

**Congress of the United States**  
**U.S. House of Representatives**  
**Committee on Small Business**  
2561 Rayburn House Office Building  
Washington, DC 20515-6515

December 1, 2023

The Honorable Isabella Casillas Guzman  
Administrator  
U.S. Small Business Administration  
409 3<sup>rd</sup> Street SW  
Washington, DC 20416

Dear Administrator Guzman:

The Committee on Small Business (the Committee) is investigating the Small Business Administration's (SBA) implementation of the recent court order related to narrative reviews within the SBA's 8(a) business development program (8(a)). The 8(a) program provides participants with training, technical assistance, and contracting opportunities but is generally limited to small businesses owned and controlled by socially and economically disadvantaged individuals. Considering the updated requirements under the court order have a significant impact on how the SBA administers this program, the Committee seeks information on the SBA's compliance with the expanded program obligations.

On July 19, 2023, the U.S. District Court for the Eastern District of Tennessee enjoined the SBA's use of its "rebuttable presumption" of the social disadvantage designation for eligibility in the 8(a) program.<sup>1</sup> Prior to the District Court's ruling, the SBA presumed individuals who are members of certain racial and ethnic groups to be socially disadvantaged, thus meeting a key criteria to enter into the 8(a) program.<sup>2</sup> The District Court found this violated the Fifth Amendment's Due Process Clause.<sup>3</sup> In light of this ruling, the SBA now requires 8(a) applicants and participants to provide a narrative detailing an individual's assertion of social disadvantaged status, unless they previously provided a narrative to the SBA.<sup>4</sup> The SBA created a task force to help review the increased volume of narratives.<sup>5</sup> While SBA acknowledges these individuals have received three trainings, it is imperative to ensure that reviews are being done in accordance with 13 C.F.R. § 124.103(c) and other relevant statutes.

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<sup>1</sup> *SBA Issues More Guidance on Use of 8(a) Program During Ultima Injunction*, HOLLAND & KNIGHT (Sept. 28, 2023).

<sup>2</sup> *SBA Issues Interim Guidance After Ultima Decision Finds 8(a) Program Violates Equal Protection*, MCGUIREWOODS (Sept. 29, 2023).

<sup>3</sup> *SBA Issues More Guidance on Use of 8(a) Program During Ultima Injunction*, HOLLAND & KNIGHT (Sept. 28, 2023).

<sup>4</sup> *SBA Issues Interim Guidance After Ultima Decision Finds 8(a) Program Violates Equal Protection*, MCGUIREWOODS (Sept. 29, 2023).

<sup>5</sup> *Ultima Servs. Corp. v. U.S. Dep't of Agric.*, 2:20-CV-00041-DCLC-CRW (E.D. Tenn. Jul. 19, 2023).

On September 8, 2023, the SBA communicated to the Committee that there were 1,278 firms identified as eligible to receive 8(a) contracts. Given the impact of the District Court's ruling and the increased volume of narratives requiring reviews, the Committee is interested in ensuring the appropriate application of processes and procedures in the 8(a) program. To that end, the Committee requests the following documents and information:

1. A copy of the SBA's internal review policy and standards for narrative review, including any training(s) or documents provided to all narrative reviewers.
2. A copy of the SBA's internal policy, standards, and documents related to the narrative adjudication process.
3. The total number of narratives reviewed since the District Court's ruling. Please delineate between new entrants and existing 8(a) firms that did not previously need to submit a narrative.
4. The number and percentage of reviewed narratives approved since the District Court's ruling.
5. The number and percentage of reviewed narratives that required adjudication since the District Court's ruling.
6. The number of firms removed from the 8(a) program due to an insufficient narrative since the District Court's ruling.
7. The total number and outcomes of narratives reviewed in the past two years prior to the District Court's ruling. Please provide the total number for each year as well as the number of approvals and denials each year.
8. The total number and percentage of firms that sent a narrative but were denied due to an insufficient narrative in the past two years prior to the District Court's ruling.
9. The number and percentage of reviewed narratives that required adjudication in the past two years prior to the District Court's ruling. Please provide the number and percentage per year.

To schedule the delivery of responsive documents or ask any related follow-up questions, please contact Committee on Small Business Majority Staff at (202) 225-5821. The Committee on Small Business has broad authority to investigate "problems of all types of small business" under House Rule X. Thank you in advance for your cooperation with this inquiry."

The Honorable Isabella Casillas Guzman  
December 1, 2023  
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In God We Trust,

A handwritten signature in black ink that reads "Roger Williams". The signature is written in a cursive style with a large, stylized initial "R".

Roger Williams  
Chairman  
Committee on Small Business

cc: The Honorable Nydia M. Velasquez, Ranking Member  
Committee on Small Business