

Let's Go Swimming: Small Disadvantaged Business Growth Targeted by SBA and GSA 8(a) MAS Pool Initiative

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It's starting to feel like summer in Washington, DC and like most Washingtonians, the GSA and SBA are thinking about pools. So throw on some flip flops, grab a cold beverage, and let's dive into the 8(a) Multiple Award Schedule (MAS) Pool Initiative (and, obviously, prepare yourself for many, many more pool-themed puns).

Heading into Memorial Day weekend, the SBA and GSA announced a joint effort – the 8(a) MAS Pool Initiative – to facilitate contract awards by creating a designated pool of 8(a) Business Development Program small disadvantaged businesses. The Initiative aims to increase MAS Program ordering flexibility and opportunities for 8(a) small businesses, while also making it easier for GSA customers to purchase from 8(a) small businesses.

A Primer on the Small Disadvantaged Businesses and the 8(a) Business Development Program

First, let's start with a brief small disadvantaged business/8(a) refresher. A small disadvantaged business is a small business, per the applicable size standard, that is at least 51% unconditionally owned and controlled by one or more socially and economically disadvantaged individuals who reside in the United States. Socially disadvantaged individuals are those who have been "subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities." Certain individuals are presumed to be socially disadvantaged, including Black Americans, Hispanic Americans, Native Americans, and Asian Pacific Americans. Economically disadvantaged individuals must generally have a net worth of less than \$850,000; an adjusted gross income of \$400,000 or less; and assets totaling \$6.5 million or less. A small disadvantaged business may generally self-certify its qualification for any federal subcontracting program.

Small disadvantaged businesses may apply to the 8(a) Business Development Program. To qualify, the socially and economically disadvantaged individuals must be of "good character" and cannot previously have participated in the 8(a) Program. Further, the business must demonstrate the potential for success. Upon SBA admission into the Program, the small disadvantaged business

becomes an 8(a) “participant” for nine years if it maintains eligibility. So, 8(a) participants are a subset of small disadvantaged businesses: while all 8(a) businesses are “small disadvantaged businesses,” not all small disadvantaged businesses are 8(a) participants.

President Biden’s Initiative to Increase Small Disadvantaged Business Contracting

On day one of his presidency, President Biden issued Executive Order 13985 – “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” which, among other things, declared the Administration’s objective of reducing barriers to federal contracting for underserved individuals and communities. In 2021, as part of that pledge, President Biden announced a goal to increase small disadvantaged business government contracts to 15% of federal prime contracting dollars in 2025 (a 50% increase over the then-current goal). In the years since, the Administration has implemented a number of steps toward that goal, many of which have focused on increased outreach efforts. And those efforts are seeing results. In Fiscal Year 2021, for the first time ever, more than 11% of federal government prime contracts went to small disadvantaged businesses. The 8(a) MAS Pool Initiative represents another Administration effort toward achieving the 15% goal by 2025.

SBA and GSA 8(a) MAS Pool Initiative

Ok, so now that we’re refreshed, let’s grab our swimmyies and jump into the pool. SBA and GSA entered into a revised 8(a) Program Partnership Agreement to streamline MAS 8(a) purchasing across the government. GSA and SBA will work together to establish the MAS 8(a) pool of new and current 8(a) small businesses. GSA already has identified current, active 8(a) Program participants. SBA will now determine whether the identified 8(a) participants will be accepted into the pool. 8(a) MAS contractors should look out for any correspondence from SBA in the coming weeks while SBA assesses pool eligibility (perhaps requesting additional information).

Once accepted, 8(a) pool participants will receive a special designation that will let agency buyers know the business is eligible for competitive and sole-source 8(a) set aside awards from their MAS contract(s). With Administration pressure to increase small disadvantaged business contracting, the designation will better enable agencies to meet their spending goals.

Maintaining pool eligibility will depend (or should we say “deep-end”) on whether the award is competitive or sole-source. MAS 8(a) pool contractors will be eligible for:

1. sole source awards as long as they are active in the 8(a) Program and continue to qualify as small for the order’s size standard at the time of award; and
2. competitive set-aside awards, for up to five years from the date of award or until re-representation is required under FAR 19.301-2(b) (including in certain cases of novation, mergers, acquisitions, long-term contracts, or when the contracting officer requires MAS contractors to re-represent for specific orders), whichever is first and even after the contractor has left the 8(a) Program.

GSA anticipates – if everything goes swimmingly – the 8(a) MAS Pool will be fully implemented at some point in 2023. Stay cool out there, folks.

National Law Review, Volume XIII, Number 180

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