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Most Frequently Asked Questions About The 8(a) Program

This article was edited and reviewed by FindLaw Attorney Writers (<https://www.findlaw.com/company/our-team.html>) /

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What is the 8(a) program?

The 8(a) program name is from Section 8(a) of the [Small Business Act \(https://www.sba.gov/about-sba/sba-performance/policy-regulations/laws-regulations/statutes-governing-sba/small-business-act-current-through-public-law-114-328\)](https://www.sba.gov/about-sba/sba-performance/policy-regulations/laws-regulations/statutes-governing-sba/small-business-act-current-through-public-law-114-328). The Act, as amended by Congress, created the 8(a) program so the U.S. Small Business Administration (SBA) could help small companies owned and operated by socially and economically disadvantaged persons develop their businesses.

One of the business development tools of the 8(a) program is the award of [Federal contracts \(https://www.sba.gov/business-guide/grow/federal-contracting-rules-size-standards\)](https://www.sba.gov/business-guide/grow/federal-contracting-rules-size-standards). Under the program, SBA acts as a prime contractor and enters into contracts with other Federal Government departments and agencies. In its role as a prime contractor, SBA awards subcontracts for their performance by certified companies.

How do I apply to the 8(a) program?

The first step in seeking certification with the 8(a) program is to contact the local [SBA \(https://www.sba.gov/contracting/government-contracting-programs/8a-business-development-program\)](https://www.sba.gov/contracting/government-contracting-programs/8a-business-development-program) district office serving your area. An SBA representative will answer general questions over the telephone and set up an appointment with you to go over the various application forms.

The following [forms and documentation \(https://www.sba.gov/document\)](https://www.sba.gov/document) are required to be submitted for an eligibility determination:

1. SBA Form 1010A, 8(a) Personal Eligibility Statement
2. SBA Form 1010B, Business Eligibility Statement
3. SBA Form 413, Personal Financial Statement
4. SBA Form 912, Statement of Personal History
5. SBA Form 4506, Request for Copy of Transcript of Tax
6. SBA form 1623, Certification Regarding Debarment, Suspension and Other Responsibility Matters
7. FD 258, Fingerprint Card (if indicated)
8. Business Organization Information
9. Federal Income Tax Returns (personal and business)
10. Business Financial Statements
11. History of the Business
12. Organization Chart
13. Resumes
14. Financing Arrangements
15. Bonding Information
16. Arrangements for Business Premises
17. Arrangements for Business Equipment
18. Licenses
19. Management, Consulting or Other Agreements
20. Schedule of Business Insurance
21. Information Regarding Affiliates

Do I need someone to prepare my 8(a) application package? Will I increase my chances of being approved if I use a specific business consultant?

You do not need to pay anyone to prepare your 8(a) application. SBA designed the application forms so the applicant can complete the application. However, [a consultant \(https://www.sba.gov/document/sba-form-1010-representative-form-1010-business\)](https://www.sba.gov/document/sba-form-1010-representative-form-1010-business) can assist in completing the application. Please be advised that no one can guarantee that an application for 8(a) program participation will be approved. The application process is intended to assure that each applicant receives a fair, unbiased review, free from favoritism and influence. Any irregularities in the application review process should be immediately referred to the SBA Inspector General.

Who are socially and economically disadvantaged individuals?

Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identities as members of groups without regard to their individual qualities. The social disadvantage must stem from circumstances beyond their control. In the absence of evidence to the contrary, the following individuals are presumed to be socially disadvantaged: Black Americans; Hispanic Americans; Native Americans (American Indians, Eskimos, Aleuts, and Native Hawaiians); Asian Pacific Americans (persons with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, U.S. Trust Territory of the Pacific Islands [Republic of Palau], Commonwealth of the Northern Mariana Islands, Laos, Cambodia [Kampuchea], Taiwan; Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Republic of the Marshall Islands, Federated States of Micronesia, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru; Subcontinent Asian Americans (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands or Nepal); and members of other groups designated from time to time by the SBA.

In addition, an individual who is not a member of one of the above-named groups may apply for 8(a) certification. However, the applicant must establish social disadvantage on the basis of clear and convincing evidence.

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. For purposes of

program entry, an individual whose personal net worth (excluding the equity in their personal residence and business) exceeds \$250,000 will not be considered economically disadvantaged.

Can a woman-owned business be certified as an 8(a) firm?

A woman-owned business (<https://www.sba.gov/business-guide/grow/women-owned-businesses-programs>) may be recognized as a "socially disadvantaged firm" if the owner is a member of one of the groups for which social disadvantage is presumed. If the woman is not a member of one of the groups for which social disadvantage is presumed, she must establish her individual disadvantage on the basis of clear and convincing evidence that she has suffered discriminatory treatment because of her gender and that this treatment has impeded her entry into or advancement in the business world. SBA will consider any pertinent evidence but will give particular attention to evidence of discriminatory practices suffered in the areas of education, employment and the business world.

What is a SIC code?

A SIC code is the Standard Industrial Classification (<https://www.osha.gov/pls/imis/sicsearch.html>) number listed in the Standard Industrial Classification Manual which is published by the Office of Management and Budget (<https://www.usa.gov/federal-agencies/office-of-management-and-budget>). SIC codes are used by the Federal Government to identify and classify specific categories of business activity that represent the primary line of business of a firm. SBA size standards are based on SIC codes.

What is the SBA's definition of a small business?

SBA defines a small business as one that is independently owned and operated and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding 12-months or on sales volume averaged over a three-year period. Examples of SBA general size standards include the following:

- Manufacturing:
 - Maximum number of employees may range from 500 to 1500, depending on the type of product manufactured.
- Wholesaling:
 - Maximum number of employees may not exceed 100.
- Services:
 - Annual receipts may not exceed \$2.5 to \$21.5 million, depending on the particular service being provided.
- Retailing:
 - Annual receipts may not exceed \$5.0 to \$21.5 million, depending on the particular product being provided.
- General & Heavy Construction:
 - General construction annual receipts may not exceed \$13.5 to \$17 million, depending on the type of construction.
- Special Trade Construction:
 - Annual receipts may not exceed \$7 million.
- Agriculture:
 - Annual receipts may not exceed \$0.5 to \$5.0 million, depending on the agricultural product.

If my grandmother was a member of one of the ethnic groups designated by 13 C.F.R. 124.105(a)(i.e. Native American), does that automatically make me a member of that ethnic group?

No. You must personally identify yourself with the group culturally, socially and/or racially. It is not enough that your grandmother identified herself as Native American (<https://www.sba.gov/business-guide/grow/native-american-owned-businesses-programs>), since your identification with a particular group is in question and not that of your grandmother.

Are Portuguese-Americans presumed to be socially disadvantaged?

Yes. SBA defines "Hispanic American" to include among others, individuals whose origins are from the Iberian peninsula, which encompasses Portugal and Spain.

Do I have to be in business for two years in order to be eligible for the 8(a) program?

Normally yes. However, a waiver of the two-year rule may be granted if a company meets certain criteria. The waiver criteria are:

1. the individual(s) upon whom eligibility is to be based must have substantial and demonstrated business management experience;
2. the applicant must have demonstrated technical expertise to carry out its business plan with a substantial likelihood for success;
3. the applicant must have adequate capital to carry out its business plan;
4. the applicant must have a record of successful performance on contracts from governmental and non-governmental sources in the primary industry category in which the applicant is seeking program certification; and
5. the applicant must have or be able to demonstrate the ability to obtain the personnel, facilities, equipment and any other requirements needed to perform the contract.

How long does the 8(a) application process take?

The DPCE has 15 days to review the application for completeness. If the application is incomplete, the applicant will have 15 days to provide additional information. The application will then be resubmitted to the regional DPCE. If the DPCE determines the application is complete, a final decision regarding 8(a) Program eligibility should be made within 90 days of SBA's determination that the application is complete.

What rights do I have if my application is declined?

Each program applicant has the right to request that SBA reconsider a declined application. During the reconsideration process, the applicant may submit additional or changed information. If an application is declined after reconsideration, a new application will not be accepted until twelve months from the date of the reconsideration decision.

In addition, if an applicant is declined solely on issues of social disadvantage, economic disadvantage, ownership and/or control, the declined applicant may appeal the decline decision to SBA's Office of Hearings and Appeals (<https://www.sba.gov/oha>) (OHA). OHA examines the decline decision only to see if it were arbitrary, capricious or contrary to law. No new or changed information will be considered during the appeal process.

After a company is 8(a) certified, how long does it take before its first contract is awarded?

A newly certified firm is not eligible for 8(a) contracts until it submits and receives SBA approval for its business plan.

After the firm has an approved plan, the length of time before the first 8(a) contract is awarded will vary based on the success of the firm's marketing efforts. While SBA will make every effort to assist a firm with its marketing efforts, the 8(a) program is a self-marketing program and SBA cannot guarantee 8(a) contract awards.

Explain the business plan requirement.

Promptly after certification, a program participant must submit a business plan which must be approved by a SBA Business Opportunity Specialist (BOS) prior to the program participant being eligible for 8(a) program benefits. The submitted plan must include the following data:

- An analysis of market potential.
- An analysis of the program participant's strengths and weaknesses.
- Specific targets, objectives and goals for business development.
- A transition management plan.
- Estimates of contract awards pursuant to section 8(a), and from other sources.

In addition, each program participant must annually review its currently approved business plan with its SBA BOS and forecast its needs for contract awards under section 8(a) for the next program year.

How long can a company participate in the 8(a) program?

Program participation is divided into two stages: The developmental stage and the transitional stage. For firms approved for 8(a) program participation after November 15, 1988, the developmental stage is four-years and the transitional stage is five-years.

The developmental stage is designed to help 8(a) certified firms overcome their economic disadvantage by providing business development assistance.

The transitional stage is designed to help participants overcome the remaining elements of economic disadvantage and to prepare participants for leaving the 8(a) program.

What types of assistance are available to 8(a) program participants?

The type of assistance available to a program participant is dependent on its stage of development. The following assistance is available to eligible program participants during the developmental stage:

- Sole source and competitive 8(a) contract support.
- The transfer of technology or surplus property owned by the United States to program participants by grant.
- Training sessions to enhance program participant's skills in the area of business principles.

The following assistance is available to eligible program participants during the transitional stage:

- Sole source and competitive 8(a) contract support.
- The transfer of technology or surplus property owned by the United States to program participants by grant.
- Training sessions to enhance program participant's skills in the area of business principles.
- Assistance from procuring agencies in forming joint ventures.
- Training and technical assistance in business planning to help ensure the firm's successful transition from the 8(a) program to the competitive market.

What is a "requirement"?

A requirement is a contract opportunity from a Federal procuring agency to acquire articles, equipment, supplies, services, materials or construction work.

Summarize the types of assistance available to an 8(a) firm.

The SBA basically provides 8(a) program participants with contractual, and management/technical assistance. Program participants are also eligible to apply for financial assistance under SBA's 7(a) and 504 programs.

What are SSBICs?

SSBIC stands for Specialized Small Business Investment Company (<https://www.sba.gov/sbic>). SSBICs, formally known as MESBICs (Minority Small Business Investment Companies), are privately owned and operated venture capital firms whose private capital is supplemented (leveraged) by debt or preferred equity which is provided through open market financings guaranteed by SBA.

SSBICs provide equity capital and long-term loans exclusively to businesses owned and controlled by persons who are socially or economically disadvantaged.

At present there are 94 SSBICs, located in 21 states, plus Washington, DC, and Puerto Rico. For more information regarding this program, contact SBA's District Offices.

What is the 7(j) program?

The 7(j) program refers to section 7(j) of the Small Business Act. Section 7(j) empowers SBA to obtain and maintain a qualified cadre of individuals and organizations to provide management and technical assistance to socially and economically disadvantaged individuals, businesses owned by those individuals, and individuals and businesses located in low income and/or high unemployment areas. The 7(j) program does not provide financial resources to program clients, but pays the 7(j) service provider using a grant or cooperative agreement mechanism.

How does one apply to receive 7(j) assistance?

Persons interested in receiving technical or management assistance should contact the nearest SBA office and complete a form requesting counseling, which provides SBA with basic information on the individuals and the business, and on the assistance being sought.

How does one apply to provide 7(j) assistance?

Individuals can request to be placed on SBA's 7(j) Bidder's Mailing List to receive program announcements by calling the Division of Management and Technical Assistance at (202) 205-6420. Typically, SBA issues a competitive announcement annually requesting proposals (RFPs) to provide management and technical assistance for the upcoming fiscal year.

Interested offerors who have been in business for at least one year before the opening date of the program announcement may submit proposals under these RFPs.

What is the SBDC program?

More than 500,000 small business and preventure clients, each year, take advantage of the counseling, training and a full range of management and technical assistance services made available through the [Small Business Development Center \(https://www.sba.gov/offices/headquarters/osbdc/resources/11409\)](https://www.sba.gov/offices/headquarters/osbdc/resources/11409) (SBDC) program. These services are delivered through a solid network of more than 900 SBDC locations, across the nation, including Puerto Rico, Guam and the Virgin Islands.

What do SBDCs do? Located mainly on college and university campuses and in state economic development offices, SBDCs offer "one stop" business development assistance that is tailored to the local community and the needs of individual clients. Helping clients develop business plans, accounting and inventory systems, marketing strategies, financial packages; and, providing engineering, technology and exporting assistance, are some of the types of aid offered at SBDCs. In addition, some groups, such as women, minorities and veterans that, traditionally, have been denied access to both management and technical aid and to equity capital depend heavily on SBDCs to "jump start" their efforts to develop successful businesses.

The SBDC program is an excellent example of a public/private partnership, which includes the SBA (Federal government), the educational community, state and local governments and private sector groups, that fosters economic growth through job creation and generation of tax revenues in providing assistance to the nation's small business community.

How does SBA assist 8(a) companies with bonding?

The [Surety Bond Guarantees \(https://www.sba.gov/partners/surety-bond-partners-agents/become-sba-surety-partner\)](https://www.sba.gov/partners/surety-bond-partners-agents/become-sba-surety-partner) (SBG) Program is a private - public partnership that provides small and emerging contractors with their only reasonable opportunity to fulfill bonding requirements and compete in the construction industry. It is designed to assist small business contractors who cannot obtain bonds through regular commercial channels.

Under the SBG Program, SBA guarantees bonds (up to 90%) that are issued by surety companies on behalf of such contractors. Minority and women-owned businesses, particularly, experience difficulty in obtaining bonds that are required to start and remain in business. They are definite beneficiaries of the program.

Contracts with a face value of up to \$1.25 million are eligible for the program.

Does the SBA offer loans or grants?

SBA does not provide grants. It does however offer several [loan programs \(https://www.sba.gov/funding-programs/loans\)](https://www.sba.gov/funding-programs/loans). Information on all loan programs may be obtained from any of SBA's District Offices.

Are there any penalties associated with the 8(a) Program resulting from a participant's misrepresentations?

Yes. Anyone who misrepresents the status of any firm or person as a small business firm or as a small business owned and controlled by socially and economically disadvantaged individuals in order to obtain benefits, is subject to the following penalty:

- Punishment by a fine of not more than \$500,000 or by imprisonment for not more than 10 years, or both.

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