do not justify a process that is so fundamentally flawed: the constitutionally guaranteed right to equal treatment under the law has been restricted for some individuals that have lost contract opportunities while the number of designated groups that receive a benefit from this and similar programs has been expanded to a such a degree that the original intent of compensating actual individual victims of past racial discrimination has been greatly diminished. African American owned companies received 37% of the contract dollars awarded by the SBA's 8(a) program during FY 1994. Under the SBA's 7(a) loan guarantee program in FY 1994, 13% of the minority loans went to businesses owned by African Americans. In FY 1992, black owned DBEs received only 16% of the total dollars awarded to DBEs under the Department of Transportation's program that is under review by the Supreme Court in the Adarand case.

While I continue to agree with the original intent of the 8(a) program to assist the owners of small businesses that were denied economic opportunities because of their race or ethnic background, I am convinced that it is impossible to administer the 8(a) program or any similar program in a manner that is fair to the individuals

that are excluded, that actually helps the individuals that are the intended beneficiaries, and that does not evolve into a bureaucratic quagmire of arcane regulations. I hope that this committee will move to discontinue the 8(a) program and refocus its efforts to guarantee the equality of opportunity rather than mandate the conformity of results to predetermined levels.

Thank you for allowing me to testify. I would be glad to answer any questions.

Sincerely,



Arnold J. O'Donnell  
Vice President





**Contract Services, Inc.**

P. O. Box 3019 • Junction City, Kansas 66441  
Telephone (913) 762-6161 / 762-7767  
FAX (913) 762-4372

**BRIEF**

**ON**

**SMALL BUSINESS ADMINISTRATION**

**SECTION 8(a) PROGRAM**

**PRESENTED TO**

**THE HONORABLE CONGRESSWOMAN AND CHAIR**

**JAN MEYERS**

**OF THE**

**COMMITTEE ON SMALL BUSINESS**

**U.S. HOUSE OF REPRESENTATIVES**

**"Quality Performance + Reliability x Responsiveness = Contracts"**

It is a privilege and an honor to testify before this distinguished body, the Committee on Small Business of the U.S. House of Representatives.

As a Historically Underutilized Businessman (HUB), I am testifying concerning the 8(a) program (so named for the Section of the Small Business Act that contains it). The 8(a) program was created by an Executive Order of President Richard Nixon in 1969. I am confident that you recognize the importance of the 8(a) program and the urgent need to make it more effective. The 8(a) program remains the most successful program ever for including minorities and other disadvantaged individuals in the multi-million dollar federal procurement arena. It has created successful minority-owned companies and will continue creating successful businesses with support such as yours. Documentation supporting my position is hereby submitted for the record.

The 8(a) program is designed to help counter societal discrimination. However, I think it should be reviewed from top to bottom. The 8(a) program is necessary, even with the creation of the government-wide SDB program, which allows federal agencies to accept as much as 10 percent price difference from minority-owned firms.

Contract Services, Inc. is not your typical 8(a) firm. We had a sizable contract with the government before we were certified in the 8(a) program. But if we did not have a government contract and had been wholly dependent upon the Small Business Administration's 8(a) program we would have starved to death. We did not receive our first 8(a) contract until two and one-half (2-1/2) years after becoming certified. We were a technical, financial, and managerial firm capable of performing on most contracts because of the expertise of our labor force. Firms have to be looked at individually, in terms of the scope and magnitude of a contract they can perform. We should not limit firms based on the SBA perception of small.

The 8(a) program overall still does not meet the five percent goal in government procurement that should be going to minorities.

We have benefited from the 8(a) program in the areas of business development, marketing, financing, and writing business and marketing plans. Specifically, the financial assistance and management support/assistance with our accounting system has been very beneficial. The major source of assistance came from our Section 7(j) program, which provided industry-specific technical assistance through providers or consultants.

We think that there is a duplication of effort between the 7(j) program, Minority Business Development Agency (MBDA) and the Small Business Development Center (SBDC). We don't think the three entities are working in conjunction with one another. The general feeling is that the 7(j) program, MBDA and SBDC are needed because of the scarcity of resources in the nation for minority

business, there is a need for as much as we can get to help firms.

We have received benefit from the 7(a) loan program. Based on my experience, the decision makers relative to loans don't have a clue as to what it takes to maintain a business, to meet a payroll, pay taxes, or the relationships between vendor, customer, or supplier. 8(a) firms are eligible for both direct and SBA-guaranteed loans, however, criteria used to grant or deny loans are very subjective.

We think it would be a strategic advantage for an 8(a) firm to be located in Washington D.C. or 150 miles within the Federal Agency/Department or Southern California, where the defense industry is concentrated. I have read solicitations that have stated you must have a home office within 150 miles of the Federal Agency/Department in order to qualify for award of the contract. The President's commission on Minority Business Development reinforces the complaint by so many other 8(a) firms in the testimony of Joshua Smith. It is very costly to market your services through telephone calls, trips back to Washington, leasing facilities and setting up home offices to accommodate the minimum requirement for award of contract. The requirement, in any, should be limited to opening an office upon contract award.

We like most of the Business Opportunity Development Reform Act of 1988 Public Law P.L. 100-656, such as the regulation that requires an 8(a) firm to build a "mix" of 8(a) contract awards and non 8(a) awards, as long as there is a progression of Standard Industrial Classification (SIC) allocations this does not impede a company's growth. In counting its commercial contracts, a firm could exceed its size standard and be considered too large to participate in the program. Again, based on my experience, you can be performing on a non 8 (a) contract in an excellent manner, as indicated by the cost avoidance document, excellent performance record, high percentage of award fees, and still not be able to convince the Agency that the contract should be awarded to an 8(a) and Anti-Small Disadvantaged Business (SDB).

The maximum period of program participation has been increased from seven (7) to nine (9) years, and is divided into two (2) stages; a four (4) year developmental stage and a five (5) year transitional stage. We support additional years for business development stage.

8(a) firms are required to compete under special competition criteria for manufacturing awards of more than \$5 million, and for all other products and services, over \$3 million. We think this dollar threshold is significantly low in today's economy.

Applications to the program will be processed in 90 days of receipt. Owners of 8(a) firms may have either managerial or technical experience and competency directly related to the industry in which the firm is seeking program certification. New

penalties will be imposed on firms and individuals who intentionally misrepresent their status in order to qualify for the 8(a) program, with fines up to 10 years for offenders. We are in agreement on this type of reform, because it has made the program better.

My recommendations for the House with regards to how the 8(a) program can be effectively changed for the better and provide more opportunities for some well deserved, prepared, and talented minority business owners:

- Return to a completely sole-source procurement program.
- Eliminate arbitrary personal net worth requirements.
- Create an office of Minority Business Contract Compliance to monitor the utilization of Small Disadvantaged Business (SDB) or Historically Underutilized Business (HUB) by federal agencies and their prime contractors.
- Eliminate the anti-8(a) regulations.
- Simplify and introduce post graduate 8(a) program.
- Enforce Public Laws 95-507, 96-481, and 100-656.
- Increase the dollar threshold for sole-source awards from antiquated numbers to more realistic updated numbers.
- Set separate goals for utilizing 8(a) firms.
- Allow 8(a) firms to obtain contracts nationwide.
- Discourage requirements for an office in a region as a basis for qualifications to submit an offer.

In closing, I would like to thank you for taking the time out of your very busy schedule(s) to hear my presentation. I really appreciate the job you are doing for America.

## BIOGRAPHY OF LLOYD J. PARKER



Lloyd J. Parker is a native of Louisiana. He was born and raised in rural Plaquemine in Louisiana, near Baton Rouge.

Lloyd joined the Army in 1961, and was transferred to Fort Riley in 1976 and assigned to the 716th Military Police Battalion. It was while serving with this Battalion that he came up through the ranks to become the Battalion Command Sergeant Major from 1982 to 1983. He retired from the Army in 1989 with the rank of Sergeant Major. He has lived in the Fort Riley and Junction City area since he was transferred here in 1976.

Lloyd received an associate degree from Central Texas College and attended Kansas State University. He was also chosen and recently attended a Minority Business Executive Program at the Amos Tuck School of Business at Dartmouth College in Hanover, New Hampshire. He is a 1991 graduate of the Chamber of Commerce's Crossroads of Leadership Program and a 1992 graduate of the statewide Leadership Kansas Program.

Lloyd is Chairman of the Board for Contract Services, Inc. (CSI), a corporation that offers base maintenance services, environmental remediation services, food services, and security, detective, guard and armored car services to other businesses. The company was founded in 1989. He also has extensive experience in personnel and business management by leading CSI. His current contracts are with the Department of the Army, Department of the Air Force, Department of Transportation, Federal Aviation Administration, and University of Kansas, Law Enforcement Training Center. He is also principal owner of a consumer credit business and financial service.

Lloyd's private experience includes banking, consulting, fund raising, and contracting. He is also a registered consultant with the Asian Development Bank of Manila, Philippines.

Lloyd is currently President of The Retired Sergeants Major and Chief's Association of Kansas Chapter #1 and he is Vice-Chairman of the Junction City Public Housing Authority Board and has been a board member since 1992.

Additionally, he is a member of the Boards of the Junction City Little Theatre, Heartland Works (a private corporation for job training placements in seventeen (17) Kansas counties), First State Bank, YMCA, Governor's Task Force in Support of Fort Riley, and Kansans for a Strong Fort Riley.

His other memberships include the National Association for the Advancement of Colored People (NAACP), Kansas Chamber of Commerce and Industry (KCCI) Military Affairs, Junction City Chamber of Commerce (Past Treasurer), Life Member of Veterans of Foreign Wars Post 8773, Life Member of The Retired Sergeants Major and Chief's Association, Kiwanis International, National Contract Management Association, Kansas Black Republicans, Knights of Columbus, St. Xavier's School Board (Past President), and a member of St. Francis Xavier Catholic Church.

Lloyd was an alternate delegate from Kansas to the Republican National Convention in 1992. He served as National Committeeman for two (2) years, from 1993 to 1995, and is currently serving as a precinct committeeman.

He and his wife Anita have four (4) grown children and three (3) grandchildren.



-Profile-  
8(a) CONTRACTOR

8(a) FIRM: Contract Services, Inc. PRIMARY SIC: 8744  
 ADDRESS: 801 West 6th Street, P.O.Box 3019 SECONDARY SIC: 5812,  
Junction City, KS 66441 7381, 7349,  
\_\_\_\_\_  
 TELEPHONE: (913) 762-7767/6161 FAX NUMBER: (913) 762-4372

PRINCIPAL'S NAME & TITLE: Lloyd J. Parker, Chairman/President

DATE BUSINESS STARTED: December 28, 1989

PROGRAM START DATE: February 14, 1992

PROGRAM TERM DATE: February 13, 2001

FIRM'S FY 1995 PROJECTED SALES: \$ 7,770,000.00

FIRM'S FY 1996 PROJECTED SALES: \$ 8,003,100.00

BONDING CAPACITY

SINGLE JOB: \$ N/A

AGGREGATE: \$ N/A

	ANNUAL SALES	LARGEST CONTRACT
-1992	\$ <u>6,511,109.24</u>	\$ <u>5,794,184.58</u>
-1993	\$ <u>6,462,737.53</u>	\$ <u>6,268,943.33</u>
-1994	\$ <u>6,850,655.49</u>	\$ <u>6,806,484.61</u>

AVERAGE NUMBER OF EMPLOYEES: 150 - 200

Contract Services, Inc. has an applicant file of approximately 400 personnel, Defense Outplacement Referral System (DCRS), and the Family Member Employment Assistance Program.

STATEMENT OF PRIMARY PRODUCT OR TYPE(S) OF WORK:

See attached Capability Statement.

**ACCOMPLISHMENTS/PAST CONTRACTS:**

Contract Services, Inc. painted and refurbished over 8,000 vehicles/equipment in 45 days in support of the First Infantry Division's Deployment for Desert Storm. Contract Services, Inc. has successfully managed and performed work in accordance with our primary SIC code on one (1) completed contract and is presently performing and managing on a follow-on similar contract, which includes aviation intermediate maintenance and aviation unit maintenance for installation activities and area missions for Fort Riley and the First Infantry Division. We completed performance and management of a commercial fleet of vehicles for General Services Administration (GSA).

**RESOURCES AND EQUIPMENT AVAILABLE:**

Sole source and competitive 8(a) contract support, personnel, equipment, vehicles, office machines, software, job creation, equal employment opportunities, skills training, tax generation, industrial innovation, marketing, proposal preparation, accounting systems, industry-specific technical expertise, leadership, management capacity and capability, technology and surplus property.

**PROFESSIONAL REFERENCES:**

- \* Multi-Business Service Corporation, 2525 N. Pershing, Wichita, KS 67220
- \* First State Bank, 904 West 6th Street, Junction City, KS 66441
- \* Economic Development Commission, 814 N. Washington, Junction City, KS 66441
- \* Hoover Schermerhorn Edwards Pinaire & Rombold, 811 N. Washington, Junction City, KS 66441
- \* Pottberg Dill Hoffman & Gassman, 816 N. Washington, Junction City, KS 66441
- \* Chamber of Commerce, 814 N. Washington, Junction City, KS 66441
- \* U.S. Small Business Administration, Wichita District Office, 100 East English, Suite 510, Wichita, KS 67202 - Business Opportunity Specialist Edgar E. Poindexter, Assistant Director for Minority Small Business & Capital Ownership Development
- \* Directorate of Contracting, ATTN: Lee Thomas, Contract Officer, P.O. Box 2248, Fort Riley, Kansas 66442

CODE	COMMODITY	DESCRIPTION
A	"Aircraft"	Fixed wing, Rotary wing, Simulators/trainers, Avionics and navigation, Ground support equipment, Tools and test equipment.
B	"Automotive"	Commercial, Tactical vehicles, Trailers, Tools and test equipment.
C	"Combat Vehicles"	Armored Carriers, Self-Propelled weapons, Tanks, Recovery vehicles, Tractor high speed FT, Launcher bridge, Tools and test equipment.
D	"Construction Equipment"	Earth moving and excavating, Road clearing and cleaning, Road building, Rock crushers, Tractors, tracked and wheeled, Tools and test equipment.
E	"Electronic & Communication Equipment"	Wire communications & TT Communications, Meteorological, Night Vision, Radar, radio, (FSC 5811), Tools and test equipment.
I	"Armament"	Small arms, Artillery, Sighting and fire control, Smoke generators riot control, Tools and test equipment.
K	"General Equipment"	Air Conditioning, Refrigeration and Heating Compression and Pumps, CBR detection/protection, Electric power generating, Firefighting, Gas generating/charging, Laundry unit (trailer mounted), Lubricating and fuel dispensing, Materials handling equipment, Water purification/distillation, Shop tools and test equipment.
L	"Commodity Groups"	Canvas and webbing, Clothing and textiles, Field kitchen, Metal/wood furniture, Typewriters and office machines.
M	"Audio Visual"	Photographic, television (video), audio (sound), and graphic art items that furnish an audio visual product or are used to furnish an audio visual service.

NOTE 1: Certified participant in the SBA's 8(a) Program, certified to dispose of Resolution Trust Corporate assets and a certified Disadvantaged Business Enterprise (DBE) for the Department of Transportation and the Federal Aviation Administration.

## CAPABILITY STATEMENT

Contract Services, Inc., with Lloyd J. Parker, Chairman/President, is a certified Small Business Administration (SBA) Section 8(a) Program participant's firm. One of 5,000 certified 8(a) companies and the region's leading Facilities Support Management Services and Base Maintenance companies in a four state region. We have sufficient equity capital injected into the company to ensure the firm's long term financial viability and ability to weather economic downturns. We have significant management experience and depth in place to ensure that we have the capability, integrity, competency, credit, tenacity, and perseverance to perform on any contract. We provide support services, Guard, Detective, and Armored Car Services, Building Maintenance, N.E.C., Full Food Services, Environmental Remediation Services, and Operations and Maintenance at a fair market price.

Contract Services, Inc. is a Historically Underutilized Business (HUB) with Total Quality Management (TQM) concepts and principle-centered leadership throughout our organization.

Contract Services, Inc. is presently managing and performing work for the Direct Support/General Support (DS/GS) and Back-up Maintenance contract at Fort Riley.

CSI provides Direct Support/General Support (DS/GS) maintenance, which includes the following:

- vehicle repair (combat, non-combat, construction)
- complete machine shop support
- weapons and armament repair (sighting systems, night vision devices, target systems)
- electrical equipment repair/maintenance (radios, test equipment, commercial office equipment)
- audio-visual equipment (film projectors, overhead projectors)
- general equipment (generators, fuel systems, batteries, appliances)
- body repair/paint shop
- various commodities (containers, textiles, furniture, machine engraving, carpet and drapes, canvas, locksmith, and re-keying)
- miscellaneous equipment including radio sets, receivers, transmitters, amplifiers, antennas, sirens, emergency communications networks, intercoms, public address systems, and paging systems.

In addition, CSI provides full aviation maintenance to the Division, to include unit intermediate level and general support level of maintenance in the unit's area utilizing mobil maintenance teams, in-house maintenance such as armament, power train (hot and cold end rebuild), air frame, sheetmetal, welding, avionics, electronic/ electrical, hydraulic, recovery and repair service. CSI personnel also manage the Direct Exchange (DX) supply point and the cannibalization point.

CSI has a depth of repair far greater than most small companies, and has had to develop a methodology to produce a product that, not only functions correctly, but pleases the military unit customer, as well as the Government surveillance teams that oversee the contract. The Quality Control (QC) Section utilizes a Continual Improvement concept, whereby the mechanic self-inspects and the QC team member assigned to the work center spot checks the quality of work. This system not only improves the quality of the product, but creates pride in the workmanship and increases productivity, safety, and the desire to do better on the next challenge. Incentive programs that improve the worker's competency and safety are currently in place.

CSI manages and operates a complete machine shop, under a government-owned, contractor-operated (GOCO) facility, whereby engine cylinders can be re-bored, crankshafts and camshafts reground, drive shafts and gears rebuilt, complete milling, and all welding and body work can be accomplished. The component shop can rebuild transmissions, rear ends, transfers, front ends, and engine overhaul from the smallest lawn mower engine to the large M88 air cooled engine. Our in-house crew of mechanics can also rebuild turbine engines. All components are tested for completeness and reliability.

CSI's maintenance support consists of Supply Section, Production Planning and Control, and Accounting. CSI maintains an inventory of approximately 6500 line items of parts in its warehouse and utilizes a production control - supply system which ensures the proper part is ordered in a timely manner. The system also ensures that after the ordered part arrives, it is immediately applied to the component under repair and after the repair is completed, the work order is closed and the unit is notified to pick-up the item. CSI's full utilization of computers and software ensures that the proper time and costs are captured so as to reduce costs and reduce component down time. All of CSI's interfaces with the military TAMMS, AUTOROS, MIMS, and SAILS systems with its own database for a complete audit trail of all transactions.

The Accounting Section tracks all employee times and accounts for all incurred costs and benefits.



CSI can provide services through the Small Business Administration's (SBA) 8(a) Program. Under this program, you can enter into direct negotiations with Contract Services, Inc. for these services without the elaborate and expensive process of an open bid competition. This process is especially useful close to the end of the fiscal year. It will also save the U.S. Government money and reduce the procurement acquisition staff's time, thus freeing them up to be more responsive and receptive to the customer's needs.



U.S. SMALL BUSINESS ADMINISTRATION  
WICHITA DISTRICT OFFICE  
100 EAST ENGLISH - SUITE 510  
WICHITA, KS 67202

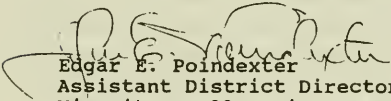
February 24, 1993

TO: Whom It May Concern:

This letter is to certify that Contract Services, Inc., owned and managed by Mr. Lloyd Parker, is a socially and economically disadvantaged business firm certified under Section 8(a) of the Small Business Act.

The firm is highly respected within its respective industry as one which provides quality, timely and professional services to meet or exceed customer expectations. Under competent management, the company is financially sound, and possesses the technical capacity and expertise to complete all contractual obligations within, or ahead of, prescribed time limits. Management dedicates itself to customer satisfaction and believes "excellence is the rule rather than the exception."

If I may be of any further assistance call me at (316) 269-6631.

  
Edgar E. Poindexter  
Assistant District Director for  
Minority Small Business &  
Capital Ownership Development



U.S. SMALL BUSINESS ADMINISTRATION  
WICHITA DISTRICT OFFICE  
100 EAST ENGLISH - SUITE 510  
WICHITA, KS 67202

June 29, 1994

Contract Services, Inc.  
Lloyd Parker  
801 W. 6th Street, Suite C  
Junction City, KS 66441

Dear Mr. Parker:

On February 17, 1994 while conducting a field visit of your firm we also conducted and concluded the required 8(a) Annual Update. My analysis of that update is as follows:

a. I have determined and recommended that your firm be retained in the 8(a) program and set your levels of 8(a) and non-8(a) support in a subsequent part of this letter.

b. During the evaluation it was revealed that your firm has the ability to compete in the marketplace; your business plan contains realistic and achievable goals and is being effectively utilized as a management tool; your non-8(a) business capacity has remained constant over the past year; management is adequate based on company size; SBA has provided assistance to you through the use of our 7(j) program in the areas of bidding & estimating, financial assistance, job costing analysis, computer training and related computer assistance, marketing, and a 10 year projection for goal setting, and there is no apparent need for any assistance at this time; your company continues to be owned, managed and controlled by the disadvantaged individuals upon whom 8(a) eligibility was based; continued observation is needed to determine your firm's potential for success after program graduation; there are no joint venture or management agreements in place at this time, and that you have complied with all reporting requirements as outlined in your Program Participation Agreement.

c. A financial review of your company by one of the SBA financial representatives indicates your statements adequately reflect business operations, efficient financial management and that you are meeting your financial obligations.

Although you did not indicate a need for assistance on the SBA Form 1724, SBA has several programs available. There is the advance payment program wherein we can provide financial assistance upon attainment of an 8(a) contract, 8(a) direct loan program as well as other loan programs, surety bond guarantee program, bond waiver application for firms in the developmental stage for 8(a)

management and technical assistance through the 7(j) program and SBA sponsored workshops/seminars. We also have a training program for 8(a) certified firms; however, that program has not been funded to date, and I will keep you advised as to its status. You and I have discussed these programs at length and we (SBA) are available to provide assistance to you at your convenience. Again, as we discussed, I believe it would be most beneficial to initiate a plan of action immediately to prepare for anticipated needs rather than wait until a specific need arises.

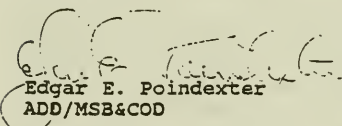
Based on my review your 8(a) annual update has been completed and is approved. Review of your 8(a) business plan and stated objectives indicates you have taken the initiative to correct some problem areas and have instituted measures toward achieving your goals.

Your recommended support levels for the program years as indicated have been approved as follows based on projections, increased marketing efforts resulting in competitive contract awards, your company capacity and technical capabilities, and anticipated growth pattern:

<u>Program Year</u>	<u>8(a) Support</u>	<u>Non 8(a) Support</u>	<u>Total</u>
021494 to 021895	\$9,000,000	\$11,000,000	\$20,000,000
021495 to 021896	\$10,000,000	\$12,000,000	\$22,000,000

If you have any questions please call me at (316) 269-6631.

Sincerely,



Edgar E. Poindexter  
ADD/MSB&COD

# MAINTENANCE DIVISION

- DS/GS CONTRACTED: Contract Services, Inc.
- ANNUAL COST: \$6,358K
- CONTRACT PERSONNEL: 156 (32 AT MAAF)
- WORK ORDERS PER MONTH: DS/GS 2450  
AIRCRAFT 125
- DEPOT LEVEL REPARABLES: COMPLETED 49,620 ITEMS  
(APR 92-AUG 94) COST AVOIDANCE \$19.4 MIL
- ISM/CMRRP: COMPLETED 169  
(NOV 93-AUG 94) COST AVOIDANCE \$263K

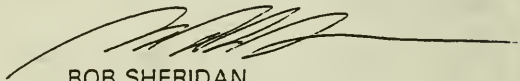


MEMORANDUM THRU MR. CLARK, CHIEF, MAINTENANCE DIVISION,  
DOL

FOR MR. YOUNG, CSI

SUBJECT: TOURS OF MAINTENANCE DIVISION

1. The system we have used for the last few tours, whereby you "lead" and your various supervisors brief, has worked great - much better than when we conducted the tour.
2. Everyone continues to be astounded with the capability and expertise of your personnel.
3. Please pass on my personal thanks to your people.



BOB SHERIDAN  
DIRECTOR OF LOGISTICS



## Contract Services, Inc.

P. O. Box 3019 • Junction City, Kansas 66441  
 Telephone (913) 762-8161 / 762-7767  
 FAX (913) 762-4372

October 04, 1994

Edgar E. Poindexter  
 U.S. Small Business Administration  
 Wichita District Office  
 100 East English, Suite 510  
 Wichita, KS 67202

RE: Section 8(a) of the Small Business Act

Dear Mr. Poindexter:

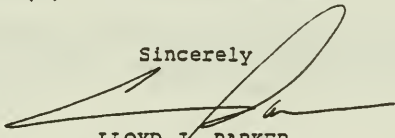
Contract Services Inc. requests the Direct Support/General Support Aviation Intermediate Maintenance and Aviation Unit Maintenance contract DAKF19-92-C-0019 be set aside for 8(a) purposes. The Standard Industrial Classification Code (SIC) is 8744 Facilities Support Management/Base Maintenance. CSI, owned and managed by myself is a socially and economically disadvantaged business firm certified under Section 8(a) of the Small Business Act.

CSI have been managing the DS/GS contract since 1991 and have performed and met all terms and conditions of the contract in an excellent manner. The annual contract cost is \$6,358,000. Contract personnel is 156 and 32 on the Plus Team at Marshall Army Airfield. Cost avoidance is \$19.4 million since April 1992 - August 1994.

CSI, further request your assistance in sending a search letter to the Directorate of Contracting, Fort Riley, Kansas to ensure this requirement is set aside for a most deserving firm.

If you have any questions or concerns, feel free to contact the undersigned at (913) 762-6161 or (913) 762-7767. Thanks again for supporting an 8(a) firm in its Business Development.

Sincerely



LLOYD J. PARKER  
 Chairman of the Board  
 President and Chief Executive Officer  
 Contract Services, Inc.

LPJ:mda

"Quality Performance + Reliability x Responsiveness = Contracts"



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
HEADQUARTERS, 1ST INFANTRY DIVISION (MHC&A) AND FORT RILEY  
FORT RILEY, KANSAS 66442-9000

October 17, 1994



SBA  
WICHITA, KANSAS

NOV 4 1994

RECEIVED

Directorate of Contracting

Small Business Administration  
ATTN: Edgar Poindexter, ADD/MSB-COD  
100 East English, Suite 510  
Wichita, Kansas 67202

Dear Mr. Poindexter:

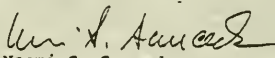
Reference your letter dated October 7, 1994 Re: Set-Aside of the Direct Support/General Support Aviation Intermediate Maintenance and Aviation Unit Maintenance Contract.

It has been determined by Directorate of Contracting Fort Riley, this procurement will not be solicited as a sole source but will be set-aside for small businesses in accordance with Federal Acquisition Regulation 19.501(g) which reads in part: "Once a product or service has been acquired successfully by a contracting office as a small business set-aside, all future requirements of that office for that particular product of service . . . . . , shall . . . be acquired on the basis of a repetitive set-aside."

However, Contract Services, Inc., of Junction City, Kansas will be issued a solicitation when issued by this office.

If you have any questions, please contact Donna Motley, Contract Specialist, at (913) 239-6441 extension 124.

Sincerely,

  
Naomi S. Saucedo  
Contracting Officer

CF:  
Violet Willis, Fort Riley SADBUS  
Marlin Francksen, Region VII, KCRO  
Jerry Blaydes, FORSCOM (SABDU)

U.S. SMALL BUSINESS ADMINISTRATION  
 WICHITA DISTRICT OFFICE  
 100 EAST ENGLISH - SUITE 510  
 WICHITA, KS 67202



November 15, 1994

Department of the Army  
 Directorate of Contracting  
 Attn: Naomi Sauceda  
 P.O. Box 2248  
 Fort Riley, KS 66442-2248

Dear Mrs. Sauceda:

Reference your letter dated October 17, 1994 RE: Set-Aside of the Direct Support/General Support Aviation Intermediate Maintenance and Aviation Unit Maintenance Contract.

I would like to bring the following to your attention as relates to our request for the set-aside of this procurement:

a. Defense Federal Acquisition Regulation Supplement 219.501 General (g), which reads in part: "This repetitive set-aside procedure applies to DoD. (8.70 When a product or service has been acquired successfully by a contracting office as a small disadvantaged business set-aside, all future requirements of that office for that product or service shall be acquired as small disadvantaged business set-asides, except those -- ....." This acquisition was successfully previously awarded to the incumbent contractor, Contract Services, Inc. (an 8(a) concern) under the competitive small disadvantaged business set-aside program. Subsequent to the completion of the original contract, the procurement was solicited as a small business set-aside and again the incumbent contractor was the successful bidder.

b. Defense Federal Acquisition Regulation Supplement 219.504(b) Set-aside program order of precedence which reads in part: " The order of precedence for DoD is (except see 219.803(c) and 226.71)--(i) Total set-aside for small disadvantaged business concerns; (ii) Total set-aside for small business concerns; (iii) Partial set-aside for small business concerns with preferential consideration for small disadvantaged business concerns."

c. Defense Federal Acquisition Regulation Supplement 219.803 Selecting acquisitions for the 8(a) Program which reads in part: "....., (c) Before considering the set-aside order of precedence in 219.504(b), review the acquisition for offering under the 8(a) Program."

Based on the above coupled with the fact the incumbent small disadvantaged business concern has successfully been performing this particular procurement since 1991, I am again requesting the procurement be set-aside under the Competitive 8(a) program. I would further request the solicitation be limited to Region VII as there is a sufficient number of 8(a) concerns eligible to perform this requirement. In addition, please inform this office as to the procurement plan and timeline for solicitation of this procurement.

If I can be of any assistance please call me at (316) 269-6631.

Edgar E. Poindexter  
Assistant District Director  
for Minority Enterprise Development

cc: Bruce Kent, Regional Administrator, Region VII, KCRO  
Violet Willis, Fort Riley SADBUS  
Marlin Francksen, PCR, Region VII, KCRO  
Jerry Blaydes, FORSCOM (SADBU)





REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
HEADQUARTERS, 1ST INFANTRY DIVISION (MECH) AND FORT RILEY  
FORT RILEY, KANSAS 66442-5000



February 3, 1995

Directorate of Contracting

Contract Services Inc.  
ATTN: Mr. Lloyd Parker  
801 West 6th Street  
Junction City, Kansas 66441

Dear Mr. Parker:

The documents submitted on January 9, 1995 regarding the request to set aside the DS/GS Maintenance and Air Craft Maintenance procurement pursuant to Section 8(a) of the Small Business Act have been reviewed.

Your request has been considered and at this time it has been decided to continue this procuremnet in a small business set-aside environment.

In considering a decision of this magnitude, it was imperative that I consider Fort Riley's current mission, the ongoing changes in the Army, present and future priorities, and the support of existing programs. It is the Government's position that a competitive environment for this acquisition would render the best results for Fort Riley, Kansas.

As the incumbent to the current DS/GS Maintenance and Aircraft Maintenance, your firm will be provided an opportunity to submit a proposal. I wish your firm continued success under the current contract and in the future. Thank you for your continued interest in working with Fort Riley.

Further inquiries and questions may be directed to Carole Blixt, Director of Contracting, at (913) 239-6441, extension 112.

Sincerely,

William A. Reese  
Colonel, Armor  
Garrison Commander

Statement of  
Walter Larke Sorg

before the

Small Business Committee  
U.S. House of Representatives

March 6, 1995

Madam Chairman, committee members---Thank you for providing me this opportunity to discuss my concerns with the minority enterprise 8(a) program, and the reforms I believe necessary to make it more responsive to the needs of minority business.

On March 5, 1969, within two months of his inauguration, President Nixon signed Executive Order 11458, establishing minority business enterprise as a national priority. Shortly thereafter, I received an appointment to assist in the organization of the Office of Minority Business Enterprise in the U.S. Department of Commerce, and to serve as its assistant director. I remained with the program through 1976.

Our mission was to confirm each citizen's right to participate in the American enterprise system as a business owner---to validate the concept that every individual should have the opportunity to take a turn at bat, with the understanding that some will bunt, single, or walk---some will hit a home run---and many will strike out. The important thing is that we are all entitled to step up to the plate as a matter of choice---to exercise our right to venture---our right to succeed---and indeed, our right to fail.

As originally conceived, the minority enterprise program was intended to foster opportunities for business ownership, aimed at assisting socially or economically disadvantaged individuals. For example, we were just as interested in helping an affluent, socially disadvantaged person get a piece of the action, as we were in helping an economically disadvantaged person living in Appalachia. Our job was to break through the discriminatory barriers which had precluded these people from participating in the capitalistic system as business owners.

In support of our mission, we set about the task of identifying sources and securing commitments of capital, management assistance, and market opportunities, which could

be deployed for the start-up and/or growth of minority businesses. Thanks to the full force of President Nixon's commitment, prejudicial walls gradually began to crumble, and these ingredients became increasingly more available.

Paralleling the development of capital and management assistance was that of opening up public and private sector marketing channels for minority produced output.

In 1969, federal purchases from minority companies were a scant \$11,000,000. Casting about for a way to involve the government in the procurement process, we uncovered Section 8(a) of the Small Business Act of 1953. It was perfectly suited to our needs. Acting in concert with the SBA, the Office of Minority Business Enterprise (OMBE as it was then known) encouraged minority firms, which offered a reliable product or service, to apply for 8(a) certification.

At first, relatively few minorities deemed their companies to be capable of servicing the federal market, but as the program took hold, and the word got around that we meant business, more and more came forward for certification, and the program took off.

The 8(a) program came into being as an element of a business opportunity program, open to all qualified minority businesses which met basic criteria. Public Laws 95-507 and 96-481 and the regulations thereto, altered that equation. Under these laws, the minority enterprise initiative has been converted into a business development program which unduly favors the select few companies which have the good fortune to be 8(a) certified.

If one accepts the premise that federal market opportunities for minority firms should be equally available to all who qualify, then one must conclude that the present restrictive arrangement under which the 8(a) program operates is grossly unfair to thousands of companies which have virtually no prospect of ever gaining certification. Simply stated, too few minority businesses receive too many benefits---too many minority businesses receive too few benefits.

I believe that the 8(a) program has lost its way, and that legislation should be enacted which will enable it to regain its original purpose, that of being available to all legitimate aspirants. In this context I recommend rescinding the 8(a) legislation presently on the books, and replacing it with legislation which will enable the promulgation of a minimum of restrictive, cumbersome

regulations. Among the elements I suggest for inclusion in an 8(a) reform act are:

1. Re-define a minority enterprise as a business which is owned by socially or economically disadvantaged individuals.

2. Confine the program to one of negotiating for the purchase of goods and services from minority companies.

3. Develop basic criteria and a specific timetable for 8(a) certification. Provide for automatic certification if the certifying authority is unable to react to an application within the prescribed time frame.

4. Set a fixed term---no exceptions---for participation in the program, such term to begin upon the successful negotiation of the first contract.

5. Place the authority and responsibility to negotiate and execute 8(a) contracts directly with the contracting officer of the buying agency. Eliminate SBA as the "middle man".

6. Pinpoint responsibility for price, quality and delivery on the contracting unit in the buying agency.

7. Establish thresholds which more nearly reflect particular industry norms.

8. Do away with artificial geographic boundaries that confine 8(a) companies to marketing their products or services inside a given region. Such restrictions punish an aggressive business and its opportunities for growth. Permit 8(a) companies to engage in self-marketing activities on a national basis.

9. Compete the offering when two or more companies identify the same requirement.

I believe that the 8(a) program has and can continue to serve a valuable function in fostering access into the federal marketplace for companies owned by socially or economically disadvantaged persons---but to the extent that the program continues to be encumbered by restrictive legislation and paternalistic regulatory shackles, its full potential will never be realized.

Thank you again for giving me the opportunity to testify.

**Statement of  
Mr. Ralph C. Thomas III  
Associate Administrator for  
Small and Disadvantaged Business Utilization  
National Aeronautics and Space Administration**

**before the  
Committee on Small Business  
U.S. House of Representatives**

**March 6, 1995**

Madam Chair and Members of the Committee, I am pleased to appear before you today to discuss the 8(a) program established by the Small Business Act.

Over the past 15 years, my involvement with small and disadvantaged business utilization has included five years as an attorney representing small and minority businesses in legal matters; seven years as the executive director of a major minority business trade association; and, since November 1992 as the principal advocate for small, minority and women-owned business utilization at the National Aeronautics and Space Administration (NASA).

Since 1985, I have testified on more than 30 occasions before this as well as other Congressional Committees on issues relating to the effective utilization of small and disadvantaged businesses in federal government contracting. So I have been able to observe the workings of the 8(a) program from several different perspectives.

For purposes of review, the 8(a) program is named for that section of the Small Business Act from which it derives its authority. The 8(a) program enables the Small Business Administration (SBA) to enter into contracts with other federal agencies for their procurement needs. The SBA then subcontracts the actual performance of the work to socially and economically disadvantaged firms certified by the SBA for participation in the program.

The purpose of the 8(a) program is designed to increase the participation of socially and economically disadvantaged individuals, particularly minority individuals, in our federal procurement system. However, this is not an initiative unique to minorities.



For example, when we wanted to ensure as a Nation, that domestic products had an advantage over foreign markets in winning federal contracts, we initiated the Buy American Act in 1933 in which domestic products receive six to twelve percentage preference points in certain procurements, simply for being of domestic origin. We did this, in large part, to preserve our domestic mobilization business base.

Similarly, when we as a Nation wanted to ensure that a fair proportion of federal contracts would go to small businesses we created small business set-asides in which certain contracts are set-aside for competition among small businesses only. That initiative has been with us since 1958.

In 1978 we made a similar commitment in enacting Public Law 95-507 when we decided that socially and economically disadvantaged businesses, particularly minority-owned businesses, should have a fair share of federal procurements. Thus, the 8(a) program was instituted.

In your invitation to testify, you requested that my statement comment on the problems facing the 8(a) program and make specific recommendations to reform it. First of all, let me say that the 8(a) program is a mere means to an end; it is not an end unto itself.

For example, in fiscal year (FY) 1990, Congress established a goal for NASA to award at least 8 percent of its contract and subcontract dollars to small disadvantaged businesses (SDBs). At that time NASA was only awarding about 5.3 percent of our contract dollars to such entities. In response to that Congressional direction, NASA initiated a plan of action to increase our awards to SDBs. As a result, in FY 1994 NASA awarded 9.9 percent of our contract and subcontract dollars to SDBs--about \$1.2 billion. That figure represents more dollars to SDBs than any federal agency except the Department of Defense.

In accomplishing this feat, we decided from the outset that we needed a vision as to just what we wanted to do with small disadvantaged businesses, and why we wanted to do it. We took a business approach to the problem and set about to resolve it just like we would a technical or scientific problem involving spacecraft or satellites.

NASA developed a vision committing ourselves to the full integration of small disadvantaged businesses within the competitive base from which we purchased goods and services, and we urged our large prime contractors to seek a simultaneous integration of these firms into their business base of subcontractors.

This vision became a part of our overall NASA vision and was incorporated into our Agencywide Strategic Plan. It was coordinated and approved with the signatures of every senior official at NASA including the Administrator.

I think that NASA's vision for small disadvantaged businesses in federal contracting is similar to that of Congress when it codified the 8(a) program in 1978.

The legislation stated in part in Section 201 of Public Law 95-507 that:

"....Congress finds that the opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential if we are to obtain social and economic equality for such persons and improve the functioning of our national economy...."

The most important part of that phrase is "improve the functioning of our national economy." At NASA, we have found that we need small disadvantaged businesses as much as large businesses or small to mid-size businesses in order to deliver the best product. With the wide diversity of technological talent and business acumen that we have from the various racial, gender and ethnic sectors of this country, the federal government would be getting less than full productive capacity from its competitive pool of contractors if it did not create and maintain certain vehicles to ensure that those entrepreneurs that have been historically underutilized in the federal procurement process can be effectively incorporated into the purchasing system.

As stated previously, the 8(a) program is only one vehicle to accomplish that goal. Presently, there is too much emphasis on the SBA's 8(a) program as either the only vehicle or the primary vehicle to obtain the full integration of small disadvantaged businesses into the federal procurement system.

The SBA has too few resources to deal with the numerous and constant demands of 8(a) contractors, would-be 8(a) contractors, federal agencies, Congress and the media. The 8(a) program was designed to be a part of the solution--not the entire solution. Within the same law that created the 8(a) program, a number of other initiatives were authorized for the effective utilization of small disadvantaged businesses. Many of these initiatives, have not been fully utilized by federal agencies.

For example, Section 211 of Public Law 95-507 added Section 8(d) to the Small Business Act to require that prime contractors with federal contracts that exceed \$1 million for the construction of any public facility or \$500 thousand in the case of all other contracts, to establish percentage goals for the utilization of SDBs as subcontractors whenever subcontracting opportunities

are present. In fact, the provision mandates that "no contract shall be awarded to any offeror unless the procurement authority determines that the [established goals] provides the maximum practicable opportunity" for subcontracting by small businesses and small disadvantaged businesses.

In FY 1993 small businesses overall received about \$63 billion (out of about \$180 billion) in federal contract dollars. About one-third of that amount was from subcontracting. SDBs, on the other hand, received a little over \$13 billion in federal contract dollars but only one-sixth of that was through subcontracting. Obviously, we are not utilizing subcontracting goals to the maximum extent practicable. We can do much better. This is important because one main criticism of the 8(a) program is that a large number of participants in the program do not have 8(a) contracts. Federal agencies have the responsibility of addressing that problem--not just the SBA.

In recent years, NASA has focused attention toward improving its SDB performance in the subcontracting area. Our small business office has made concerted efforts to work with our technical program offices and our procurement officials to ensure that each eligible contract contains subcontracting goals that provide maximum practicable opportunities in meaningful work for SDBs. As a result, in FY 1994, NASA prime contractors awarded \$636 million to SDBs in subcontracts--more than double what had been awarded to them in FY 1990. Of the total \$1.2 billion made available to SDBs in FY 1994, about one quarter of that was through 8(a) contracts. That is down from FY 1990 when 8(a) contracts represented about one-third of our awards to SDBs. This does not mean NASA has decreased our direct contract award dollars to 8(a) contractors. To the contrary, our actual dollars in 8(a) awards have consistently increased. However, it is only one aspect of our overall program.

If federal agencies can open up more subcontracting opportunities for SDBs, while at the same time preserving and exceeding their 8(a) contract awards, there will be much more work for small disadvantaged businesses (including 8(a) firms) to perform.

In addition to increasing subcontracting opportunities federal agencies can do a host of other things to attract and retain the best SDBs in our respective competitive bases. For example, the SBA is sometimes criticized for not ensuring that SDBs in the 8(a) program are properly trained to perform federal contracts from a technical and management standpoint. Again, the federal government, as a whole, must bear its fair share of that responsibility. Under the recently-passed Federal Acquisition Streamlining Act (Public Law 103-355), agencies are authorized to make available technical assistance to SDBs in the

form of training. If the agency does not have such expertise in-house, the law allows it to contract out for it.

For the past year and a half, on a quarterly basis, NASA has been holding a three-day intensive training course at different NASA Field Centers across the country for SDBs specializing in the high-tech field. The courses teach these companies the technical aspects of marketing to, proposing to, performing for and closing out contracts with NASA. Attendance has been "standing room only," and we have received numerous complimentary letters from SDBs that have taken the course.

For NASA, it was a simple business decision. Our core work is in the high-tech field, and we had to diversify our base of talent in order to get the best companies from all sectors of the American marketplace.

While the course is designed to train SDBs from a business management standpoint, we will soon embark on our own mentor-protege program to assist them with technical proficiency. For this program, NASA envisions certain SDBs being mentored by some of NASA's large prime contractors in high-tech areas where we need to expand our current competitive pool with additional SDBs. We are doing this without asking Congress for money to run the program or for additional legislation to implement the program. We know what we need, and this is our proactive initiative to get us there.

NASA also supports private industry efforts to utilize SDBs that have done work for us in the past. In an effort to improve the competitive viability of SDBs after they have graduated from the 8(a) program, NASA has matched an SBA grant to support the Unisphere Institute. Unisphere is a nonprofit organization that assists small to mid-sized hi-tech companies in finding foreign business venture partners to pursue commercial opportunities worldwide. NASA has contracted with Unisphere to match 15-20 of NASA's recently-graduated 8(a) firms with international partners. It is hoped that through such relationships these 8(a) firms will expand their technical and financial capabilities and be better able to compete for full and open NASA procurements in the future. It's an investment in the stability of our business base. We do not want to lose good contractors from our competitive pool merely because they graduate from a socioeconomic program.

This is an important point because much criticism is aimed at the SBA because of the general non-success of 8(a) companies once they graduate from the program. However, again, this is a problem that should be addressed by the federal government as a whole. Each agency must be responsible for promoting its own initiatives to preserve the stability of contractors that have provided outstanding goods and services to it in the past.



The new Federal Acquisition Streamlining Act gives a lot of tools to federal agencies to increase awards to SDBs. One such tool allows most agencies to hold SDB set-aside competitions outside of the 8(a) program. Although this authority will assist most federal agencies greatly in expanding their business base--particularly with regard to those outstanding SDBs that are not in the 8(a) program--it is not a replacement for the 8(a) program.

The 8(a) program still provides some very major functions that federal agencies need in order to be more effective. First of all, the 8(a) program is primarily a business development program not a procurement program. Therefore, the SBA can assist SDBs in ways that a federal agency cannot.

For example, SBA can provide financial assistance in the form of business loans or provide money for skills training or upgrading for employees or potential employees. Also, simply being in the 8(a) program exposes its participants to other important benefits and programs available to small businesses.

In addition 8(a) contractors are under something of a protective umbrella that usually shields them from some of the more demanding aspects of federal government contracting during a very delicate time in their business development. For example, private companies seem to feel more comfortable in providing surety bonds, insurance and other types of assistance when they know that the firm is in the 8(a) program. The SBA is also a valuable outside advocate for the 8(a) firm if there are ever any problems in the performance of a contract with a federal agency.

But that is not to say that 8(a) contractors do not carry their own weight in their performance of federal contracts. In a 1988 General Accounting Office (GAO) Report on the "Status, Operations and Views on the 8(a) Procurement Program," GAO found that in general, most 8(a) firms performed satisfactorily. Contracting officers reported that all or most of the delivery dates were met on over 78 percent of the contracts, and for over 88 percent of the contracts, the products or services delivered met or exceeded quality specifications. The GAO study also looked at the performance of 8(a) firms on contracts in comparison with the performance of non-8(a) firms on contracts in the same or similar industries. The contracting officers on over half of the contracts in the surveys had experience with both types of companies and in comparing them reported that the 8(a) firms' performance in meeting delivery dates for about 75 percent of the contracts was equal to or better than non-8(a) firms. For about 85 percent of the contracts, the 8(a) firms performed the same or better than the non-8(a) firms in terms of the quality of goods or services they delivered.



Most important, however, is the fact that the SBA serves as a certification authority regarding the socially and economically disadvantaged status not only for candidates for the 8(a) program but also for those SDBs whose legitimacy is challenged after the fact by unsuccessful SDB bidders for federal subcontracts or for non 8(a) SDB set-aside competitions. Most federal agencies would not have the expertise or information to accommodate this additional burden.

It is important to note that many of the successful minority firms of today were once in the 8(a) program. So it is my feeling that the 8(a) program should definitely be preserved.

However, I recommend that the SBA require all 8(a) contractors to take an effective training course from reputable instructors on how to contract with the federal government. It must be remembered that these companies are merely federal contractors with 8(a) status. As such, they are subject to numerous federal regulations, hundreds of mandatory contract clauses and various procurement and related laws the same as other government contractors. During my career in this field I have seen several 8(a) contractors ruined because of a lack of knowledge and understanding of basic federal procurement law and regulations. This training course should consist of a detailed overview of the formation and administration of federal contracts, an intensive review of the applicable Federal Acquisition Regulations (FAR) and legal and ethical pitfalls to avoid.

In summary, the 8(a) program remains a necessary part of the equation to achieve the ultimate goal of fully integrating SDBs into the federal contracting system. If there are problems with the 8(a) program they are problems for which the federal government as a whole must bear responsibility and they are problems which only the federal agencies can collectively resolve. If federal agencies utilize all of the tools at their disposal, it will take much of the pressure off the SBA. As a result, SBA would then be able to better focus on the functions it performs best.

That concludes my testimony. I would be pleased to respond to any questions you or other Members of the Committee may have.

TOPIC OUTLINES

## 8 (A) PROGRAM

## CONGRESSIONAL TESTIMONY

- I. BRIEF COMPANY HISTORY OF LAKE MICHIGAN CONTRACTORS, INC.
- II. GOALS OF THE 8(A) PROGRAM
  - A. MINORITY PARTICIPATION
  - B. MINORITY BUSINESS DEVELOPMENT
- III. INCREASED USE OF COMPETITIVE TECHNIQUES
  - A. COMPETITIVE 8(A) VS SOLE SOURCE 8(A)
  - B. ELIMINATE LOCAL BUY REQUIREMENTS
  - C. REWARD SELF MARKETTING EFFORTS
- IV. MAKE THE PROGRAM EASIER FOR THE AGENCIES
  - A. ENCOURAGE DIRECT CONTRACTING
  - B. REDUCE THE USE OF TIME CONSUMING COST NEGOTIATIONS
  - C. IMPLEMENT THE INCREASED AND EFFICIENT USE OF BONDS
- V. FIGHT BROKERING
  - A. CREATE MORE SPECIFIC STANDARD INDUSTRIAL CODES
  - B. REQUIRE WORK WITH ITS OWN FORCES
  - C. REQUIRE USE OF OWN EQUIPMENT OR EQUIPMENT LEASED FROM ANOTHER 8(A) CONTRACTOR
- VI. PROGRAM BENEFITS

I. COMPANY HISTORY

MY NAME IS KEMMA WALSH, I OWN AND OPERATE LAKE MICHIGAN CONTRACTORS, INC., A MARINE CONTRACTING FIRM, LOCATED IN HOLLAND MICHIGAN. MY PRIMARY BUSINESS SINCE 1990 HAS BEEN MAINTENANCE DREDGING FOR THE US ARMY COE. ON 6/22/94 I WAS CERTIFIED BY THE SBA TO PARTICIPATE IN THE SBA'S 8(A) PROGRAM THIS IS DUE TO MY SMALL BUSINESS AND SOCIAL AND ECONOMIC STATUS.

I AM HERE TO TESTIFY BEFORE YOU TODAY, FOLLOWING AN INVITATION FROM MS. JAN MEYERS, CHAIRPERSON FROM THE SMALL BUSINESS COMMITTEE. MS MEYERS HAS ASKED ME TO TESTIFY ON MY EXPERIENCE WITH THE 8(A) PROGRAM, HOW THE PROGRAM HAS HELPED OR HINDERED MY BUSINESS, AND WHAT CHANGES I WOULD RECOMMEND TO IMPROVE THE PROGRAM

I WISH TO CONVEY TO YOU THE URGENCY TO CONTINUE THE 8(A) PROGRAM AND MAKE RECOMMENDATIONS THAT I FEEL ARE PERTINENT TO BETTER USE OF THE PROGRAM, AS IT APPLIES TO DREDGING.

I HAVE INCLUDED A BRIEF HISTORY OF MY COMPANIES INVOLVEMENT IN THIS PROGRAM AND THE DREDGING INDUSTRY AS A WHOLE.

LMC HAS OPERATED AS A SMALL MARINE CONSTRUCTION FIRM SINCE 1980, PROJECTS INCLUDED RESIDENTIAL AND SMALL COMMERCIAL MARINAS, SEAWALLS, DOCKS AND DREDGING. BY 1989, I HAD ACQUIRED MY OWN BONDING AND HAD BUILT A PORTFOLIO OF DREDGING EQUIPMENT. THEN AN OPPORTUNITY AROSE THAT ALLOWED ME TO PURCHASE TWO SMALL HYDRAULIC DREDGING PLANTS. AT THIS TIME I ELECTED TO BID ON COE MAINTENANCE DREDGING PROJECTS AND VENTURED INTO A MALE DOMINATED INDUSTRY.

IN 1990 I WAS AWARDED MY FIRST MAINTENANCE DREDGING CONTRACT WITH THE USA COE. I WAS THEN AND STILL AM A EMERGING SMALL BUSINESS. THIS PROJECT WAS COMPETITIVELY BID. I WISH TO CONTINUE TO COMPETE IN THE COMPETITIVE MARKET AND USE MY STATUS TO HELP ME BECOME A SUCCESSFUL LARGE DREDGING FIRM.

I WOULD LIKE TO PROVIDE YOU WITH A OUTLINE OF MY EXPERIENCE WITH THE SBA'S SET-A-SIDE PROGRAMS WHICH INCLUDES THE 8(A) PROGRAM. I WILL PROVIDE SOME DATA THAT WILL GIVE YOU A PERSPECTIVE OF THE DREDGING INDUSTRY WHICH INCLUDES LARGE, SMALL, EMERGING SMALL, SMALL DISADVANTAGED BUSINESS.

FOR EXAMPLE;

A DREDGING FIRM IS CONSIDERED TO BE A LARGE BUSINESS IF IT EXCEEDS 13.5 MILLION DOLLARS ON A THREE YEAR ANNUAL GROSS REVENUE AVERAGE, A DREDGING FIRM IS CONSIDERED TO BE SMALL BUSINESS IF IT EXCEEDS 6.75 MILLION DOLLARS ON A THREE ANNUAL GROSS REVENUE BASIS AND A DREDGING FIRM IS CONSIDERED TO BE EMERGING SMALL BUSINESS IF IT HAS LESS THAN A 6.75 MILLION DOLLAR THREE YEAR ANNUAL GROSS REVENUE AVERAGE.

NOTE THAT THE 8(A) PROGRAM IS ATTEMPTING TO GRADUATE ITS PARTICIPANTS TO LARGE BUSINESS STATUS.

ALSO NOTE THAT THE THRESHOLD IN THE CONSTRUCTION INDUSTRY IS AT 17 MILLION DOLLARS BEFORE YOU ARE CONSIDERED LARGE BUSINESS. THIS BRINGS UP A POINT THAT WILL BE DISCUSSED LATER, OF THE DREDGING INDUSTRY HAVING ITS OWN STANDARD INDUSTRIAL CODE.

SINCE MY CERTIFICATION IN THE 8(A) PROGRAM I HAVE YET TO BE AWARDED A PROJECT. I AM IN THE PROCESS OF NEGOTIATIONS ON MORE THAN ONE PROJECT THAT COULD BRING ME UP TO 1 MILLION DOLLARS IN GROSS REVENUE. NOTE THAT I WILL HAVE BEEN IN THE PROGRAM FOR ALMOST A YEAR, OF MY (9) NINE YEAR TERM BEFORE I WILL HAVE BEGUN A PROJECT. A MILLION DOLLARS MAY SEEM LIKE A LOT, BUT KEEP IN MIND TO GRADUATE I NEED TO HAVE EXCEEDED 13.5 MILLION, PER (3) THREE YEAR AVERAGE.

OF THE 400 MILLION DOLLARS SPENT NATIONWIDE FOR DREDGING BY THE COE FOR FOR THE YEAR 1995, ONE FIRM ALONE RECEIVED 100 MILLION, THE NEXT 200 MILLION WENT TO JUST FIVE FIRMS, ALL OF WHICH ARE LARGE BUSINESS. THIS LEFT 100 MILLION TO BE SPLIT BY THE REMAINING 50 PLUS DREDGE FIRMS AT THE SMALL, EMERGING SMALL AND DISADVANTAGED BUSINESS LEVEL.

OF THE TOTAL 400 MILLION '94 DOLLARS LESS THAN 1.5% WENT TO THE 8(A) PROGRAM. IN 1993 0% OF THE COE DREDGING BUDGET WENT TO THE 8(A) PROGRAM. THIS WAS MORE THAN LIKELY THE RESULTS OF ONLY HAVING ONE 8(A) FIRM PARTICIPATING IN 1993.

REMEMBER THE DREDGING INDUSTRY IS A SPECIALIZED INDUSTRY AND SHOULD NOT BE INTERTWINED WITH GENERAL AND BUILDING CONSTRUCTION. AGAIN THE NEED FOR ITS OWN SIC CODE.

CURRENTLY NATIONWIDE THERE ARE ONLY FOUR 8(A) PROGRAM DREDGING PARTICIPANTS. ONE OF WHICH IS NEAR GRADUATION, ONE OF WHICH IS WOMEN OWNED (MYSELF) AND OTHERS THAT HAVE BEEN CERTIFIED. I BELIEVE I AM NOT ONLY THE ONLY 8(A) FIRM COMPETING FOR THESE DOLLARS BUT I BELIEVE I'M THE ONLY WOMEN OWNED FIRM.

## RECOMMENDATIONS

### II. GOALS OF THE 8(A) PROGRAM

THE GOAL OF THE PROGRAM IS TO INCREASE MINORITY PARTICIPATION AND BUSINESS DEVELOPMENT.

I RECOMMEND THAT YOU KEEP THIS PROGRAM AND MAKE THE FOLLOWING CHANGES THAT EFFECTIVELY REDUCE COSTS, ABUSE, LOCALIZED COMPLACENCY AND ABOVE ALL ELSE TO STRIVE FOR FAIR AND EQUITABLE CONTRACTING.

## REQUIREMENTS.

## B. REDUCE THE COMPETITIVE 8(A) THRESHOLD

IN PLACE IS A SELF MARKETING PROGRAM THAT ALLOWS A FIRM TO MARKET ITSELF NATIONWIDE. HOWEVER THE LOCAL BUY REQUIREMENTS STOPS THIS FROM HAPPENING. HENCE THE BEST INTEREST OF THE CONTRACTING AGENCIES AND PROGRAM PARTICIPANTS IS NOT SERVED. MY EXPERIENCE HAS BEEN THAT I HAVE PROVEN MY COMPANIES CAPABILITIES TO AGENCIES THAT WANT ME TO WORK FOR THEM. BECAUSE I AM NOT IN THEIR REGION I CAN NOT NEGOTIATE THE WORK. THIS IS A BIG PROBLEM FOR ME. ELIMINATION OF THE LOCAL BUY GETS RID OF THIS PROBLEM.

THESE ARE THE PROBLEMS I HAVE HAD WITH THE LOCAL BUY ISSUE. I WAS TOLD BY MY BUSINESS OPPORTUNITY SPECIALIST, THAT I COULD SELF MARKET MY COMPANY ANY WHERE I WANTED. UPON DOING THIS I WAS READILY ACCEPTED BY SEVERAL DISTRICTS WHICH WERE FAMILAR WITH MY COMPANY AND ITS EQUIPMENT FROM PAST PROJECTS. HOWEVER THE SBA TOLD THE AGENCY THAT I WAS OUT OF MY REGION AND SAID THEY MUST GIVE THE SET ASIDE PROJECTS TO A FIRM IN THEIR REGION. THIS WAS ONE PERSON (FIRM) THAT WALKED IN WITHOUT OWNING EQUIPMENT AND DEMANDED THE PROJECTS BE SET ASIDE FOR HIS COMPANY.

DREDGING CONTRACTORS ARE NOMADIC BY NATURE, WITH THE FLOATING EQUIPMENT THAT HAS ACCESS TO ALL MAJOR WATERWAYS IN THE COUNTRY. AN 8(A) CONTRACTOR SHOULD BE ALLOWED TO TRAVEL FROM REGION TO REGION BECAUSE ONCE GRADUATED FROM THE PROGRAM, THAT IS WHAT THEY MUST DO TO STAY COMPETIVE IN THE DREDGING INDUSTRY.

TO EFFECTVELY IMPLEMENT THESE ITEMS I RECOMMEND THAT YOU;

COMBINE THE THREE ITEMS INTO ONE, FOR EXAMPLE: ALLOW THE 8(A) FIRM TO SELF-MARKET ITSELF NATIONWIDE LETTING THE AGENCY PICK THE BEST FIRM FOR THE JOB RATHER THAN FORCING THE LOCAL FIRM DOWN ITS THROAT. REQUIRE THE SBA TO REDUCE THE 3 MILLION DOLLAR COMPETITIVE THRESHOLD TO 1 MILLION DOLLARS. ELIMINATE THE LOCAL BUY IN DREDGING, THIS IS THE BIGGEST PROBLEM.

KEEP IN MIND THAT SOME SBA REGIONS HAVE NO 8(A) DREDGING FIRMS AT ALL.

IV. MAKE THE PROGRAM EASIER FOR THE AGENCIES/FIRMS

IMPLEMENT NATIONALLY USED PROGRAM OUIDELINES THAT ENCOURAGE DIRECT MARKETING BY THE 8(A) FIRM WITH THE CONTRACTING AGENCY RATHER THAN LETTING THE SBA TAKE ALL THE BURDEN, LET THE SBA DO ITS JOB, BUT DO NOT LIMIT THE FIRM. REWARD THE FIRM FOR ITS EFFORTS BY MAKING SURE IT IS ELECTED FOR THE SOLE SOURCE AWARD. THIS WILL ALLOW A BETTER RAPPORT BETWEEN THE PARTIES AND LET THE AGENCY READILY ACCEPT THE SELF-MARKETING EFFORTS.

STOP THE USE OF TIME CONSUMING NEGOTIATIONS



I WOULD NEVER RECOMMEND THAT THE AGENCY/SBA KNOWINGLY ALLOW A CONTRACTOR TO UNDER-BID OR OVER-BID A PROJECT BUT THAT IT WOULD EXPEDITE THE COST NEGOTIATIONS IF A FIRM COULD JUST FILL OUT A BID SCHEDULE, SIMILAR TO A COMPETITIVE PROJECT BID SCHEDULE, AND IF ITS PRICES FELL WITHIN REASON TO THE ENGINEERS ESTIMATE THE PROJECT COULD BE LET.

ALLOW THE SBA AND THE AGENCY TO EITHER HELP FIRMS WITH BONDING OR NOT SET ASIDE PROJECTS UNLESS A FIRM HAS THE REQUIRED BONDING CAPABILITY. THIS WILL ALSO HELP THE THRESHOLD PROBLEM AND REDUCE BROKERING.

#### V. FIGHT BROKERAGE

ESTABLISH A SPECIFIC STANDARD INDUSTRIAL CODE (SIC) FOR DREDGING.

CURRENTLY THE SIC # 1629 ALLOWS CONSTRUCTION FIRMS THAT HAVE NO SPECIALIZED DREDGING EQUIPMENT TO BE ACCEPTED BY THE SBA TO DO DREDGING WORK. THAT ADDS TO NON BONA FIDE 8(A) FIRMS SECURING EQUIPMENT AND BONDING FROM OTHER SOURCES, COSTING THE AGENCIES ADDITIONAL MONIES AND NOT HELPING THE CONTRACTED 8(A) FIRM.

REQUIRE EVIDENCE OF DREDGING EQUIPMENT OWNERSHIP.

THIS FORCES A FIRM TO HAVE OR ACQUIRE DREDGING EQUIPMENT MAKES THEM EITHER BE A BONA FIDE DREDGING FIRM OR WANT TO STAY IN THE DREDGING INDUSTRY FOR MORE THAN JUST ONE PROJECT, FOR THE BENEFIT OF PERSONAL GAIN. THE EQUIPMENT REQUIREMENT ALLOWS A PERSON WITH DREDGING EXPERTISE WANT TO GO TO WORK FOR THE FIRM BECAUSE THEY ANTICIPATE THE FIRM WILL CONTINUE IN THE TRADE DUE TO FINANCIAL COMMITMENT. THE NEXT BEST THING WOULD BE TO REQUIRE A NON-DREDGING 8(A) FIRM TO ACQUIRE THE EQUIPMENT AND EXPERTISE FROM ANOTHER 8(A) DREDGING FIRM. THIS IS SIMILAR TO THE SBA'S EXISTING RULE FOR EMERGING AND SMALL BUSINESS PROGRAMS.

HAVE A FIRM PERFORM THE WORK WITH ITS OWN FORCES. THIS WOULD BENEFIT BOTH PARTIES AND THE AGENCIES BY ALLOWING FOR THE PROGRAM PARTICIPANTS TO GAIN EXPERIENCE AND PROFIT AND NOT A NON 8(A) FIRM.

#### VI. PROGRAM BENEFITS

THE PROGRAM HELPS MY FIRM THAT UNDER NORMAL CIRCUMSTANCES WOULD NOT BE ABLE TO COMPETE AGAINST A LARGE FIRM. IT IS A PROVEN FACT THAT SOCIALLY AND ECONOMICALLY DISADVANTAGED PERSONS WILL NOT BE AS ACCEPTED INTO THE DREDGING INDUSTRY IF THE PROGRAM WOULD BE PHASED OUT. THE CHANGES I HAVE RECOMMENDED PREVIOUSLY WILL ALLOW THE PROGRAM TO GET BETTER FOR ALL INVOLVED. A DREDGING CONTRACTOR MUST MAKE A LARGE CAPITAL INVESTMENT PURCHASING THIS TYPE OF EQUIPMENT, WHICH IS SPECIALIZED FOR DREDGING AND USED FOR THAT IN PARTICULAR, AND THAT WILL SURVIVE IN THE COMPETITIVE MARKET UPON GRADUATION. TO MIX THE PROGRAM WITH COMPETITIVE BIDDING ALLOWS MY COMPANY TO KEEP WORKING DURING THE DEVELOPMENTAL STAGE, KEEP MY EQUIPMENT AND

EMPLOYEES AT WORK, KEEP THE AGREEMENTS MADE WITH THE INSTITUTIONS PROVIDING FINANCING AND BONDING. I HAVE BENEFITED JUST BEING CERTIFIED, MY LOAN OFFICER AND BONDING AGENT SEEM MUCH MORE WILLING TO NEGOTIATE TERMS AND CONDITIONS. I WILL USE THE PROGRAM TO GAIN A COMPETITIVE BUSINESS MIX.

IF I WERE NOT A PARTICIPANT IN THIS PROGRAM, I WOULD NOT BE TAKEN AS A SERIOUS COMPETITOR. BECAUSE I AM IN THE PROGRAM I NOW HAVE A NUMBER OF OPPORTUNITIES AFFORDED TO ME, SUCH AS: RUNNING FOR EXECUTIVE OFFICE IN THE DCA, HAVING OTHER DREDGING FIRMS TREAT ME AS AN EQUAL, BEING ABLE TO ENTER A MALE DOMINATED INDUSTRY, THE ABILITY TO GIVE TO THE COMMUNITY RATHER THAN TAKE, AND MOST OF ALL, THE ABILITY TO SUCCEED.

## KEMMA J. WALSH

424 W. Lawrence St. Zeeland, MI 49423 (616) 772-1552  
Office (616) 392-2958

### CAREER OBJECTIVE

TO FULLY UTILIZE MY PAST EXPERIENCE, ORGANIZATIONAL SKILLS, AND INCREASE MY ABILITY TO SUCCEED AND COMPETE IN THE DREDGING INDUSTRY AS AN EQUAL.

### EMPLOYMENT EXPERIENCE

LAKE MICHIGAN CONTRACTORS, INC. HOLLAND MI  
President/CEO 4/1/80-Present

*Account development & marketing, In charge of all Financing & Accounting, Preparing and estimating of all bids government & private industry, Maintain working relationships with Financial Institutions, Secure & Maintain Bonding Co. relationships, Employee relations and correspondence. Preparation of Financial Statements, strived to maintain excellent customer/client relationships, Strategic Planning, competitive analysis, Budgets, Organization for Company Business Plan, preparation of all government, local & state taxes, implemented a fully computerized payroll and general ledger system.*

HTA DISTRIBUTING, INC. HOLLAND MI  
Secretary, Receptionist, Payroll & General Ledger Accounting  
7/30/78-3/2/80

Old Kent Bank, Inc. Holland MI  
Assistant Manager Rose Park Branch 6/20/74-6/30/78  
Vault teller, turnkey responsibility for vault operations

### EDUCATION

ZEELAND HIGH SCHOOL 1974

Davenport College  
Money & Banking, Introduction to Business, Marketing 12/75-11/77  
Micro Word Processing 1/95-3/95

### PERSONAL

Date of Birth 3/9/56  
Nationality: Native American  
Married, 3 dependant children  
Social Security #363-52-2938

**PATRICK J. KENNEDY**  
1ST DISTRICT, RHODE ISLAND

COMMITTEE ON NATIONAL SECURITY  
COMMITTEE ON SMALL BUSINESS



**Congress of the United States**  
**House of Representatives**  
**Washington, D.C. 20515-3901**

WASHINGTON OFFICE  
1033 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, D.C. 20515  
DSD 225-4911  
FAX: DSD 225-5339

1ST DISTRICT OFFICE  
STATE TOLL FREE NUMBER  
1-800-362-8772

206 MAIN STREET, SUITE 803  
PAWTUCKET, RI 02860  
401-728-8023  
FAX: 401-728-6688

NEWPORT POST OFFICE  
350 THAMES STREET  
NEWPORT, RI 02840  
401-841-0440  
FAX: 401-841-2441

WOONSOCKET POST OFFICE  
127 SOCIAL STREET  
WOONSOCKET, RI 02866  
401-762-2288

**Opening Statement of Representative Patrick J. Kennedy (D-RI)**  
**Hearing to examine the SBA 8(a) Minority Business Development Program**

Madam Chair, I am looking forward to today's exploration of the 8(a) minority development program.

It is important that as we begin our review of SBA programs we keep in the mind the original intent and purpose of those programs. Any reform of SBA must have as its central goal the improvement of services to small business and developing businesses.

The 8(a) program is designed to assist socially and economically disadvantaged individuals develop businesses. The sole-source contracting component is the best-known part of the program, but the mission of 8(a) requires doing more than just contracting. The overall goal of the program, and what distinguishes 8(a) from set aside programs, is the concentration on supporting business development.

I hope that as the Committee investigates ways to bolster the mission of 8(a) we carefully look at the possibility of fulfilling the development mission by drawing on the talents and abilities of our Small Business Development Centers (SBDCs). With the SBDCs we have a well-established and well-regarded network of support, guidance, and assistance in place which could assist in fulfilling the necessary and laudable mission of the 8(a) program.

I hope that additional hearings will be held on this topic and that this proposal can be explored at that time.

Thank you.

## MAJORITY STEERING COMMITTEE

## COMMITTEE ON SCIENCE

## SUBCOMMITTEES

ENERGY & ENVIRONMENT  
BASIC RESEARCH - VICE CHAIRMAN

## COMMITTEE ON

## TRANSPORTATION &amp; INFRASTRUCTURE

## SUBCOMMITTEE

WATER RESOURCES &amp; ENVIRONMENT - VICE CHAIRMAN

## COMMITTEE ON SMALL BUSINESS

## SUBCOMMITTEE

REGULATIONS &amp; PAPERWORK

TYA CAUCUS



**ZACH WAMP**  
 CONGRESS OF THE UNITED STATES  
 THIRD DISTRICT, TENNESSEE

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 WASHINGTON, D.C. 20515  
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 (202) 225-3494 Fax

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 SUITE 1400  
 CHATTANOOGA, TN 37411  
 (615) 894-7400  
 (615) 894-8021 Fax

## 55 JEFFERSON CIRCLE, ROOM 231-D

OAK RIDGE, TN 37830  
 (615) 483-3366  
 (615) 576-3221 Fax

April 13, 1995

The Honorable Jan Meyers  
 Chairman  
 House Committee on Small Business  
 2361 Rayburn House Office Building  
 Washington, D.C. 20515

Dear Chairman Meyers:

I was recently contacted by Mr. Joe Singh Rodriguez, president of SCG, Inc., a small business in my district that is involved in the SBA's 8(a) contracting program.

Since the Committee is in the process of putting together recommendations for SBA's budget, I wanted to take this opportunity to share Mr. Rodriguez's letter with you and ask that it be submitted for the record.

Thank you in advance for your time and attention.

Warmest regards,

*Zach Wamp*  
 Zack Wamp  
 Member of Congress

ZW:ch  
 Enclosure



# SCG

INC., ENVIRONMENTAL AND SECURITY SERVICES

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April 5, 1995

Honorable Congressman Zach Wamp  
423 Cannon Building  
Washington, DC 20515

Dear Congressman Wamp:

Thank you for the opportunity to provide input on issues concerning the Small Business Administration and 8(a) contracting.

SCG is supportive of the 8(a) Program and we believe the benefits far outweigh the negative publicity of recent months. The 8(a) Program has spurred economic growth by utilizing and promoting the capabilities of small and minority businesses, particularly in government contracting. This visibility has served to increase awareness and participation of the private sector as well. Further, small businesses in general remain the primary source for employment in the American economy.

While we support and have directly benefitted from the 8(a) Program, we do believe the program has been ineffectively administered. The purpose of this letter is to share some of SCG's experiences which support our position that the Small Business Administration should be restructured. We have listed several recommendations for your consideration.

The process itself is burdensome to a small business, and much of it is redundant. SCG managed to get past the local hurdles and our certification package was forwarded to SBA in Washington. After three months, we became concerned and began to inquire about the status of our application. We were told SBA *could* check our application. However, to do so would take us out of the queue thereby, placing our application last for processing.

This is an unacceptable response from an agency whose mission is to assist small companies in accessing economic opportunities. Further, this kind of response does little to inspire confidence that SBA understands whom they are chartered to serve. How can SBA help small businesses with the process when their own systems are not designed to be responsive to the people they serve? In the meantime, SCG was losing business because we had worked very hard to position ourselves for opportunities in 8(a) contracting. This issue was ultimately resolved with the help of our Congressional Representative.

A second concern occurred when SCG hired an Operations Manager and petitioned the SBA for an additional SIC code. The addition of this key person, a Ph.D. biochemist, gave SCG the additional capability for opportunities in facilities management, SIC Code 8744. When SCG applied for this strategically necessary SIC Code, we were denied by our SBA office. The SBA office asked for previous year W-2 forms to prove that Dr. Gary Santini was truly an SCG employee. W-2 forms are only available on an annual basis, and Dr. Santini joined SCG in March of the same year in which we submitted the request for the additional SIC code. It was repeatedly explained to SBA that Dr. Santini had just recently joined SCG and that W-2 forms are issued annually, according to procedures established and governed by the Internal Revenue Service. We offered other proof of employment and were told by SBA they could only accept W-2 forms. Again, we were forced to expend a tremendous amount of time and effort to solve a simple, yet, non-critical issue.

The third and most enlightening experience occurred just recently. In March of this year, SCG received a letter from SBA informing us we were out of compliance with financial reporting requirements. The letter strongly stated SCG would be eliminated from the 8(a) program for non-compliance. We had filed the necessary reports and through several phone calls and faxes to SBA, we were able to demonstrate to SBA that we were in compliance. We received a verbal apology and were told to ignore the previous correspondence. Since SBA had documented a perceived non-compliance, we asked for a documented confirmation that their original letter was sent in error. We were told they could not do this, that verbal assurance was all they could do. We expressed concern about having the letter in the file without benefit of rescinding the error. SBA insisted they could not rescind the error on their part. We documented the conversations to SBA as a self-protective measure.

These experiences are not all inclusive and represent the most significant points in SCG's 8(a) application process and business growth. SCG believes the 8(a) Program would be better served by refocusing the SBA. Certain functions must still be done by some independent entity. For example the granting of 8(a) certification should be handled independently. However, after award of 8(a) status, the 8(a) company, the Program, and the economy would best be served by making the cognizant federal agency responsible for administration and compliance oversight for contracts directly under their authority.

Additional recommendations include:

- ▶ SBA needs to be reminded that their clients are the small and newly formed businesses with whom they work. If the role of SBA was to assist only in the initiation of new businesses, and not in their subsequent regulation, then their relationship with new businesses would become one of cooperation.
- ▶ All SBA non-administrative personnel (i.e. Business Opportunity Specialist) should be required to have at least 10 years of commercial business experience to qualify for their respective positions.
- ▶ SBA should implement existing requirements regarding the increases in percentages of non set-aside business as an 8(a) progresses through the program.

This should be a major performance criteria of the Business Opportunity Specialist. Companies who fail to meet the requirements shall be reassessed and terminated if need be.

- ▶ All companies certified in the 8(a) Program should be required to spend at least two years as a mentor to new 8(a)s.
- ▶ There should be a residency requirement for all aliens prior to being eligible for a set-aside Program, i.e. 25 years.

A strong small and minority business Program continues to be of utmost importance to our country. The recent fraud and abuse issues associated with the Program exist throughout the entire government procurement system. After all, was it an 8(a) firm that previously sold the government \$600 toilet seats?

Our experiences and similar experiences shared by other 8(a) companies appear to be commonplace. Unfortunately most 8(a) firms are reluctant to step forward for fear of retribution from the SBA. We hope these experiences will be useful to you and the Congressman. SCG will be happy to support the Congressman with additional information or through testimony.

Sincerely,  
SCG, Inc.

J S R M i j

Joe Singh Rodriguez  
President

JOHN McCAIN  
ARIZONA

COMMITTEE ON ARMED SERVICES  
COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION  
COMMITTEE ON GOVERNMENTAL AFFAIRS  
COMMITTEE ON INDIAN AFFAIRS  
SPECIAL COMMITTEE ON AGING

## United States Senate

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SUITE 1150  
PHOENIX, AZ 85018  
(602) 952-2410

450 WEST PASO REDONDO  
SUITE 200  
TUCSON, AZ 85701  
(602) 670-6334

TELEPHONE FOR HEARING IMPAIRED  
(202) 224-7132  
(602) 952-0170

March 15, 1995

The Honorable Jan Meyers  
Chairwoman  
Committee on Small Business  
2361 Rayburn Building  
Washington, D.C. 20515

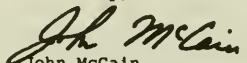
Dear Chairwoman Meyers:

I have enclosed a letter from a businessman in my state, Fred Barcon, who is greatly concerned about possible Congressional modifications to the SBA's 8(a) and SDB programs. He was hoping to have this letter entered into the record as testimony for hearings that have been held on the SBA's minority-owned business programs in your committee.

If possible, I would appreciate your adding Mr. Barcon's letter to the record for any relevant hearing on this important issue.

Thank you very much for your assistance in this regard. My best wishes to you in all of your fine work in the House.

Sincerely,

  
John McCain  
United States Senator

JM/pf  
Enclosure

**Aerofab, Inc.**

February 27, 1995

Representative Walter R. Tucker III  
419 CHOB  
Washington DC 20515-0537

fax (202)225-7926

Dear Representative Tucker,

My company has 25 employees, 10 of which would not be employed if not for the 8(a) program. It is my understanding that the Small Business Committee hearings that are on the 6th of March, 1995 is closed for any further testifying. I am contacting you to help me, if you can, to have a chance to testify on behalf of the 8(a) program. It would be my desire to see if it would be possible to get this date postponed or extended to allow myself and other members of the Seattle District 8(a) Association to testify.

Any help that you can give us on this matter would be greatly appreciated.

If it is not possible to get a chance to testify, could I get an appointment to meet with you or any members of the Small Business Committee that you would help me get appointments with.

Thank you in advance for your help and support on this matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Jamie D. Tindall".

Jamie D. Tindall  
President





February 28, 1995

House of Representatives  
Washington D.C.

Dear Congress

Aerofab is a company that would not be in business today without the opportunities that the 8(a) program has provided for us!

We employ 25 people, of which 6 are minorities and 8 are veterans. Our sales for FY Ending 3/31/95 will be approximately \$4.8 Million. The 8(a) Program has allowed us to diversify from the Aerospace and Defense Industry that was virtually destroying us. The 8(a) Program has given us the opportunity to buy from Kaiser Aluminum, who would not even consider selling to us, until we were accepted into the 8(a) Program.

The 8(a) Program has helped us broaden our customer base, broadens our supplier base and has taken our highly leveraged company that seemed destined to fail. To a company that has a \$1.6 Million backlog, with orders that are matched for over \$17 Million over the next two to five years.

The beauty of the 8(a) Program is that it helps to level the playing field. It certainly does not make it easy. We do not want it easy, we just want an opportunity to show what kind of service and product that we can provide if we get the chance.

Once again I encourage all of you to consider everything before you make a decision. This is a program that does not feed you, it just gives you the tools to earn a living that subsequently allows us to feed ourselves.

Thank you for your consideration. If you would allow me to, I would love to have the opportunity to tell you my story in person.

Sincerely Yours

A handwritten signature in dark ink, appearing to read "Jamie D. Tindall". The signature is fluid and cursive, written over the typed name.

Jamie D. Tindall  
President

JDT/jdt



## Aerofab, Inc.

February 28, 1995

House of Representatives  
Washington D.C.

Dear Congress

Aerofab is a company that would not be in business today without the opportunities that the 8(a) program has provided for us!

We employ 25 people, of which 6 are minorities and 8 are veterans. Our sales for FY Ending 3/31/95 will be approximately \$4.8 Million. The 8(a) Program has allowed us to diversify from the Aerospace and Defense Industry that was virtually destroying us. The 8(a) Program has given us the opportunity to buy from Kaiser Aluminum, who would not even consider selling to us, until we were accepted into the 8(a) Program.

The 8(a) Program has helped us broaden our customer base, broadens our supplier base and has taken our highly leveraged company that seemed destined to fail. To a company that has a \$1.6 Million backlog, with orders that are matched for over \$17 Million over the next two to five years.

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Once again I encourage all of you to consider everything before you make a decision. This is a program that does not feed you, it just gives you the tools to earn a living that subsequently allows us to feed ourselves.

Thank you for your consideration. If you would allow me to, I would love to have the opportunity to tell you my story in person.

Sincerely Yours

A handwritten signature in cursive script, appearing to read 'Jamie D. Tindall', written in dark ink.

Jamie D. Tindall  
President

JDT/jdt

**ARROW-HEAD SAND, INC.**

P. O. Box 184

Roberts, Idaho 83444  
Fax 208-228-3124

(208) 228-6292

February 17, 1995

Jan Meyers (R-KA)  
U.S. House of Representatives  
2361 Raybur HOB  
Washington, D.C. 20515

Dear Representative :

It has been brought to my attention that the SBA 8(a) program has been targeted as an area for reform, namely abolishment.

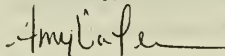
A former President once said that small businesses are the key to economic stability, and I believe this.

Minority small businesses are a dying breed, without assistance. This is why the SBA 8(a) program is so important. It's goal is to help minority small businesses become experienced, creditable, competitive, stable, and to assist in growth. This stability and growth allows for more employment. More employment allows less people needing welfare.

I am sure it has already been established, through the other letters you have received, that this program has enabled it's participants to grow and hire more employees. I am one of those instances. I was hired by ARROW-HEAD SAND, INC. at the age of eighteen. I was a single, pregnant teenager. I am not justifying my behavior, but I feel if it had not been for this job, I would have been a welfare mom. I am grateful for the opportunity to work with this company. By attending the training meetings and participating in 8(a) contracts, I have been able to learn and make a living for myself and my daughter without assistance from the government. I have dreams of owning my own company one day, and I hope programs like the 8(a) program are around to help me.

Don't allow misconceptions of the 8(a) program interfere with the opportunity for people to make something out of their lives. VOTE to keep the 8(a) program alive!!

Sincerely,

Amy Van Leuven  
Office Manager



February 28, 1995

Congressman Kweisi Ffume  
Rayburn House Office Building  
2419 Rayburn  
Washington, D.C. 20515

RE: Congressional Hearing on SBA 8(a) Program

Dear Congressman:

In lieu of appearing to present personal testimony in favor of preserving the SBA 8(a) program, please accept "for the record" this written personal testimony showing how important the SBA 8(a) program has been in my business.

During the 1960's, I witnessed discriminatory practices by the local school district in awarding scholarships to minorities. I did not know I was witnessing discrimination at that time as this practice was quite common. Then later during my employment as a laborer and a smelter man in the mining community where I grew up, I became aware of these discriminatory practices. I had applied for an electrical apprenticeship at Inspiration Consolidated Copper Company and even though these apprenticeships were meant for ICCC employees, I was passed over because of my ethnic background. Ultimately ICCC and its Craft Unions were found guilty of discrimination by the U.S. Justice Department. Due to these findings, I was awarded the first minority carpenter apprenticeship at ICCC. I was laid off in 1976 and started Barcón Construction doing small residential projects. I attempted numerous times to contract with the local mines. Once again the mines were not willing to have a minority contractor on their projects. It was because of the failure of other contractors attempts to remodel an old school for administrative offices that I was contracted by ICCC to complete this project.

Barcón Construction became a Corporation in 1982. The copper industry had suffered numerous economic setbacks and bad times were felt by all. Barcón Corporation went from annual sales of \$350,000 per year to

\$180,000 in 1989. With renewed commitment, I borrowed \$5,000, strapped on my carpenter nail bags and rebuilt the foundation that Barcón Corporation presented as its SBA 8(a) package. Because of the SBA 8(a) structure, Barcón Corporation was required to formulate a business and a marketing plan which was totally new to us. The 8(a) program requires marketing and a sophisticated bid package, which was also new to us. Barcón Corporation was pushed into mainstream America because of the 8(a) program. Barcón Corporation would not have had this opportunity for growth had it not been for the SBA 8(a) program. The 8(a) program requirements have brought us into the 90's and hopefully will carry us through into the new century.

I was informed today that the House Small Business Committee has held hearings on the future of the SBA 8(a) program. The Arizona group of 8(a) contractors has been organizing for the purpose of testifying for the future of this threatened program only to find out that the personal testimony had already been heard. I strongly object to the manner in which this matter was dealt with in that we were not notified about action taken regarding something which we are so personally involved with. The SBA 8(a) contractors here in Arizona have not been invited nor even given an opportunity to submit testimony. In view of this injustice, please accept this written testimony addressing the benefits of the 8(a) program along with my sincere urging that the program be preserved.

The SBA 8(a) program does not cost more than competitive bidding. Barcón Corporation has documented an experience we had with the U.S. National Park Service for an 8(a) contract at the Tonto National Monument Visitor Center in Arizona that proves this point. We submitted an honest cost bid for this project to be negotiated. The National Park Service insisted the cost should be approximately \$30,000 less than our proposal and decided to take the bid to the street. Barcón Corporation submitted our original 8(a) proposal and was awarded the contract as the lowest bidder leaving \$3,500 on the table.



Large business concerns make up costs in change orders. Change orders are minimized in the negotiation process because of careful scrutiny by both the 8(a) firm and by the federal agency. In fact some of these federal agencies prefer this program because it gives them a lot of flexibility in controlling the cost of the job because of the negotiation process. I know that I have saved the government money because of the SBA 8(a) program.

The federal procurement officials are naive about the 8(a) program and in many cases even discriminatory. They consider 8(a) to be a "give-away" program. Through the course of time, changes have been made to minimize over pricing by contractors and rather than eliminating the program, more energy needs to be directed toward it to help what is good to become even better.

Due to budget constraints or downsizing of federal offices, many of the "Small Business Advocates" or "Small and Disadvantaged Business Opportunity Specialists (SADBUS)" positions have been added on to other procurement positions. We often see that the Contracting Officer and the SADBUS are one in the same. This is a gross conflict of interest and sadly its the minority element that takes the hit as the Contracting Officer works in favor of the agency in most cases. Many SADBUS' for the federal agencies do not like to do business with minority contractors whether under the 8(a) program or the SDB program. This is an outrage that these government officials are supposed to be advocating small and minority business within their agencies when in fact they are accomplishing just the opposite.

A tremendous amount of time is invested in marketing to government agencies and the amount of work generated under the 8(a) program by any 8(a) contractor is determined by their own ability to sell themselves to the federal agencies. Contrary to what some believe, we do not sit back and wait for jobs to be handed to us. We are learning and growing and gaining experience that will serve us long after we have graduated from the program. In addition many of us are committed to passing our growth along to those we see as disadvantaged. We want to give it back and pass it on.

Many are of the opinion that the 8(a) program is redundant when the SDB program exists. This is simply not true as each program is different and serves different needs. The SDB program is for small contracts, generally under \$500,000 and more like \$50,000 to \$200,000. These projects are completed by all types and sizes of small and disadvantaged firms. The 8(a) program on the other hand is a vehicle by which a small and disadvantaged firm can grow with the aid of the federal government to a large business status. The 8(a) contractor actually graduates from the program with new skills and knowledge that benefit all involved. The size of the projects that are let under the 8(a) program varies from approximately \$25,000 to \$1, \$2, \$5 and even \$10 million, whatever size fits the 8(a) contractor during the course of its program. The SDB program does not facilitate this but rather keeps the size of the business at a small level.

In addition, the work that is let out in the 8(a) program is not fabricated work. These are projects that are being contracted in the normal course of procurement. The projects are contracted to the 8(a) contractors who are qualified to complete the individual projects. That they take these projects to the streets when unable to accomplish them through the program, which we have personally experienced, is proof of the validity of the work.

The SBA 8(a) program is an economic opportunity for minority constituents to have a "piece of the federal government procurement pie." Government statistics show that 1/2% to 1% of all federal procurement goes to minority contractors. With the SDB program and the SBA 8(a) program in place, it's an outrage that this statistic exists and even more an outrage that there is a possibility that these programs could be cut or even eliminated.

I understand that you will be present at the hearings on March 6, 1995 and will be in a position to give some attention to this matter. Our testimony needs to be heard. The SBA 8(a) program works and is a valuable tool to insure growth and advancement of minority contractors in Arizona and the nation as a whole. Please help us by doing your utmost to preserve this program or even to expand it so that the 1/2% to 1% statistic can be improved upon.

The Arizona 8(a) contractors would like to have been invited to Washington D.C. in March for the purpose of testifying at the scheduled hearings. We would hope that written testimony will help as we have submitted letters to many Senators and Congressman in the hopes that something may be done to preserve the 8(a) program. As a group, we are extremely upset that this program is threatened and that we have not been given an opportunity to defend it by pointing out how it benefits our country.

If you have any questions please feel free to call me at my office in Miami, Arizona. My telephone number is (602)473-3531.

Sincerely,



Fred Barcón  
President

FB:rr



Senator John McCain  
 111 Russell Senate Office Building  
 Washington, D.C. 20510

RE: SBA 8(a) Program

Dear Senator McCain,

Ever since the last Presidential election in which all the presidential candidates came out strongly that "Small Business" is the backbone of America, it seems that everyone from the President on down are doing everything they can to break that backbone. SDB programs and SBA 8(a) programs are beneficial for building up small business, and the elimination of these programs would be devastating. There have been numerous disparity studies that have proven that women-owned businesses and minority-owned businesses are not getting but a small sliver of the business pie. To be exact these studies have shown that only 1/2% to 1% of all federal and municipal contracts are awarded to minorities and woman-owned businesses.

I was informed today that the House Small Business Committee has held hearings on the future of the SBA 8(a) program. The Arizona group of 8(a) contractors has been organizing for the purpose of testifying for the future of this threatened program only to find out that the personal testimony had already been heard. I strongly object to the manner in which this matter was dealt with in that we were not notified about action taken regarding something which we are so personally involved with. The SBA 8(a) contractors here in Arizona have not been invited nor even given an opportunity to submit testimony. In view of this injustice, please accept this written testimony addressing the benefits of the 8(a) program along with my sincere urging that the program be preserved.

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· Large business concerns make up costs in change orders. Change orders are minimized in the negotiation process because of careful scrutiny by both the 8(a) firm and by the federal agency. In fact some of these federal agencies prefer this program because it gives them a lot of flexibility in controlling the cost of the job because of the negotiation process. I know that I have saved the government money because of the SBA 8(a) program.

The federal procurement officials are naive about the 8(a) program and in many cases even discriminatory. They consider 8(a) to be a "give-away" program. Through the course of time, changes have been made to minimize over pricing by contractors and rather than eliminating the program, more energy needs to be directed toward it to help what is good to become even better.

Due to budget constraints or downsizing of federal offices, many of the "Small Business Advocates" or "Small and Disadvantaged Business Opportunity Specialists (SADBUS)" positions have been added on to other procurement positions. We often see that the Contracting Officer and the SADBUS are one in the same. This is a gross conflict of interest and sadly its the minority element that takes the hit as the Contracting Officer works in favor of the agency in most cases. Many SADBUS' for the federal agencies do not like to do business with minority contractors whether under the 8(a) program or the SDB program. This is an outrage that these government officials are supposed to be advocating small and minority business within their agencies when in fact they are accomplishing just the opposite.



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As a representative of the people of the State of Arizona, we as a group appeal to you to join us in becoming an advocate of the SBA 8(a) program. You are in a position to give some attention to this matter in that our testimony needs to be heard. The SBA 8(a) program works and is a valuable tool to insure growth and advancement of minority contractors in Arizona and the nation as a whole.

If you have any questions please feel free to call me at my office in Miami, Arizona. My telephone number is (602)473-3531.

Sincerely,

A handwritten signature in cursive script that reads "Fred Barcón".

Fred Barcón  
President

FB:rr

**C3I.****COMMAND AND CONTROL CONSULTING, INC.  
406 N. PITT ST., ALEXANDRIA, VIRGINIA 22314-2316**

January 29, 1995

The Honorable Jan Meyers  
US House of Representatives  
2338 Rayburn House Office Bldg  
Washington, D.C. 20515-1603

Dear Chairwoman Meyers,

Congratulations upon your assumption of duties as Chairwoman for the House Committee on Small Business. I understand you will be holding hearings shortly to discuss the SBA 8(a) set-aside program.

It is in this regard I am writing to you and to Senator Bond. I want you both to know about my situation, about the SBA response to my application for 8(a) status and my current intentions. First, I assert the 8(a) program is useful but mis-managed and mis-guided. Well-intended people, in their attempt to apply a myriad of Federal legislation and regulation, have abused and mis-used the 8(a) program. To wit, please see the reply I received most recently from the SBA main offices in Washington. Please note as well that my application was cited as being complete and accurate when it completed processing by the SBA regional office in King of Prussia, PA (see additional attached correspondence). Further, please note that the stated purpose of sending my application to Washington from the regional office was for a "final evaluation of eligibility" to enter the program. Please note further the content of the reply from the SBA, Washington D.C.

This reply indicates not only their disapproval of my disability status in the context of proven discrimination, but goes on to point out what appear to be numerous application deficiencies. My "inside" sources at SBA have shared the following with me. Of the more than 5000 8(a)-approved companies, only 37 are Caucasian-owned and fewer are owned by disabled persons such as my self. This fact flies in the face of the *Americans with Disabilities Act* and other such legislation as well as House and Senate "resolutions". I was told that given the uncertainty of the intent of 104th Congress, my application was disapproved so as to shore up the perception of "toughness with which SBA scrubs each application" to insure disadvantage and discrimination is at the heart of an eligibility determination.

As a stalwart Republican and major contributor to local, State, and NRC coffers, I could have brought political attention to my application that might have gotten it through the SBA's "approval wickets" (I am well aware of such "approvals" having been worked in such a manner in the past, i.e. Vail Technologies, Command Technologies, Inc. et al). I chose NOT to use this approach as I believe in merit-based processes and believe my application would be approved based on the facts I provided. Should you or your staff desire details, I will be glad to provide them.

My intention is to appeal the decision made by the SBA and to ask for a face-to-face hearing on the merits and substance of my application. The administrative items cited have all been noted and/or corrected to meet the directions in the SBA Washington D.C. letter. However, the plain facts are that none of these administrative tasks were necessary under present Law – this is further supported by the regional office letter attached.

I would be pleased to come before your Committee if my testimony would be at all helpful. It is most unfortunate that SBA chose to disapprove my application based on insufficient discrimination justification. Their points made are all invalid in that I was found to be 80% disabled by the VA following my experience with massive congestive heart failure in January 1991 – three years after leaving the US Air Force. Nothing in the SBA letter implies to me they understand that my education and work experience before that time was rather routine for an Air Force officer. What as happened to me since January 1991, is the basis for my application for 8(a) status (under the provisions of current SBA regulations and Federal Law).

Looking forward to hearing from you. It is my strongest hope that the 104th Congress will get these Federal set-aside programs straightened out so that all of us at the small business level have an equal opportunity to compete for Federal new business within whatever context is deemed appropriate – 8(a) or otherwise.

Most respectfully,



Owen Wormser  
President & CEO

C31®

OW:ckh

## CERTIFIED MAIL - RETURN RECEIPT REQUESTED

U.S. Small Business Administration  
Division of Program Certification and Eligibility  
475 Allendale Road, Suite 201  
King of Prussia, PA 19406

Attn: DPCE

Dear Sir/Madam:

Pursuant to instructions contained in the SBA Main Office Certified Letter to me, dated 20 January 1995, from the SBA, Washington, D.C., I hereby request **reconsideration** to "overcome the reasons for decline". To allow SBA to effectively reconsider my 8(a) application, I will be providing the following:

1. Evidence of chronic and substantial discrimination, we are attempting to collect depositions at this time from both US Federal Government Agencies as well as industry contractors. Our attorneys are hard at work on this requirement.
2. Financial information to include financial statements no older than 90 days, along with "aging of accounts receivable and payable". Our accounting firm is in the process of preparing this information now. We did not realize the requirement during original submittal - will you please provide the proper reference we apparently missed?
3. Board of Directors "control" information. Mr. Sam Ruffin has formally resigned from C3I<sup>o</sup> as an Officer of the Company. Documentation will be provided by our Attorneys and included in our follow-on package.
4. Stock Certificates properly endorsed (an amendment to the firm's Articles of Incorporation and By-Laws will be submitted to resolve this apparent dilemma).
5. Evidence that our corporate structure in the area of elected officers complies with our By-Laws. This is being prepared by our Attorneys and will be included in our re-submittal package.
6. See response #3 above. This requirement will be negated by Mr. Ruffin's resignation.
7. I no longer have a spouse. Documentation of our martial annulment will be submitted with our reconsideration package.



8. We are confused by this request. Our lease does include the specification that the premises may be used for "business" purposes. Further, our Alexandria, VA Business License documents this location as the principal business location. We have paid taxes from this location for 6, going on 7 years. Please clarify requirement.

9. Written terms and conditions for the Line of Credit will be provided. Where in the original application documentation is this requirement specified? Apparently, we missed these instructions. Please advise.

10. We are confused about the requirement to respond to "letter "F" ", please confirm instructions. We will sign and date page 12 of the SBA Form 1010B and provide this in our re-submittal package.

11. Individual and Corporate Federal Tax returns will be signed and provided. The returns that were provided are documented as certified Copies, we believed this was the proper approach in that "signed originals" go ONLY to the IRS.

Our intention is to complete all the above requirements within the next 90 days. At that time our completed "reconsideration package" will be submitted IAW SBA instructions provided by reference SBA letter above. Thank you for this continuing opportunity to participate in the SBA 8(a) program as a result of my physical handicap.

Sincerely,

Owen Wormser  
President & CEO  
C3I™

OW:ckh



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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

JAN 20 1995

Owen Wormser, President  
Command and Control Consulting, Inc.  
406 North Pitt Street  
Alexandria, VA 22314-2316

Dear Mr. Wormser:

This is to inform you that we have completed a thorough review of the information you submitted for admission to the 8(a) program and that your request is being denied for the following reasons:

1. It has been determined that you, the individual upon whom eligibility is based, are not socially and economically disadvantaged due to your handicap.

Current 8(a) program eligibility criteria require that an applicant concern must be at least fifty-one percent unconditionally owned and controlled by an individual, or individuals, determined to be socially and economically disadvantaged.

Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identification as members of a group without regard to individual qualities.

Economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business and competitive market area who are not socially disadvantaged.

Under 8(a) program regulations, when an individual is not a member of one of the groups SBA presumes to be socially disadvantaged (Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and Subcontinent Asian Americans), he or she must establish social disadvantage on the basis of clear and convincing evidence. A clear and convincing case must show how discriminatory practices have had a negative impact on the individual's entry into or advancement in the business world. In assessing this element, SBA will entertain any relevant evidence. However, SBA will particularly consider and place emphasis on an individual's discriminatory experiences in the areas of education, employment, and business history. The individual's social disadvantage must be chronic and substantial and rooted in the treatment that he/she has experienced in American society.

Our conclusion that you are not socially and economically disadvantaged is based on the fact that you have not presented evidence that would allow us to conclude that your ability to compete in the market place has been impaired due to discriminatory practices against you and/or your firm because of your handicap.

After a thorough review of the application, it has been determined that you have not provided sufficient documentation to prove that you have been subjected to cultural bias because of your handicap. Clear and convincing evidence was not presented indicating:

- A. That you personally suffered chronic and substantial discriminatory practices because you are handicapped. We found no evidence of chronic and substantial discriminatory practices against you.
- B. That you were denied an opportunity to fulfill your educational pursuits because you are handicapped. Your resume indicates that you received a Bachelor of Arts Degree in Political Science from the University of Maryland.

- C. That you experienced chronic and substantial discriminatory practices in the employment area; therefore, being channeled into a non-professional or non-business field because you are handicapped. As stated in your resume you have been widely sought after as a technical consultant because of your expertise associated with National Institute of Standards, operating systems and applications.
- D. That you experienced unequal access to credit or capital, discrimination in government awards or potential contracts, or exclusion from business or professional organizations because you are handicapped. We found no evidence to determined that you were denied equal access to credit and/or capital.
- E. That you have experienced chronic and substantial discriminatory practices that have had a negative impact on your entry and/or advancement in the business world. Your work experience and the history of your business do not allow us to conclude that you have been subjected to chronic and substantial discrimination which has hindered your ability to enter and/or advance in the business world.

2. It has been determined that your firm's corporate structure does not comply with its bylaws.

Current 8(a) program eligibility regulations stipulate that when an applicant firm is a corporation, all arrangements regarding corporate structure must comply with applicable state law and/or the firm's bylaws.

In this regard, we note your bylaws under Article IV, Section 1(a) does not permit an individual to hold the positions of President and Secretary, positions for which you have been elected. In addition, Article V, Section 1(a) requires that issued stock certificates bear the signature of the President and Secretary. Your issued stock certificates reflect the President's signature only.

In accordance with 8(a) program regulations you may request that this finding be reconsidered, or you may appeal the decision directly to SBA's Office of Hearings and Appeals. Within forty-five days of the date of this letter, your request for reconsideration to overcome the reasons for decline must be received by the Division of Program Certification and Eligibility, U.S. Small Business Administration, 475 Allendale Road, Suite 201, King of Prussia, PA 19406.

In order to have proof of your correspondence, it is suggested that your request for reconsideration be sent by Certified Mail—Return Receipt Requested.

Should you wish your application to be reconsidered, please provide the following:

1. Clear and convincing specific evidence of chronic and substantial discrimination suffered by you in American society due to your handicap.
2. Financial information to include, but need not be limited to business financial statements no older than 90 days to include an aging of accounts receivable and payable with name of account, age and dollar value.
3. Evidence to document that you the individual claiming disadvantaged status can control the Board of Directors and have the ability to establish a quorum if there were more than one shareholder and more than one director;
4. Stock certificates properly endorsed as required in your bylaws.
5. Evidence your corporate structure in the area of elected officers complies with your bylaws.

6. Mr. Sam Ruffin is indicated to have been elected as Vice-President. Since this is the case, he must provide an SBA Form 413, "Personal Financial Statement", for himself and a separate form for his spouse, SBA Form 912, "Personal History Statement", a resume, and (2) years of individual tax returns with all schedules, attachments, and W-2 forms.
7. You must provide a separate SBA Form 413, "Personal Financial Statement", for yourself and your spouse. In addition, your spouse must provide (2) years of her individual tax returns with all schedules, attachments, and W-2 forms.
8. Your lease agreement for the primary residence which includes your business premises, indicates that the building is to be used for residential usage only. Additional information which indicates the building can be used for business purposes is required. In addition, evidence of lease renewal is required.
9. Written terms and conditions for the \$30,000 line of credit.
10. Respond to letter "F" and sign and date page 12 of the SBA Form 1010B, "Business Eligibility Statement".
11. Sign and return the signature sheet of your 1993, 1992, and 1991 individual and corporate tax returns.

Should you decide to appeal this decision directly to SBA's Office of Hearings and Appeals without taking advantage of your right to request reconsideration, your petition must be filed in accordance with the requirements set forth in 13 CFR 134.11(a). A copy is enclosed. In addition to these requirements, your petition must state, with specific reference to the determination, the reasons why the determination is alleged to be arbitrary, capricious or contrary to law.

The petition, along with the above stated additional requirement, should be forwarded to the U.S. Small Business Administration, Office of Hearings and Appeals, 409 3rd Street, S.W., Washington, D.C., 20416. Concurrent with your filing with the Office of Hearings and Appeals, you must also send a copy of the petition, including all attachments, to SBA's Associate Administrator for Minority Small Enterprise Development and a copy to the Office of General Counsel.

Failure to send your request for reconsideration, along with the supporting documentation, or failure to appeal this finding within the prescribed period will prevent further consideration of your firm's application. Should this happen, or should your application be declined after appeal to the Office of Hearings and Appeals or reconsideration by SBA, you will have to wait twelve months from the date of this letter of decline before you can reapply. A decision to request reconsideration at this time does not preclude you from exercising your right to appeal if your firm's application is declined after reconsideration.

If you have questions regarding this letter, please contact the Philadelphia Division of Program Certification and Eligibility at (610) 962-3848.

Thank you for your interest in applying for participation in the 8(a) program.

Sincerely,



Herbert L. Mitchell  
Associate Administrator  
for Minority Enterprise Development

Enclosure



## U.S. SMALL BUSINESS ADMINISTRATION

PHILADELPHIA REGIONAL OFFICE  
SUITE 201  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PENNSYLVANIA 19406

November 8, 1994

CERTIFIED RECEIPT NO. Z 308 204 837  
RETURN RECEIPT REQUESTED

Mr. Owen Wormser, President  
COMMAND AND CONTROL CONSULTING, INC.  
406 North Pitt Street  
Alexandria, VA 22314-2316

Dear Mr. Wormser:

The Division of Program Certification and Eligibility at the Philadelphia Regional Office has completed processing your 8(a) application to participate in the 8(a) program. Your request was mailed to our Central Office in Washington, DC on 11/08/94.

Once your application is received in our Central Office it will be processed as soon as possible. When our Central Office makes a final determination on your eligibility, you will be advised of the decision by letter. We would appreciate your patience and cooperation.

Sincerely,

Betty W. Toulson, Chief  
Division of Program  
Certification and Eligibility



## U.S. SMALL BUSINESS ADMINISTRATION

PHILADELPHIA REGIONAL OFFICE  
SUITE 201  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PENNSYLVANIA 19406



October 26, 1994

CERTIFIED RECEIPT NO. Z 308 200 475  
RETURN RECEIPT REQUESTED

Mr. Owen Wormser, President  
COMMAND & CONTROL CONSULTING  
406 N. Pitt Street  
Alexandria, VA 22314-2316

Dear Mr. Wormser:

The purpose of this letter is to inform you that the Philadelphia Regional Office of the Division of Program Certification and Eligibility (DPCE) has completed screening your firm's application for participation in the Small Business Administration's 8(a) Program on 09/08/94. As of this date, we have determined that your firm's application package appears to be substantially complete and adequate for processing.

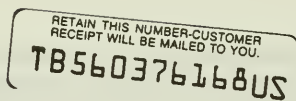
Once processing is completed in this office, we will notify you that your application is being forwarded to SBA's Central Office in Washington, D. C. where final determination of 8(a) Program Eligibility will be made.

We appreciate your cooperation and if you have any questions please call us at (610) 962-3846.

Sincerely,

Betty V. Toulson  
Division of Program Certification  
and Eligibility

U.S. Small Business Administration  
Philadelphia Regional Office  
475 Allendale Road, Suite 201  
King of Prussia, PA 19406



Attn: DPCE

Dear Sir/Madam:

Enclosed are my completed SBA forms 1010A, 1010B, 912, 413, and 1623. Also enclosed is a complete financial history of this firm since its inception in January 1988. All other requested documents are also enclosed and are at the appropriate TAB as indicated in the Index of Documents submitted. We are very pleased to have this opportunity to apply for status as a SBA 8A firm. The 8A introductory course provided by the SBA Washington District Office was most beneficial in helping me determine whether or not to apply under the rules set forth in 13 CFR, Part 124. Being physically disabled and having experienced first-hand discrimination in instances where I was fully qualified to do the proposed work, I was pleased to learn from the people at the Washington office that even though I am not a defined, disadvantaged minority I could apply based upon my physical disability. For this I am very grateful!

I appreciate this opportunity and thank you in advance for your time and consideration in my behalf.

Sincerely,

Owen Wormser  
President & CEO  
C3I™

OW:ckh  
Encls:

8(a) Personal Eligibility Statement  
SBA Form 1010A (12-92)  
of  
Mr. Owen Wormser, 561-50-2850

Yes. While serving on active duty with the US Air Force, I developed an irregular heart beat (referred to medically as atrial fibrillation). This discovery occurred during a routine flight physical in September 1985. The Air Force determined I was not physically qualified for flight status and I was grounded. In my position at the time, a full Colonel and Wing Commander of the 81st Tactical Fighter Wing, Bentwaters, UK, this grounding became my determinant to retire from active service. Upon returning to the US, I began consulting and formed my present company C3I™. Apparently, my heart was not finished with me as on the 19th of January 1991 I experienced congestive heart failure. My heart output function dropped to 10% and I was not expected to live.  
(Please see accompanying documentation following this page)

During the intervening period between January 1988 and January 1991, I attempted to seek contracts and/or full-time employment – to no avail. It appeared to me that my declared disability – the Veterans Administration had evaluated my situation and placed me at 50% disability, which of course I had to report when asked on various forms if I was receiving disability compensation – was keeping me from reaching my objectives. The full realization of this perception came to fruition after my late recovery from congestive heart failure. I soon learned, due to the fact that the VA had subsequently re-evaluated my medical profile and placed my disability at 80%, that being disabled and drawing disability was a real, bonafide drawback when seeking consulting work or full-time employment. Though I am at my office working every day, I still experience great difficulty getting contracts with industry or the Government – in spite of my acknowledged expertise and proven past performance!-

The reason appears to be that people who have the authority to hire me are concerned that:  
1. I might work too hard and die; 2. that my handicap will get in the way of real work; 3. that I am not able to perform the full range of skills for which they would hire me; and other similar expressions. I have had the same attitude expressed to me at various Banks and other lending institutions. If it were not for the fact that I had established a track record of financial performance prior to January 1991, the two Banks that presently service my firm's financial requirements would not be supporting my requests. Being a disabled, Viet Nam veteran carries a very real stigma, especially when that disability is documented such as in my case. Such discriminatory practices are appalling and unacceptable in my mind.

8(a) Personal Eligibility Statement  
SBA Form 1010A (12-92)  
of  
Mr. Owen Wormser, 561-50-2850

Yes. Though I am at my office working every day, I experience great difficulty getting contracts with industry or the Government – in spite of my acknowledged expertise and proven past performance! The reason appears to be that people who have the authority to hire me are concerned that: 1. I might work too hard and die; 2. that my handicap will get in the way of real work; 3. that I am not able to perform the full range of skills for which they would hire me; and other similar expressions. I have had the same attitude expressed to me at various Banks and other lending institutions. If it were not for the fact that I had established a track record of financial performance prior to January 1991, the two Banks that presently service my firm's financial requirements would not be supporting my requests.

On 19 January 1991 I experienced congestive heart failure – attributed to my having developed atrial fibrillation in 1985. My heart output function dropped to 10% and I was not expected to live. During the intervening period between January 1988 and January 1991, I attempted to seek contracts and/or full-time employment – to no avail. The same remains true today. It takes personal knowledge about me and personal involvement of a senior official if my firm is to receive a professional services contract.

It appears to me that my declared disability – the Veterans Administration had evaluated my 1988 situation and placed me at 50% disability, which of course I had to report when asked on various forms if I was receiving disability compensation – was keeping me from reaching my objectives. The full realization of this perception came to fruition after my late recovery from congestive heart failure. I soon learned, due to the fact that the VA had subsequently re-evaluated my medical profile and placed my disability at 80%, that being disabled and drawing disability was a real, bonafide drawback when seeking consulting work or full-time employment. Being a disabled, Viet Nam veteran carries a very real stigma, especially when that disability is documented such as in my case.

8(a) Personal Eligibility Statement  
SBA Form 1010A (12-92)  
of  
Mr. Owen Wormser, 561-50-2850

Yes. My experience to date has been that when Government or industry officials find out that I am permanently disabled and carry a VA 80% disability and that my disability condition relates to the performance of my heart – as documented by the Veterans Administration – I become suddenly a *persona non grata*. This has occurred on so many occasions that is difficult for me to accept there may be other factors other than my forthright honesty about my disability – when such information is asked or requested.

The problem is this information about me is now so common place among all those who know me that it is very difficult to judge why there is a reluctance to use the services of or contract with C3I™. We still acquire new business and are within a few days of signing a major contract with the Unisys Government Systems Group, the Harris Corporation is also looking seriously into using our services, so we know we are accepted when key senior officials get personally involved – in spite of their forehand knowledge of my physical disability. However, it has been virtually impossible for me to win a competitive or a sole-source award under the provisions of PL 99-661, Section 1207 – once folks find out about my heart condition. Their uncertainty about my ability to perform has been told to me on numerous occasions as the single, most pressing reason why we did not get *the contract*. As a direct result of these comments back to me I am convinced that my low income status is because of these apparent discriminatory practices resulting in limited access to much needed technical, financial and management resources as well as being on a level playing field, with equal opportunity for all who are willing to compete, with respect to obtaining contracts.



The Honorable Jan Meyers  
Small Business Committee  
2357 Rayburn House Office Building  
Washington, D.C. 20515

Dear Madam Chairwoman:

The Small Business Development Centers (SBDC) which have been partially funded by the Small Business Administration (SBA) have come under increasing budget pressures over the last several years. Because PNC Bank is extremely supportive of the role in which the SBDC's assist small business, we are seeking your support to continue funding of the SBDC's.

Locally, we are fortunate to have several SBDC's operating in our market area. They are of tremendous value to small business. Our loan officers quite frequently refer potential small businesses which don't know how to begin. We also receive many loan requests with good ideas but are inadequately prepared. Some companies in business could be experiencing some problem where a SBDC counselor provide ideas and assistance.

Many of these individuals cannot afford or do not understand the need to hire a consultant or an accountant to provide advice or prepare a business plan. But many are willing to seek the free financial counseling offered by the SBDC's. Frequently, the SBDC's provide services beyond what could be expected from an accountant.

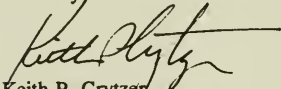
One very valuable service is that the SBDC's tend to screen out many individuals naive about what is necessary to operate a successful business. SBDC's function to educate an individual before before their life savings have been unwisely spent on ill conceived premises. Besides counseling on how to start a business, SBDC's also provide counseling and seminars on how to understand financial statements, exporting, home based businesses, and other topics of business interest. Since the SBDC's also tend to be aware of various local, state, and federal loan programs, this is another valuable resource for small business.

Funding for the SBDC is only partially funded by the federal government through the SBA. Since the SBA's name is well associated with the SBDC's, it would seem that federal funds are being well leveraged to obtain funds from other sources.

To show PNC's support when state funding to SBDC's was reduced, we have provided grants to permit Duquesne University's SBDC "outreach" center in Beaver County to remain open. This is a high unemployment area outside of Pittsburgh where it was felt that it was critical to be located within the community in order to reach those displaced workers considering starting their own business.

Your support of this successful and needed program would be most appreciated.

Sincerely,



Keith P. Crytzer  
Senior Vice President  
Small Business Banking  
412-762-2414

**ELECTRICAL CONCEPTS, INC.**

5825 W. HARMONT  
GLENDALE AZ. 85302  
PH: 602-934-2986  
FX: 602-939-2720

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February 13, 1995

Dear Honorable Jan Meyers,

I am an Arizona Native American 8(a) contractor who within the last year has been accepted to the program after much diligent work and personal investment.

On February 9th I met with the Southwest 8(a) Contractors. At that meeting we were informed of the U.S. House of Representatives Small Business Committee meeting that will convene on March 2nd.

I would like to take a moment to convey my concerns with you in regards to the continuation of the 8(a) program.

I appreciate the ideals of our U.S. Congress in establishing the 8(a) program that allows myself and other budding minority entrepreneurs to prosper in our "American Dream". Economic opportunities are a true possibility within the framework of the program without it being a "give away" program. I work very hard at negotiating with government agencies and bringing a job to completion with excellence.

I would appreciate your review of topics I feel are substantial to the building of our communities via jobs and income development to the public.

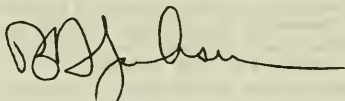
1. The 8(a) program is a self marketing program. The amount of work generated under the 8(a) program by any 8(a) contractor is determined by their own ability to promote themselves to the federal agencies.
2. The projects that are distributed to the 8(a) program are projects that are being contracted in the normal course of procurement. There are no "give-aways".
3. The negotiation process that is availed to the 8(a) program is multifaceted:
  - a) The potential to decrease federal spending within the negotiation process allows agencies to have more control over their budgets.
  - b) Change orders are minimized because during the negotiation process the project is carefully scrutinized by both 8(a) firms and by federal agencies. This is precisely where projects often are thrown over budget. Design changes are easily worked through during negotiations, further streamlining costs and promoting deficit reduction.
  - c) Keep in mind contracting with 8(a) firms is a competitive market. 8(a) contractors work with the community to establish costs that will benefit the federal agencies, community suppliers of labor, materials, banking and bonding alike.

Page Two

4. The 8(a) program is set apart from other programs in that it is a vehicle by which a minority firm that has undergone much personal and business background scrutiny, may grow with the helping hand of the federal government to a viable large business status. The Small Business Administration's 8(a) program is an economic opportunity for minority constituents to share in the "American Dream". Government statistics show that a small portion, one-half to one percent, of all federal procurement goes to minority contractors.
5. Presently there are some changes that should be made within the structure that would promote economic balance within our community. Many federal agencies have government officials in positions of the "Small Business Advocates" or "Small and Disadvantaged Business Opportunity Specialists (SADBUS)" that are philosophically opposed to the promotion of minority entrepreneurs. In addition to this discrepancy many of these agency officials have an additional job as "contracting officer". The 8(a) advocate must be truly an individual that cares to lend a hand in advocating for the contractor, not in opposition to.
6. For fourteen years myself and one other man have strived at developing Electrical Concepts. The following is a brief synoptic overview of our companies' growth in the first year of the program; my wife has joined us, another electrician and his wife, another man who attends college full time because of the flexibility we are able to afford him, a senior man who continues to produce as well as the best of them, a single mom raising two daughters, three men from the Flagstaff area that are primarily out of work without this opportunity, and various temporary support staff for the field when needed. Please keep in mind that each man is supporting his own immediate family or extended family. This company is benefiting families that are touching the Arizona community at large.

I respectfully request that you consider my concerns and represent my firm in promoting the continuation of the 8(a) program. As a contractor of fifteen years I am trusting that my country will continue to promote entrepreneurs with the "American Dream" in mind.

Sincerely,



Bruce D. Jackson  
President



dba Paragon Construction

**General Contractor**

Lic. No. 434043 / Lic. No. 661418

February 28, 1995

Congressman Walter Tucker  
c/o Mr. David Youngblood  
419 Cannon House Office Building  
Washington, DC 20515


Dear Mr. Youngblood:

Thank you for taking the time to speak with me regarding the upcoming Congressional hearings relative to reform of the Small Business Administration's 8(a) Program. As I have mentioned to you, I am a strong supporter of the program and would be willing to testify to its merits. Please be advised that, as a concerned program participant, I am planning to be present at the hearing, although I understand you currently have nine other 8(a) Program Participants scheduled to appear.

Per your request, I am enclosing a "hard copy" of our "Success Story" as part of the SBA's 8(a) Program. In addition to the presentation format, I have also enclosed an original copy, should you wish to make duplicates for other interested parties.

I appreciate your efforts on behalf of the continued SBA 8(a) Program. If I can be of any further assistance, please don't hesitate to contact me at (916) 823-6775.

Sincerely,

  
Steven F. Farinha  
President

SFF:bj  
enclosures



OUR SUCCESS STORY ...

HOW THE SMALL BUSINESS  
ADMINISTRATION'S 8(a) PROGRAM  
HAS HELPED US

Steven Farinha, a young man of Hispanic heritage, had a dream of owning his own company. Having already spent several years working and learning the trades in the construction industry, he decided there was a definite need for a competent, safety-conscious company with the ability to do quality work in a timely manner. The year was 1983 and Steve had just received his California State Contractor's License. Initially capitalized with \$500.00 of Steve's own personal savings, Paragon Construction was established as a sole proprietor business with Steve operating his business out of the basement of his parents' home. Starting out slowly with small jobs in his local market, the company gradually began to grow, always investing any profits back into the business. Those were often lean years, with key personnel getting paid only when absolutely necessary and the company sufficing with rented or used vehicles and refurbished equipment rather than new.

The sacrifices were worth it as the small company began to grow and establish itself in the marketplace. Paragon Construction started creating a track record for credit accounts, and finally, a bank gave the company its first big break — a \$10,000 line of credit to help run its operations. Unfortunately, most Federal Agencies with large construction contracts require substantial surety bonding lines and a strong financial statement before executing a contract. With another roadblock put in his path, Steve knew it would take a lot more work to achieve his goal.

In addition to his almost photographic memory for the details of the construction industry, Steve also possesses a real talent for

marketing his company. But all the salesmanship talents in the world could not counteract the fact that his was a small company with little financing. Not willing to give up on his dream, Steve started investigating what resources might be available to assist small, disadvantaged-owned businesses.

His persistence paid off once again as he discovered that opportunities for assistance were there if you had the initiative to go after them. After receiving recognition as a **Small Disadvantaged Business** from agencies such as PG & E, HUD, and the Commerce Clearing House, **Paragon Construction** (*"a socially and economically disadvantaged business"*) was accepted into the **Small Business Administration's 8(a) Program** in May of 1989. Since then the company's growth has been tremendous — in 1992 **Paragon Construction** incorporated as **Farinha, Inc.**, maintaining their dba as **Paragon Construction** in accordance with the requirements of the SBA.

Under the **8(a) Program**, SBA serves as the "Prime" Contractor in the contract procurement process, with companies like **Paragon Construction** taking on the role of "subcontractor," while actually performing the work on the project. This enables the contracting agency the financial stability they require while giving the small disadvantaged businesses the opportunity to establish themselves with the contracting agency.

By following the informational guidelines sent out by SBA and attending their educational seminars, the management at **Farinha, Inc.** has dramatically changed how they market the company. Revamping everything from the focus of introductory letters and promotional materials, to who the company is marketing to, has made a dramatic impact on our success. Instead of soliciting individual customers for single projects, Steve now focuses his marketing efforts on the Federal Government and military contracts, much of which were unapproachable by **Paragon** prior to its entry into the **Small Business Administration's 8(a) Program** due to our inability to get Surety (Bond) Credit.

Most crucial to the success of Farinha, Inc., dba Paragon Construction has been the financial backing and resources to build our surety bonding lines of credit. Information on business development strategies as well as direct access to the Contract Team to negotiate a contract have been the lifesavers of our company. As we discovered early on, no matter how good our character was, or how responsible we were with our own finances or how much capability we had to perform quality work, our small company could not build up a surety bonding line of credit without the assistance of the **SBA 8(a) Program**. Steve may have had the marketing ability to sell "*snowshoes to Eskimos in Alaska*," but without sufficient bonding capability, he could not sell Farinha, Inc. to the government.

The SBA's 8(a) Program serves another purpose, as well. While the American public watches as small businesses either barely get off the ground or die a quick death at the hands of major chain stores or large business conglomerates, the Government has made it mandatory that Federal agencies award a certain percentage of their overall contract work to small businesses. By being identified with the 8(a) Program, the government is assured that the participating business is in good standing and competent to fill the government's specific requirements for the job. This also gives the Federal agency the ability to negotiate directly with the 8(a) contractor, saving weeks, if not months, of time in awarding the actual contract. Since the SBA conducts the complete management, legal and contracting review of the procurement documentation prior to executing the prime contract with the procuring agency, their staff can often execute a hand-carried, complete procurement package through the SBA in as little as 5 days, putting the contractor on the job immediately instead of being on "hold" for months.

By getting a "foot in the door" executing small remodeling jobs with government agencies like the Los Angeles Air Force Base, Paragon Construction has been able to establish a winning reputation that has led to a current surety bonding line of credit of \$13 million

dollars and several long-term government projects. Among the ongoing agreements currently held by Farinha, Inc. are a five-year **SA-BER** (*Simplified Acquisition of Base Engineering Requirements*) Contract with the **LA Air Force Base**, and **JOC Agreements** (*Job Order Contracts*) with the **Veterans' Administration** in Reno, Nevada; the **Social Security Administration** in Richmond, California, and the **U.S.P.F.O.**, California.

*How has the SBA's 8(a) program helped Farinha, Inc., dba Paragon Construction?* Immensely! Steve's company now employs 50 full-time and approximately 20 seasonal employees. The main operating headquarters are in Auburn, California, with satellite offices in Reno, Nevada, San Diego and Los Angeles, California and Honolulu, Hawaii. The company's surety bonding line of credit has gone from \$200K to \$13 million and annual sales are estimated to reach \$15 million for 1995. And from the company's small northern California roots, current contracts have Farinha, Inc. doing projects throughout California as well as in Nevada, Hawaii and Ankara, Turkey.

Farinha, Inc. has been in business successfully for the past 13 years, which means that we have achieved what very few small business owners have been able to do. Farinha, Inc. was named the **1993 MBDA Minority Contractor of the Year** for the Western Region. In addition, we have been recognized by the Sacramento Business Journal as one of their "**Top 25 General Contractors**" in Northern California for two consecutive years. We have grown from a one man business to a multi-million dollar construction company. Contributing back into the community, providing new jobs and housing, as well as participating in various service organizations make Farinha, Inc. a well-rounded, community oriented operation. Despite not having any financial assistance from any outside entities, Farinha, Inc. continues to push forward, increasing both our bonding limit as well as our banking lines of credit. From that first \$10,000 line of credit Farinha, Inc. was able to build its credit line to \$500,000 currently.

With our current marketing plan, our main challenge is over-

coming the perceived negative feelings associated with 8(a) contractors. One negative stigma is that 8(a) contractors are not professional, that they charge too much, and the quality of their work is substandard. For this reason, our **primary competitor** is that negative stigma associated with the capability of 8(a) contractors.

The 8(a) Program, combined with the **Small Disadvantaged Business Set-Asides**, creates a fair marketplace in which small disadvantaged businesses can compete against similar sized businesses for Government dollars. For many small businesses, it's the difference between survival and failure.

Most importantly, the SBA's 8(a) Program has given **Farinha, Inc.** the experience and financial stature to branch out from under the small business umbrella and bid on projects listed on the "open" market. While our success in that arena has been limited to date, we find ourselves gaining on that goal of being able to "stand on our own" in the future.

One area of great interest to **Farinha, Inc., dba Paragon Construction**, is the proposed **Mentor/Protege** program that would allow graduated 8(a) contractors to team with younger 8(a)s, thus exchanging assistance for contract opportunities. With the experience we've gained as an 8(a) Contractor, **Farinha, Inc.**'s management team could guide newer program members through the early stages of the 8(a) Program. By being able to stay associated with the 8(a) Program, we would possibly gain the opportunity to assist new 8(a) contractors to bid on larger projects previously unattainable within their bonding limits. The **Mentor/Protege Program** would definitely help graduating 8(a) Members with their transition away from SBA's support.

As an 8(a) Program participant, **Steve Farinha** is a true and positive supporter of the program. That should not be taken to mean that the program is perfect, nor that **Farinha, Inc.** is either. The key is to take the good elements of the program and expand on them. Showcase the "**Success Stories**" such as ours, and introduce other new young businesses to its advantages. Primarily, though, the SBA must show-



case their "*Success Stories*" to other Government Agencies, making Agencies aware that they will not only get quality workmanship in a timely manner, but that their investment in the future of these small business enterprises will ultimately make our Country more prosperous as well.

**General Microsystems Inc.**

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3220 118th Avenue Southeast, Suite 100  
Bellevue, Washington 98005-4198  
(206) 644-2233  
FAX (206) 644-7244



TRANSMIT TO: Jan Meyers - Chairperson of the House Small Business Committee

FAX NUMBER: (202)225-3587

FROM: Earl W. Overstreet II

NUMBER OF PAGES: 2

DATE: March 1, 1995

SUBJECT: Testimony Regarding the 8(a) Program

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Dear Representative Meyers:

It has come to my attention that the Small Business Committee of the U. S. House of Representatives is reviewing the Small Business Administration 8(a) Program and has requested information for this evaluation. I am unable to be in Washington next week. Please enter my views on the 8(a) Program as expressed in this letter into the record at your hearing.

I am a staunch supporter of the 8(a) Program because its unique focus on business development helps strengthen established firms and enables them to make a more significant contribution to our economy and our communities. No other program allows government and minority small business to work together in partnership to efficiently deliver goods and services while facilitating business development.

General Microsystems received an 8(a) certification in August 1991. Then the company was eight years old and employed four people. Sales in 1991 were just over \$1,000,000. We had a good reputation with customers, but we lacked the size and financial strength to compete in the high technology marketplace.

Our primary objective in joining the program was to increase sales. Additional revenue would enable us to engage in long term planning and invest in new products and technologies. Since 1991 we have accomplished the following:

- Added six new Federal customers and expanded our relationship with four other agencies.
- Hired six new employees including three in sales and two in technical support. We plan to hire three more full time and two part time workers in 1995.

- Expanded our product line with a focus on client/server management solutions.
- Strengthened our balance sheet. Obtained \$100,000 bank credit line. Made major investments in training and equipment.
- Almost tripled sales from 1993 to 1994. During this period commercial sales doubled.
- Paid over \$100,000 in Federal income tax for 1994 and over \$40,000 in state and local taxes.

Over the last four years we have worked in partnership with our Federal customers identifying needs and delivering cost effective and timely solutions. The 8(a) Program is one element of our multi-faceted strategy to develop General Microsystems into a strong corporate citizen in our community. Without the 8(a) Program our business would not be as healthy and our customers, especially Federal customers, would not have benefitted from our expertise.

The 8(a) Program provides Federal agencies with a short cycle from initial requisition to project completion even on large, complex proposals. High technology products are particularly difficult to procure due to frequent product and price changes. It is a challenge to create a Statement of Work that is specific enough to assure that project needs are fulfilled without being too restrictive. Many agencies including NASA Marshall, the Bureau of Reclamation, and the Navy have worked with us to obtain solutions quickly, within budget, and with "No Surprises."

Thank you for the opportunity to present our views on the 8(a) Program. Please let me know if you have any questions or if we can be of additional assistance.

Sincerely,



Earl W. Overstreet II  
President

cc: Rep. Jennifer Dunn  
Rep. Jack Metcalf  
Rep. Linda Smith



GREATER WASHINGTON IBERO AMERICAN  
CHAMBER OF COMMERCE  
CAMARA DE COMERCIO IBEROAMERICANA

1726 M Street, N.W.  
Suite 704  
Washington, D.C. 20036  
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March 3, 1995

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The Honorable Jan Meyers, Chairman  
Committee on Small Business  
2361 Rayburn House Office Building  
Washington, D.C. 20515-6315

Dear Chairman Meyers:

On behalf of the Board of Directors of the Greater Washington Ibero American Chamber of Commerce (GWIACC), we hereby submit the comments and observations which follow for the records of the hearing to be held on Monday, March 6th, before the House Committee on Small Business, which you chair.

Our Chamber

The GWIACC is a Washington, D.C. area chamber representing hundreds of Hispanic-owned businesses in our metro area of Maryland, Virginia and our nation's capital. Our Chamber was established 19 years ago, and is one of the fastest growing chapters of the United States Hispanic Chamber of Commerce. The population of Hispanic-owned enterprises exceeds 5,000 in our metro area. The spectrum of these businesses ranges from one person firms to some that exceed 800 employees.

SBA 8(a) Program

Many of our members are professional service firms who depend for their survival on the financing and government procurement programs sponsored by the Small Business Administration (SBA). On the positive side, the SBA's Section 8(a) program has enabled some of our members to develop and grow successfully in the business world and to become viable and effective competitors serving both private and government clientele, both domestically and internationally.

On the negative side, the graduation of a company from the SBA 8(a) Program can be quite drastic, chaotic and disastrous. In the majority of Program participants, it may take from one year to several years before a company can become an active and viable participant in the Program. Accordingly, we have noticed in such cases that the time in the Program, i.e. nine years total, is not enough to develop the company name, reputation, personnel, credibility and management team to enable it to survive after the Program graduation date. It has been suggested by a number of different studies that it takes a company, to reach integration into the mainstream competitive business environment, a period of between 15 to 20 years of business operations. Perhaps with the research resources that your Committee has for its use, a study on your part can be undertaken to again revisit the period of time that a company should be a participant in the Program.

With respect to another issue, the loan guarantee and bonding programs of the SBA have provided our members with the most basic needs of all: financing and capacity.

The GWIACC members need to see the Program continue, with modification perhaps, to ensure the survival and the competitiveness of Hispanic-owned businesses. We urge your Committee and the U.S. Congress to continue to support this much needed program. We can continue to assist in fueling the job-creating force and the economic expansion that small businesses represent in our domestic economy. At the present time, many of our members are also entering the international arena, some through the technologies and experiences that they have obtained through participation in the SBA 8(a) Program.

#### U.S. Small Business Administration (Washington District Office)

The experiences of our members with the SBA's personnel and its offices have, for the most part, been positive ones. Over the years, the Washington D.C. District Office Directors and staff have always been most helpful and responsive to what we view as the mission, intent, goals and mandate of the District Office.

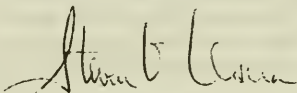
The time in processing applications for entry into the 8(a) Program has been shortened. The seminars and technical assistance programs that the District Office sponsors are productive and timely. The contracts that are brought to the District Office for approval, the tripartite agreements, are processed quickly and efficiently by contracting, legal and other members of the staff. The District Directors have been most accessible and accommodating in the case of special issues that invariably come about. The same can be said for the staff.



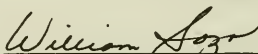
On another issue, in today's economic operational levels, we view the reviewing of thresholds of SIC Codes as an area that warrants study.

The above views and observations are respectfully submitted for you and your Committee's consideration. We are most happy to share these experiences and thoughts with you.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Steven Usera".

Steven Usera, President

A handwritten signature in cursive script, appearing to read "William Soza".

William Soza, Chairman  
Legislative Committee



**GIANNOTTI MARINE SERVICES, INC.**  
NAVAL ARCHITECTS, MARINE ENGINEERS, OCEAN ENGINEERS  
PACIFIC NORTHWEST DIVISION  
814 15TH STREET, EVERETT YACHT BASIN  
EVERETT, WA 98201

February 28, 1995

Representative John J. LaFalce (D-NY)  
U.S. House of Representatives  
Rayburn HOB, Room 2310  
Washington DC 20515

Subject: The SBA 8(a) Program

Dear Representative LaFalce:

I am writing to you as a constituent and as a small businessperson in the State of Washington. I own an 8(a) company which operates a shipyard in Tacoma, Washington, and three engineering groups in Everett, Washington; Ventura, California; and in San Diego, California. Our combined employment level is approximately 250 people ranging from top management, engineering and administrative professionals, to shipyard workers.

A substantial portion of our ship construction, repair, and engineering contracts originate out of the 8(a) program. Our federal customers include the U.S. Navy, the U.S. Maritime Administration, the U.S. Coast Guard, the National Oceanic and Atmospheric Administration, and the U.S. Army. Most of our federal work results from the 8(a) program, and our customers have always been extremely pleased with the quality and cost-effectiveness of our work.

Without the 8(a) program it would have been impossible to achieve the success, growth, and customer satisfaction which allows us to offer jobs to over 250 people as well as contributing to the tax bases of the Port of Tacoma, the cities of Ventura, Everett, and San Diego, as well as the states of Washington and California. Furthermore, we are presently heavily involved in utilizing labor force originating from Grays Harbor, Washington, which for the past few years has been one of the most depressed areas of the Pacific Northwest. Our growth plans under the 8(a) program include establishing a ship repair and construction facility in Grays Harbor, thus enhancing further our contribution to the poor economy of that area.

It has come to my attention that the new Chairperson of the Small Business Committee in the House of Representatives, Jan Meyers, is presently considering eliminating the 8(a) program from the SBA. Apparently, since we have agency-wide SDB Set-Asides, she feels there is no longer a need for the 8(a) program. This consideration has me and my firm deeply concerned, because nothing could be further from the truth.

There is only one similarity between the two programs; each is directed toward the minority community. My company has bid and performed on many SDB Set-Asides. The SDB Set-Aside program does have its place in the federal government, but in no way does it begin to assist any minority firm in its own development. Beside this, the SDB Set-Aside program is infiltrated with SDB "fronts", so non-minority persons, who know how to work in the government system, can take full advantage of the few opportunities being provided to minorities. This happens so often that the program itself is virtually equivalent to competing in the open market, thus eliminating any break in the barrier to equality. The 8(a) program, on the other hand, has a screening process that eliminates any such fraud.

Elimination of the 8(a) program would have a devastating effect on the minority community. A number of minority firms would cease to exist without the knowledge gained from the 8(a) business development program. Many would not know where to begin looking for the knowledge necessary to succeed in the government market. Unlike our non-minority counterparts, we do not have the advantage of multiple mentors to gain the necessary skills. The 8(a) program is the only government program that helps a firm grow through gradual business development.

The skills acquired in the 8(a) program have allowed us to increase our employees and revenue base by 400 percent. The 8(a) program enhances skills by management training, employee education, technological assistance, contract support, and many other forms of help. With the combination of all this help, our firm has been able to develop a track record that has brought us many other business relationships and contacts.

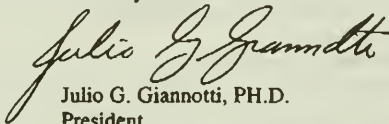
During our time in the 8(a) program, our company has become a tax revenue generating operation, that otherwise would never have existed at the level we are currently. As we continue to grow and subcontract work to others, hire more personnel and develop new business relationships, our economic impact to our community and to the tax base will also grow. I highly doubt that any of our progress would have been feasible without the 8(a) program.

The 8(a) program is very beneficial to the federal government. Many agencies have contacted me with projects that need immediate response. I have been able to respond immediately, thus eliminating a crisis. The 8(a) program is also very cost-effective for the government. Studies have concluded that the final cost of 8(a) projects are less expensive to the government than competitively bid projects. The DOD currently

has a goal of acquiring five percent of goods and services from minority firms. It has never reached half that goal with both SDB Set-Asides and the 8(a) program.

In conclusion, I would like to reiterate the value of the 8(a) program and its importance to the minority community and the federal government itself. Less than two percent of all government purchasing is acquired through the 8(a) program, a very small piece of the pie. Law has already been signed that will reform many aspects of the program. Please give reform a chance to improve the program, rather than eliminating it all together. I would like to know your position on the 8(a) program and urge you to vote against any measure that would eliminate the 8(a) program. I look forward to your response.

Sincerely,



Julio G. Giannotti, PH.D.  
President

JGG/plc



## **HARTFORD CONTRACTING, INC.**

February 27, 1995

The Committee on Small Business  
US House of Representatives, 104th Congress  
2361 Rayburn House  
Office Building  
Washington, DC 20515

Dear Committee Members:

I am submitting to you, as record, my testimony for the hearings taken place on March 6, 1995. I am a small businessperson in the State of Washington. I own and manage Hartford Contracting, Inc., a construction company, and employ approximately 20-30 employees in and around Seattle. Hartford Contracting, Inc. has served our community for well over 3 years, and we believe our company is an important asset to our community's economy as well as it's development.

It is my understanding that the aforementioned hearings are being conducted in order to weigh the value or merit of the 8(a) program. Apparently, since we have agency-wide SDB Set-Asides, Chairperson Meyers feels there is no longer a need for the 8(a) program. This consideration has me and my firm deeply concerned, because nothing could be further from the truth.

Elimination of the 8(a) program would have a devastating effect on the minority community. A number of minority firms would cease to exist without the knowledge gained from the 8(a) business development program. Many would not know where to begin looking for the knowledge necessary to succeed in the government market. Unlike our non-minority counterparts, we do not have the advantage of multiple mentors to gain the necessary skills required to stay in business. The 8(a) program is the only government program that helps a firm grow through gradual business development.

The skills acquired in the 8(a) program have allowed us to increase our employees and revenue base by 50% annually. We expect to grow another 100% this year in revenues and another 50% in employees. The 8(a) program enhances our skills by management training, employee education, technological assistance, contract support, and many other forms of help. With the combination of all this help, our firm has been able to develop a track record that has brought us many other business relationships and contacts.

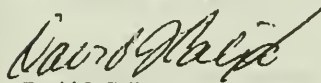


During our time in the 8(a) program, our company has become a tax revenue generating operation, that otherwise would never have existed at our current level. As we continue to grow and subcontract work to others, hire more personnel and develop new business relationships, our economic impact to our community and to the tax base will also grow. I highly doubt that any of our progress would have been feasible without the 8(a) program.

The 8(a) program is very beneficial to the federal government. Many agencies have contacted me with projects that needed immediate response. I have been able to respond and eliminate a crisis. The 8(a) program is also very cost-effective for the government. Studies have concluded that the final cost of 8(a) projects are less expensive to the government than competitively bid projects. Another issue is, the DOD currently has a goal of acquiring five percent of goods and services from minority firms. It has rarely, if ever reached that goal with both SDB Set-Asides and the 8(a) program.

In conclusion, I would like to reiterate the value of the 8(a) program and it's importance to the minority community and the federal government itself. Less than two percent of all government purchasing is acquired through the 8(a) program, a very small piece of the pie. The cost of the 8(a) program is minimal in the scope of government spending, however, it provides a lot of benefit to a large population of the United States. It is very cost effective. Law has already been signed that will reform many aspects of the program. Please give reform a chance to improve the program, rather than eliminating it all together. I would like to know your position on the 8(a) program and urge you to vote against any measure that would eliminate the 8(a) program. I look forward to your response.

Sincerely,  
Hartford Contracting, Inc.



David J. Calixto  
President



February 20, 1995

Walter Tucker, III  
House Small Business Committee  
U.S. House of Representatives  
2361 Rayburn HOB  
Washington, D.C. 20515

RE: SMALL BUSINESS ADMINISTRATION 8(a) PROGRAM

I am sending this letter to you in support of the Small Business Administration's 8(a) program. I am a small business person in the State of Washington. I am the owner of LUGO Construction, Inc. and employ approximately 50 people in the Tacoma area. My firm has been in business and served the community since 1978. We believe our company is an important asset to the community's economy and development.

It is my understanding that Jan Meyers, Chairperson of the Small Business Committee in the House of Representatives, is considering eliminating the 8(a) program from the SBA. It is also my understanding that since we have agency-wide SDB Set-Asides, she feels there is no longer a need for the 8(a) program. This is very alarming to me and my firm as nothing could be further from the truth.

There is only one similarity between the two programs and that is that each is directed toward the minority community. My company has bid and performed on SDB Set-Asides. The program does have its place in the federal government but in no way does it begin to assist a minority firm in its own development. The SDB Set-Aside program is infiltrated with SDB "fronts", non-minority persons who know how to work in the government system that can take full advantage of the few opportunities being provided to minorities. This happens so often that the program itself is virtually equivalent to competing in the open market, thus eliminating any break in the barrier to equality. The 8(a) program does have a screening process that eliminates any such fraud.

Elimination of the 8(a) program would have a devastating effect on the minority community. A great number of minority firms would cease to exist without the knowledge gained from the 8(a) business development program. Many would not know where to search for the knowledge necessary to succeed in the government market. Unlike non-minority counterparts, we do not have the advantage of multiple mentors to gain the necessary skills. The 8(a) program is the only government program that helps a firm grow through gradual business development.

I believe that our company would never have existed at the level we are currently had it not been for our participation in the 8(a) program. As we grow and subcontract work to others, hire additional personnel and develop new business relationships our economic impact to our community and to the tax base will also grow. This impact is important also to the minority community because minority owned firms, like mine, hire more minorities than the six largest companies in the United States.

Please give reform a chance to improve the 8(a) program rather than eliminating it altogether. Law has been signed that will reform many aspects of the program. I would once again like to reiterate the value of the 8(a) program and its importance to the minority community and the federal government. I urge you to vote against any measure that would eliminate the 8(a) program. I would like to know your position on the 8(a) program and look forward to your response.

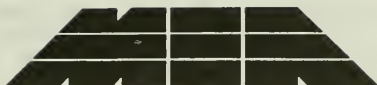
Sincerely,

LUGO CONSTRUCTION, INC.

A handwritten signature in cursive script that reads "Adrian C. Lugo".

Adrian C. Lugo  
President

ACL:sla



MILLER & ASSOCIATES, INC.  
GENERAL CONTRACTORS

February 20, 1995

Congresswoman Jan Meyers  
Chairman of House Small Business Committee  
2361 Rayburn  
HOB  
Washington, D.C. 20515

Reference: Congressional Hearing on SBA 8(a) Program

Dear Congresswoman Meyers:

I understand that your Small Business Committee will be hearing testimony on the SBA 8(a) Program on March 2, 1995. I respectfully request that you allow my testimony to be heard. I am an 8(a) contractor in Arizona and I feel strongly about the need to continue the program. Please accept the following information as my personal testimony:

1. 8(a) does not cost more than competitive bidding.
  - a. Large business concerns make up costs in change orders. The low bidder is the company that is willing to risk the most at bid time and the profits are made up in change orders. Large businesses are schooled and are experts in finding changes to the contract plans and specifications.
  - b. Change orders are minimized in the negotiation process because of careful scrutiny by both the 8(a) firm and by the federal agency. All concerns all clarified at the negotiation table.
  - c. Some federal agencies actually like the 8(a) program because they have more control over their budgets during the negotiation process.
2. Discrimination exists among many federal agencies. They consider 8(a) to be a "give-away" program. Through the course of time, changes have been made to minimize over pricing by contractors. The federal procurement officials need to be educated about the program that exists today.
  - a. Due to budget constraints or downsizing of federal offices, many of the "Small Business Advocates"

or "Small and Disadvantaged Business Opportunity Specialists (SADBUS)" positions have been added on to other procurement positions. We often see that the Contracting Officer and the SADBUS are one in the same. This is a gross conflict of interest! The SADBUS should be someone who advocates work for the minority contractors. This use to be their role in year's past, but not today.

- b. Many SADBUS' for the federal agencies do not like to do business with minority contractors whether under the 8(a) program or the SDB program. This is an outrage that these government officials are suppose to be advocating small and minority business within their agencies. They prefer to do business with large business concerns only. We have been told this by many agency SADBUS'S.
3. The 8(a) program is a self marketing program. The amount of work generated under the 8(a) program by any 8(a) contractor is determined by their own ability to sell themselves to the federal agencies.
4. The 8(a) program is not redundant when the SDB program exists. Each program is different. Our experience shows that the SDB program is for small contracts, generally under \$500,000 and more like \$50,000 to \$200,000. These projects are competed by all types and sizes of small and disadvantaged firms. The 8(a) program on the other hand is a vehicle by which a small and disadvantaged firm can grow with the aid of the federal government to a large business status. The program enables a small disadvantaged business to overcome the obstacles that keep them small. The size of the projects that are let under the 8(a) program varies from approximately \$25,000 to \$1-2-5-10 million, whatever size fits the 8(a) contractor during the course of its program, keeping in mind that a business is not considered large until it does \$17 million in sales for three years in a row. The SDB program does not facilitate this but rather keeps the size of the business at a small level.
5. The work that is let out in the 8(a) program is not

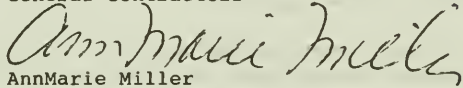
fabricated work. These are projects that are being contracted in the normal course of procurement. The projects are contracted to the 8(a) contractors who are qualified to complete the individual projects.

6. The SBA 8(a) program is an economic opportunity for minority constituents to have a "piece of the federal government procurement pie." Government statistics show that 1/2 to 1% of all federal procurement goes to minority contractors. With the SDB program and the SBA 8(a) program in place, it's an outrage for the above statistic to exist and to further cut the SBA 8(a) program. We're just asking for a fair share of federal contracts.

Thank you for the opportunity to be heard.

Sincerely,

MILLER & ASSOCIATES, INC.  
General Contractors

  
AnnMarie Miller  
President

cc: Congressman Jim Kolbe  
Attn: Jason Isaak  
405 Cannon House Office Building  
Washington, D.C. 20515





## Pacific Western Services

3594 NW BYRON ST., SUITE 202  
P.O. BOX 3043  
SILVERDALE, WASHINGTON 98383-3043  
(206) 692-2602  
FAX (206) 692-5917

The Honorable Jan Meyers  
U. S. House of Representative  
2303 Rayburn HOB  
Washington, DC 20515

Dear Congresswoman Meyers:

Since the November election, there has been a growing outcry from the proponents of set-aside programs in anticipation of severe reductions, if not the total elimination of the 8(a) Program by your committee. As a graduating 8(a), I will not be harmed if the 8(a) program is eliminated; however, the future of SBA and the 8(a) Program remains a great concern to me. I would like to volunteer to provide you and your committee my experience and testimony based upon nine years in the 8(a) program. As a "Rush Limbaugh Republican," I am sympathetic to the rationale being espoused by the opponents of set aside programs, but as a woman minority small business owner, I cannot sit by and watch the Republican Party return power to the bureaucracy at the expense of small business. By sponsoring the elimination of 8(a) set asides, the Party would in effect be "returning" special advantages to large business at the expense of the small businesses, who create the majority of new jobs in the Nation.

It is difficult to remain objective and unemotional when defending SBA and the 8(a) Program because I have gained much from them over the last 8 years. Being an 8(a) contractor provided me first hand knowledge of the vital role this program plays in the advances minority businesses are making in the high tech fields associated with many agencies such as the Department of Defense and NASA. Only the 8(a) Program can provide minority businesses the momentum to continue beyond their present position in contracting with these agencies and to keep them working in the wide array of contracts associated with these agencies. Regardless of the program's goals, in my opinion, the 8(a) Program allows SBA to protect minority businesses from the abuses of an arrogant Federal bureaucracy. To a small minority business, working with the Federal Bureaucracy has been described as dancing with a gorilla. That the Federal government discriminates in favor of large businesses, particularly those in DC, is more than a widely held perception.

Frankly "minority" status was new to me as I lived in Hawaii for the first 35 years of my life. My father, like Senator Dan Inouye, served in the 442nd in Europe, except my dad spent time as a prisoner of war in Germany. My husband served three years in Viet Nam. As a result, I have always been a patriot and it never really occurred to me that I was a "minority person" until I moved to the Continental United States. While living in Hawaii, I earned a graduate degree in Zoology and taught high school science for 10 years. Without doubt, being an Oriental in the Islands had its advantages in that Orientals were generally perceived as being hard-working, capable, and intelligent; and they were at least a numerical "majority." Ten years ago, I started *Pacific Western Services, Inc. (PWS)* in Washington State.

Today, as a graduating 8(a), I employ over 75 people working primarily on computer projects for the federal government in Washington State. It is important to realize that if it were not for the 8(a) Program, these positions would belong to large businesses. The 8(a) set-aside program gave me not an advantage, but merely an **equal opportunity to compete** with the large businesses already providing services to Federal agencies such as DoD. The Federal contracting system was and still is very biased against minority technical services companies; the system would like to stay with the few companies they are most comfortable doing business with. To deny this is to ignore the basic facts of contracting with the entrenched Federal bureaucracy. Once contractors belonged to an exclusive club and before the Competition in Contracting Act (CICA), most awards were sole source awards. Even after CICA, many awards remained biased for the contractors who were in "the system," primarily the beltway bandits. "Good Old Boys" gain their competitive edge by having "customers" write restrictive selection criteria and/or by hiring retired generals, admirals, and civil servants. The restrictive criteria used to lock out new businesses include the need to "pre-qualify" by having done similar work previously and sometimes for a preset number of years, having an experienced staff already in your employ, or by having a detailed "understanding" of an agency or a project (only available through incumbency or the employment of ex-military or civil servant retirees). These selection factors may be critical for building a sophisticated weapon system, but not for performing administrative work, programming, and logistics duties. How will a start-up, small company ever qualify to do work in a system like this? (The mentor-protege programs may be a partial solution, but it would cut down even further the numbers of participants than the number of 8(a) participants currently being mentored by SBA.) Lastly, why would a small minority contractor be advised by various government agencies to relocate to the "beltway" if they want to be successful?

The SBA 8(a) Program is instrumental in the battle against stereotypes, arrogance, and the "Good Old Boys." Eliminate the Program and the gains made by minority firms in agencies such as the DoD will disappear far faster than they were made. I am not ashamed to say that as long as oriental faces are still being perceived as the faces of those who have "just fallen off the turnip cart," we need an equalizer like SBA to encourage government to give the minority small business the opportunity to show that like the "Good Old Boy" or retired government worker, it, too, can do good work. Not having any accent is often a disadvantage for a minority; you go from being obvious to being invisible. For example I have had a contracting type look me in the eye and then turn to the clerk to ask if a "Mrs. Pursel" has arrived yet. And yes, complaining, being aggressive, rocking the boat, protesting, or, in general, being a "nasty" minority contractor would put one in

the category of "you'll never get another Federal Contract if you do 'that' again". Even after 11 years, it has not grown easier doing business with the Federal Government, but the experiences gained are invaluable. There is always the contracting officer's representative who tells your staff that he's going to replace everyone on the contract with civil servants or that he can't work with your Project Manager because she doesn't help him with his work, and that he doesn't like her make-up, or clothes. And there is always the occasion of sitting around a conference table and having the Government representatives only look at and address the "whites" on your staff. The Government procurement system may not discriminate **against** the minority business as much as it is structured to discriminate **in favor of** the large business (particularly those based along the "beltway") who can afford to provide job opportunities for retired senior managers and procurement types. Personal friendship primarily among "men" drives the system. True, some of these companies may team with women and minority businesses but generally it is out of the necessity created by regulations such as DoD's 5% requirement for 8(a). For example, most set aside or subcontracting requirements have "no teeth." Procurement managers seldom require minority quotas to be met. Whenever an agency chief directs a minority small business to go to its prime contractors to solicit subcontracts or work, the minority business receives second rate treatment.

When starting *PWS*, I understood the importance of business rules and as such have been a long-term active participant in the National Contract Management Association. I also know that there is a wide, wide gap between the rules and reality. I am no crusader but not even the employees of small business enjoy "equality" with others. Civil servants not only enjoy benefits that no small business can afford, but with downsizing, many have received \$25,000 as cash early outs, only to reappear in the same agency working for a major contractor. Why is Boeing so special that it merits \$5 million to help their high paid employees ease into the unemployment line whereas the employees of small contractors receive no special considerations when hit with "downsizing?" The point I am making is that there are all kinds of set asides besides the 8(a) Program offered by the Government; it is just that they are not all labeled "set aside". In this case, the employees of small contractors appear less equal than the employees of larger DOD contractors. In our area, if you are laid off by a Johnson Controls, Alliant TechSystems, or Vitro, you may receive special support and Federal re-training funds. Get laid off by a small business, and you don't qualify. Doesn't this smack of a special set aside program for the big companies and discriminate **against** the small business who tries to attract and retain good workers?

The 8(a) Program is not a welfare program. Frequently better value is received from an 8(a) than from a large company. Today SBA provides 8(a) participants training and management advice for no fee, and loan support. SBA's 8(a) subcontracts to provide services for various government agencies are just that; contracts that allow a contractor to be paid for satisfactory services provided. These contracts allow new businesses to prove that they can do the work and to develop the required track record to eventually compete with existing government contractors and on the open market. These contracts allow businesses to grow large enough to acquire the staffing and experience in contract administration to compete with existing government contractors and on the open market place. The bottom line is that the 8(a) Program is designed to remove barriers that the Federal Government erects to keep out the outsiders.

The 8(a) Program levels the playing field. GSA, for example, has little faith in minority contractors and would rather keep them in food services, janitorial services, portable toilets, construction, commodities, and travel. The crux of this is that 8(a) status gives minorities a kick start to get into providing high tech services such as programming and military technical services to federal agencies. Remove SBA and 8(a) and the result is predictable; bigger contractors will squeeze out the smaller ones albeit legally. The "survival of the fittest" in government contracting can be equated to those who have money, DC connections, and insider support. Minority businesses have made great strides but will not be able to continue to grow and penetrate the federal bureaucracy without the SBA running interference.

Abuses occur within the 8(a) program and the SBA is not perfect. But SBA does it's best to minimize the abuses - most of which originate around the Beltway where the largest contracts are awarded. Extremely large (multi-million dollar) contracts should not be awarded under the 8(a) umbrella; to do so is illogical. Is the purpose of the 8(a) Program to create a few model large businesses out of start-up small and disadvantaged business, or is it to serve as a quasi-incubator program to give minority businesses the opportunity to get established by doing work under sole source contracts with various federal agencies?

Modify the 8(a) Program, don't kill it. Start by breaking up the large omnibus contracts which concentrate opportunity within one or two firms and which merely create a sub-set to the old boy network. Then do something so that contracts are not disproportionately awarded in locales such as Washington DC to primarily DC-based 8(a)s. This disparity has been described thusly - there are two 8(a) Programs, one 8(a) Program for the DC "beltway", southern California, and Texas 8(a)s; and one 8(a) Program for the rest of us. Why not more regional 8(a) contracts? Using the same specifications, large omnibus contracts can be broken down into multiple awards. The local versus national buy concept was not totally bad as it protected many of the smaller back-water 8(a)s who have no aspirations to become multi-millionaires. The reason given for omnibus contracts is that they are cheaper due to lower procurement costs. Someone should compare the efficiency of an omnibus contract to a regional or smaller contract in terms of quality of product, life cycle cost, and other benefits gained or lost.

The 8(a) Program continues to exist because it offers procurement advantages and efficiencies. Competitive contacting done poorly is costly, usually produces the wrong solution, and years of delay and protest costs are the norm. The 8(a) Program allows sole-source procurement so the government can control what it is that it wants, including a favorite large prime contractor. It is not unusual for an 8(a) to subcontract up to 49% of the work to a large business which may in turn serve as a mentor to transfer necessary technical skills. A sole-source award is not always bad since it allows the government to negotiate specifications in order to arrive at the best solution. Hence poorly specified statements of work which could not readily be competed can be contracted out and the work done for the Government. Reinventing government procurement might be able to eliminate many of these problems, but right now the 8(a) vehicle is an opportunity for the Government to supplement a procurement system that is inefficient, too costly, too timely, and often doesn't work.



In this regard, my advice is do not remove SBA from the procurement cycle. I have found that SBA plays a key role in protecting the minority contractor from being "jerked" around by procurement agencies. Face it, some 8(a) contractors have the financial capability to create the infrastructure of a large business to effectively deal with the federal bureaucracy, but most do not. Most companies, like *PWS*, have built up from scratch, have learned the hard way to deal with the bureaucracy, and rely on SBA for advice and counsel.

Self-certification of minority (SDBs) businesses will NEVER work. Such a program will encourage "fronts" and each award could result in a protest. 8(a) companies go through a strenuous certification process generally precluding this type of fraud from occurring, depending on the diligence of the regional SBA offices. Federal procurement has made great strides in eliminating fraud and abuse through the 8(a) program. So why throw the baby out with the bath water? To do so means going back to the abuses of the 1970s so that we will eventually be forced to reinvent the wheel again.

In summary, changes and outright reform is needed, but not elimination of the 8(a) program or the SBA. Elimination of the 8(a) program for the sole purpose of eliminating set aside programs would be counterproductive. It serves a purpose by strengthening the case to allow minority businesses into Federal agencies to do high end and non-traditional work. The bureaucracy gains in that it is allowed an opportunity to work with minority owners of technical businesses and it may recoup on procurement life cycle costs. It's not a case of abuse, it is a case of the government running one of the most successful incubator programs around. And it should be so because of the strenuous energy exerted by each Program participant.

Should you desire, I would be pleased to provide details on specific reforms I have in mind.

Some anecdotes -

I have an unhappy customer because I had to fire a project manager—a Reserve Navy Captain—who had a very serious conflict of interest. The "government" emphasized that I should have been aware that it was "his" contract because he was a close friend of the customer and not a *PWS* contract .

A Computer Sciences Corporation protesting an award receives a prompt and fair hearing; they have many lawyers and ex-Federal contracting officers working for them. A protest by *PWS* brings open retribution and the loss of a contract. Big contractors are given large audiences and present their programs to customers and the procurement officials. Small contractors fill out forms.

We once tried to get the Navy to compete the operation of a library at the TRIDENT base. After multiple appeals, and support from the SADBUS at the Department of the Navy, the final decision was to give the work to the TRIDENT "Planning Yard." In this case, the Navy's Planning Yard was the Electric Boat Division of General Dynamics. Not



surprisingly, EB kept the work for themselves, at a much higher cost I'm sure. Minority businesses are not supposed to rock the boat. We just have to learn to jump higher than other contractors.

Many brand new 8(a) contractors from back East have the where-with-all to develop the kind of backlog in their first year on the program that other similar 8(a) contractors from other parts of the country never develop even after 9 years on the Program.

Many problems facing businesses (large and small) working with the federal government is that procurement and contracts are frequently run by personnel who have essentially no experience working in the private sector. One remedy for many government procurement problems is to develop some type of cooperative training program where government procurement personnel intern at private sector businesses of various sizes and various product lines for day-to-day business experience.

Look to the reemergence of OMB Circular A-76 in deciding whether or not to contract out an activity.

The 8(a) Program is not a quota system which allows the unprepared and unqualified minority companies to feed off the public dole. Rather the 8(a) Program opens an otherwise closed door and provides the important introduction between a minority business and a potential customer. This role is so simple that it is very possibly misunderstood and undervalued by those who have never experienced being invisible.

Again, I would be honored to tell my story before your committee and/or during Senate hearings, at my expense, and would provide you a summary of topics for your review.

Thank you for your time and consideration.

Sincerely,



Naomi K. Pursel  
President

Copy to:

Senator Slade Gorton

Representative Rick White, 1st District

Representative Linda Smith, 3rd District

Representative Jack Metcalf, 2nd District

Herbert Mitchell, Associate Administrator for Minority Enterprise Development  
Small Business Administration, Washington D.C.

# SELF-HELP

VENTURES FUND

March 16, 1995

Representative Jan Myers, Chair  
Committee on Small Business  
U. S. House of Representatives  
2361 Rayburn Building  
Washington, DC 20515

Dear Representative Myers:

I want to thank you for inviting me to testify before your committee on Tuesday. It was my first time testifying in Washington, and I enjoyed the experience. The hearing came to a rather abrupt ending, leaving several questions unanswered by the panelists.

The one question you raised in the final minutes of the hearing was concerning the respective roles of the Small Business Development Centers and the Microloan intermediaries in providing technical assistance. In short, is the government wasting its money by funding two sets of institutions that both provide technical assistance to small businesses? Is there a more effective way of spending these same funds and get the same results?

First we have to see if the SBDCs and Microlenders are providing technical assistance to the same small businesses. If they are, then there could very well be a wasteful replication of services paid for by federal funds. Our experience in North Carolina would indicate that if there is some overlap of clientele it is small. Less than 25% of the small businesses we have lent to have received technical assistance from SBDCs. Most of the companies we work with have never been to a SBDC. Many others have called on their SBDC only to ask about sources of potential financing, in which case the SBDC may give them the phone numbers of Self-Help Venture Fund, local banks, or other alternative financing sources. In short, SBDCs don't generally serve the same clientele as Self-Help does.

It also seems that our experience is much the same as the national experience. The Self-Employment Learning Project, an in-depth evaluation of the microlending field, also found that the types of small businesses served by Microlenders are smaller and more of them are just starting a businesses than the typical companies served by SBDCs. In addition, SBDCs do not always reach all parts of their states in many areas. In these cases Microlenders serve new populations not touched by SBDCs.

Next, we should look at those situations where small businesses use the services of both a Microlender and a SBDC. Does this represent a duplication of service, and therefore a potential inefficient use of federal funds? In our experience in North Carolina, those small businesses that

receive technical assistance from a SBDC and receive a Microloan from Self-Help don't get the same type of services from the two organizations. When our customers have received assistance from a SBDC (for example, cash flow projections), Self-Help does not also work with that customer on cash flow projections. The customer doesn't want us to do it, we don't see a need to do it, so there is no replication of service to the customer. When a business owner comes to Self-Help in need of general technical assistance (marketing plans, financial projections, assistance in incorporation) we refer them to the local SBDC. We are primarily a lending institution, and do not see a need to have our loan officers spend time with small businesses that are not ready to consider a loan (keep in mind, we must concentrate our technical assistance to only those businesses we make a loan to under the Microloan program).

On the other hand, SBDCs will never provide the loan and financial structuring-related assistance that Self-Help provides, because they are not lenders. This is a point I made in my comments to your committee, and want to emphasize. The assistance provided by Self-Help to small businesses can only be provided by staff specialized in lending, and is only possible because of the relationship developed during the loan application and monitoring process. In this respect, SBDCs **cannot** provide this necessary loan-support assistance that is the hallmark of the Microloan program.

In short, the system works pretty well. Small businesses that need general assistance get it from the SBDC, and specialized loan-oriented assistance is provided by the Microlender. Ironically, Scott Daugherty of the North Carolina SBDC testified that in his experience in North Carolina, there is little duplication and small businesses are receiving good service from both the Microlender and the SBDCs.

There are some circumstances in which a small business requests assistance from a Microlender that could be provided by a SBDC, or visa versa. I want to make it clear that these are circumstances in which it is the small business making a choice between two options. There is not a replication of service in these instances, only a customer deciding what is best for him or herself. For example, Self-Help finds that we provide more assistance to small businesses in areas where there are weak SBDCs. The choice between organizations benefits the small business owner and keeps the SBDC and Microlender honest by a little good-old American competition.

Lastly, we should look at the manner in which funding is provided to the Microlender and SBDC to determine whether, in actuality, federal funds are spent on redundant services or are simply spent without regard to the effectiveness of the program. The Microloan program only provides funding to intermediaries for good performance. The SBA selects only the most capable microlenders for the program through a competitive process. This is not true for SBDCs: each state receives funding on a formula basis, regardless of their track record or capacity. Once in the program, Microlenders can only draw down funds for actual technical assistance rendered to a small business that receive loans under the program. These federal funds only cover for 75% of the cost of technical assistance, and cannot be used to pay for any of the other costs associated with making and servicing the loan. Therefore there is no financial incentive to draw funds down except as a means of insuring that the small business performs well. In fact, Self-Help Ventures Fund does not draw down all of its SBA grant allocation because we coordinate with the SBDC

and we target the type of assistance provided. Microlenders that don't provide much assistance or whose loan performance is not good are either dropped from the Microloan program or their funding is reduced. Thus there is little reason for Microlenders to "overspend" federal funds or to replicate services that are provided by SBDCs. They are constantly reminded by the SBA that low performance means fewer federal dollars.

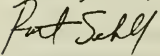
I agree with Scott Daugherty that there are Microloan programs that provide poor quality technical assistance. But because of the rules of the Microloan program, these programs receive very little federal funding, and most of them don't receive any federal funding. There are also some SBDCs that provide poor quality technical assistance. The SBA Microloan program deliberately built performance into its system to do a better job of insuring that federal funds are only used where they are effectively used. The presence of SBDCs keeps Self-Help on its toes; if Self-Help's assistance is not so good, the business can go somewhere else (and we won't spend federal funds serving them). I don't believe the federal government should guarantee funding for poor technical assistance programs; if they don't deliver, let someone else deliver them.

When SBDC and Microloan programs are both well run, they work well together (as is the case in North Carolina). If one or the other is not working, then the small business goes where the service is best. It is much more likely that federal funding will be wasted or overspent when there is a single agency receiving a federal entitlement to perform a service. The SBA recognized the need for competition and choice and was wise to structure the Microloan program as it has. The Microloan program would be ineffective if it did not have a technical assistance component built in. In addition the federal cost of funding the assistance would be no less if only the SBDCs were to provide these services.

I hope you consider these comments as you evaluate the Microloan program. It is not a perfect program (I would structure even more of performance-based funding into the program), but it is vastly more effective with its small federal budget than most other federal programs. Please do keep in mind as you work to balance the budget that this program generates more tax revenue than it spends because it creates tax paying businesses and workers. By helping people help themselves, it frees people from dependency through the establishment of self-sufficient small businesses.

I would be glad to respond to other questions concerning my testimony or Self-Help's Microloan operations.

Sincerely Yours,



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President

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**CEI** Coastal  
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March 21, 1995

Congresswoman Jan Meyers, Chairwoman  
Committee on Small Business  
U.S. House of Representatives  
2361 Rayburn Building  
Washington, D.C. 20515

Dear Congresswoman Meyers:

This is supplemental testimony that responds to questions that were raised during the hearing on the SBA Microloan Demonstration Program held on Tuesday, March 14, 1995, and that I was unable to answer due to time constraints. I am requesting that this be attached to the testimony that I presented at the hearing on Tuesday.

Technical Assistance Provided by Microloan Intermediaries

The Microloan intermediaries are highly skilled at blending the provision of business technical assistance with human resource development and creating opportunities for business success among individuals who have traditionally not been viewed as candidates for entrepreneurship.

The field of microenterprise development emerged in response to the need for technical assistance, training and financing on the part of individuals who were at the margins of the economy and whose existence challenged assumptions about entrepreneurship and business ownership. These tended to be women, racial and ethnic minorities, individuals with limited resources, and people with disabilities. While these individuals need technical assistance in the full range of business development issues, e.g., business planning, marketing, cash flow projections, production, financial management, recordkeeping, regulations, taxes, licensing, pricing, and access to credit, they often need assistance in other areas as well. Although the specifics may vary with the individual, typically the customers of microenterprise organizations need support to overcome a number of issues that are related to business success, but not traditionally considered part of technical assistance, e.g., a lack of familiarity with the vocabulary and practices of business; the absence of the types of business networks that often lead to success; the lack of credibility often associated with gender, race, and income; a lack of self-confidence; the interface between transfer payments and business development.

What has emerged is a specialized approach to technical assistance that is empowering, educational and successful. The technology that is employed combines the development of self-esteem with the development of business skills. It is highly individualized and human in its approach to business development.



### Duplication of Services

The SBA did not create a new network of technical assistance providers when it created the SBA Microloan Program; it created a vehicle to support existing organizations. To be eligible to become an intermediary under the SBA Microloan Demonstration Program, an organization has to have at least one year's experience with microlending and has to have internal capacity to provide technical assistance. A national network of microenterprise organizations that provided both technical and financial assistance specifically to microbusinesses existed at the time the program was developed.

It is not realistic to expect that any single service delivery vehicle will be able to meet the needs of all small business, a sector composed of many different markets with distinctive needs. In fact, one of the strengths of the microenterprise field is the diversity of the organizations that are included in the field. That diversity is a function of the fact that microenterprise organizations are community-based and shaped to meet the needs of their communities and the individuals in those communities whose needs were not met by existing technical assistance and financing organizations.

### Relationship Between Technical Assistance and Lending

The Microloan Program exists to provide credit to borrowers unable to access credit through conventional sources. By definition, the Microloan program is assuming a great deal of risk. One of the proven techniques for the reduction of risk is the provision of technical assistance, both prior to loan closing and for as long as necessary after the loan is closed. The program was structured to support organizations with internal capacity to provide technical assistance for this very reason. It is a risk management tool for the SBA as well as for the intermediaries. At 2 percent, the losses incurred by intermediaries, thus far, are low. The availability of technical assistance to borrowers is a factor in limiting losses.

### Relationship of Intermediaries to the Program

The structure of the SBA Microloan Program requires a serious commitment on the part of the intermediary. The intermediary is required to furnish a 15 percent match for the revolving loan funds, which is the equivalent of the loan loss reserve, plus it is required to provide a 25 percent match for the technical assistance grants. The match is a significant investment on the part of the intermediary and has been a barrier for small organizations with limited access to matching funds.

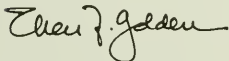
In addition, although the intermediaries may draw on funds in advance, this does not result in income to the intermediary. Loan funds are drawn through a process of controlled disbursements monitored by the SBA, and are held in a bank account which is designated specifically for this purpose. Although the intermediary is earning interest in those funds, the intermediary is paying interest to the SBA at a higher rate. In effect, the intermediary is losing money every day those funds remain in the bank.

The program permits intermediaries to draw funds in advance as a means of reducing the costs of program operations. Drawing on funds for each loan, many of which are less than \$5,000 would be an administrative nightmare, particularly as the program grows.

Lastly, SBA funds leverage additional support. They helped build the capacity and the credibility of intermediaries, and many intermediaries have been able to generate additional funds as a result of SBA funding. Further, by supporting organizations that have existing, complementary capacity, the SBA is able to leverage resources internal to the intermediaries and expand the range of services available to microenterprises. It is an effective use of SBA funds.

Thank you for your attention. Please let me know if you have any questions.

Sincerely,



Ellen F. Golden  
Senior Program Officer  
Microenterprise and Women's Business Development



March 6, 1995

The Honorable E. (Kika) De La Garza  
U.S. House of Representatives  
Longworth House Office Bldg., Rm. 1401  
Washington, D.C. 20515

Re: Funding for Small Business Development Centers

Dear Rep. De La Garza

I appreciate this opportunity to seek your support for continued funding of the Small Business Development Center (SBDC) program which is a project of the Small Business Administration.

I support your efforts in Washington to control the federal deficit and strongly urge you to consider using this program as a model which all others should follow. The South Texas SBDC receives only 37% (\$1.345M) of its total cost from the federal government, the remaining 67% (\$2.1) is from state and local matching. I feel that the SBDC program is the most effective, responsive and flexible system available and that other programs with similar or overlapping objectives should be consolidated into its mission.

Again, Rep. De La Garza thank you for your diligence in this matter and please feel free if we can be of any further assistance.

Sincerely,

Anne DeKoch  
President

xc: John Kasish, Chair of the House Budget Committee  
Jan Meyers, Chair of the House Small Business Committee

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