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What: On June 11, 2026, the Small Business Administration is seeking public comment on its proposed rule entitled “Reforms to Remove SBA’s 8(a) Program’s Rebuttable Presumption of Social Disadvantage for Individually Owned Firms Only; Reforms Do Not Impact Entity-Owned Firms.”

Background: The 8(a) program was created to provide set-aside contract opportunities to business owners who are socially and economically disadvantaged. This proposed rule would create regulations that reflect the practice within the SBA since the *Ultima Servs. Corp. v. United States Dep’t of Agric.*, 683 F. Supp. 3d 745, 774 (E.D. Tenn. 2023) decision in 2023 which led Biden’s SBA Administrator Guzman to remove the practice of rebuttable presumption under 13 CFR 124.103(b) when applying for 8(a) certification. Under the Biden Administration, this resulted in small business owners writing narratives that demonstrate an individual disadvantage impacting entry into the business world.

Administrator Loeffler’s SBA is now attempting to change this practice further and define who qualifies for demonstrated social disadvantage to include anyone who was not eligible for the Rebuttable Presumption previously. Meaning, any individual who is not one of the following identities may merely state their racial or ethnic identity to become a certified 8(a) business.

- Black Americans
- Hispanic Americans
- Native Americans (Alaska Natives, Native Hawaiians, or enrolled members of a Federally or State recognized Indian Tribe)
- Asian Pacific Americans (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China (including Hong Kong), Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, or Nauru)
- Subcontinent Asian Americans (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands or Nepal))

This proposed rule explicitly does not impact the eligibility of small businesses owned by Indian Tribes, Alaska Native Corporations, Native Hawaiian Organizations, or Community Development Corporations that are within the 8(a) program.

Impact: The SBA estimates this will have little or no impact on small businesses that are currently admitted to the 8(a) program, because the agency does not “currently intend” to apply it to 8(a) Participants next 8(a) annual review, and believes it has authority for a new definition of social disadvantage under broad powers to administer the 8(a) program, even though agency’s wielding broad authority has been curtailed by this Supreme Court. This rule lacks clear definition of what will qualify on narratives for 8(a) applicants and may allow Administrator Loeffler to pick and choose which businesses are approved for 8(a). This proposed rule comes as the agency has not approved any 8(a) application since August 15, 2025, 300 hundred days ago.

Action: The public is invited to comment on this proposed rule until July 11. Current 8(a) Participants should comment on the impact that the proposed rule may have if applied during future 8(a) annual reviews. Comments can inform the agency and ensure that the agency properly estimates the impacts of their proposed rule.

Please book a meeting with Gov Contract Pros to discuss potential advocacy tactics.
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GCP Team