

**The Federal Government Spends Approximately
\$16 Billion with Minority-Owned Businesses.
How Much Are You Getting?**



Don't Get Lost in the Federal Contracts Maze

8(a) SURVIVAL GUIDE

FIFTH EDITION

**Practical "How To" Information to Obtain Your Certification
& Market Your Business as an 8(a) Firm**

All the 8(a) Program Information You Need in One Book

By Richard J. Hernández, CPCM and Henry W. Washington
E-MBE.net

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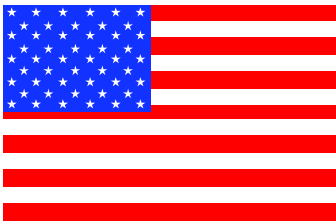
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This publication is designed to provide practical information regarding 8(a) certification and set-aside contract marketing information for business selling to the U.S. Federal government and its large business prime contractors. The book provides general business advice and is not intended as a substitute for seeking the help of qualified specialists. The authors assume no liability regarding the use of the information in this book.

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INTRODUCTION

Why This Book Was Written. This book is meant to be a reference guide for all of those entrepreneurs who wish to grow and develop their businesses in both the commercial and government sectors.

The 8(a) program has a reputation for being complex, expensive, and taking a long time to complete. This book is a guide to make it easy to understand the how's and why's of getting certified as an 8(a) participant. The book puts all the required information in one place.

The 8(a) Survival Guide also provides information for growing your business once you are 8(a) certified. Growth and development is an issue since not enough 8(a) firms understand how to effectively market their companies or conduct the annual reviews required by the SBA.

The authors want to see minorities take advantage of 8(a) program to access the \$585 billion plus annual U.S. government procurement market, which is why this book was written.

Who Can Use This Book? This book was written primarily to provide an easy to understand guide on the 8(a) program. Potential users of this book are:

Small Business

- Owners and Senior Managers
- Marketing and Sales Managers

Support Agencies

- Procurement Technical Assistance Centers (PTACs)
- Small Business Development Centers (SBDCs)

Government

- OSDBU / SADBUs Directors
- Contract Administrators
- Contract Compliance Officers
- Contracting Officers

Corporations

- Corporate Buyers
- Contract Administrators
- Small Business Liaison Officers
- Supplier Diversity Managers

Consultants

Attorneys

Colleges and Universities

- Entrepreneurship Classes
- Small Business Assistance Centers

How to Use This Book. This book is an all-in-one reference for prospective and current 8(a) program participants and the agencies supporting them.

- Prospective 8(a) program applicants should read Part 1 for information on getting started.
- Current 8(a) firms should read Part 2 to understand how to market their firms and do the annual reviews.
- Both prospective and current 8(a) firms should use the documents in Part 4, either to enroll in the program or for reference information.

What This Book Offers. It is the only book of its kind and is an invaluable resource for 8(a) companies who need to understand the 8(a) process and types of assistance is available. Also what type of support resources are available and how to best use consultants to get certified.



Richard J. Hernández, CPCM
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Richard J. Hernández, CPCM is a nationally-known supplier diversity consultant based in Chicago, IL. He heads E-MBE.net, a company focusing on helping small, minority-, women- and service disabled veteran-owned businesses become strategic suppliers. Mr. Hernandez is the author of over 60 articles for national magazines such as Contract Management, Air Force Journal of Logistics, MBE, and Insights (National Association of Purchasing Management) magazines. He is the author of 3 books. His company's Web site, www.E-MBE.net, provides free basic and advanced tutorials for diversity suppliers in such areas as MBE certification, e-commerce and mentoring.

Previously, he was a Vice President of Education for a business-to-business e-commerce company. Mr. Hernández was also a Senior Sourcing Specialist with the BP Amoco Corporation in Chicago, IL. He was responsible for developing strategies for locating diverse suppliers for all business units, web site management, training, and supplier outreach programs to achieve a \$1 billion corporate supplier diversity goal. Mr. Hernandez was formerly, the Corporate Supplier Diversity Manager, for the US Postal Service headquarters in Washington, DC. He also served as a Contracting Officer for the US Air Force.

Mr. Hernández achieved the elite designation of Certified Professional Contracts Manager (CPCM) from the National Contract Management Association. He has also earned an Advanced Professional Designation in Logistics Management. While a Captain, he was awarded the Air Force Commendation Medal for his services. Mr. Hernandez earned a Bachelor of Science degree in Management from the US Air Force Academy. He earned a Master of Science degree in Logistics Management (Contracts Management) from the Air Force Institute of Technology.

Mr. Hernández's other achievements are as the author of the textbook "Negotiating a Quality Contract", reviewer of two contracting textbooks, and editor of a contract management newsletter for 2 years. He is also a Fellow in the National Contract Management Association.

ABOUT THE AUTHORS



Henry W. Washington
President
H.A. Enterprises, Ltd.

Henry W. Washington is a nationally-recognized expert in 8(a) certification based in Chicago. He is the President of H.A. Enterprises, a professional services company specializing in providing hands-on 8(a) certification and business development services to small businesses. His qualifications include:

- 22 years of experience with the U.S. Small Business Administration (SBA).
- Directly assisting with 2000 plus 8(a) applications
- Training over 2,000 prospective 8(a) companies from 1995 to 2002.

As a Business Opportunity Specialist, Mr. Washington has in-depth knowledge of SBA policies and procedures. He was responsible for doing the “hands on” with 8(a) program applicants, helping them prepare all required forms and advising them on how to navigate their applications through a multi-level approval process. Mr. Washington also conducted numerous half-day workshops with groups of prospective 8(a) companies, providing practice & hands-on advice to help them.

Mr. Washington has a Bachelor of Science degree in Business Management from Calumet College in East Chicago, Indiana. He has also received additional training on credit analysis, personnel management, procurement, and contract negotiations.

Mr. Washington has received numerous awards for outstanding service and accomplishments during his tenure with the SBA. For example, he was cited for his expeditious processing of 8(a) applications, far exceeding normal standards. He also received an award from the Chicago SBA District Office for timely completion for the annual review of 8(a), far exceeding normal standards.

Mr. Washington was a regular panelist at small business forums. For example, he has been a speaker at numerous conferences and forums. He has also published a Web-based tutorial on 8(a) certification procedures (available at www.e-mbe.net)

PART 1

Enrolling in the 8(a) Program



8(a) Survival Guide

Reasons to Get 8(a) Certified

Benefits. There are three key reasons for a business to become 8(a) certified by the U.S. Small Business Administration. They are to:

1) Obtain Set-Aside Contracts

- Take advantage of the annual \$585 billion in Federal government contracts.
- Take advantage of being able to get no-bid (sole source) contracts up to \$5.5 million in manufacturing and up to \$3.5 million in non-manufacturing (services) areas.

2) Obtain Assistance to Develop Your Business

- Take advantage of the Small Business Administration (SBA) resources such as:
 - Workshops
 - Networking Forums
 - Executive Training
 - Management Assistance
 - Technical Assistance
- Take advantage of being assigned a SBA Business Development Specialist.

3) Obtain Additional Capacity

- Take advantage of the opportunities to grow your business to the next level by expanding into new and broader markets.
- 8(a) Mentor-Protégé Programs
- 8(a) Joint Venture Programs

Other 8(a) Certification Benefits. Besides the above, there are other benefits for a company to become 8(a) certified. They are:

- 8(a) certification is accepted by many major (commercial) corporations.
- Many state, county, and city government buying agencies use the 8(a) model as a basis for their MBE / WBE / DBE certification process. Since many State and local certification programs are modeled after the 8(a) program, this makes it easier for an 8(a) to get certified with them since many of the forms and processes are similar.

The 8(a) certification lasts nine years. This means your company has access to the above benefits for nine years. One or more 8(a) contracts can provide a steady stream of income which allows you to grow your business during the nine-year period.

8(a) firms can also be “grandfathered” meaning if they receive a multi-year contract in the final year, then they can be considered an 8(a) for that particular contract beyond the nine-year period.

8(a) certification cannot be renewed once an individual receives it.

| Differences Between 8(a) and SDB Programs | | |
|--|---|---|
| Type Certification | 8(a) | Small Disadvantaged Business (SDB) |
| Certification Purpose | Focus is on socially and economically disadvantaged businesses | Focus is on socially and economically disadvantaged businesses |
| Burden of Proof | Black, Hispanic, Asian-American and Native Americans are presumed to be socially and economically disadvantaged. Others not in these categories must submit a claim for social and economic disadvantage. | Black, Hispanic, Asian-American and Native Americans are presumed to be socially and economically disadvantaged. Others not in these categories must submit a claim for social and economic disadvantage. |
| Length | 9 years | 12 years |
| Certifying Agency | SBA | Self-Certification |
| Set-Aside Eligibility | Yes | No |
| SBA Business Development Specialist Support | Yes | No |
| Owner Net Worth (Personal Net Worth) | Must be less than \$250,000 (upon program entry) Can reach up to \$750,000 by end of program | Must be less than \$750,000 (Net worth cannot exceed \$750,000 during term as SDB) |
| Non-Competitive Procurements (Set-Aside) | Yes <ul style="list-style-type: none"> • Maximum is \$5.5 million in manufacturing • Maximum is \$3.5 million in non-manufacturing (service) areas | No |
| Bid Preference | None | None |
| Size Standard | Must qualify as a small business in their NAICS code area | Must qualify as a small business in their NAICS code area |
| Subcontracting Plan | Not required | Not required |
| History | Program started in 1953 | Program started in 1989 |
| Federal Acquisition Regulation (FAR) Reference | FAR 19.8 | FAR 19.12 |
| Started | 1953 | 1989 |

Differences Between 8(a) and SDB

(Continued)

The above table illustrates the differences between the 8(a) and SDB programs. However, there are some additional differences between the 8(a) and SDB programs.

Some important points to understand about both programs are summarized below.

8(a) and SDB Differences and Similarities

- The 8(a) program is for the growth and development of your business.
- The SDB is contract preference program only.
- 8(a) status automatically provides your company SDB certification
- If your personal net worth is over \$250,000 then your best bet is to self-certify as a SDB in your CCR.gov profile.



There are other differences between the 8(a) and SDB certifications. It's best to seek the advice of a qualified consultant in this area to determine which options are best.

History of the 8(a) Program

Legislation. The 8(a) program began as a public law and was named after Section 8(a) of the Small Business Act of 1953. The original program was started in 1969. Key aspects of the 8(a) program are:

- Had a 9-year time limit
- Was strictly a program for minorities
- Was managed by the SBA

The 8(a) program is governed by the Code of Federal Regulations at 13 CFR 124. The current version of 13 CFR 124 was March 2009, at the time of the writing of this book.

Minority Groups. A related piece of legislation, Public Law 95-507, passed in 1978, established the four major ethnic / racial categories for minority businesses, which are:

- African-Americans
- Hispanics
- Asian-Americans
- Native Americans



The above four groups in Public Law 95-507 are used to determine if an individual is socially disadvantaged and therefore eligible to participate in the 8(a) program.

Federal Acquisition Regulation (FAR). The 8(a) program was incorporated in Part 19, Small Business Programs, of the FAR starting in 1984. FAR Subpart 19.8 specifically covers the 8(a) program. The FAR has the force of law and establishes the policies and procedures for all Federal government agencies using the 8(a) program.

The 8(a) program is the oldest and most established minority business program development in the United States. It has served as the model for many corporate as well as State and local government minority business programs.

There were approximately 9,355 active certified 8(a) firms and 11,386 Small Disadvantaged Business (SDB) firms in February 2010.

Key Terms Used in Federal Contracts

What Every 8(a) Should Know

| | |
|-------|---|
| FAR | Federal Acquisition Regulation |
| CCR | Central Contractor Registration |
| ORCA | Online Representations & Certifications Application |
| NAICS | North American Industry Classification System |
| DUNS | Dun & Bradstreet Universal Numbering System |
| OSDBU | Office of Small Disadvantaged Business Utilization |
| SABDU | Small and Disadvantaged Business Utilization |
| PCO | Procuring Contracting Officer (Buyer) |
| COTR | Contracting Officer's Technical Representative |
| BDS | Business Development Specialist (SBA 8(a) caseworker) |
| ACO | Administrative Contracting Officer |
| GSA | General Services Administration |
| FBO | Federal Business Opportunities (www.FBO.gov) (This is the daily list of current contract opportunities) |
| eBuy | GSA Schedule Holders Bidding System |

| Selling to the Federal Government | |
|--|---|
| CONS | PROS |
| <ul style="list-style-type: none"> • Many rules and regulations • Too much paperwork • Want too much information about your business • Requirements may be too large for a small business • Takes too long to get a contract • Have bonding requirements for construction contracts over \$100,000 | <ul style="list-style-type: none"> • Largest single buyer in the United States • Long-term contracts (up to 20 years with GSA Schedule Contracts) • Get paid (normally) in 30 days • Hedge against recessions • Have goals for buying from socially and economically disadvantaged (diversity) suppliers • Consistent buying approach used across the United States (i.e., FAR) |



Other Federal Government Contracting Programs

In addition to 8(a) opportunities, companies should also know there are other categories where their company might also be qualified to compete for U.S. Federal government contracts. They are:

| Category | Certification Required |
|--|-------------------------------------|
| Small Business | No – Self Certify in CCR Profile |
| Small Disadvantaged Business (SDB) | No – Self Certify in CCR Profile |
| Women-Owned Small Business (WOSB) | No – Self Certify in CCR Profile |
| Veteran-Owned Small Business (VOSB) | No – Self Certify in CCR Profile |
| Historically Underutilized Business (HUBZone) | Yes – Contact SBA |
| Service Disabled Veteran-Owned Small Businesses (SDVOSB) | Yes – Contact SBA |

Small Disadvantaged Business (SDB) status is the other form of the Federal government’s minority business program. 8(a) firms are automatically considered as having SDB status. In October 2008, the SBA no longer required firms to become SDB certified (using the same forms as the 8(a) program). Companies can now self-certify as SDB, similar to what is done for small business and woman-owned business status.

The HUB Zone and SDVOB program have set-aside procedures similar to the 8(a) program. However, the 8(a) program has special advantages such as the ability to create a joint venture(s) between a large business and 8(a) firm without exceeding the small business size standard. The non-competitive (no bid) 8(a) threshold is \$3.5 or less for service contracts. The non-competitive (no-bid) 8(a) threshold is \$5.5 million for manufacturing contracts. 8(a) set-asides contracts above \$3.5 million for services and \$5.5 million for manufacturing must be competitively bid.

Other Federal Government Set-Aside Programs

Besides the 8(a) program, there are three other types of set-aside programs. They are:

1. Small Business
2. Historically Underutilized Business (HUBZone)
3. Service Disabled Veteran-Owned Businesses (SDVOB)

After you register your company in the CCR.gov supplier database and complete the ORCA record, you can start bidding on Federal contracts in the above categories (in which you qualify) even without your 8(a) certification. Once you get your 8(a) certification, you can still continue to bid on contracts.

Please refer to Federal Acquisition Regulation (FAR) Part 19 for specific information about all the Federal government's supplier diversity programs. You can find the FAR online at the following Web site: www.arnet.gov



Proposed Major Program Changes (2010)

At the time of this writing (early 2010) the SBA proposed some major changes to the 8(a) program. The authors view these as positive. We offer the following summary and analysis of the changes in the section below.

Small Business Size Regulations; 8(a) Business Development/Small Disadvantaged Business Status Determinations
 U.S. Small Business Administration.
 Proposed Rule
 October 28, 2009

**8(a) Program Business Development Plan
 SUMMARY OF PROPOSED CHANGES**
 13 CFR Parts 121 and 124

| Current 8(a) Requirement | Proposed 8 (a) Requirements | 8(a) Impact | Mentor Impact |
|--|---|---|--|
| <p>JOINT VENTURES</p> <p>Limit a specific joint venture to submitting no more than three offers over a 2-year period.</p> | <p>A specific joint venture entity generally may not be awarded more than three contracts over a two year period, starting from the date of the award of the first contract, without the partners to the joint venture being deemed affiliated for all purposes.</p> <p>The same joint venturers could form additional joint ventures and be awarded three additional contracts for each.</p> <p>While a joint venture may or may not be a separate legal entity (e.g., an LLC), it must exist through a written document. Thus, even an “informal” joint venture must have a written agreement between the partners.</p> | <p>Provides 8(a) firms more opportunity to grow their business by gaining additional capacity.</p> <p>Too many joint ventures between the same parties could lead to a finding of general affiliation.</p> <p>8(a) firms may over commit to projects and lose focus.</p> <p>May need to update SBA Form 1010C, the 8(a) Business Plan</p> | <p>Need to ensure 8(a) protégé does not become seen as an affiliate of the large business mentor.</p> <p>Need to ensure the 8(a) protégé does not lose focus by over committing to over joint ventures.</p> <p>Need to ensure 8(a) protégé does not directly compete against a mentor if they create another joint venture relationship.</p> |

**8(a) Program Business Development Plan
SUMMARY OF PROPOSED CHANGES**

| Current 8(a) Requirement | Proposed 8 (a) Requirements | 8(a) Impact | Mentor Impact |
|---|---|---|---|
| SBA language on definition of populated vs. unpopulated joint ventures is not specified. | <p>If a joint venture is a separate legal entity, then it must have its own employees.</p> <p>If a joint venture merely exists through a written agreement between two or more individual business entities, then it need not have its own separate employees and employees of each of the individual business entities may perform work for the joint venture.</p> | <p>Depends on the specific of each joint venture agreement.</p> <p>May need to update SBA Form 1010C, the 8(a) Business Plan</p> | Depends on the specific of each joint venture agreement. |
| <p>Must obtain SBA approval of joint venture agreements for 8(a) contracts prior to contract award</p> <p>NOTE: SBA approval is not required for joint venture agreements for non-8(a) contracts.</p> | <p>Parties to a previously-approved joint venture to obtain SBA approval for a second and third 8(a) contact by merely providing SBA an addendum to the original agreement</p> <p>NOTE: SBA approval is not required for joint venture agreements for non-8(a) contracts.</p> | <p>Provides the 8(a) additional flexibility to quickly respond to contract opportunities by creating a new joint venture</p> <p>May need to update SBA Form 1010C, the 8(a) Business Plan</p> | Provides additional opportunities to work with 8(a) firms using a streamlined process |
| 8(a) firm to receive at least 51 percent of the net profits of an 8(a) joint venture. | 8(a) firm receive “profits from the joint venture commensurate with the work performed by the 8(a) Participant(s).” | <p>Reduced profits</p> <p>May need to update SBA Form 1010C, the 8(a) Business Plan</p> | <p>Fairer distribution of profits based on percentage of work performed</p> <p>Provides more incentives to work with 8(a) firms</p> |
| The protégé in a mentor-protégé joint venture must perform a “significant portion” of the work done by the joint venture | The 8(a) member of a joint venture for an 8(a) contract must perform at least 40 percent of the work done by the joint venture. | <p>Provides more flexibility</p> <p>8(a) firms can pursue larger contracts and leverage the capacity of joint venture partners</p> | <p>Provides more flexibility</p> <p>Provides more incentive to work with 8(a) firms</p> |

**8(a) Program Business Development Plan
SUMMARY OF PROPOSED CHANGES**

| Current 8(a) Requirement | Proposed 8 (a) Requirements | 8(a) Impact | Mentor Impact |
|---|--|---|---|
| <p>MENTOR-PROTEGE</p> <p>An 8(a) protégé may have only one mentor</p> <p>In limited circumstances, a mentor may have multiple protégés, subject to SBA approval.</p> | <p>An 8(a) protégé may have a second mentor, subject to SBA approval</p> <p>A mentor has an absolute limit of three protégés</p> | <p>Provides the 8(a) with additional growth opportunities</p> <p>Reduces the pool of potential mentors</p> <p>May need to update SBA Form 1010C, the 8(a) Business Plan</p> | <p>Limits options of very large businesses who want to work with 8(a) firms</p> |
| <p>Mentor-protégé joint venture can qualify as a small business only for federal prime contracts.</p> | <p>Mentor-protégé joint ventures could qualify as small business for federal subcontracts as well as prime contracts.</p> | <p>More opportunities to get Federal contracts at a Tier 2 level</p> <p>May need to update SBA Form 1010C, the 8(a) Business Plan</p> | <p>Ability to use 8(a) joint venture subcontractors who have additional capacity</p> <p>Provides a larger pool of potential 8(a) subcontractors</p> |
| <p>ECONOMIC DISADVANTAGE CFR § 124.104</p> <p>Considers community property when determining an applicant's net worth</p> <p>IRA and other retirement accounts are not considered part of personal net worth when making 8(a) program eligibility decisions</p> | <p>A sentence would be added to paragraph (b)(2) to clarify that SBA does not take community property laws into account when determining economic disadvantage. (i.e., property that is legally in the name of one spouse would be considered wholly that spouse's property, whether or not the couple lived in a community property state)</p> <p>Exempts funds in Individual Retirement Accounts (IRAs) and other official retirement accounts from the calculation of net worth provided that the funds cannot currently be withdrawn from the account prior to retirement age without a significant penalty.</p> | <p>Allows more potential 8(a) applicants to qualify for program entry.</p> | <p>None</p> |

Small Business Size Regulations; 8(a) Business Development/Small Disadvantaged Business Status Determinations
U.S. Small Business Administration.
Proposed Rule
October 28, 2009

SUMMARY OF PROPOSED CHANGES
13 CFR Parts 121 and 124
(Continued)

| Current 8(a) Requirement | Proposed 8 (a) Requirements | 8(a) Impact | Mentor Impact |
|---|--|---|--|
| <p>SET-ASIDE CONTRACT REPORTING</p> <p>Agencies could count an order towards their 8(a) prime contracting goals only if the contract under which the order was placed was awarded either sole source or based on competition limited exclusively to 8(a) concerns.</p> | <p>Procuring agencies could receive 8(a) credit for orders placed with 8(a) concerns under multiple award Indefinite Delivery-Indefinite Quantity (ID-IQ) contracts even if the underlying contracts were not set-aside exclusively for 8(a) contractors, as long as the competition for the order is restricted to 8(a) concerns and the selected contractor is an 8(a) participant as of the date specified for receipt of task or delivery order proposals.</p> | <p>Provides 8(a) firms with the ability to work with large business mentor in (usually) long-term ID-IQ contract arrangements.</p> <p>Helps provide for a long-term income stream for the 8(a) firm.</p> <p>May need to update SBA Form 1010C, the 8(a) Business Plan</p> | <p>Provides large businesses with increased incentives to use 8(a) subcontractors on ID-IQ contracts</p> |
| <p>8(a) PROGRAM GRADUATION</p> <p>8(a) firm must exit the program after 9 years.</p> | <p>Participant is considered to graduate <u>only</u> if it successfully completes the program by substantially achieving the targets, objectives, and goals contained in the concern's business plan, thereby demonstrating its ability to compete in the marketplace without 8(a) assistance.</p> | <p>8(a) firm may be able to remain in the program beyond 9 years</p> <p>8(a) firm can continue to receive contract options even after it graduates since it was an 8(a) at the time of contract award</p> | <p>Can seek additional opportunities with the 8(a) protégé</p> <p>Continue to work with 8(a) during exercise of contract options</p> |

8(a) Certification Application Checklist

Introduction. This section provides a summary of the key steps for becoming 8(a) certified by the U.S. Small Business Administration (SBA). This checklist is designed to provide a process model of what is involved in becoming 8(a) certified) and save time. Though the 8(a) certification may require investing some time and money, the reward is well worth it since it opens the door to accessing the \$585 billion federal procurement market (2009). Being 8(a) certified can also eliminate the tradition delays and red tape by allowing government agencies to make direct awards to 8(a) firms. This avoids the typical 6-month lead time required when contracts are competitively bid.

Basic Qualifications for 8(a) Certification. Before you submit your 8(a) application you should review some basic qualifications for entry into the program. A “yes” answer to any question below may disqualify you from applying to the 8(a) program.

| SCREENING QUESTIONS | | |
|--|-----------|------------|
| Question for Each 8(a) Program Applicant | No | Yes |
| 1. Is your personal income annual income over \$200,000? | | |
| 2. Are you a citizen of another country besides the United States? | | |
| 3. Are you late paying you personal / business U.S. Federal taxes? | | |
| 4. Do you have another job besides your own firm? | | |
| 5. Is anyone in the firm paid more money than the owner(s)? | | |
| 6. Is your firm a large business? (determined by NAICS code) | | |
| 7. Does your company have a negative net worth or cash flow problems? | | |
| 8. Is your firm a non-profit organization? | | |
| 9. Are you financial statements outdated? | | |
| 10. Do you have less than 2 consecutive years worth of business tax returns? (i.e., have you been in business for less than 2 years) | | |
| 11. Is your personal net worth over \$250,000? (excluding the value of your home and equity in your business) | | |
| 12. Do you lack experience and/or education in the business area where you are seeking 8(a) certification? | | |
| 13. Do you have a “negative control” situation in your company? | | |
| 14. Do you sell products and/or services that are not purchased by the US Federal government? | | |
| 15. Are you not Black, Hispanic, Asian, and/or Native American? | | |
| 16. Are you a broker? | | |

Negative Control. This can be exercised in a variety of ways to include where a non-disadvantaged person(s), other than the principal 8(a) owner(s), have more experience, get paid more, and exercise substantial daily control of the business. The Code of Federal Regulations defines this in the following way:

Negative control includes, but is not limited to, instances where a minority shareholder has the ability, under the concern's charter, by-laws, or shareholder's agreement, to prevent a quorum or otherwise block action by the board of directors or shareholders.

Negative control also exists when the business owner can be outvoted by their board. If this situation exists, then it can be grounds to reject your 8(a) application.