Y
4
G74/9
Sm 1



95th Congress
2d Session

COMMITTEE PRINT

GOVERNMENT

Storage

# REPORT BASED ON HEARINGS AND INQUIRIES CONDUCTED ON THE SMALL BUSINESS ADMINISTRATION INVOLVING ABUSES IN THE 8(a) PROGRAM AND IRREGULARITIES CONCERNING MINORITY BUSINESSES

---

PREPARED BY THE

## SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

OF THE

## COMMITTEE ON GOVERNMENTAL AFFAIRS
## UNITED STATES SENATE

KSU LIBRARIES
A11900 798407

FEBRUARY 1978

Printed for the use of the Committee on Governmental Affairs

---

U.S. GOVERNMENT PRINTING OFFICE
21-491 WASHINGTON : 1978

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

## COMMITTEE ON GOVERNMENTAL AFFAIRS

ABRAHAM RIBICOFF, Connecticut, *Chairman*

HENRY M. JACKSON, Washington
EDMUND S. MUSKIE, Maine
THOMAS F. EAGLETON, Missouri
LAWTON CHILES, Florida
SAM NUNN, Georgia
JOHN GLENN, Ohio
JIM SASSER, Tennessee
MURIEL HUMPHREY, Minnesota

CHARLES H. PERCY, Illinois
JACOB JAVITS, New York
WILLIAM V. ROTH, JR., Delaware
TED STEVENS, Alaska
CHARLES McC. MATHIAS, JR., Maryland
JOHN C. DANFORTH, Missouri
H. JOHN HEINZ III, Pennsylvania

RICHARD A. WEGMAN, *Chief Counsel and Staff Director*

PAUL HOFF, *Counsel*
ELI E. NOBLEMAN, *Counsel*
PAUL C. ROSENTHAL, *Counsel*
CLAUDE E. BARFIELD, *Professional Staff Member*

CLAUDIA T. INGRAM, *Professional Staff Member*
ELLEN S. MILLER, *Professional Staff Member*
THEODORE J. JACOBS, *Counsel (Regulatory Reform)*
JAMES M. GRAHAM, *Counsel (Regulatory Reform)*
ETHEL Z. GEISINGER, *Special Assistant (Regulatory Reform)*

MARILYN A. HARRIS, *Executive Administrator and Professional Staff Member*
ELIZABETH A. PREAST, *Chief Clerk*
JOHN B. CHILDERS, *Chief Counsel to the Minority*
BRIAN CONBOY, *Special Counsel to the Minority*
HAROLD C. ANDERSON, *Staff Editor*

---

## SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

LAWTON CHILES, Florida, *Chairman*

SAM NUNN, Georgia
HENRY M. JACKSON, Washington

H. JOHN HEINZ III, Pennsylvania
JACOB K. JAVITS, New York
WILLIAM V. ROTH, JR., Delaware

RONALD A. CHIODO, *Chief Counsel and Staff Director*
ROBERT F. HARRIS, *Deputy Staff Director*
PETER F. ROMAN, *Professional Staff Member*
ROBERT E. COAKLEY, *Professional Staff Member*
J. BRIAN WALSH, *Professional Staff Member*
JANET R. STUDLEY, *Counsel*
STEPHEN COLE, *Professional Staff Member*
CHRISTINE SHERIDAN BETTS, *Chief Clerk*
DEBRA P. ALTMAN, *Staff Assistant*
MISSY ALDEN, *Staff Assistant*

# LETTER OF TRANSMITTAL

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES
AND OPEN GOVERNMENT,
*Washington, D.C.*

Hon. ABRAHAM RIBICOFF,
*Chairman, Committee on Governmental Affairs,*
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: The Subcommittee on Federal Spending Practices and Open Government of the Governmental Affairs Committee, conducted investigations and inquiries into the irregularities of the Small Business Administration's 8(a) program to help minority businessmen.

It was our desire to use victims of SBA contracts as case studies to hopefully provide valuable insight on the problems that have arisen all over the country. The subcommittee heard allegations that the Small Business Administration provided inadequate management assistance, inadequate initial funding, and inadequate monitoring of progress for many firms. This agency is self-regulatory and completely independent of meaningful criteria for operation with regard to this vital program.

This study provides basic information about the SBA 8(a) program and includes testimonies indicating questionable spending practices and inconsistencies in program objectives. In addition, it expressed the subcommittee's concern about some of the problems arising in this spending area.

In anticipation of further congressional action in this matter, I am hereby transmitting for publication as a committee print the report by the subcommittee on the Small Business Administration's 8(a) program.

Sincerely,

LAWTON CHILES,
*Chairman.*

# CONTENTS


| | Page |
|---|---|
| Letter of transmittal | III |
| Introduction | 1 |
| General findings and conclusions | 2 |
| Problems in program administration | 3 |
| Ambiguous criteria for establishing eligibility in the 8(a) program | 4 |
| SBA's requirement for a detailed but overly defined business plan has added to the present confusion | 6 |
| Conclusion: Confusion | 6 |
| SBA's utilization of a quota system that gave emphasis only to dollars "let" in contracts not totals for the involvement of disadvantaged firms | 7 |
| SBA's failure to properly match contracts to the proper contractor | 8 |
| Graduation/termination | 11 |
| The Question of commitment | 12 |
| Current status | 13 |
| Organization of the program | 14 |
| A view from the top | 14 |
| The independent barons | 15 |
| Some are more equal than others | 15 |
| The Office of Business Development | 16 |
| Standard operating procedure | 16 |
| Oversight mechanism | 17 |
| Special findings | 18 |
| Findings and conclusions | 19 |
| A final assessment | 25 |
| The sponsorship program | 26 |
| Special problems in defining eligibility | 42 |
| Special problems in defining graduations | 44 |
| Case studies involving SBA irregularities in minority/disadvantaged firms relationships (8(a) and/or loans) | |
| No. 1 Robert Singleton/Singleton Construction | 47 |
| No. 2 Joseph Harris/Atlantic Materials | 54 |
| No. 3 John Kyle/Kyle Engineering | 62 |
| No. 4 Rodney Albert/General Maintenance | 72 |
| No. 5 William Green/Quality Maintenance | 74 |
| No. 6 John Davis/Java Associates | 90 |
| No. 7 Skinitis/Atlanta Construction | 96 |
| No. 8 Ira Gelber/Military Services of Georgia | 96 |
| No. 9 James Rice/Oklahoma Aerotronics | 97 |
| No. 10 John Duncan/Capitol Contractors | 97 |
| No. 11 Raphael Vega/Cabrillo Food Services | 98 |


## APPENDIX


| | |
|---|---|
| Statement of Senator Chiles | 99 |
| Statement of Parren J. Mitchell, a U.S. Representative in Congress from Maryland | 101 |
| Statement of A. Vernon Weaver, Administrator, U.S. Small Business Administration | 104 |
| Letter to A. Vernon Weaver from Ronald A. Chiodo, chief counsel and staff director, Subcommittee on Federal Spending Practices and Open Government, August 30, 977 | 105 |
| Letter with enclosures to Senator Chiles from A. Vernon Weaver, July 29, 1977 | 106 |
| Letter to the subcommittee from John W. Conlon, Jr., Farmington, Conn., August 9, 1977 | 109 |

Page

Letter to Senator Chiles from Harold Wright, Seattle, Wash., July 26, 1977 ---- 110
Letter to Senator Chiles from Morgan J. Hallmon, Washington, D.C., June 8, 1977 ---- 111
Letter to Senator Chiles from L. A. Lucas, Dayton, Ohio, September 2, 1977 ---- 111
Letter with enclosures to Ronald A. Chiodo, chief counsel and staff director, from Lester A. Fettig, Administrator, Office of Management and Budget, July 8, 1977 ---- 112
Letter with enclosure to Senator Chiles, from Juanita E. Wright, Titusville, Fla. July 13, 1977 ---- 116
Letter with enclosures to Senator Chiles from Marvin D. Deuitch, Sarasota, Fla., July 13, 1977 ---- 119
Letter with enclosure to Alan J. Gibbs, Assistant Secretary of the Army, from Avis E. Holmes, Detroit, Mich., August 30, 1977 ---- 122
Letter to Senator Chiles from William W. Thomas, Miami, Fla., August 16, 1977 ---- 123
Letter to Senator Chiles from Arthur C. Moseley, Austin, Tex., July 6, 1977 ---- 123
Statement of Quentin S. Taylor, Deputy Administrator, Federal Aviation Administration ---- 124
Letter with enclosures to Bob Harris, deputy staff director of the subcommittee, from William L. Devries, Washington, D.C., September 15, 1977 ---- 126
Letter with enclosures to Representative Phillip Burton from Gerald W. Johnson, San Francisco, Calif., September 20, 1977 ---- 138
Statement by the President, September 12, 1977 ---- 141
Selected provisions of controversy of the SBA 8(a) program ---- 144
Letter to Senator Chiles from Robert L. Singleton, Jacksonville, Fla., July 2, 1977 ---- 165
Letter to Senator Chiles from R. L. Nissen, Hendersonville, N.C., July 14, 1977 ---- 166
Letter to Senator Chiles from Mack Finley, Jr., Jackson, Miss., July 18, 1977 ---- 166
Letter to Senator Chiles from Eugene E. Holbrook, Fort Lauderdale, Fla., July 13, 1977 ---- 167
Telegram to Senator Chiles from Leonard Simcock, Jacksonville, Fla., July 7, 1977 ---- 167
Article: "Too Easy for Rats To Get This Cheese," from the Tampa Tribune, July 12, 1977 ---- 167
Article: "U.S. Senator May Investigate South Florida Organized Crime," from the St. Petersburg Times, by Charles Stafford, July 14, 1977 ---- 168
Letter to Senator Chiles from Martin Fridovich, Fort Lauderdale, Fla., July 12, 1977 ---- 169
Contract pricing proposal ---- 170
Telegram to Senator Chiles from Jerry Davis, Jr., Washington, D.C., July 7, 1977 ---- 175
Letter to Senator Chiles from Everett O. Post, Washington, D.C., July 8, 1977 ---- 175
Letter with enclosure to Senator Chiles from Arthur L. Harris, Miami, Fla., July 8, 1977 ---- 176
Mailgram to Bob Harris and Peter Roman from William L. Devries, Washington, D.C., August 17, 1977 ---- 177
Article: "The President's Message," by S. Peter Volpe, president, Associated General Contractors of America, August 1977 ---- 178
Letter with enclosure to Senator Chiles from Dallas Johnson, Bethesda, Md., August 29, 1977 ---- 178
Letter to Senator Chiles from David A. Antonio, Patchogue, N.Y., December 6, 1977 ---- 180
Telegram to Senator Chiles from Taylor and Henderson, certified public accountants, Baltimore, Md., July 8, 1977 ---- 181
Telegram to Senator Chiles from Marion O. Greene, Jr., Washington, D.C., July 6, 1977 ---- 181
Letter to Senator Chiles from Jim Swann, Titusville, Fla., July 25, 1977 ---- 181
Doonesbury, by Garry Trudeau, July 25 and 26, 1977 ---- 182

# INTRODUCTION

The 8(a) program takes its name from Section 8(a) of the Small Business Act of 1953 which authorizes the Small Business Administration to enter into procurement contracts with Federal agencies and, in turn, subcontract the work to small businesses. In 1968, SBA began to use Section 8(a) authority to obtain Federal contracts in order to promote jobs in underemployed areas.

The 8(a) program has shown tremendous growth. In 1968, there were only eight awards worth a total of $10.5 million. By 1977, there were 1,377 subcontracts with approximately $307 million subcontracted under 8(a).

Normally, a disadvantaged businessman will submit a business development plan, describing his business' history, management, equipment, and other essential items. The submission of a projected estimate of 8(a) assistance needed is usually submitted to SBA at the same time. Accordingly the agency should know when a firm is a legitimately disadvantaged company and should have some idea of the level of assistance needed by the disadvantaged firm.

The chairman of the subcommittee, Senator Lawton Chiles, voiced his concerns about the thrust of the program in a Tampa, Florida hearing, when he stated:

> The allegations that have been raised concerning mismanagement of the 8(a) program are serious ones. American taxpayers have a right to demand that government programs are efficiently run and that they are carefully reviewed. Tax dollars must be spent judiciously.
>
> I said before that the allegations regarding irregularities and mismanagement on the part of SBA are serious.
>
> It's serious when the Small Business Administration actively recruits businessmen to participate in a government project and then leaves that businessman near bankruptcy.
>
> It's serious when SBA officials deliberately skirt congressional intent in regard to the surety bond guarantees.
>
> It's serious when non-disadvantaged firms, through a highly questionable sponsorship program, seek to rip off tax dollars by using disadvantaged persons to secure contracts that the non-disadvantaged firms could not get in the competitive marketplace.
>
> And it's serious when allegations of misfeasance of office and fraud are ignored by those in authority.
>
> The allegations that the Small Business Administration provided inadequate management assistance, inadequate initial funding and inadequate monitoring of progress for many firms raises major questions about the success of this agency in dealing with the objectives of the 8(a) program.
>
> The concerns of this committee include allegations that many minorities have actually lost faith in either the ability

of SBA to administer the 8(a) program effectively or confidence is the objectives of the 8(a) program or both.

The committee is concerned about the conduct of government personnel in representing the government in the procurement proceedings.

And we are concerned about procedures and practices that ought to be followed in disbursing taxpayer's money. Certainly, we should insure that a dollar's worth of goods and services are obtained for every dollar spent. However, official commitments must be kept, particularly in a situation involving 8(a) contracting.

It seems to this committee that Congress should ask vital questions of this and any other program we fund with tax dollars.

First, is the intent of Congress being followed by government policy-makers and those who are entrusted to implement the programs?

Second, does the program achieve its stated objective? Is the program doing what it was supposed to do?

Third, can proper reform measures re-orient and re-direct a program without new legislation authority?

Fourth, have proper safeguards been maintained to protect the 8(a) program against fraud, conflict of interest, conspiracy and the looting of fledging 8(a) firms?

These are the questions that Congress must grapple with if the objectives of the 8(a) program are to be met successfully. There are Congressional charges that the present programs of the Federal Government concerning set-asides for the disadvantaged are inadequate, ineffective, and uncoordinated.

Perhaps the time has come to rethink, revamp and reform our present programs in procurement set-asides.

## General Findings and Conclusions

The SBA initiated the 8(a) program in 1968. Yet after nearly 10 years of operation its concept of the program is unsure and nondirective. The reasons for this absence are various and will be discussed later. That it exists is a certainty. SBA policy and action reflect a serious insufficiency of consistent, conceptual guidelines. One SBA official demonstrated the problem when he stated that the SBA must decide whether the 8(a) program is a social program, procurement program, or a social/procurement program. He might be surprised to learn that decision was made 10 years ago at the program's inception. Regardless, his statement reflects a lack of consistent direction in the thrust of 8(a) administration. Indeed, inconsistency has characterized SBA's efforts from the program's outset and 8(a) finds itself in dire need of program definition.

To put forth such a definition, one must touch base on several points. The initial objectives of the 8(a) program direct that the program use the procurement process to attain a specified social goal. That goal is the education of the small, socially or economically disadvantaged businessman. To achieve such an education a game plan was devised

by SBA. Certain government contracts would be withheld from the competitive procurement process and set aside for award to competent 8(a) companies. Thus, a sheltered environment would be created in which the disadvantaged businessman could develop business skills until he attained the expertise to compete in the open market.

With this program, the SBA felt it could offer aid to people who for social or economic reasons had been denied entry into the business mainstream. Thus, the original concept of the program had merit. To the extent that it assists disadvantaged businessmen, it still does.

## Problems in Program Administration

Several clear problems which have had a long-term effect on the 8(a) program surfaced during the subcommittee's investigation.

These problems may well be of such magnitude that the SBA will need to have a clear management reorganization in order to deal with the problems.

The subcommittee noted that in the management of the program the following problems were evident:

SBA experienced difficulty in identifying the firms in the 8(a) portfolio.

The criteria for establishing program eligibility in the 8(a) program are ambiguous.

SBA's requirement for detailed but overly defined business plan.

The absence of SBA standards to evaluate 8(a)'s success.

SBA's failure to properly match contracts to proper contractors.

SBA's utilization of a quota system that gave emphasis only to dollars "let" in contracts not totals for the involvement of disadvantaged firms.

This broad overview demonstrates that the 8(a) program is off track. The reasons are as manifold as the program's directions. However, several definable problems consistently appeared in the investigation. Scratch the surface of any 8(a) program and these problems will show:

Difficulty in identifying firms in the 8(a) portfolio;

Ambiguous criteria for establishment of eligibility for admission into the program;

Carelessly done business plans;

Unclear quota systems;

Absence of standards to evaluate 8(a)'s success; and

Matching contracts to contractors.

These problems have no small effect on 8(a). Notwithstanding, they are easily accessible to SBA. This is so because their origin and nature is within the SBA bureaucracy. To some degree this checks the growth of their roots and improves their visibility.

Lest this all sounds too abstract, an example is required. The problem of firm identification is typical of the others. SBA has a real problem in simply determining who is in the program. The reason is there is no comprehensive, clearly identifiable 8(a) portfolio largely because SBA has no corporate memory, and a deficient management information system. For example, SBA runs a monthly printout of

names of the companies in the program and the name of its principal officer (usually the president of the firm). There is no central list of the other officers of these firms. Businessmen who have used their eligibility once may still be in the program as vice presidents or other officers. It took a Defense Contract Audit Agency (DCAA) investigation to turn up the interesting fact that Mr. Donald Dunlap, former chief of the 8(a) program, had become an 8(a) contractor himself and was collecting consulting fees from an 8(a) firm.

SBA officials told us this was no problem, since SBA officers in the field were familiar with the names of 8(a) businessmen in their area. Not addressed was the problem of SBA officials who retire or leave the agency and take part of the corporate memory with them. SBA Atlanta officials may know the names of their businessmen, but SBA Seattle surely doesn't know Atlanta's. Thus, in addressing the question of who is in the 8(a) program, SBA will be forced to do some basic research to find out who their membership is.

The description of the portfolio problem further emphasizes the nature of the others. Common to all the problems is their position within SBA. These problems exist not from externally imposed conditions, but from internal, administrative deficiencies. The 8(a) program so requires efficiency in these areas that SBA cannot begin to effectively manage without successfully resolving each problem area. Indeed, these problem areas are the very starting points—the administrative cornerstones of the 8(a) program. It is imperative that they are clearly understood. Toward that understanding, a close look at each problem is necessary. The following sections aim at providing that scrutiny.

## Ambiguous Criteria for Establishing Eligibility in the 8(a) Program

Before receiving any 8(a) contracts, a prospective 8(a) participant has to be declared "socially or economically disadvantaged" and have the firm's business plan approved.

"Social or economic disadvantage" is a phrase initiated by SBA's Office of the General Counsel to step around the constitutional questions raised by the 8(a) program. In the early 1970's, several attacks were made on the constitutionality of reserving government contracts for minority groups to the exclusion of all others. The courts, however, took the view that, by SBA's own regulations, no one was ineligible for the program except those who were not disadvantaged in any measurable way.

The "economic or social disadvantage" criteria circumstantially has enabled large numbers of minority groups to enter the program. However, the fact that the vast majority of persons in the 8(a) program are members of minority groups does not mean that eligibility is based solely on minority status. The rationale behind the 8(a) program has a strong basis in fact. Economic statistics consistently show that minority groups have lower incomes, live in less desirable neighborhoods and suffer crime rates which the average suburbanite would consider intolerable. Socially, blacks and other minorities receive

demonstrably poorer and briefer educations than their more advantaged white counterparts, and are still the victims of discrimination on a nationwide basis.

These disadvantages collectively forced upon the minority businessman make him eminently qualified under the social/economic disadvantage criteria. However, that isn't to say that all minority group members are automatically disadvantaged. They are not. Accordingly, minority group eligibility for the 8(a) program is not automatic; SBA's regulations prohibit categorical inclusion in the program. Mr. Winford Smith, the Director of the Office of Business Development, took exception to his agency's formal regulations in this regard declaring at the subcommittee hearings on July 6, 1977, that blacks should automatically qualify for the program despite personal income, education or other considerations.

In the early 1970's, SBA field officers, driven by the whips of quota-conscious senior officials in Washington (SBA) went out on the streets to recruit as many minority businessmen as could be found. (Eligibility statements were standardized and distributed en masse). In some cases, applicants were coached by SBA officials and told what the magic words were which would suddenly establish eligibility. In most cases involving the "stepped-up" recruitment, sponsorships were the vehicle used to this "hard sell" scheme.

As a result of this hard-sell by the SBA, quotas steadily increased. The level of debate on the meaning of "disadvantaged" slowly died down. In this more relaxed atmosphere, SBA gradually loosened their oversight of the program. This spelled trouble for 8(a). Under looser supervision, "fronts" were able to enter the program; 8(a) "fronts" are minority group members with little or no education or business experience. They are posed as company officers to qualify a firm for the program. Although the front problem is discussed in detail later it is mentioned here as evidence that the control mechanism was not running smoothly. Further evidence comes from the Atlanta region. Minority candidates there were rejected for entry into the program because a college education or solid business experience made them "over-qualified". At the same time on the west coast, businessmen of substantial means, whose companies were proven successes, were being certified for the same program.

With the number and cumulative nature of the problems SBA has, it would do well to start cleaning house by reducing things to their lowest common denominator. The 8(a) program cannot be made to run effectively unless every SBA official involved in the program has a clear understanding of who is, and who is not, eligible for the program's benefits. Obviously "social or economic disadvantage" is one criteria. But that presents a problem. "Social or economic disadvantage" is a nebulous phrase, thereby a hard-to-implement criteria, and ultimately a real burden for SBA field officers. While our recommendations on the topic are discussed later, it might be appropriate to note here that one possible solution might be to define persons who are not eligible for the program.

This approach has strong justification. As mentioned previously, the definition of social/economic disadvantaged encountered court tests in the early 1970's. The court's view suggested going at the prob-

lem back door, that is, specifying who is not eligible. The apparent assumption was that it is easier to say who is not eligible than to say who is.

## SBA's Requirement for a Detailed but Overly Defined Business Plan Has Added to the Present Confusion

For all the red tape involved in the 8(a) program, not much of it appears to be of any particular use. Probably the most discussed and most disliked part of the paperwork is the business plan. This, together with proof of eligibility for the program, are the two hurdles which the disadvantaged small businessman must overcome before he can be admitted to the program.

The business plan, in essence, sets out what a small businessman intends to do with his company over a period of years. It contains calculations of what financing is needed, what start up costs are involved, sales projections, projected overhead costs, and break-even points. Details of training and recruitment of staff, marketing plans and other data are also included. The plan must be updated on a regular basis to reflect the current situation and submitted to SBA under penalty of expulsion from the program.

The business plan is an essential part of the planning process for any business, large or small. It can be used as a control to measure success, and as a discipline to avoid emphasis being placed in the wrong areas. Unfortunately, business plans submitted to SBA are not, in general, crowded with factual materials. During the course of the investigation, we found the following:

1. *Business plans were inaccurate.* SBA regulations require that each business plan have a chart showing estimated fixed costs, overhead costs, and projected break even points. Oddly enough, many of these looked very much like tracings of an example contained in the SBA booklet, "How To Prepare A Business Plan." Serious doubts can be raised to the accuracy of that data, and whether it was valid at all.

2. *Sales projection were conjecture.* The 3-year sales plans submitted to SBA were not, as far as we could tell, based on any known data. (We received several assurances that we were correct; projected sales figures had been picked out of the air.) Especially in the service contract area, the estimates for commercial sales were deceptive.

3. *Business plans were frequently not updated.* SBA reports showed that a large percentage of business plans were not updated for years. Obviously, the businessmen themselves did not consider the business plan as a useful planning document.

4. *Business plans went largely unread.* There is considerable evidence that not many of the business plans were ever reviewed on any regular basis. One SBA report quoted a senior Atlanta official as saying, "Oh, we don't have time to read all that crap."

## Conclusion: Confusion

It becomes clear from the discussion of the establishment of eligibility and the business plan that SBA had lost its grasp at the beginning of its relationship with a disadvantaged contractor. Establishment of eligibility and the business plan were the cor-

nerstones for entry into the program. Their administration soon degenerated into something other than the original purpose. Establishment of eligibility was not as a result of a reasonable interpretation of sound guidelines. Rather, eligibility was a series of individual judgments made in 100 district and 10 regional offices by SBA officials who, in the main, were ill-equipped to make the definitive judgments required of them.

Equally, the business development plan was a conceptually sound approach to establish whether a given company had a reasonable chance of succeeding. It ended up as a perfunctory exercise in guessing, done only to get by the entry requirement. In the end, it may have been a wise decision on the part of many SBA officials not to even read them.

## SBA's Utilization of a Quota System That Gave Emphasis Only to Dollars "Let" in Contracts Not Totals for the Involvement of Disadvantaged Firms

The quota system was the single most influential factor in causing the 8(a) program to get off track. Combined with the other factors and the strained relationships between SBA and the agencies a less than healthy environment was created. The specifics are discussed below.

From the first days of the program, the idea of channeling government contracts to minority groups was seen to have considerable political merit. The administration could not fail to note that it would be easier to garner votes from the minority communities after a substantial infusion of government contracts to their businessmen. Added to the political realities was the normal bureaucratic instinct to establish quotas so that the important questions of community development could be reduced to bar graphs and thermometer charts.

Mr. Len Cole, former Director of the Office of Business Development, recited a tale of how the awarding of contracts was tied to the speech schedules of various senior Administration officials. In one instance, a multimillion dollar contract was awarded on 48 hours notice to coincide with a major address in Detroit. Cole wryly noted that this time schedule meant that the niceties of proper administrative procedure were all but ignored.

As Ray Harshman of SBA was to discover in the winter of 1972, the service contract game was being placed so that 6 entrepreneurs controlled most of the 8(a) service contracts (in the Southeast) through their minority "front" companies. SBA officials admit that the sponsors were endlessly amiable, and faithfully adhered to every change in SBA's rules and regulations. Still, the benefits seemed always to accrue to the sponsors. There appears to be a primary reason for this.

Most of the minorities selected to head the front companies were carefully chosen to make sure they did not have the education or experience to ever succeed by themselves and become a potential competitor to their sponsors. Accordingly, as of this writing, at least 18 8(a) firms are known to be almost totally dependent on their former sponsors through management agreements and other devices, even after direct sponsorships were disallowed.

In a statement submitted for the hearing record, one senior SBA official pointed to the quota system (called "goals" within the agency) as the proximate cause for the founding of the sponsorship program. In the Atlanta region, the average yearly quota runs about $50 million per year. It took no time to discover that contract awards in $3–$5 million chunks involved much less paperwork, interviews and travel than the award of dozens of small contracts to small businessmen. However, there were no minority contractors in the South at that time who were capable of being bonded for a multi-million-dollar contract. (If there had been, they could not have been considered disadvantaged by any reasonable piece of logic.)

Thus, the sponsorship concept was born.

The mostly white contractors who had controlled the service contract industry for years were naturally upset to see almost half of their business suddenly set aside for the 8(a) program. When they went to Washington to protest, they received a rather surprising reception. As one contractor, who might be considered the dean of the service contracting industry told us, White House officials made it quite clear that the Administration was indeed committed to the program. SBA officials were more precise. He was told, in essence: the 8(a) program is the wave of the future, so . . . "get yourself a black and get on board." And that is precisely what happened. The contractor made no pretense of sponsoring 8(a) firms for altruistic reasons. He said that his business was in danger, and upon being told that 8(a) was the way the game was being played this season, he joined up with the others.

SBA officers assumed that success in the 8(a) program meant getting as much of the taxpayers money out the door as possible. This, in turn, led to contract brokering which led to sponsorships. What got lost in this flurry of activity was the whole intent of the 8(a) program. A 1971 Michigan Bar Review article stated the original aim of the 8 (a) program;

> In its simplest form, the 8(a) program is nothing more than a classroom for dispensing invaluable experience to those individuals who have been prevented from obtaining the experience by normal methods.

If that was the aim, it got lost in a welter of vague instructions and ill-defined objectives of "business development" and in a maze of contract brokering. Although there is considerable blame to be shared by all SBA officials in the failure of the 8(a) program, it must be remembered that in the end, SBA regional and district officials did precisely what they were told to do: get the money out the door by the end of the fiscal year.

## SBA's Failure to Properly Match Contracts to the Proper Contractor

Closely allied with the problems of quotas and contract brokering is the problem of matching available contract to the capabilities of the 8(a) contractors. Again, Mr. Robert Singleton's case serves as a good example. He had been a successful masonry contractor who built single units or somewhat larger projects which never exceeded

$200,000 per project. The only SBA contracts available, however, were multi-million-dollar projects. As an SBA report noted, the Coast Guard had its own 8(a) quotas to meet and wanted to "get on the board." Accordingly, Singleton was matched to a contract which was 10 times as large as anything he had ever attempted before. For a variety of reasons, he did not succeed. The principal cause of the failure, however, was that there was no match between his capabilities and the size of the contract. (See case studies in this report.)

The basic, structural problems of the SBA in administering 8(a) tends to cause injury to fall upon 8(a) companies in similar ways. Singleton's case demonstrates another difficulty for the 8(a) contractor. The problem is maintaining a steady flow of work. Each business has its built-in fixed costs which must be paid whether contracts are available or not. Yet SBA is in no position to guarantee that steady flow of work. It must deal with the agencies on a negotiation basis to secure whatever it can for the 8(a) program. The agencies, according to choice, are free to cooperate or resist. Predictably, the results are mixed; some agencies cooperate, some do not. Some SBA officials have complained bitterly to us that abrasive relationships between the agencies and SBA are a major factor in impeding the 8(a) program. Yet, we are not aware that SBA has ever appealed to the Office of Management and Budget (OMB) or to OMB's Office of Federal Procurement Policy (OFPP) for assistance in forming a workable program.

The SBA, having obtained a contract, and awarded it one of the 8(a) firms in its portfolio, must determine what the price of the contract will be. Here the 8(a) contractor is at the mercy of an SBA negotiator who may, or may not, be competent at negotiating a "good" contract. The procuring agency, of course, wants the most value for the least money. The agency's procurement officer is judged by how much he can obtain at little cost to the government. His career will not be rewarded by being overly generous to a minority contractor.

If that competitive pressure is not enough to undermine fair contract negotiations, incompetence often is. The SBA contract negotiator often simply doesn't know what the value of the goods and services actually is. Hence, Mr. Singleton found a bid in at what has been estimated at $1 million under the going market value for the Coast Guard project. Mr. Singleton wrongly assumed that his negotiator would know what he was talking about. Similarly, Mr. John Kyle, an experienced electronics engineer, was overruled by a SBA negotiator who was admittedly incompetent as a negotiator. Mr. Kyle lost his company shortly thereafter.

On the other hand, sponsored companies did quite well in their contract negotiations. We were told by a Fort Benning procurement officer that Mr. James Rice, the sponsor of Best Services, negotiated the first food services at Fort Benning personally. "Negotiated" may not be the proper word, since the procurement officer says Mr. Rice stated a flat price at the beginning of the negotiations and refused to bargain. Shortly after the negotiator refused to accept Mr. Rice's offer, he received a call from an Assistant Secretary of the Army ordering him to accept Rice's price. He did. The price was $1 million over the procurement officer's estimate. Best Services made an $800,000 profit on the $3 million contract.

It may have been just as well for Mr. Rice that he did his own negotiating. SBA officers were not hesitant to admit that many of the negotiators simply, "were not equipped to do what they were doing."

It is clear from the contract negotiation process that there is cross-bargaining and overlapping responsibility between SBA and the agencies. They are therefore in frequent confrontation. The resulting relationship is described as love/hate: loving by the Washington officials of SBA and the agencies who know least about the daily interactions; hateful by the regional organization officials.

The lack of cooperation between SBA and procurement officers ultimately work to the disadvantage of the subcontractor, the disadvantaged businessman.

Regional agency officials accuse SBA regional officers of being arrogant, incompetent and lazy. Regional SBA officials accuse agency officers of being bigoted and obstructionist. At the same time Washington offices of SBA and the agencies say relationships are harmonious.

While this is, unfortunately, a typical reaction by government agencies who perceive another agency poaching on its bureaucratic turf, the depth of feeling expressed on both sides is disturbing. One reason for this hostility may be the imprecise nature of the triangular relationship between the contractor, SBA, and the agency. When trouble comes, the inexperienced contractor is told by the agency to seek help from SBA, and by SBA to seek help from the agency.

Normally, squabbles between agencies would be of little consequence to a congressional inquiry. However, interagency communication is essential to good program administration of the 8(a) program. Thus, the fact that SBA field officials have little impact on procurement officials in other agencies is of major consequence to the program objectives.

The process by which an 8(a) businessman establishes eligibility, is admitted to the program, and ultimately receives a contract, has been described. At this point, he is ready to begin the educational process which is designed to overcome his present disadvantage and to learn enough to permit him to graduate into the competitive world where he can compete on even terms.

For some businessmen, the 8(a) program has been extremely beneficial. The businessman has found himself in a situation where the SBA would perform the following tasks:

1. Find his contracts for him;
2. Give him interest-free advances;
3. Give him no strings attached grants (called Business Development Expense by SBA);

Give him free management assistance, including free lawyers and accountants (called 406 contractors); and

5. Occasionally intervene with another agency and fight his battles for him.

Given these sort of benefits some 8(a) firms prosper rapidly, in fact, all should. During the hearings, we pointed out what appeared to be several likely candidates for graduation. One complex, owned by Mr. Raphael Vega, was actually an international mini-conglomerate, financed in part with taxpayers' money. Local SBA officials had been recommending for years that Mr. Vega be graduated from the program on the grounds that neither he nor his conglomerate were socially or economically disadvantaged. There was also some question as to whether they ever had been. In late 1976, the regional director declined

to accept the recommendation on the grounds that 10 years after the program started, the region had no policy for determining who should be graduated. This spring, between the two sets of hearings, Mr. Vega was dismissed from the program, in part because of some highly questionable statements he furnished to SBA. During the July hearings, it developed that Mr. Vega had been reinstated into 8(a) by the regional director, Mr. Montanyo, and this time for no reason at all.

Given the services available to an 8(a) contractor, it would appear that almost any reasonably competent disadvantaged businessman should be able to develop a successful company in short order. The principal reason that success does not occur is that few 8(a) contractors receive, or even are aware, that a coordinated body of professional services is available to them. All too frequently, the professional service an 8(a) contractor receives is limited to a last minute audit which shows that his firm is about to fail. That lack of follow-up assistance, combined with an erratic flow of contracts, poor bidding by SBA negotiators, red tape and the general neglect which 8(a) contractors receive from SBA officials, often makes their business lives as hard, or harder, than what they would experience in the normal competitive market.

The quality of SBA's "help" shows in the number of firms that have prospered enough to leave the program. That "help" has enabled only 70 firms to graduate from the 8(a) program. Considering there have been approximately 15,000 businesses in the program, 70 is a very weak figure for those prospering yet, one cannot fail to take notice of an obvious confusion. The number of graduates is low and indeed it should be with the burden of SBA's "help". The fact is, however, there are a number of extremely prosperous firms currently in the program. These firms should be graduated immediately. But, they continue to stay in the program and feed on SBA, thus distorting the identity between the number of graduated firms and the general success level of the program.

It is apparent that for a lucky, mainly non-disadvantaged few, the 8(a) program is a gravy train of impressive proportions.

Fortunately for them, SBA has little collective will to achieve the goal of the 8(a) program: to graduate successful minority small businesses into the mainstream of American society. Unfortunately there are no requirements that 8(a) contractors actively seek competitive awards; there are no threshholds for determining when a businessman is no longer disadvantaged, regardless of the state of his business.

Quite understandably, the lucky few have no intention of ever graduating if they can help it. Quite incomprehensibly, SBA has taken no steps to graduate successful businessmen and successful businesses from the program in order to make way for some of the thousands of genuinely disadvantaged people who are clamoring for entry.

## Graduation/Termination

Besides meeting dollar quotas, the other known criterion for judging the success of the 8(a) program is by "graduation." As noted above, one mark of the success of the 8(a) program is by counting the number of businesses/businessmen who have grown and developed enough to go out into the competitive market. At last count, some 70 of the 15,000 businesses who have been in the 8(a) program at one time have suc-

cessfully "granted" from the program, for a success rate of 0.00566. However, even that woeful statistic is in question.

In April 1977, shortly after the subcommittee's investigation began, the Atlanta Regional Office suddenly "graduated" 26 8(a) firms. Not surprisingly, the graduates had been prominently mentioned in a newspaper series the previous fall. A number of the graduates appeared to be questionable success stories: one was dependent for 8(a) contracts for over 99 percent of its business, another was still controlled by it sponsor, and a third had been at the edge of failure for years.

Prior to that a case was uncovered of a white doctor who had received over $1 million in 8(a) contracts for no apparent reason. The SBA planned to terminate him, only to find that the Dallas regional office has just "graduated" him. Washington let the graduation stand. Thus, a success rate of one-half of 1 percent may be overstating the prosperity of the 8(a) program. It may be as low as one-quarter of 1 percent.

One reasonable contention is that the graduation statistic may not be a valid mark of success in the program. The program was begun for the purpose of educating disadvantaged businessmen, not for creating satisfactory balance sheets (hopefully the two are casually related). With education as the goal a different set of criteria may be in order, a criteria of lowered expectations. Such criteria might include improvement in the debt to net worth ratios, successful estimation of a contract, or successful contract performance.

## The "Question of Commitment"

The picture painted of 8(a)'s organizational efficiency is a dismal one. One reasons and hopes that such waste is not inherent in the program—that it comes from a lack of commitment or competence by SBA administrators. Those hopes seem to be confirmed by the facts. SBA administrators readily confess their distaste for the 8(a) program. Many of those in charge openly admit they are unhappy administering the program and wish they were elsewhere. Others admit they have no expertise in the required areas. How does this lack of ability and will manifest itself in operation? Perhaps the best answer comes from disadvantaged businessmen themselves.

Witnesses appearing before the subcommittee documented the feeling of many minority/disadvantaged business persons have who deal with the SBA. In his testimony of July 8, 1977, Mr. Leroy Tombs said:

> Let me say that I felt from the very beginning that there was definitely no program, that there was very little information being held by the people I was dealing with, whereas they could have helped me in very limited ways
>
> Had I needed other than financial help, I don't think it would have been there because I have never met anyone there that had any technical skills or who had dealt with procurement agencies with the variety of attitudes and personalities, who had dealt with food people on a particular base, with their many attitudes and motives and what have you.
>
> I have seen very, very good operators who know the food business quite well who did not understand the attitude of

> government buyers, and government inspectors, get themselves unnecessarily riddled, and many have ended up bankrupt.

In a hearing in Tampa, Fla., Mr. Fred Law, president of Minority Contractors Association of Florida, demonstrated this belief when he stated:

> . . . We never got solutions from SBA . . . The whole program is designed to make you fail . . . we feel that SBA in all their programs are designed to fail, because we haven't got a successful businessman in the black community . . .
>
> So what we are saying is this: If SBA really intends to help minorities and disadvantaged people they should get somebody who has some expertise in these various fields to really assist these people. To just give a man a loan and throw them out in the pool and say "swim" and he doesn't know how to swim, and walk away, and this is what has been happening to the minority contractors businessmen. They (the SBA) will give him enough money to let him stay in business for 30 days, and after 30 days, it is all gone. And he has his home and all tied up and so forth, and then he has to go in bankruptcy. And Mr. Singleton is another case, another case, another fatality of SBA.

Later in his testimony, Mr. Law states the following:

> We feel that the SBA has done quite a bit to hurt the minority, particularly in the black sector. As you know in the local Jacksonville area we have considered that to be SBA graveyard. We have had so many contractors and small businessmen fall by the wayside, hopingly trying to secure help from SBA, and I would say they got some help from SBA, but just enough to really kill them in a sense.

The subcommittee found that, among (minority) contractors, Mr. Law's statement was the rule and not the exception. The feeling that SBA field officials have little, if any, commitment to its 8(a) program does tremendous harm to its public image. The charges advanced by minority small businessmen were considered to be meaningful by the subcommittee because public credibility is vital to any program.

## Current Status

As of July 8, 1977, the date of the last hearings on the 8(a) program, the hearing record suggests that the following is the current status of the program:

*a.* SBA does not know the names of many, or most of the minority businessmen in the program.

*b.* SBA has, after 10 years, yet to determine what type of program it is trying to run—whether it is to be a procurement program, a social program, or a combination of the two.

*c.* Many of the businessmen in the program are not eligible to be there because they are not, or never were, economically of socially disadvantaged.

*d.* SBA has no effective standard for determining who is eligible for the program.

*e.* SBA states that business development is the primary objective, but in general pays little attention to the poorly written business development plans which serve as the cornerstone of the program.

*f.* SBA has no effective method and little success with matching available contracts to the needs of its 8(a) contractors.

*g.* Through inadequate negotiation procedures, many 8(a) contracts are significantly over or under the fair market price.

*h.* There are few criteria for determining when, if ever, an 8(a) contractor should leave the program.

*i.* SBA has provided little guidance and almost no effective means to evaluate successful contractors and encourage them to compete outside the program.

*j.* SBA has no valid criteria for determining the success or failure of the program itself—and graduations should not be used unless the practice of "graduating" changes.

*k.* The process of handling eligibility, graduations, etc., on a case-by-case basis will continue to spread controversy and inhibit public acceptance and credibility of the 8(a) program.

## Organization of the Program

### A VIEW FROM THE TOP

Compared to HEW or the Department of Defense, SBA appears to have a simple and straightforward organization chart. Because of a few subtle changes over the years, however, SBA is currently faced with a situation where no one seems to be in charge of special programs, such as 8(a).

At the top, of course, is the Administrator and his deputy. Under them are a series of Associate Administrators for various activities. For purposes of this report, we need be concerned only with the Associate Administrator for Operations (AA/O), and the Associate Administrator for Procurement Assistance (AA/PA). They are referred to below as Operations and Procurement Assistance.

At its simplest level, Operations is in charge of supervising the day to day operations of SBA's 10 regional offices and 100 district offices. The district offices are in turn subordinate to the regional offices.

Procurement Assistance, with a staff of 67, has a dual role. It is responsible for obtaining contracts for the 8(a) program from other agencies at the national level, and for providing the regions and districts with policy and procedural guidelines for the 8(a) program.

Under the headquarters staff—called Central office—lies the field staff, which comprises more than 3,600 of SBA's 4,700 employees. Each of the 10 regions has a regional director, who holds the government rank of GS 16 ($39,629–$46,550 per annum). In 8 of the 10 regions, the regional director is a political appointee. In the other two regions—Atlanta and Dallas—the positions are unaccountably rated as career Civil Service positions. In his own office, each regional director has an assistant regional director for procurement assistance (ARD/PA). Although these Assistants have other duties, the growth of the 8(a)

program over the years, combined with only a very small growth in the 8(a) staff, means that the Assistant is mostly involved with 8(a) work.

Under the regional staff are the 100 District staffs. Each District Director in turn has his own Assistant Director for Procurement Assistance. The working staff at all levels are a mixture of procurement officers, business development specialists, and contract negotiators.

## THE INDEPENDENT BARONS

In the early 70's, the Administration embarked upon a program loosely characterized as "taking government to the people". In bureaucratic terms, it meant decentralizing the decisionmaking process and shifting more power and authority to regional and district offices. Probably no agency took this directive as much to heart as did SBA. In the 8(a) field, Regional Directors had almost total control of who was enrolled in the 8(a) program, who received which contracts, and who was to be retained in the program, graduated or terminated. The Central Office, in reaction to a series of audit and investigative reports concerning the misuse of the 8(a) program, moved control of many major contracts (called "national buys") back to the Central Office, although most decisionmaking authority remained in the field.

In practice, Regional Directors are free to do what they please within the very loose constraints of the regulations. In many instances regional staffs have gone beyond the limits of the standard operating procedure (SOP) without being rebuked by the Central Office.

## SOME ARE MORE EQUAL THAN OTHERS

In theory, Operations and Procurement Assistance are both of the same rank, and report directly to the Administrator and his deputy. All of the SBA officials interviewed by subcommittee staff said that theory and practice did not match. All correspondence between Procurement Assistance and the field must, by directive, be funnelled through Operations. Historically, Operations has turned a deaf ear to Procurement Assistance's policy pronouncements. Thus, Procurement Assistance at the headquarters level is not really in charge of its own program. Until very recently, Procurement Assistance's role has been to sit on the sidelines and nag. Operations ran the show.

With no operational line authority, Procurement Assistance became an advisory staff who, whatever the ranking on organizational charts, reported to the Associate Administrator for Operations. This secondary role is of rather recent vintage, since, as the testimony shows, the 8(a) program was run in its early days straight out of the Central Office. As the record also shows, that procedure didn't work very well either. The failure, however, should not be taken as a blanket indictment of central policy control. The record shows that the failure happened because, although the program was being run from the Central Office, there was no uniform methodology or policy as to how the program was to be run. In the early days, then, the 8(a) program suffered the double disadvantage of a program being run at arms length from the actual situation in the field, and having no central body of doctrine to support the organization and monitoring of the program.

## THE OFFICE OF BUSINESS DEVELOPMENT

For the 8(a) program, the Associate Administrator for Procurement Assistance looks to his Office of Business Development (OBD) for policy and procedural guidelines. OBD was formed early in the program for the purpose of defining the scope and thrust of the 8(a) program and then turning those broad policy decisions into regulations and operating procedures which were to be followed by officers in the field. But, as was clearly illustrated in the hearings, OBD is still in the process of making the basic policy decisions. After 10 years of debating the issues, one might assume that there is a broad consensus on how the 8(a) program is to be organized and operated. The assumption, unfortunately, is not correct.

One reason for this overlengthy contemplation is the frequent reorganization of the office. Mr. Len Cole's testimony outlines the near pandemonium in which OBD was born, with Mr. Cole interviewing a candidate for a position which was not vacated and then being introduced to the same candidate the following week as the new Director of the office. Since Mr. Cole was under the assumption that he was the office director, his dismay at this introduction is understandable.

Nor was Cole the only victim of this game of bureaucratic musical chairs. In an organization of only 25 people, there is a finite number of ways in which an organization can be organized. Nearly all were tried. One OBD officer, who had been present through most of the changes, spent the better part of a morning patiently outlining the 6 major office reorganizations and 30 major personnel changes of office chief. This does not include changes of the line staff, which were plentiful. In several cases, division chiefs found themselves working for their former deputies, then sinking back into the ranks, only to rise again to a point where their former chiefs became deputies.

Adding to the confusion was a tendency to appoint politically connected job applicants to political positions throughout the agency and then transfer their position to permanent Civil Service status. Since the political appointees were without exception totally unknowledgable of small business and Federal procurement procedures, SBA ended up in a situation where the "career civil service" officers in several instances knew nearly nothing about their assigned duties.

Given the chaos and confusion within OBD and elsewhere, it is hardly surprising that the office's principal policy statement, the Standard Operating Procedure, is a rather mudded document.

## STANDARD OPERATING PROCEDURE

The Standard Operating Procedure (SOP) is an inch thick instruction book for SBA officers in the field. It purports to tell them who is eligible for the program, how to go about the process of business development and how and when to graduate minority businessmen from the program. (Selected provisions of the SOP are reprinted in the Appendix.)

The present SOP, which was first written in 1974 and amended several times since, is a giant step forward from its predecessors. Prior to 1974, the SOP's, some of which were only two or three pages long, provided only nebulous exhortations to go out and award contracts

to whomever appeared worthy of such a privilege, as was deemed proper by the individual field officer. In contrast, instructions on how to fill out the various forms involved in 8(a) operations were given in overgenerous detail. In essence, the 8(a) program came to look like a house which was constructed without using blueprints. The 8(a) program, like a house, ended up with untrue walls, water in the basement, and doors that couldn't be opened.

## OVERSIGHT MECHANISM

For all the faults of OBD, much of the investigative work into the faults of the 8(a) program was conducted by individual OBD officers. Ray Harshman, of course, was the first to discover and report the fronts and shams associated with the service contract area of the 8(a) program. At the time, he was serving as an OBD division chief. After others had reported in more detail the depth to which the program had sunk, OBD formed its own group of management analysts in its rather dramatically named "Surveillance Team." The Team has since done dozens of analyses of firms in the 8(a) program and has faithfully disclosed to senior SBA officials much of the material which was subsequently exposed in the hearings.

As an institutional device, placing the surveillance team in OBD has certain drawbacks. While each report was faithfully passed up the line, the surveillance team was essentially using its own chain of command to report some rather embarrassing information. Thus, program officers responsible for the 8(a) program were being informed by their own subordinates that they were running a very shaky program. It is not surprising that no action was taken until the surveillance reports were made public at Subcommittee hearings.

SBA's auditors and investigators had a much better arrangement. They reported directly to the Administrator or his deputy, and were thus spared the embarrassment of reporting to their seniors concerning other seniors' own ineptitudes.

A principal point of the hearings was the fact that senior SBA officials were well aware of the problems in the program some 5 years before the subcommittee and the public were. The chronology of reports to the Administrator and his immediate subordinates is listed here:

December 1972.—Ray Harshman, OBD division chief discovers 8(a) contracts are being directed to front firms established by 6 major service contractors. In the following months, he reports his findings to the Administrator's Special Assistant and to SBA's chief investigator.

May–October 1973.—SBA's External Audit Division confirms Harshman's findings.

July 1972.—SBA's Internal Audit Division reports series of problems in the administration of the 8(a) program.

April 1974.—House Subcommittee on Small Business (Committee on Banking and Currency) holds series of major investigative hearings. While primary emphasis is on loan fraud, some 8(a) program deficiencies are exposed.

April 1975.—GAO publishes report entitled "Questionable Effectiveness of the 8(a) Procurement Program".

July–November 1975.—GAO gives SBA Dunn and Rice reports, which detail how sponsors manipulate front companies.

March 1976.—OBD Surveillance Team reports Atlanta office in a shambles.

Summer 1976.—Miami Herald runs major series detailing fraud and ineptitude in 8(a) program.

October 1976.—Robert Singleton complains to Congress on 8(a) project.

November 1976.—SBA headquarters team reports Atlanta office in a shambles.

November 1976.—Internal Audit Division reports 8(a) program out of control.

January 1977.—95th Congress convenes.

February 1977.—Senator Chiles orders Senate investigation into 8(a) program.

July 1977.—Hearings by subcommittee reveal collapse of program. Administration begins clean up.

In addition, the OBD surveillance team was reporting on an almost daily basis that ineligible persons were involved in the 8(a) program, while the Security and Investigation Division brought Mr. Donald Dunlap, former head of OBD, and Mr. William Murfin, SBA District Director in New Orleans, up on charges of fraud, bribery and gratuities, and conflict of interest.

Nothing ever happened until public hearings were held. With the exception of the April 1975, GAO report, none of these reports were made public.[1] And, since the GAO report coded the identities of the sponsors (e.g., Mr. Apple, Mr. Peach & etc.), only the Miami Herald series during the summer of 1976 attracted any attention.

When the scandal had become public, SBA was finally forced to take action. A special team was sent to the Atlanta office, the office which bore the brunt of the Herald exposé, only to reconfirm what had been reported in March 1976: The Atlanta office was not in control of its program. Typically, no further action has yet been taken. The subcommittee found the same conditions in March, 1977, as had existed in November 1976. No remedial action had been taken. No SBA official had been dismissed, downgraded, transferred to a less sensitive position or even informally rebuked as a result of their mismanagement.

While not perfect, it is quite clear that almost all the major defects, bungles and some of the frauds associated with the 8(a) program had been reported to the Administrator and his immediate associates in considerable detail over a 5-year period. It is equally clear that very little was done to correct the situation. The auditors, investigators and surveillance team members did their jobs, and did them well. The rest of OBD and the field establishment did quite poorly; the senior management of SBA did nothing at all.

## SPECIAL FINDING

The subcommittee is of the opinion that disadvantaged and minority businessmen are forced to operate in a business climate that is *not* conducive to equitable opportunity for all. The subcommittee believes

---

[1] The House Subcommittee and GAO were given assurances that all defects noted could be corrected. Yet SBA's own November, 1976, report says that almost nothing was corrected.

that the 8(a) program can be an important and significant vehicle for the promotion of desirable economic goals through the procurement process.

The subcommittee fully endorses the concept of set-a-sides for minority/disadvantaged small businesspersons.

The recent investigation and hearings have been important in underscoring the great need to have such programs. It is the recommendation of the subcommittee that the necessary changes be instituted to make the set-a-side program viable and productive.

## FINDINGS AND CONCLUSIONS

### Finding No. 1

The subcommittee found an absence of definitive criteria for entrance into the program. Firms were admitted to the program on a case by case evaluation and purely at the description of the appropriate SBA official.

The subcommittee found that there were diverse methods used to quality persons/firms for the program and that, in the absence of definitive criteria, many firms were allowed into the program that defied any semblance of social or economic disadvantage.

### Conclusion and Recommendation

The subcommittee recommends that the Small Business Administration develop criteria for Business Development grants to business firms consistent with demonstrated needs.

The criteria should limit grants to those firms/persons having the following characteristics:

(a) The firm should not have a net worth above an amount to be determined by SBA. The President or controlling partner should not have a personal net worth in excess of an amount to be determined by the SBA.

(b) Criteria for acceptance into the Business Development portion of the program should be based on social and economic disadvantage. However, criteria for contracting opportunities should be majority owned (519) as well as controlled by members of minority groups. The absence of minority control of firms admitted to the program shall be reason for immediate termination of contract awards to the company in question.

Further, minority participation in a joint venture must also be based on the sharing of real economic interest and must include proportionate control over management, interest in capital and interest in earnings.

If the real economic interest in an enterprise or joint venture is represented by debt securities, leasehold interests, management contracts, or other interest owned or controlled by non-disadvantaged persons, SBA shall analyze the enterprise or joint venture closely to be sure that it is a legitimate minority or disadvantaged business and such determination will warrant immediate termination of the contract if the enterprise or joint venture is controlled by the non-disadvantaged group members.

CHANGES IN THE SYSTEM

The Administrator of the SBA should, through the promulgation of agency regulations, provide for the implementation of this recommendation.

FINDING NO. 2

Specific directive authority for orienting contracts to disadvantaged and/or minority contractors does not exist in current SBA regulations.

CONCLUSION AND RECOMMENDATION

The Office of Federal Procurement Policy, in cooperation with the Small Business Administration, should provide leadership and directive authority for executive agency targets in the procurement awards, where applicable.

CHANGES IN THE SYSTEM

Legislation should be passed by the Congress which would indicate the will of the Congress in set-aside stipulations, the procurement policy of the nation should be expressed in the appropriate procurement legislation. The OFPP under the Office of Management and Budget should have the capability of providing necessary regulations to implement the desired authority.

FINDING NO. 3

That the Small Business Administration attempts to treat all 8(a) firms alike. SBA officials insist on providing like services for each firm, similar assistance, similar modes of operation, similar limitations on opportunities, etc.

CONCLUSION AND RECOMMENDATION

The Small Business Administration is debating whether its proper role in the 8(a) program is pure procurement (contracting) or assistance so that businesses owned and controlled by disadvantaged persons can emerge competitive. The Subcommittee suggests that the 8(a) program can be both.

The SBA should categorize firms according to their capabilities, levels of expertise, marketing capabilities and managerial skills. The SBA would then limit its level of participation with the 8(a) firm based on that level of sophistication.

Examples:

"A" Firms—Those companies that are able to market their skills on their own. SBA would serve basically as a certification board. SBA would identify the firm as a properly disadvantaged firm and require a reporting procedure from the firm. "A" Firms would negotiate their own contracts, determine their own levels of hiring, accounting, and minimum SBA involvement.

"B" Firms—Those companies that are able to market and negotiate contracts with moderate SBA involvement. These would be firms which had been in the program for at least a year but does

not have the resources to adequately conduct a full administrative program for itself.

"C" Firms—Those companies require the full resources of SBA's Business Development Program.

CHANGES IN THE SYSTEM

The Administrator of the SBA should, through the promulgation of agency regulations, provide for the implementation of this recommendation.

FINDING NO. 4

That the lines of responsibility for policy, policy enforcement, adherence to regulations and program control are fragmented. The whole question of accountability in the national buy situation is cloudy.

Decentralization in its complete form has made Regional Directors totally independent and less accountable for their actions. Congressional committees virtually have to conduct "oversight" in each region.

CONCLUSION AND RECOMMENDATION

The agency needs a better staffing plan. Furthermore, if effective reforms are to be implemented, more staff will be required, particularly at regional level.

CHANGES IN THE SYSTEM

The Administrator of the SBA should, through the implementation of appropriate agency regulations, reassert control over the regions. Further, the Administrator should provide for more effective management utilization of the Associate Administrators so that they will have the necessary authority to effectively and efficiently enforce the agency regulations.

FINDING NO. 5

That in numerous cases disadvantaged businesses were not being properly prepared for entering the economic mainstream because the sole source set-asides did not involve competitive pricing.

The subcommittee also recognizes the small percentage of minority and/or disadvantaged set-asides make up only about three-tenths of 1 percent of all general government procurement.

CONCLUSION AND RECOMMENDATION

The disadvantaged procurement set-aside program should be expanded to include the proper flexibility which would provide for opportunities to permit competitive awards among disadvantaged businesses. Where competitive opportunities do not exist then sole source awards may be utilized. The modified competitive bid situation should be formulated to provide that only firms in similar tier structures are pitted against one another and should be so structured that presently entrenched firms do not dominate the competition/award process.

CHANGES IN THE SYSTEM

Implementation of this recommendation can be accomplished by administrative regulation. The SBA Administrator has the authority to promulgate this regulation.

## FINDING NO. 6

That the concept, practice and advocacy of the sponsorship program by the Small Business Administration was not in the best interest of the government nor the disadvantaged business persons in the gram.

CONCLUSION AND RECOMMENDATION

The sponsorship program should be limited as a consideration for joining the program and should not be advocated nor advanced by the SBA.

CHANGES IN THE SYSTEM

This recommendation can be accomplished by the appropriate SBA administrative regulation. The Administrator should move promptly to promulgate this regulation and ensure immediate implementation by all regional and district officials.

## FINDING NO. 7

That many of the employees of the SBA who are charged with administering the 8(a) program have little commitment to the program nor any real desire to provide the necessary mechanics to make the program successful.

CONCLUSION AND RECOMMENDATION

The personnel presently involved with administration of the 8(a) program must be made aware that the leadership of the Administration supports the program. Those persons who harbor distaste for the program should be transferred to programs more suitable for their "talents".

CHANGES IN THE SYSTEM

A formal commitment by the White House and the SBA Administrator to fill sensitive positions in Regional Procurement Assistantships with persons who have a commitment to the 8(a) program.

An Interagency Review of hiring/promotion procedures be initiated to be sure that merit, not political influence, become the primary consideration for promotion and hiring.

That the Administrator of SBA establish a set of standards which will adequately provide for the removal or transfer of any agency person based on their failure to act in compliance with fulfilling the objectives of the program.

## FINDING NO. 8

That there is fragmentation of minority and disadvantaged business programs and that often the personnel are at variance with each other. If this is true of personnel it is doubly true of the agencies themselves.

CONCLUSION AND RECOMMENDATION

There should be a concerted effort made by the Congress to streamline programs that deal with minority and disadvantaged businesses. The procurement policy involving the 8(a) program should be reasonably consistent with existing procurement laws and regulations.

CHANGES IN THE SYSTEM

Legislation should be enacted by the Congress to consolidate minority business enterprise programs in either the Department of Commerce or the SBA. There is current legislation making provisions for both agencies having primary jurisdiction.

FINDING NO. 9

That the definition for "advantaged businesses" was not properly nor fully understood by those persons who are in charge of administering the program.

CONCLUSION AND RECOMMENDATION

The agency should clearly define who should be eligible for the program with careful consideration being given to whether the listed owner or president is in fact the person who controls the firm and makes all the meaningful decisions. Documentation should be given to ascertain lines of ownership and responsibility within the listed corporate structure.

The clear and definite limits of who is "disadvantaged" must be spelled out for the possible recipients so that they, too, will understand the implications and impact of the program.

CHANGES IN THE SYSTEM

Definitive guidelines developed by the agency.

The Administrator of the SBA should promulgate such guidelines in accordance with the stated goals and objectives of the 8(a) program. The authorizing and oversight committees of the Congress should be consulted for appropriate input on such guidelines.

FINDING NO. 10

That "graduation" criteria is not properly spelled out and recognized among those contractors who are in the program.

CONCLUSION AND RECOMMENDATION

That the agency should provide standards and regulations which would spell out terms of graduations and successful completion of the program by participating companies.

CHANGES IN THE SYSTEM

Administrative guidelines proposed by the Administrator of the SBA.

## Finding No. 11

That the requirements and information as outlined in the current business plan is largely repetitious, somewhat irrelevant, and very often confusing. The detailed business plans are looked upon by many businesspersons as a means employed by SBA, to limit participation in the 8(a) program.

### CONCLUSION AND RECOMMENDATION

The extensive redtape that is required to do business with the Federal government prevails in every executive agency of the government, the SBA is largely no better or worse than the other agencies. The subcommittee, however, feels that the 8(a) program is geared toward disadvantaged firms which often would not have the accounting, legal, and other expertise necessary to fill out long, detailed business plans.

The subcommittee believes that the necessary and pertinent information needed by the agency to effectively administer the program can be produced in one-third the paperwork now required by the SBA.

### CHANGES IN THE SYSTEM

The Administrator of the SBA should promulgate the necessary agency regulations which would reduce the business plan to approximately six to eight pages. The applicability of such a business plan should involve each of the ten (10) regions.

## Finding No. 12

The opportunities for legitimate disadvantaged firms were not as readily available as the Congress had been led to believe and that many of the smallest firms were not properly advised of Federal contracting opportunities. The SBA has a self-imposed limit on the number of firms that are kept in the portfolio.

### CONCLUSION AND RECOMMENDATION

The program should be expanded to include a widening of basic contracting opportunities for disadvantaged businesses. The subcommitte believes that there can be significant new procurement developed so that private small businesses in the contracting area may not be adversely affected. Also, the implementation of recommendation No. 4 would lend itself to the desired, orderly expansion of program entries.

### CHANGES IN THE SYSTEM

Implementation of this recommendation can be accomplished by administration regulation. The SBA Administrator has the authority to promulgate this regulation.

## Finding No. 13

The subcommittee found that many disadvantaged business firms could not qualify for the full scope of surety bonding required for many construction and service contracts.

### CONCLUSION AND RECOMMENDATION

The Small Business Administration should have the capability to provide a measurable percent of the bonding requirement on behalf of the disadvantaged business person. The SBA should have the authority to provide from 10 to 50 percent of a disadvantaged firm's bonding.

The bonding percent would be considered a part of a company's Business Development Expense.

### CHANGES IN THE SYSTEM

Pursuant to this recommendation, Congress should legislate provisions under which this recommendation would be implemented. The resulting regulations promulgated by the Administrator of the SBA must be in accordance with Congressional intent.

## A FINAL ASSESSMENT

Total minority ownership for the nation's business firms could not be established. However, it was learned by the subcommittee that blacks own approximately four percent of the firms in this country. Blacks also control about one percent of the nation's total business assets.

Minority entrepreneurs who attempt to enter the economic mainstream must come to grips with the following key facts:

The major government agency charged with assisting minority business efforts—The Small Business Administration— has been consistently criticized in Congressional inquiries concerning the agency's commitment to helping minorities.

The only congressional focus for minority business exclusively is in the House of Representatives—the Subcommittee on Minority Enterprise and General Oversight.

The Office of Minority Business Enterprise (Department of Commerce) the executive branch's other focal point was the subject of a recent very critical Government Accounting Office report.

The biggest government procurement dollar is spent by the Department of Defense. DOD last year "let" approximately 40 billion in contracts but estimated that only about 100 million went to minority firms. (However, it was with DOD that many of the "front" firms did business so legitimate black firms got even less than this quoted low figure).

The competitive market place is not color-blind and many white firms have built-in factors in their favor which makes it virtually impossible for minority firms to get a "foot-in-the-door" even on so-called competitive contracts.

Government contracts are only part of the solution to making sure that minorities are included as significant contributors to the national economy.

The restrictive industries, such as construction, and the hazards of obtaining surety bonding, are barriers which minorities face in the free enterprise system. One minority contractor noted the problems faced in the construction industry are monumental for any small contractor who would go against the older established firms but is doubly tough for minority firms.

The Small Business Administration conducted a full review of the ownership and control of all firms enrolled in the 8(a) Business Development Program for the purpose of recertifying the eligibility of each company. The recommendations of the review committee were not available at the printing of this report. However, the subcommittee feels strongly that program modifications by the SBA must deal in specific terms with eligibility and graduation criteria. The absence of clearly defined standards will ultimately lead the program back into the predicament discussed in the subcommittee's hearings.

Although the subcommittee's hearing generated sharp public awareness of problems that existed in 8(a), the problems certainly were not altogether new. In 1974, the Small Business and Minority Enterprise Subcommittee first learned that the use of "fronts" to obtain 8(a) contracts was widespread, however, the practice continued.

In 1975, the United States General Accounting Office (GAO) conducted an extensive audit of the program and again related the practice employed by many white businessmen of *luring* blacks into joining dummy corporations and then bleeding the company dry.

A Miami Herald's investigative reporter, Andrew Rosenblatt, revealed continued abusive practices in the SBA and raised doubts about SBA's official position on the "sponsorships". Mr. Rosenblatt's articles also called into question the competency of southeastern SBA officials in the Atlanta regional office. Allegations concerning the regional officials centered around the award of an 8(a) contract to two minority contractors from Florida.

One of the contractors, Robert L. Singleton, President of Singleton Construction, Inc., contacted Senator Chiles and raised questions involving the government's responsibility as the prime contractor in the procurement award.

The Singleton case was thoroughly investigated by the subcommittee. Indeed, Singleton was the lead witness for the six days of hearings held by the subcommittee. The subcommittee felt that Mr. Singleton's testimony and presentation of facts should have led to efforts by the SBA to favorably resolve his case.

As the Committee's Report went to press, Singleton still had not had his case fully reviewed by the Administrator and now is on the verge of bankruptcy.

Mr. Singleton's plight was echoed by other minority contractors who did not find SBA's procurement leadership advantageous.

The 8(a) program does have success stories. However, they are rare and probably involve individuals whose independent expertise were "turning points" rather than SBA's.

The recommendations submitted by the subcommittee are intended as reform measures which will enhance the opportunities for minorities and other disadvantaged persons to compete effectively in the open marketplace so that every business resource might be utilized.

## THE SPONSORSHIP PROGRAM

The sponsorship program, as created by the regulations promulgated by the SBA, was fully exploited by the sponsors to maintain control over the industry (mostly food and janitorial services) which big firms had previously controlled.

The abuses in the sponsorship program were documented by governmental investigations carried on by the House of Representatives as well as the General Accounting Office. However, the abuses continued.

The abuses continued mainly because SBA's Regional and Central Office "accepted" the sponsorship program and made little effort to properly monitor the activities of the nondisadvantaged stockholders.

The rip-offs and exploitation of the disadvantaged persons in the firms under question raised grave doubts that the SBA really tried to control this situation.

Closely supervised "joint ventures" would very definitely be a viable alternative to sponsorships.

Mr. Len Cole, the former director of Business Development of the SBA testified on July 8, 1977 concerning the beginning of the sponsorship program and how his office had envisioned using large corporations to assist minority entrepreneurs.

Senator Chiles questioned Mr. Cole concerning the applicability and the original intent of the sponsorship program, as follows:

Chairman CHILES. I understand that you supported the original concept of sponsorship. Explain it for me, please.

Mr. COLE. Yes, sir, but not under the context in which it's been described in these hearings.

The original concept of the program was that we recognized at the onset that the big gap in minority enterprise development was the lack of management and technical knowhow in developing businesses, and that we had to turn to industry to provide those types of talents. We didn't have them within the government structure. And this should became an industry-government-minority joint effort.

We were at that time thinking about sponsors, but we were thinking about the giant corporations in the United States, not the type of companies that you've been discussing here.

In fact, one of the first actions that we did initially was call 18 of the largest company representatives—of 18 of the largest companies in the United States—together and presented our plans to them, and tried to get their cooperation in assisting us in the development of minority enterprise.

Chairman CHILES. Was that cooperation denied?

Mr. COLE. No, the cooperation was not denied by industry. But very shortly thereafter the program really became feverish and got completely out of hand, as I described before, in getting contracts out. So that the type of planning and the time frame that would be necessary to do the type of work that we were talking about initially was simply not available to us.

Chairman CHILES. So the original concept of sponsorship—now this is interesting to me because I can understand it a little better now—the original concept of sponsorship was that you were going to deal with somebody like the Fortune 500 corporations, and you were going to say to them, or government was going to say to them, as a public service you should help these minority businessmen come into the mainstream. This is a public policy decision. This is something that needs to be done, and sort of a public service you should help that.

It was not to be sold to big corporations on a profit motive, was it?

Mr. COLE. No, sir, it wasn't.

And the additional wedge that the government felt it had was that many of these same giant corporations were heavily involved in government contracts themselves, and that it wouldn't take too much of an inducement on the part of the government to get them involved in supporting us and assisting us in this program.

Chairman CHILES. As part of their sort of minority compliance or equal compliance, they would be willing to do this?

Mr. COLE. Yes, sir.

Chairman CHILES. And you say that cooperation appeared to be forthcoming but it just was turned off when they went into the fever pitch of just getting the business out.

Mr. COLE. Yes.

Chairman CHILES. And that's when the sponsorship, as we know it now, came into being.

In report released to the Congress in April of 1975, the General Accounting Office wrote of the sponsorship program:

CHAPTER 3. EXTENT AND EFFECT OF SPONSORSHIP IN THE 8(a) PROGRAM

SBA encourages nondisadvantaged businesses (sponsors) to provide management services, training, and capital to disadvantaged small businesses. However, the sponsors often retain control in 8(a) firms, which appears to be inconsistent with SBA's objective of helping small businesses become self-sufficient. SBA does not routinely review or monitor the activities of sponsored 8(a) firms to determine if they control the business.

Also, SBA lacks criteria to define the extent to which sponsors can collect fees from 8(a) firms for services provided during the performance of a contract. For example, the sponsors included in our review charged their 8(a) firms fees ranging from about 6 percent to about 17 percent of the firms' gross receipts. Also, SBA does not regularly analyze other financial transactions between each 8(a) firm and its sponsor to insure they are proper and reasonable.

We reviewed files at the 10 SBA regional offices and identified 89 8(a) firms which had sponsors. Our analysis showed that 77 of these firms received 8(a) contracts amounting to about $132.5 million. We evaluated 25 of the 89 firms (20 of the firms had receipts of about $40.2 million in 8(a) contracts) and contacted the 7 sponsors of the 25 firms to determine:

How and why experienced non-8(a) firms became sponsors.
What controls were exercised by sponsors.
What services and other items cost 8(a) firms.

HOW AND WHY EXPERIENCED FIRMS BECAME SPONSORS

SBA awarded large Government contracts, mostly service type (janitorial and military kitchen police), to sponsored 8(a) firms rather than award smaller contracts to smaller nonsponsored 8(a) firms. The latter action would have required more of SBA's manpower and other resources for monitoring, training, and management assistance. However, the practice of obtaining large contracts presented SBA with two problems:

The small disadvantaged firms usually lacked the capital and caliber of management required to successfully perform the large contracts.

The independent contractors that previously obtained and performed the contracts competitively realized that they would lose contracts to the 8(a) program and became highly critical of SBA and the program.

The seven contractors told us they generally were very much opposed to SBA's practice of using large contracts for the 8(a) program. The service contractors contacted SBA officials, sought solutions in the courts, contacted congressional representatives, and ultimately sent a delegation of representatives to the White House. Then, the contractors became aware of the profit potential in becoming sponsors and decided not to fight SBA but to join in SBA's effort to develop viable business.

Six of the seven sponsors we interviewed said they had become sponsors to make profits and to protect their livelihoods. Although six sponsors expressed a desire to develop viable businesses, five said they had very little incenitve to create viable businesses which would later become competitive and therefore preferred to establish a relationship of interdependency which would continue indefinitely.

The experienced contractors generally became sponsors by forming new corporations using former employees as stockholders and officers, getting the new corporations approved for the 8(a) program, and providing goods and services to the new corporations for a fee. Six sponsors also obtained 40 percent or less ownership in the new 8(a) firms.

CONTROLS EXERCISED BY SPONSORS

All of the 25 firms we reviewed were influenced by their sponsors; were very dependent on them; and had, through various actions or inactions, delegated a high degree of control to the sponsors.

The business plans and/or management agreements between the firms and their sponsors did not contain detailed descriptions of services to be provided by the sponsors or the fee to be charged for each service. Instead, they generally stipulated that the sponsors would provide the 8(a) firms those types of services customarily considered general and administrative items—training, accounting, figuring taxes, filing management reports, and providing secretarial and clerical help. In addition, all of the sponsors generally represented the 8(a) firms in identifying and negotiating new contracts, dealing with SBA, dealing with union representatives, and locating and obtaining financing.

The activities of the firms which were most commonly influenced by the seven sponsors were:

Accounting: At one time the books of 20 items were maintained by the sponsors at the sponsors' places of business. At the completion of our review, the books of 18 firms were still maintained there.

Corporate records: At one time the corporate records of 20 firms were maintained by the sponsors at the sponsors' places of business. At the completion of our review, the corporate records of 11 firms were still maintained there.

Cash expenditures: Six sponsors were authorized to make cash expenditures for 17 firms without obtaining cosignatures of officials of the firms.

Payroll: This function, provided by 6 sponsors to 19 firms included (1) computing gross pay and withholding, (2) writing the checks, (3) signing the names of the firms' treasurers by machine, and (4) mailing checks to firms.

Contract negotiations: The 7 sponsors represented 20 of their firms in negotiations with contacting agencies.

Board of directors meetings: At one time 7 sponsors were on the boards of directors of 21 firms, and 3 of these sponsors controlled the boards of 5 of these firms. At the completion of our review, three sponsors were still on the boards of six of the firms, and two sponsors still controlled the boards of three of the firms.

Stockholders meetings: Six sponsors held stock in 18 firms at some time and were in a position to influence the stockholders' meetings. Although the other sponsor did not have stock ownership, it had similar influence through a partnership agreement. Stock in six firms is still owned by three of the sponsors.

Dealings with financial institutions: Four sponsors arranged for loans or lines of credit for 14 firms by arranging for assignment of contract receipts to banks, usually located near the sponsors' places of business. The banks paid no interest to the firms because their funds were maintained in checking accounts. Although the accounts were sizeable, there were no indicaitons that short-term investments were considered.

Leasing equipment: Two sponsors and a leasing company owned by a stockholder of another sponsor leased equipment to 10 firms. None of the firms had an option to buy the equipment.

Dealing with contracting agencies: All of the sponsors represented the firms in resolving problems arising from contract performance and in negotiating changes in contract specifications and any other items which would affect the successful completion of contracts.

SBA considers ownership of 51 percent or more of an 8(a) firm by disadvantaged individuals as evidence of their control. In February and October 1973, SBA's External Audit Group reviewed five 8(a) firms with two sponsors and concluded that control of these 8(a) firms rested firmly in the hands of the sponsors.

*Example of a sponsorship arrangement*

The manner in which control is exercised by a sponsor is sometimes difficult to understand. A description of the business relationship between a sponsor and 8(a) firms and the extent to which the sponsor exercised controls is discussed in appendix IV. This case should not be viewed as being typical for all sponsors; however, it did closely resemble those cases we reviewed.

The sponsor discussed in the example in appendix IV controlled two mess attendant firms in July 1974 in the following manner:

Incorporating the firms as close corporations.
Appointing its company personnel to key positions in the firms.
Completely controlling cash expenditures.
Controlling management policy through stock ownership.
Maintaining the firms' books and records.

Furthermore, an official of the sponsor told us that it was not intended that the 8(a) firms become viable to the point where they would become competitors

in the mess attendant services industry. He also stated that once the 8(a) firms became viable, he did not believe they could survive unless they diversified into other areas of the services industry, such as ground maintenance or janitorial, institutional food, or security guard services.

*Examples of controls based on interviews*

The activities of the owners of sponsored 8(a) firms we reviewed were often limited to supervising, including keeping employee time records and keeping the sponsors aware of any financial problems. Fourteen presidents were former employees of their sponsors.

We visited the business offices of the firms and interviewed 23 firm presidents to determine their familiarity with the operations of their businesses. Our interviews generally indicated that they lacked even a basic understanding of routine business matters and were not aware of very important matters specific to their own businesses. Of those presidents interviewed

one did not know if he was on the board of directors;

two did not know who prepared their firms' financial statements;

three did not know if their firms were on a cash or accrual accounting basis;

one did not know if his firm had paid dividends;

two did not know if the fees for the general and administrative services provided by their sponsors were based on a percentage of gross income;

three did not know if their firms were drawing interest on the cash in their bank accounts; and

six said they were weak in finance and accounting, nine said they were weak in preparing contract bids, and two said they were weak in negotiating contracts.

One disadvantaged secretary-treasurer of an 8(a) firm signed corporate documents and checks with an "X." He stated that, as an officer of the firm, he cleaned up around the office. SBA external auditors reported that the officer's wife said he spent all of his time working on the sponsor's farm.

In 16 of the 25 firms, the disadvantaged owners had previous experience in janitorial and kitchen police work as managers for the sponsoring businesses, in the military, or elsewhere.

## COST OF SPONSORS' SERVICES

Sponsors were paid for their services by management fees. Our review of 25 firms showed the following expenditures were made as of June 30, 1974.

| Sponsor | 8(a) firms | | Service fees | |
|---|---|---|---|---|
| | Number | Total income | Paid to sponsors | Percent of gross income |
| A | 6 | $16,094,000 | $2,534,000 | 15.7 |
| B | 1 | 388,000 | 64,000 | 16.6 |
| C | 4 | 11,758,000 | 1,066,000 | 9.1 |
| D | 3 | 403,000 | 31,000 | 7.7 |
| E | 2 | 162,000 | 10,000 | 6.0 |
| F[1] | 4 | 11,483,000 | 889,000 | 7.7 |
| G | 5 | [2] | [2] | [2] |
| Total | 25 | 40,288,000 | 4,594,000 | 11.4 |

[1] Amounts shown are for the 11-month period ended May 31, 1974.
[2] Not obtained.

SBA has not established criteria for determining the reasonableness of fees and other amounts paid to sponsors.

In addition to paying fees for services, 8(a) firms paid for other items provided by their sponsors or for the sponsors participation in profits as stockholders of 8(a) firms, as discussed below.

*Salaries*

Three sponsors received salaries from four firms.

*Sale of ownership*

SBA required two of the sponsors who acquired stock in eight firms to sell their stock on or before a specified date. The sponsors did so, and by agreement with the other stockholders of the firms, the sale price of the stock was based on the projected value of the stock at a future date. This increased the sale price of the stock and provided the sponsors with substantial capital gains. For example, one sponsor acquired 3,100 shares of an 8(a) firm's stock in 1971 for $3,100. In January 1974 he sold that stock back to the firm for $263,500.

*Lease of equipment*

Two sponsors and a leasing company owned by a stockholder of another sponsor leased equipment to 10 firms. In one case a sponsor obtained a tooling machine for $14,575 and leased it to an 8(a) firm for about 9 months at a total charge of $45,000. In addition, the sponsor charged the firm $3,000 for tools associated with the machine and $3,000 for setting up the machine. The machine was never put into proper working order. The sponsor later sold the machine for $9,000 to a third party.

In another case, the leasing company owned by a stockholder of a sponsor charged an 8(a) firm about $17,000 for reconditioning and modifying aircraft refueling trucks to meet Government standards. The leasing company owned the trucks and intended that the 8(a) firm would bid on a refueling contract and, if successful, lease the trucks. The 8(a) firm was low bidder but was not awarded the contract because a preaward survey determined that the condition of the trucks was unsatisfactory for performance of the contract. Although the 8(a) firm never used the trucks and although the condition of the trucks was responsible for the firm's loss of the contract, the leasing company never reimbursed the firm the $17,000 for the cost incurred in reconditioning and modifying the trucks. The firm did not have a written agreement specifying the terms of the lease.

## CONCLUSIONS, AGENCY COMMENTS, AND OUR EVALUATION

Some experienced contractors became sponsors to make profits and to protect their livelihoods in the Government contracting industry. Their goal was accomplished by forming new corporations using former employees as majority stockholders and officers, securing minority stock ownership for themselves, getting the new corporations approved for the 8(a) program, identifying and negotiating contracts for the new corporations, and subsequently providing them with services and other items for a fee.

Subsequent subcommittee investigation discovered that active sponsorships and arrangements were still in effect with many firms still in the 8(a) program. The subcommittee investigators concurred with the GAO 1975 findings that the SBA actively encouraged sponsorships.

During the cross-examination of Mr. Wiley Messick, the regional director of Region IV (Atlanta) Senator Chiles said:

> Then what you're saying is, that part of the 8(a) program having to do with service contracts, in which sponsorship was put in, was sort of a "sham" from start to finish? On the one hand, the SBA could talk to Congress and the public about the efforts being made in assisting black and other minorities into the mainstream of American society, while, in actuality, most of the money would continue to go to the same people it always had been to, the successful white contractors, and that the government would be paying more money for these contracts than it had been in the past?

Later in the hearings in an effort to learn the origin of the sponsorship regulation, Senator Chiles stated:

> Senator CHILES. Well, then, would you say, Mr. Messick, that you participated in the original decision to permit the big contractors to continue having the business, with the sort of minor annoyance of having to select a few black "fronts" and going through the game of filing business plans with your office, completed in many instances with phony descriptions of how well the disadvantaged participant was getting along?
>
> Mr. MESSICK. Senator, I don't know that I would agree with all of your prefacing remarks in your question, but I will answer specifically that I had no part

in the policy—in fact, I was somewhat persona non grata in the Central Office at that time.

Also, ordinarily the field people aren't called on—Well, they may be called on at times for goal discussions, or called on for policy discussions. But the policies are made in the Central Office.

Senator CHILES. Did you agree with these policies?

Mr. MESSICK. By "did I agree with them", do you mean——

Senator CHILES. Well, you're one of the most senior officials in the SBA, and with the decentralization of the agency, you're pretty free to operate and manage your Region pretty well as you see fit.

Did you protest this action to the headquarters officials?

Mr. MESSICK. I may have at the time, but I don't recall protesting this action to the Central Office at the time.

Senator CHILES. Do you know whether those would have been written protests? Would you have any copies——

Mr. MESSICK. Senator, I don't recall. The Agency, or agencies, setting up the program were calling the shots. As far as I recall, I didn't write any memoranda making protests of this fact.

Senator CHILES. Mr. Goodbout told us he only had one example of a sponsor company in his District, that he didn't like it but he didn't do any more. Yet Region IV seems to have more than. I guess, more than anybody, right, more in number?

Mr. MESSICK. Possibly. I'm not sure of that. But he didn't tell us why he was unhappy with this.

It is interesting to note—Senator, most of the sponsorships in the service area are in the Sun Belt. They start with Virginia in Region III, swing around through the Southeastern area into the Southwestern area, and I'm not sure whether California has any now or not. I'm not even sure that they ever had any. But my impression is they did have some, and Region VI had quite a few.

One of the reasons for this is that most of your military bases, particularly your Army bases, are in this area, and your big requirements for servicing an entire base are in this area.

As Senator Chiles continued to press for answers on the sponsorship question, he read from the GAO report.

Senator CHILES. It says:

"None of the disadvantaged stockholders had taken the initiative to form an 8(a) firm. This was done by the sponsors in all cases, and with the exception of a couple of the firms, the officers and directors were selected by the sponsors.

"The officers of the original group, the Dunn group, Marshall, Rupert and Jorgen (phonetic) enjoyed a high degree of influence over the operation of the 8(a) firms by placing themselves, their officers and their key employees, as officers, directors and key employees of the 8(a) firms. Marshall served as assistant secretary-treasurer and director of all of the firms, except AR&S."

It says, "Henry Ferguson, a former employee of Rupert's, was the secretary-treasurer and director of Technical and a stockholder in Palmetto, Versatile, and Service Enterprises.

"Ferguson, a black man in his seventies, worked on Rupert's farm. When appointed secretary-treasurer to Technical, Ferguson accepted the position by signing an 'x'.

"We note the minutes of Technical's directors and stockholders meetings stated that Ferguson acted as secretary at those meetings.

"Furthermore, in a progress report to SBA, Marshall wrote, 'Mr. Ferguson functions as secretary-treaturer under the direction but ever-lessening supervision of the sponsoring company. He is somewhat behind other officers because he has not been with the company as long, but he is progressing very well.' "

That's a man that has to sign his signature with an "x", who worked on a farm.

Would you say that's a minority businessman that we were helping out, that we were teaching how to become a full-fledged businessman, to be able to operate on his own?

Mr. MESSICK. Senator, I think the GAO concluded correctly that there was not much likelihood of Mr. Ferguson being a successful 8(a) contractor.

Let me say this, that the Dunn group sponsorees began to break away as AR&S, I believe, and the Regional staff did what it could without violating the privity of contract to help and encourage the people to break away.

Incidentally, AR&S——

Senator CHILES. You talk about privity of contract. That's a term I respect because I'm a lawyer. But you got a report on Dunn as early as 1973. What I want to know is what action did you start taking in 1973—and you got another report in 1974, and another report in 1975, and Dunn is still—we see in one of the last reports that we have that at least three of them are still in the program, and in one of the last reports that we have it says, to date, they're still exercising all kinds of control over the companies.

Mr. MESSICK. Well, Senator, it was my impression that the relationship to the Dunn group had been severed.

The senator continued:

But what I want to get to is, from 1973 on, when you saw the Dunn group—and certainly, you were able to see from 1973 that this was set up strictly as a "front." They selected all of the people, not only the people who were trying to go into business for themselves. They were exercising all of the control. They were siphoning off in large measure all the funds. They've got an arrangement in which they're renting all the equipment out of one company; they're billing, all of the accounting services, out of one company, with horrendous-sized accounting bills.

All of that is going on, and you start talking about the privity of contract. They continued to get contracts after 1973, did they not?

Mr. MESSICK. Yes, sir.

Senator CHILES. So the Dunn group continued to benefit financially since 1973?

Mr. MESSICK. Well, to some extent it did. The magnitude of the problem was—I don't recall the exact date of the GAO report, but they went into it rather thoroughly and laid it out. After that time the companies began to break away, tried to break away, and we lent them encouragement.

Senator CHILES. One of the things you had them do, you had them purchase back the stock—or they started purchasing back the stock, because it appeared that you felt if you could get them out of the ownership, that would be the change.

Wasn't some of this stock bought back at tremendous sums?

Mr. MESSICK. It was determined later it was, that unfortunately some of these companies, in buying the stock, improved their working capital situation.

Senator CHILES. Three-thousand percent?

Mr. MESSICK. I'm not aware—three-thousand percent of what?

Senator CHILES. Of what they paid for the stock. They paid a buck for the stock, and some of it went as high as $3,000 a share, book value, just taking back the money the government put in there.

The government contracts they got under the 8(a) program, and the poor minority people didn't get any of that. They got nothing. And they paid out the assets so the company is left flat.

Did you all have to consent to the stock arrangements, for the pay out?

Mr. MESSICK. I would need to ask some of the staff about that. I suppose there was implied consent.

If, after we found out about it, we continued—you started making the point, the statement, as if this arrangement was by us. I just don't think that was the case at all, Senator.

Senator CHILES. Who was the arrangement by?

Mr. MESSICK. Between the sponsors and those who were being sponsored.

Senator CHILES. But the '73 report tells you that the minority people didn't come to SBA and say, "Let's go get a contract." Now, that could have appeared to your office, maybe, if somebody didn't do any checking at all prior to the '73 report. But once you had the '73 report, you know these companies were organized by three entrepreneurs, that they organized each one of these companies—Technical Services, Services Enterprises, Inc., Expedient Services, Inc., Service Enterprises, Inc., Versatile Services, Inc., Gemini Food Services, Inc., and Palmetto Enterprises, Inc., AR&S Enterprises, Inc.—that they organized them and selected the participants they got a guy that worked on a farm, somebody else that worked in the office as a janitor, and they went around and got themselves some black participants, and then they started getting the bids.

We know that in addition to getting the bids they siphoned off money, siphoned off money—this is a GAO report, now, which came out in '74. I don't know what all the '73 report said, but it says, "A review of the financial records of the seven firms sponsored by the Dunn group, all of which are maintained—" all the records were kept at Dynamic Enterprises, which is one of the Dunn parent companies "—discloses that $4.37 million, or 25 percent of the $16.48 million, the

combined gross income of these firms, 8(a) firms, in commercial sales from May 27, '71 to June 30, '74, was paid to the sponsors or employees, officers, and stockholders of the sponsor's corporation for management fees, leased equipment, salary, sales of stock ownership, and many other items.

"In contrast, the disadvantaged stockholders received a total of $734,000." So the three principals and the employees of their companies got 25 percent of $4.37 million, and all the disadvantaged employees got $734,000.

"As a result of our audit, we notice that numerous payments had been made to sponsors of the 8(a) firms. We identified total payments of $1.92 million which are considered questionable. Many of these payments are questionable because they were payments for items not covered by the management agreement resulting in duplicate payments: $170,000 in personal expenses of the sponsors; $2,689 for stock or sponsors held in the 8(a) firms, although the valuation of the stock at the time of the sale was questionable; $1,066,600 for other reasons; $675,000." So they questioned $1,915,674.

Now, what happened to those items that GAO is questioning? Has this gone into the Renegotiation Board?

Mr. MESSICK. Senator, I don't think that the Renegotiation Board—and this is an impression—has moved on it.

Senator CHILES. Did you send it into the Renegotiation Board?

Mr. MESSICK. No, sir, I have not personally sent it.

Senator CHILES. It says the sponsors sold their stock back to the corporation, or individually to the disadvantaged stockholders, for $1,066,600, realizing a profit of 2,844 percent. That was a little high when I said 3000 percent.

So, 2,844 percent. The disadvantaged persons usually received only par value when they sold their stock. One disadvantaged stockholder sold his stock for more than he paid for it, one.

Now, my concern is, when this comes to your attention, in 1973 and 1974, and in 1975, why didn't you quit doing business with these people? Why didn't you quit giving contracts to these people, or why you didn't run them off?

Mr. MESSICK. Well, we did——

Senator CHILES. When you find out they've got a janitor—I mean, a fellow that works on a farm that signs with an "x", and the guy puts in the report he's making satisfactory progress, you don't think that gave you some excuse to run that fellow out?

Mr. MESSICK. Shortly after the GAO report was made on that, these companies did begin to break away.

Senator CHILES. They began to break away?

Mr. MESSICK. Yes.

Senator CHILES. Mr. Messick, that doesn't satisfy me because they began to break away by getting 2,844 percent profit.

In the last report that we have, April of 1977, it says that the internal auditors looked at fifteen firms in the Atlanta Region which appeared to be wholly controlled by white sponsors, and they found twelve of the fifteen owners did not appear to be actually managing the firm, although the fifteen had been formed solely for the purpose of entering the 8(a) program.

Five of the fifteen owners did not appear to have sufficient education or experience to become businessmen. In five of the fifteen cases, the 8(a) ownership salary was unreasonably low, as compared to the other officers' salaries.

In 10 of the 15 cases the 8(a) firm had the same address, shared the same office space, with the sponsoring firm. And in 10 of the 15 cases the initial capitalization of the firms was minimal, a thousand dollars or less.

So they concluded, "Our review discloses sponsorship arrangements were not in most cases beneficial to the 8(a) firm sponsors. Rather, the benefits accrued to the sponsors who controlled the 8(a) firms."

In some cases the benefits were considerable, but even in '77 they're concluding you've got 12 owners of the 15 that they looked at—they didn't look at all of them, but they took samples. But they didn't appear to be actually managing the firms. It's hard to say that you're graduating them up.

Mr. MESSICK. Well, Senator, their program started out with ownership, and we got no instructions at any time from Washington that sponsorships were forbidden or not to be used.

We went from ownership to try to go, in most cases, to management agreements, which should have been easier to determine, you know, in advance, what the sponsors and sponsorees were going to get, and what their rights would be.

As far as I know, in all of these cases, the people who were being sponsored agreed to the system for the contract involved.

One thing we need to remember is that very often the disadvantaged contractor brought only his willingness to be involved in the program, and sometimes some experience as a foreman or manager——

Senator CHILES. In the Dunn case they didn't bring their willingness. Somebody went out—these three entrepreneurs went out and got them.

Mr. MESSICK. Well, I think that's true in most of thosee cases. I don't know that it's true in all of them. I do think it's true in most of them.

Senator CHILES. True in most of the cases?

Mr. MESSICK. True in most of the Dunn cases, that's true.

In further discussion of the GAO's role, Senator Chiles noted:

Well, in 1974 the General Accounting Office started the audit regarding the activities of the organization referred to as the "Dunn Group". To quote from a telegram sent by your Mr. Coker, (phonetic) your regional counsel, "GAO is extremely critical of the amount of money drained off by the sponsors by means of management agreements, lease agreements, stock sales, salaries and other devices." He noted GAO viewed the various contracts between the sponsors and their front organizations as "an agreement to suit any occasion".

He also noted that, "Perhaps it would be possible for the agency to adopt a posture which will leave us looking somewhat better than I think we do today with regard to the 8(a) sponsorships."

That was April of 1975. The SBA didn't look very good then, and I don't think it looks very good now.

Mr. MESSICK. Well, Senator——

Senator CHILES. And as a result of that, again of that audit, which told you at that time they were concerned about the ownership arrangements, they were concerned then about the stock sales, what corrective actions did you take?

Mr. MESSICK. Maybe other people could speak to the details better than I can. We attempted to assist them in breaking away from the Dunn group, these that were sponsored.

I was looking at some of the testimony here, in the '73—I mean in the '74 and '75 year—and Mr. Dabo (phonetic said, "Is there any intention or directive by your agency to eliminate such sponsors", and Mr. Kleppe said, "I would never say that would not happen, but at the present time I can tell you it is not under advise. At the present moment we continue to get complaints on both sides, some expressions, I should say, on both sides, but so far that's the way we're functioning."

We read his testimony, and the report that was put out subsequently, and, Senator, there was no clarion call—I think you would agree there was no clarion call on that for elimination of all forms of sponsorship agreements, although we had been trying to improve them to get a better break for the disadvantaged participants.

There was certainly no charge to the agency, however, that they were from that point on forbidden to try to improve the situation and get a better break for the people who were being sponsored. In fact, I think they have progressively drawn more benefits and they will not much longer—

Senator CHILES. You say there was no "clarion call". I don't think Congress, to my knowledge—maybe they did—but I don't think Congress ever got a copy of the GAO Dunn report.

Mr. MESSICK. Yes, sir. Yes, sir, Senator.

Senator CHILES. The Dunn report, I mean on the Dunn group?

Mr. MESSICK. Oh, I'm sorry. The GAO did not distribute, for reasons of its own policy but there was enough in the previous reports, the details to put the Congress on notice of the problem areas, Senator.

Let me just say this: It would have been good if the Congress had taken note of this program in '71 and '72; it would have been good if the Committee had spoken and told the Administrator that there would be no more sponsors; if we would have had direction or guidance of policy, on the question, direct guidance, our people would have followed it.

Senator CHILES. Well, I'm really concerned as to how strong that direct guidance has got to be, because in light of the '73 audit report, the '74 report, the reports of '75 and up to the reports in '77, I guess Congress is going to have to speak, because it appears to me nothing has changed.

You know, the pattern is quite clear: The big service companies, they knew a "turkey" when they saw one. They took former employees, generally janitorial or farm employees, and they gave them important sounding titles, and they

went to SBA and had their papers stamped, and they proceeded on with many companies, with various forms of management agreements, joint ventures and the like, and SBA, like an ostrich with its head stuck in the sand, ignored this for five years.

And during that time, 25 percent of all the SBA funds expended have gone to sponsored companies, for a total of $384 million, over $1.5 billion program that has gone to sponsor companies.

I guess Congress should be indicted, to, because they haven't gone into this before now.

The Harshman papers (named for the SBA officials who started making connections on sponsorships) were in the hands of the SBA leadership in 1972. Mr. Harshman testified both in the Tampa hearings and in Washington. On July 8, 1977, Mr Harshman recounted his experiences in 1972 as Chief of the Requirements Division in SBA thusly:

At that time, the 8(a) program was a centralized program being operated out of the Washington office. And the responsibility of the Requirements Division was to secure the necessary contracts from other agencies to support the firms that were coming into the 8(a) program.

Chairman CHILES. So you had to go to the Defense Department and other agencies and locate or identify contracts that could be set aside for the program, the 8(a) program, and get them to agree that they would allow this contract to go for the program.

Mr. HARSHMAN. Yes, Mr. Chairman.

Well in carrying out that function my division would get requests from another division—in essence, here's a new company in the 8(a) program. This is a requirement. We need to support it—well it came to my—certain names, certain addresses, certain cities, certain coincidences kept croping up over and over and over again, and it appeared to be rather strange to me.

I started to keep some records at random on certain names, certain companies, certain addresses, and from time to time I would see a new name or see the same name with a different company on it or connection; I pieced the mosaic together.

And basically what I pieced together is represented by that chart that you have over there on the wall, a series of sponsors who had, you know, companies underneath them that we were giving contracts to.

Chairman CHILES. Well then that wall chart is, I take it, a fairly accurate reproduction of what you came up with as a result of your findings. Is that correct?

Mr. HARSHMAN. Yes, it is. As a matter of fact, because things were fairly fluid, there were several charts. But that represents one of the several charts.

Chairman CHILES. I wonder if you would step over there and just kind of explain that. We have referred to it a number of times, but if you would kind of tell us the difference between the squares and the circles and run through just quickly if you could what that chart does represent.

Mr. HARSHMAN. All right.

The companies at the top we call the group. For example, the Dunn group is from Dunn, North Carolina, which was represented by three different corporations and three different individuals. And either these individuals or one of the corporations had some connection—either a 49 percent ownership or management contract or some other relationship—with all of these firms that are in the circle.

So there was kind of like three parent corporations for the Dunn group, and they, in turn, one or most, had connections in each one of those other firms.

Chairman CHILES. Yes, sir.

Mr. HARSHMAN. The non-8(a) corporate entities of the Dunn group were Dynamic International, Dynamic Enterprises and Dynateria, Incorporated. And the first non-minority principals were Eddie P. Droughan, George F. Marshall and Robert F. Rupert.

And either one of the companies or one or more of the individuals had some connection with the companies underneath it.

Not in every case was it a 49–51 percent relationship.

It might have been a management contract.

In some of them, they were businesses attempting to get approved for 8(a) contracts that never did get approved.

The investigtaion showed, and from your report and further investigations, that, in fact, those three parent non-8(a) companies, which were basically owned by those three individuals, they were the geneses or they started each one of these other companies.

They selected the personnel, the front; they set them all up.

I saw some business plans that had been submitted for these companies that were, for all intents and purposes, a xerox with a different name put in them of the same business plan.

Chairman CHILES. So they just filled out the shell, and xeroxed the plans and they were off and running?

Mr. HARSHMAN. Yes, sir.

Chairman CHILES. All right.

Do you have another? Just go through one more if you would, please?

Mr. HARSHMAN. Well, Worldwide Services is a non-minority company owned by Mr. James Rice from Smithville, Tennessee, and then these were the companies that he had a relationship with.

I see that these have gotten figures. And there were several charts that put in the figures at a point in time the amount of the contract that each of the companies got. And there's a later chart that shows the cumulative by year of the companies. As a matter of fact, there's more companies on a later chart that shows the cumulative amount of 8(a) contracts that went to the firm, and the sum total by year that were under the sponsors.

Chairman CHILES. Where the charts would show how much Rice actually got for each year out of that contract?

Mr. HARSHMAN. Yes, sir.

Chairman CHILES. The total at the time, as understand it, that you first made up the chart was about $50 million of business was going to these firms.

Mr. HARSHMAN. About 56 million.

Chairman CHILES. About 56 million.

All right. You may continue.

Now what time was that chart drawn? That was in 1972 when you drew that chart. Is that correct?

Mr. HARSHMAN. No. I believe that chart is later. Basically, there was another chart, not that chart, but essentially the same information that I put together in December of 1972. It didn't have the squares and the circles, but it had essentially the same—showed the same relationships.

Chairman CHILES. All right.

You might be interested to know that the amount of service contracts awarded to firms which SBA's auditors and investigators have said are still in the program now, has now risen to about $135 million.

Who did you take this information to?

Mr. HARSHMAN. Let me use this chart if I may.

Chairman CHILES. Yes, sir.

Mr. HARSHMAN. I was working at the time for Mr. Donald Dunlap, and I attempted to take this information to Mr. Marshall Parker, who was the Associate Administrator for Procurement Associates.

I was unable, after several weeks of trying, to get in to see Mr. Parker, so I took the information that I had to Mr. Loren Rivard, who was the special assistant to the Administrator. That was on December 21, 1972.

Chairman CHILES. What took place after you took this information to Mr. Rivard?

Mr. HARSHMAN. I was asked, you know, to be prepared to go over this information with the Administrator the next day, and that I would be called. I was not called. And it is my understanding there was a meeting held, but I was not privy to the information that transpired in that meeting.

Chairman CHILES. Well, do you know what, if anything, happened as a result of this, your chart and the meetings that you had with Mr. Rivard? You later talked to Mr. Bollings about it I know, the chief investigator.

Mr. HARSHMAN. Within about two weeks Mr. Dunlap was relieved of his responsibility in the Office of Business Development. He was transferred to another position. And Mr. John Patrick, who had been the assistant to Mr. Parker, took over as the Director of the Office of Business Development.

Chairman CHILES. Was the material that you gathered, was it sent to Justice?

Mr. HARSHMAN. I have no knowledge that it was.

Chairman CHILES. As one of Mr. Dunlap's division chiefs, did you work in close contact with him?

Mr. HARSHMAN. Yes, I did.

Chairman CHILES. Mr. Dunlap's actions have been characterized as being political. Did you find that to be the case?

Mr. HARSHMAN. I found it to be unbelievably political, very, very political.

Chairman CHILES. In what way?

Mr. HARSHMAN. There was a great deal of—well, if I recall, that was a political summer just before the '72 elections in November. And Mr. Dunlap was attempting to get contracts out to minority firms around the country that would make the Republican Party look very, very minority oriented.

Chairman CHILES. Mr. Dunlap has said that you're the kind of fellow that if you don't get your way you try to take it out on everybody.

Do you have some kind of vendetta for Mr. Dunlap?

Mr. HARSHMAN. No, I have no vendetta for Mr. Dunlap. I did not respect Mr. Dunlap, however.

Chairman CHILES. You might be interested to know how some of the companies that you identified fared in the program.

The Rice group that you've mentioned up there that operated out of Smithville, Tennessee, the GAO report noted that Mr. Rice personally received, or received through Worldwide Services, $2.15 million of the $12 million received through 8(a) contracts.

Mr. Rice and his associates received 24 percent of the gross sales for providing bookkeeping and other management services.

As late as 1973, Mr. Rice claimed to have acted on the advise of Mr. Thomas Kleppe, then the Administrator of SBA, he divested himself of ownership in Best Services.

Under the terms of that divestiture agreement he received a return of 7,977 percent on invested capital. That's a pretty good investment if you can get 7,000 percent.

The GAO report noted that this loss of assets almost destroyed the company and was contrary to the aims of the 8(a) program.

The disadvantaged—I am reading again from their report—took no part in running the company. The president and vice president of Best Services were working as janitors in Washington, D.C., 600 miles from the corporation headquarters.

The front companies during 1974 and 1975 maintained nearly half a million dollars in deposits interest free in Mr. Rice's bank.

Mr. Rice, by his own admission, got into the 8(a) business—and this is a quote from him—"solely to protect his own business interest."

As is the case with Mr. Franklin, Mr. Rice was asked by SBA to be a sponsor.

GAO's conclusion was that sponsors use their influence not to protect the interest of 8(a) firms but to benefit themselves.

A separate SBA audit said much the same thing. Best made a profit of $886,000 on a $2.6 million contract at Fort Benning. This was after the sponsors—which is again Mr. Best—had dipped into the till for $440,000 for accounting and management fees.

The minority owners, including a man who worked in a military commissary and wasn't really sure what Best did or why he received some dividend, and a man who mows Mr. Rice's lawn and does other odd jobs for him. That was the 51 percent minority owners.

Mr. Rice, who owns a bank in Smithville transferred $63,000 from Best's account into his bank so that—this is again a quote from his statement—"the bank would show a better cash position at the end of the year."

He could do that because he had control of the rubber stamp with the minority president's name on it.

The SBA report also accuses Mr. Rice of diverting $15,000 of Best money into his own account.

Mr. Rice repsonded that that action was legal, in the fact that the transfer was reported as being management services when he admitted he had performed no such services, through a clerical mistake.

Mr. Rice noted that "what he got out of the deal was of no concern to Best."

I'm sorry that no one listened to you, Mr. Harshman. I know, and I think everyone else ought to know, that in the course of piecing together the service contract puzzle you've made a lot of enemies. Instead of getting a medal, you seem to have gotten a lot of flak.

I'm sorry that some people have referred to you as "that damned border patrol agent" instead of admiring you as a good investigator.

I think what you did was of service, and I think now some people are beginning to listen to you.

I might just say that the Mr. Rice that I'm talking about here, so we keep the record straight, is not the Mr. Rice of Oklahoma. That's another Rice that we were discussing yesterday and was in several of the wire stories yesterday.

Mr. Harshman, again I want to thank you for your services. You certainly have opened our eyes up by your report. And I think from what you started out, you're beginning to open up a number of other eyes. And we thank you very much.

Mr. Leroy Tombs discussed the "arrangements" that normally exist between a sponsor and the persons sponsored when he related a personal experience in his background prior to his owning a janitoral firm. In testimony before the subcommittee on July 6, 1977, Mr. Tombs said:

Senator CHILES. Mr. Tombs, we are glad you came before the Committee. You are a success story and we want to put on a success story here. My understanding is—how did you first come in contact with the SBA or 8(a) program?

Mr. TOMBS. I got a telephone call from the regional director asking me to come to his office in Kansas City, Missouri, that there was a gentleman there who would like to talk to me about something that could be beneficial to both of us.

I was to be there the next morning at 8:00 o'clock. The next morning at 8:00 o'clock I was at the regional office in Kansas City, Missouri. I met with the lawyer of a company who was offering me a chance to participate in the 8(a) program, that at that time I knew nothing of.

Senator CHILES. At that time you knew nothing of the program and they were offering you a chance to participate. What was going to be the basis of the participation, what kind of business was it going to be?

Mr. TOMBS. They explained to me that I would be the president and I would own 51 percent, and they would own 49 percent, and they would get jobs for this corporation. And they would fund this corporation and they would manage this corporation.

They estimated that my share for the first year would be roughly $100,000.00.

Senator CHILES. Your share of the profits?

Mr. TOMBS. My share of the profits.

Senator CHILES. What were you supposed to do for that?

Mr. TOMBS. It wasn't too clear. They said own 51 percent and be president. That's what I left with.

Senator CHILES. Were you to have any management responsibilities?

Mr. TOMBS. I was told they would assist me in management programs, that they would supply the funding and they would also find the jobs that the corporation was to perform.

Senator CHILES. Did you get the impression that you were really going to have some duties there?

Mr. TOMBS. No, sir, it was really very little for me to do outside of accept $100,000.00 a year.

Senator CHILES. Why do you think they selected you?

Mr. TOMBS. They said that I was one of the people that they were looking at at this time.

Senator CHILES. What was the color of these people's skin?

Mr. TOMBS. They were pretty white.

Senator CHILES. So there was a contrast between them and you, and they wanted you to have 51 percent of the stock.

Mr. TOMBS. It was a salt and pepper arrangement.

Senator CHILES. What did you decide to do about that, Mr. Tombs?

Mr. TOMBS. It was a very difficult situation. I was between jobs and I had two kids in college. I knew quite a bit about the industry. I became quite nervous and quite concerned.

I went home and discussed it with my children. They were excited about their father making $100,000.00 a year when he had made hardly over $10,000.00 prior to that. Naturally they were quite anxious to find out what decision I had made.

They were a little bit disappointed when I said, for some unexplainable reason, I said, no. To go a step further, one of my daughters, who was in college at the

time and having a very difficult time paying her rent and tuition, asked me if I didn't think I didn't need to see an analyst or a psychiatrist or something.

Senator CHILES. You have had some pretty valuable experience, it seems like, as an old navy chief. What did you decide, chief, did you decide you could do that yourself or they could do it?

Mr. TOMBS. I had been doing it for other companies, doing the whole thing, other than making the payroll for quite some time up to that point. I had been in competition with this same company by being a project manager and a trouble-shooter, for a competitive company.

Senator CHILES. Who was this company who made this offer to you?

Mr. TOMBS. This was World Wide out of Smithville, Tennessee.

Senator CHILES. Is that the Rice group?

Mr. TOMBS. That's the Rice group, yes.

Senator CHILES. They are in—they sponsor a number of companies, or have, have they not?

Mr. TOMBS. I am told they have. I have met people that said they were being a sponsor, but to make a statement that I could support with facts, I could not do that.

According to the newspapers, and according to some of the people they have sponsored, I would say the answer was yes.

Senator CHILES. Are they in the National Service Contract Association?

Mr. TOMBS. Mr. Rice was in the National Service Association up until this year. We got a letter from Mr. Rice, I am president of the association this year, we got a letter from Mr. Rice stating that he was getting out a government contract, period, out of the sponsoring program, and that he was going to go into the fast food business.

If at any time in the future he was going to enter into the industry, he would certainly like to be a member of our association.

In his appearance before the subcommittee on July 6, 1977, Mr. Winford Smith, Director of the Office of Business Development, (OBD), did not flatly repudiate the sponsorship arrangements that the OBD had approved.

Senator CHILES. What are your current views on sponsors?

Mr. SMITH. I think the concept of sponsorship is a very good one. I think there is a void for management backup, maybe some cash.

But it has to be controlled.

Senator CHILES. Has it been controlled?

Mr. SMITH. The *appearance* is that it has not.

(Emphasis added.)

In a memorandum dated February 18, 1977, from Mr. Smith to Mr. Raymond F. Randolph, Director of Audits and Investigations, Mr. Smith outlined one section of that memo and dealt with the "sponsorship" controversy in the following:

(3) To say that an individual must remedy all defects in his management skills before being admitted to the 8(a) program eliminates a major objective of the program, namely business development. OBD has strived to give each 8(a) firm the benefit of SBA's full agency concept—management, financial technical, and procurement assistance.

OWNERSHIP AND CONTROL

Requirements and Conditions:

(*a*) SOP 60–41–2 states: "eligible person(s) are expected to be engaged full time in the day-to-day business operations and management. This precludes 'absentee ownership' of 8(a) concerns."

Sponsorships and/or arrangements where day-to-day control of a firm is *temporarily* vested elsewhere can be extremely helpful in getting a small disadvantaged businessman on his feet and on the road to competitiveness.

We realize that in the past non-disadavntaged indviduals have taken advantage of both disadvantaged individuals and the 8(a) program through sponshorships, divestiture agreements, management agreements, and joint ventures. Part of this has been caused by a lack of oversight at Central Office and a lack of uniformity among the ten regions. Since February 1976, when SOP 60–41–2 became

effective, all sponsorships, divestitures, and management agreements must be approved by the AA/PA. Also, since January 1976, the OBD Surveillance Teams have taken extra care to determine which 8(a) firms do in fact participate in these types of adventures. The problem of uniformity is currently being addressed as OBD is in the process of developing a standard format for divestiture, management, and joint venture agreements. It is our intent that once these standard formats are developed their use would be strictly enforced. We have recently sent our proposal to the field asking for their comments and suggestions.

(*b*) In many instances, non-disadvantaged firms have proven to provide valuable support-management, financial, and equipment to newly developing 8(a) firms. To preclude this would greatly reduce the already limited resources available to 8(a) firms. We do feel, however, that this situation must be closely monitored to prevent abuses.

(*c*) Many 8(a) firms have been established with the assistance of non-disadvantaged persons who were former employers of the disadvantaged individuals. This is a very natural occurence which is advantageous to the disadvantaged individual. If a disadvantaged person cannot get help from a former employer or firm in a similar line of business, there would be few places to turn for help. To force the disadvantaged individual to turn to some person or firm in an unrelated area could cause more problems than now exist. We feel that the non-disadvantaged owners are currently subordinate to the disadvantaged owner as the disadvantaged is responsible for the ownership, control and actual day-to-day operations of the firm.

(*d*) Again to require that non-disadvantaged owners cannot give, sell or rent property, equipment, supplies, services, financial assistance or other resources other than their own personal services is entirely unrealistic. It again severely limits the resources to which a disadvantaged person has access to. What SBA must do is more closely monitor these arrangements to insure that the arrangements are to the primary benefit of the disadvantaged owner.

(*e*) We agree that the compensation received by the disadvantaged owner should normally exceed that of any other employee. We can, however, see an exception to this statement in those cases which require persons possessing high technical competence, or where the cash flow situation of a firm may require the owner to restrict his salary for a period of time.

(2) To restrict management agreements between 8(a) firms and firms in unrelated lines of business would in effect eliminate management agreements. An agreement between two firms in unrelated lines would be detrimental to the 8(a) firm. In an extreme case, what assistance could an electronics firm give to a food service firm? More control must be exercised by SBA with regards to management agreements but let's not eliminate them.

(3) SOP 60–41–2 states that joint ventures "must be fair and equitable to, and for the substantial benefit of the 8(a) concern(s), and must be approved by the regional director, or his designee. As you know, we have attempted to revise the SOP to require all joint ventures to be approved by the AA/PA, as is the case with divestiture, sponsorship, and management agreements. We have not, however, yet gotfen the AA/O to concur with this change.

During the investigation by the subcommittee staff Mr. Smith continually expressed that allegations concerning sponsorships were "unproven" and that minorities usually "got something" out of the arrangements. The subcommittee surmised that what minorities usually got was "ripped off."

Clearly, whenever the SBA changed the rules governing sponsorships, the sponsors merely changed their actions to get around the new regulations.

The subcommittee discovered in some cases the SBA introduced the "sponsors" to the "sponsored." Further the SBA's Office of Business Development infers with its approval of sponsorships that 8(a) business persons that are not "sponsored" have little chance of succeeding. The simple fact is many 8(a) companies are *not* sponsored and never were. Neither has OBD demonstrated that sponsored firms have a higher success rate than unsponsored firms.

The subcommittee is extremely concerned that the Office of Business Development (OBD) of the central office of SBA defended the

sponsorship program from investigation through the hearings phases.

Perhaps the best articulated attack on the sponsorships came from Congressman Parren Mitchell (D-Md.) in testimony before the Subcommittee on July 7, 1977, Representative Mitchell said:

> Make no mistake about it; non-minority businesses, both large and small, using bogus front operations to siphon the pittance of Government Procurement dollars labeled for the minority business community are neither new nor are they confined to the 8(a) program. Tragically, rather such spurious activities tend to be found where legitimate minority businesses seek inclusion in the economic benefits of Government spending.
>
> Following the initial series of contracts and subcontracts and based on information which I had received from the Maryland minority business community, I urged both the State Secretary of Transportation and the United States Secretary of Transportation to investigate the legitimacy of "minority firms" receiving awards. Already, the Maryland Mass Transit Administration has disqualified three front minority businesses which were slated to receive a total of $1.9 million of subcontractual work.
>
> The most blatant abuse involved an electrical firm which was created on April 7, 1977, just weeks before the awarding of contracts, and was headed by a sixty-five year old Black man who had retired on April 29th as a warehouse manager for one of the largest white-owned electrical companies in the region. The so-called minority firm had no assets and no record of performance. In fact, the only thing that the minority firm had was the identical address of the white-owned electrical business and a subcontract to receive well over $350,000 in electrical work.
>
> Back in 1974, during the 93rd Congress, I served on the Small Business and Minority Enterprise Subcommittee of the, then, House Committee on Banking, Currency and Housing. At that time, now some three years ago, investigative hearings into the SBA demonstrated that there were non-minorities which formed dummy companies, just simply bringing together some Blacks and other minorities in name only who knew nothing about business, and reaped enormous benefits. The hearing revealed where one or two large or corporate interests simply broke themselves up into smaller corporate interests and moved into the 8(a) area securing contracts and really rooking the Government out of substantial sums of money. The hearings even identified interlocking patterns which had been developed between some banks and some of the more unscrupulous operators who abused and misused the 8(a) program.

## SPECIAL PROBLEMS IN DEFINING ELIGIBILITY

The subcommittee raised several questions regarding the entire eligibility situation with the knowledge that revisions of the current SBA 8(a) Standard Operating Procedures should be revised. Eligibility questions raised in the hearings included the following:

### Income Levels

The subcommittee raised a concern regarding the eligibility of persons who entered the program as "economically disadvantaged." The dialogue between Senator Chiles and Mr. John Scruggs developed during the subcommittee hearings in May 1977 explored the issues in the following manner:

> Senator Chiles. * * * How in the world would we consider a guy earning $15,500, born in this country to be disadvantaged? How does he get to be considered disadvantaged?
>
> Mr. Scruggs. As I recall, I did not engineer that but I am aware of it. As I recall, the person came in the business as a minority stockholder. The minorities held the controlling interest at the outset. So later on, after they had gotten started on the Fort Bragg contract——

Senator CHILES. You testified before a House Government Operations Subcommittee in 1974 that your brother-in-law introduced you to Mr. Pharo. Was that Mr. Gardner or another brother-in-law?

Mr. SCRUGGS. You didn't ask me that. I told the Stevens' Committee——

Senator CHILES. You said you weren't there when Mr. Pharo's determination was made.

Mr. SCRUGGS. No; I said I did not engineer the mechanics of putting his package together in SBA after they applied for the 8(a) assistance. I am saying at the outset——

Senator CHILES. Were you introduced to him originally by one of your brother-in-laws?

Mr. SCRUGGS. Yes, sir.

Senator CHILES. Was that Mr. Gardner?

Mr. SCRUGGS. I can't say for sure if it was him, I have several brother-in-laws in the Kingston area.

Mr. Pharo later wrote in and asked if he could be considered disadvantaged and he felt he was under the criteria. The $15,000 he was making was, as I recall, at the Holiday Inn. That job there was only a temporary arranagement. The motel was up for sale so his restaurant want bankrupt because they changed the highway and took all of his parking area so his restaurant just closed up, he had to liquidate everything be had.

After 25 years of working in the restaurant, he ended up just as he started. with nothing. He had no assurance that the new owners of the Holiday Inn would need his services or keep him.

Senator CHILES. He had a job worth $15,500, but he did not have any long term contract. He could have been fired the next day or he could have worked on for that job, too.

Mr. SCRUGGS. I didn't say that, I said the hotel was up for sale when he went to work there and he had no assurance that the new buyers, whoever they might be, would continue his services * * *.

He wrote in and asked and gave the reasons why he thought he was disadvantaged. Based on what our General Counsel has put out, his rationale of whether he was disadvantaged, his rationale of what is disadvantaged and we have a dictionary and all this. I passed that on to our legal counsel and asked them to review to see whether in their opinion they could make a recommendation, did they consider Mr. Pharo disadvantaged or was he not disadvantaged.

The reply that I got back was that in their opinion, he was disadvantaged and the same could be defended in a court of law. Now when you say disadvantaged, you can ask 15 people what their version is and you would get 15 answers. This is something that has never been defined, it is diffcult to define and because a man makes $15,000, what is $15,000 in this day and time?

Senator CHILES. What's $29 million? That's how much he got in 8(a) set-aside contracts. His company now has a net worth of a million dollars. If he was disadvantaged then, we sure did a good job for him.

*Subcommittee Summary on Income Levels*

The discussion concerning the proper level of income for applicants continues between the Congress and SBA.

The subcommittee concedes that some other factors might be involved but that a total picture be developed before an entrepreneur is certified. However, the subcommittee explored other situations where "economically disadvantaged" businessmen got questionable aid. One recipient owns or has substantial involvement in five firms including a factory in Mexico. Another person allegedly turned down a Presidential appointment to the U.S. Import-Export Bank because he wanted to continue in his business.

The "underscored" position of the subcommittee was that many persons who had been deemed "economically disadvantaged" were evidently not, nor were they able to fit concurrently in other definitional categories.

## Racial or Ethnic Identification

In presenting the case for a contract award, Mr. Winford Smith, Director of SBA's Office of Business Development, stated:

> Mr. Chairman, I think that just going to Harvard Business School and having a job in the government * * * does not take away from a black's disadvantage.

Later, in his testimony, Mr. Smith said:

> I think that most blacks recognize that there are a lot of public officials, black, who are unemployed in this city today who do not have an opportunity * * *.

## SPECIAL PROBLEMS IN DEFINING GRADUATIONS

The subcommittee found many instances where firms which had achieved a high level of proficiency and profits were still participating in the 8(a) program.

Mr. Leroy Tombs, President of Tombs and Sons, explained during an interview session with subcommittee staff:

> When firms become self-sufficient and able to effectively manage themselves independently then and only then should they be "graduated".

In testimony before the subcommittee on July 6, 1977, Mr. Tombs said:

> My firm graduated in 1974, after two years in the program because I thought I should make way for someone else. It, 8(a), is a good program if it's administered properly.

Continuing, Mr. Tombs asserted:

> * * * This program was put here to help disadvantaged people get into the mainstream of business and to make a contribution to the American people and to the government. If the program is going to do that then a lot of hard work is going to have to be done and a very serious attitude is going to have to be adopted. This can't be a program where people are going to have squatter's rights.

During the conduct of its investigation, the sub-committee examined SBA files which indicated the following:

A company in Region IV had at one point received contracts in excess of 20 million dollars and was still linked to the 8(a) program.

A firm in Region IX, a single proprietorship, got more than a million six hundred thousand in contracts, never met program eligibility requirements and had not been "graduated."

A firm in Texas pays its President more than forty thousand annually. The company has a net worth of a quarter of a million dollars but the firm hasn't graduated.

A janitorial company in Region IV that had more than $8 million in 8(a) contracts, was evaluated as a "front" company but wasn't "graduated".

By "graduation" SBA labels a company as being independent and able to compete in the economic mainstream on an equal basis with other firms. The actual situation is that often 8(a) firms are "graduated" without being viable and competitive. The lines between graduation and termination should be clearly spelled out so that Congress

and the public can adequately determine when firms have succeeded or failed under the program.

In the hearings on July 6, 1977 Senator Chiles and Mr. Smith had the following discussion concerning terminations and graduations:

Senator CHILES. In March of 1977, about a week after my staff first visited the Atlanta office, Atlanta suddenly sent out graduation letters to more than 20 8(a) firms in the Region.

Graduation, we are told, is a mark of success in the 8(a) program. It means that the company has progressed to the point where it is ready to go off on its own without government support.

I would like to cite three of those success stories. East Coast Construction Company on March 14, 1977, graduation notice. March 17th, three days later, surveillance report: "Company totally dependent on 8(a) support, recommend termination if they do not seek commercial business.

First the total services, February 17th, 1977, "The company is totally dependent on 8(a) support, recommend no new commitments. March 14th, graduate by Atlanta. H. I. Douglas and Associates, February 8th, 1977, "Recommend termination, companies, not viable, has no current 8(a) contracts, company in the hand of nondisadvantaged.

The March response from Atlanta graduation for having exceeded business plan. Mr. Smith, how can a company which is failing and which holds no 8(a) contracts possibly be given the accolade of being a successful graduate of 8(a) programs?

Mr. SMITH. That's a good question, I don't know.

Senator CHILES. I think it is a good question, how do we get the answer?

Mr. SMITH. I think that proper action is being taken on all of the companies you have cited. The appeals committee is going to be meeting in Atlanta to review all of the actions that have been taken to date. In those instances where the region took credit for a graduation when it should have been a termination, those adjustments will be made.

Senator CHILES. Is the appeals committee going to meet where a company has been certified as being graduated?

Mr. SMITH. Wherever the companies have appealed our decisions, certainly they have the right to be heard. This gives them a vehicle to be heard.

Senator CHILES. I wonder what kind of message we are sending to our minority businessmen when we are saying, well, we graduated these companies when in fact our own surveillance report shows that they should be terminated because they have been failures.

Mr. SMITH. That is certainly misleading and we should do something about it.

Senator CHILES. Mr. Messick, Atlanta regional director, gave us a statement at the end of the last field hearing. He said in brief that the causes of failure in the 8(a) program was that the program was pushed too hard in its early stages.

He ascribed that blame to Mr. Kunsick of GSA, and Mr. Stans of the Commerce Department. The pushing plus the total lack of 8(a) firms who could handle $1 million plus service contracts, led to the creation of the sponsorship program.

*Subcommittee summary on eligibility*

The opinions and position of the Director of the 8(a) program, Mr. Smith, are in direct contradiction to the Office he supervises (see section (a)b on page 31 and the SOP).

The subcommittee points up this situation to illustrate the inconsistencies in the subjective case-by-case evaluation and determination of eligibility:

Excerpts from SBA's Standard Operating Procedures (SOP):

18. ELIGIBILITY DETERMINATION

(a) When an application is made for assistance under the 8(a) program, the regional director, his designee, or district director where delegated authority, shall make an evaluation and determination of eligibility using the criteria con-

tained in chapter 2, paragraph 4. Such an evaluation and determination constitutes an administrative finding by the appropriate SBA official named herein, and, is based upon information obtained from the applicant. There is no requirement for an affidavit or written statement from the applicant supporting his or her claim to disadvantage. There are requirements that all applicants, to include in the case of corporations, each officer, director, and holder of 10 percent or more stock of the applicant corporation, shall be required to submit SBA Form 912, "Personal History Statement" and SBA Form 413, "Personal Financial Statement."

(1) The administrative finding should disclose that the individual falls within the eligibility category of socially or economically disadvantaged. The facts behind this finding can include such matters as depicted in the following examples which, alone or together, might justify the finding; there are other situations which undoubtedly would also apply:

(*a*) Because of his social background, the individual has been unable to obtain technical assistance, business assistance or financing of a quality or quantity similar to that available to the average entrepreneur in the economic mainstream (where possible, exclusions of this nature should be confirmed by specific examples).

(*b*) Because of past practices of discrimination, the individual has been impeded from normal entry into the economic mainstream (this example should be based upon specific facts applying to the individual involved and should not be based upon a generality applicable to a group, e.g., although many individual Blacks are "disadvantaged" and therefore eligible, it is insufficient to state that all Blacks are eligible simply because they are Black).

(*c*) Previous failures to compete effectively for government contracts could be traced, in significant part, to tendencies of regular financing and commercial agents to restrict their services to established businesses (specific instances of contract or financing "turn downs" would be helpful here).

(*d*) The individual is a long time resident of urban areas with high concentrations of unemployed or low income persons.

(*e*) The individual has been frequently unemployed or marginally employed due to his residency in depressed areas or due to past practices of discrimination.

(*f*) The individual has been in a low income status chronically.

(2) In making the administrative finding, care should be exercised to preclude any implication that eligibility is based principally upon the race, creed or ethnic background of the individual.

(*a*) Provide a copy of detailed profit and loss statements for the preceding 3 years. For new businesses, proforma balance sheet and projected profit and loss statement shall be submitted.

(*b*) Indicate, in detail, the firm's financial needs for additional:

(i) Real property and capital equipment.

(ii) Working capital.

(iii) Other needs, such as product and marketing development, debt refinancing, etc.

(*c*) Explain and estimate the cost of the specific expenses which can be attributed to attaining the primary business developmental objectives inherent in the business plan; i.e., those specific one-time expenses necessary to develop competitive production and marketing capabilities.

(*d*) Explain how the firm proposes to finance performance of the 8(a) subcontract(s).

(*e*) Indicate, by amount and duration, how much of the following the firm plans to utilize:

(i) Commercial and/or SBA financial assistance.

(ii) Contract progress payments.

(iii) Contract advance payments.

(*f*) Provide monthly cash flow projection for the first 12-month period covered by the business plan and annual projections thereafter. Break out the income to be derived from 8(a) subcontracts separately from other income. If multiple product(s) or service(s), show income projections of each.

(*g*) Compute the firm's projected break-even point, and include the

rationale and details supporting the fixed and variable cost projections. (See Figure 2.)

(*h*) Provide a copy of the firm's chart of accounts, identifying each line account to the appropriate overhead pools, where applicable or pertinent.

## Case Studies Involving SBA Irregularities in Minority/Disadvantaged Firms Relationships (8(a) and/or Loans)

The cases of agency irregularities were explored in detail by Senator Chiles during the 6 days of hearings by the subcommittee. Moreover, the investigative staff of the subcommittee spent considerable hours with the investigative staff of the SBA in examining cases which had similar circumstances.

The cases contained herein are examples of widespread irregularities and in the opinion of the subcommittee do not constitute isolated, one-time occurrences.

### Case Study No. 1

Company—Singleton Construction, Inc.
President—Robert Singleton.
Location—Jacksonville, Fla.
Re: 8(a) program.

*Circumstances*

The Singleton Construction Company is owned by Robert L. Singleton, a black general contractor.

Mr. Singleton was recruited by the Small Business Administration to become a part of the agency's 8(a) program. Mr. Singleton took part in the program and received two 8(a) "set-aside" contracts. After completing the contracts Mr. Singleton is virtually bankrupt after losing hundreds of thousands of dollars.

Appearing before the Subcommittee in Tampa, Florida, on April 13, 1977, Mr. Singleton terminated his testimony by saying—"I wish I had never heard of the SBA and the 8(a) program!"

As the first witness, Mr. Singleton stated:

My name is Robert Lee Singleton. I reside at 1165 West Ninth Street, Jacksonville, Florida. I am 59 years old and a Florida licensed general contractor. I am the president of Singleton Construction Co., Inc. I have been in the contracting business in the Jacksonville, Florida area for 32 years.

As I will outline here, I became involved in the SBA 8(a) Minority Contractors program in June 1972. Prior to that time my construction experience consisted primarily of concrete and masonry work. As a general contractor, my largest job was the construction of a single story concrete block and masonry office building approximately 60′ x 85′ of total contract price of approximately $250,000. In addition, as a general contractor, I built small warehouses, small stores of the convenience store variety, and a number of single and duplex family residences.

I have an 8th grade education but have been assisted in by business by my wife, Grace Singleton, who hold a masters degree in sociology and who retired as an associate professor at Edward Waters College in Jacksonville. Grace had also been the supervisor of public education of Suwanee County, Florida.

I have served as the chairman of the board of trustees of Bethel Baptist Institutional church in Jacksonville, Jacksonville's oldest and largest Baptist Church. I continue to serve on the board of trustees. I have also been a member of the Jacksonville Mayor's Council and have been active in Jacksonville civic affairs for many years. I am also a member of the Minority Contractors Association of Jacksonville.

I have been invited here by your Senator Chiles and I appreciate the opportunity to tell this committee my story and hope that this committee will be of assistance to me in my efforts to save my company.

I have prepared a statement which has been submitted to this committee and which deals with my involvement in the Minority Contractor's program administered by the SBA. In short, I wish I had never heard of the program or the SBA since it has brought me to the brink of financial ruin and has adversly affected my health and that of my wife.

In the first week of June 1972, I was invited by John Peyton to a meeting at the offices of Economy Electric Company in Jacksonville, Florida. John Peyton was an employee of Economy Electric Company. Present at the meeting besides myself were William Mitchell of Economy Electric, John B. Peyton, and William S. Matlock, Jr. of the Small Business Administration, Atlanta office. The apparent purpose of this meeting was for Mr. Matlock to inquire whether I would be interested in the award of an 8(a) contract. Prior to this meeting, I had no contact of any nature with the 8(a) program. I did not solicit this meeting but was asked to attend by John Peyton who informed me that he had been requested by Mr. Matlock of the SBA to arrange the meeting.

At the meeting, Mr. Matlock asked me if I would be interested in getting a contract for two and one-half million dollars to expand and modernize the air route traffic control center at Hilliard, Florida for the FAA. I replied that I had been ill and had recently undergone an operation on my eyes and was in no position to handle a technical job of this size. I stated that I could recommend some young black contractors who might be interested in the job. Mr. Matlock stated that he had already investigated my work and my dealings with business people in Jacksonville. He considered that I would be an excellent prospect for the 8(a) program and that he was satisfied with the reports he had received on me. Mr. Matlock stated that the FAA job at Hilliard was set aside for the 8(a) program which is designed to help minority contractors to be competitive with large established contractors in government work. He also stated that the SBA would give technical, administrative and financial assistance to contractors under this program. He told me that there was enough money in the job to hire competent help in view of my physical condition. I thanked Mr. Matlock for the opportunity and said I would be in touch with him after I had had time to discuss the project with my wife.

In the third week of June 1972 a second meting was held at the Economy Electric Shop in Jacksonville. Present at this meeting in addition to myself was my wife, Grace L. Singleton, William Mitchell, John Peyton, William Matlock and William A. McBride, a local mechanical contractor. The purpose of the meeting was to further discuss the possibility of awarding the contract to a black contractor.

In the course of this meeting Mr. Matlock told me that I could qualify for the job if I could get a letter of credit from my bank in the amount of $150,000. I told Mr. Matlock that while I had satisfactory dealings with my bank, I didn't know whether they would be willing to extend such a large line of credit. Mr. Matlock then told me that I would make a 10 percent profit over and above the estimated job costs if I would accept the job. He said this is the way the program worked. I would be guaranteed the profit.

Mr. Matlock made it clear that if I didn't accept this job under the 8(a) program I would be setting my race back 50 years. I was finally convinced that I had no alternative except to take the job in order to set an example and establish a precedent for my race. Mr. Matlock set up an appointment for me to be interviewed in Atlanta by the SBA. It was suggested before the meeting broke up that Mr. Mitchell and Mr. McBride would be the electrical and mechanical contractor for the FAA job.

On June 22, 1972, John Peyton accompanied me to see Mr. Roland Kennedy, Vice President of the Barnett Bank in Jacksonville, Florida. The purpose of our visit was to secure a line of credit for $150,000. In my presence, Mr. Kennedy had a conversation with Mr. Matlock and his supervisor, John Scruggs, in Atlanta to find out more about the 8(a) program. Mr. Kennedy made it clear in his telephone conversation with these SBA representatives that he would let me have all the money that I needed provided the 8(a) program was a sound one. The SBA officials assured Mr. Kennedy that it was a sound program designed to help the disadvantaged minority contractor to be a successful businessman. After discussing thoroughly with the SBA, John Peyton and myself,

and discussing the 10 percent profit guarantee, Mr. Kennedy agreed to give the line of credit for $150,000.

During the last week of June 1972, John Peyton accompanied me to Atlanta for an interview with SBA and FAA officials. I made it clear to both the SBA and FAA representatives that I had never done a job of this size and complexity before and named several of the jobs that I had satisfactorily completed. For example, my gross business at this time was around $200,000 annually and I informed everyone of this. During the meeting they seemed satisfied that I had the ability by virtue of my reputation and past experience. The SBA representatives, Messrs. Matlock, Richard Simmons and John Scruggs helped to persuade the FAA to award the contract to me.

At a later date Mr. Matlock and Simmons (SBA) recommended that I secure the services of John Peyton to negotiate the contract and handle estimating costs. I took their advice and hired John Peyton to represent me in the negotiations and to estimate the job. In the first week of July 1972 plans and specifications were mailed to me by the FAA.

On July 13, 1972, Mr. Matlock wrote a letter requesting me to submit a proposal for the expansion and modernization (Phase II) of Jacksonville ARTCC to the SBA office by August 4, 1972.

During August 14 through August 22, 1972, several meetings were held in the Atlanta FAA office to negotiate the contract on the FAA job. The following people were presenting these negotiations: Mr. Charles Leigh, the FAA contracting officer; Wilbur Jarman, the project engineer for the FAA; John T. Scruggs, contracting officer of the SBA; Richard P. Simmons, contract negotiator for the SBA; William S. Matlock, Jr., my own representative, Mr. Peyton; Mr. McBride, myself and several others. Mr. Peyton submitted an estimate for the FAA job in the amount of $2.9 million dollars. The FAA and SBA representatives, however, did not accept this proposal and they finally reduced it to $2,455,366. This reduction was not reached until after several days of discussion.

During the discussions which got up to the contract figure, Mr. Jarman called several manufacturers and suppliers to inquire about the prices on various items of work in order to reduce the dollar amount of the proposal. Mr. Jarman and Mr. Leigh relied on the estimate of the Ralph M. Parsons Company which had been prepared for the government as a guideline for negotiating the job without giving any consideration to the fact that the job was to be contracted to a minority contractor. On several occasions where the prices quoted were not in line with government estimates, the FAA negotiators cut the estimate prepared by Mr. Peyton. At that time Mr. Scruggs of the SBA stated that I had to make a 10 percent profit on the costs of the job and that the negotiations might as well be suspended if the FAA did not intend to honor that commitment. In the final analysis the SBA assured me that I would be making a 10 perecent profit on the job and so, at this time, the contract price did not have much significance for me. On August 23, 1972, I signed the FAA contract for $2,455,366. Mr. Matlock told me I had a $250,000 profit. The representatives of the SBA and FAA told me that the contract would be renegotiated if I would provide them with the documentation to justify future cost increases. The job estimate itself, however, did not reflect a contingency for any unforeseen items.

During the negotiations, the SBA representatives became impressed with John Peyton and recommended to me that I hire him as my manager on the FAA job. Matlock and Simmons set his salary at $33,000 per year. Based upon Matlock's recommendation, I hired John Peyton as a manager of the job. Peyton handled all my negotiations with the SBA and especially with Mr. Matlock.

At some point in the negotiations, I was made aware of the necessity to provide a performance and payment bond. I originally was informed by John Peyton that McBride Mechanical Contractors, who was going to do the mechanical work, would arrange for the bond. During the negotiations, McBride's price was determined to be too high and when I signed the contract, I did not have a mechanical subcontractor. After the contract was signed, John Peyton arranged for The Poole and Kent Company to take the mechanical work at the price in the estimate and The Poole and Kent Company also agreed to indemnify the bonding company but I had to indemnify The Poole and Kent Company in turn.

On August 30, 1972, I was notified by the SBA that I had been approved for contract awards not to exceed a total of 3 million dollars per year over the next three years.

I was given notice to proceed on the FAA job on November 28, 1972, and immediately began preparations on that day.

I must now move to the Coast Guard job since that job came to my attention at this point.

Within a week of the Atlanta FAA negotiations, and before we were able to get the FAA job fully organized, Mr. Matlock called me and asked me to meet him in Miami, Florida the next morning. On arriving in Miami, I was told that the SBA was negotiating to build a project for the Coast Guard. We met in the Coast Guard office with Matlock, Fred Gardner and a black man from Kingston, North Carolina who was with Mr. Gardner. There was another black man there who was John Copeland, a general contractor from Miami. There were also Coast Guard representatives present.

Mr. Matlock explained that the Coast Guard wanted 100 apartment style housing units designed and constructed. Mr. Garner who is white, explained that his company was not interested in the job and Mr. Matlock stated that Singleton and Copeland should joint venture the job. Mr. Copeland was another 8(a) black contractor who had been given the construction contract for the FAA project at the Miami airport. I had been told that the Miami FAA project and the Jacksonville project were basically the same.

I understood that the Coast Guard project required the contractor to actually designed the work which was something I was not familiar with. Mr. Matlock explained that Copeland and I would have available whatever design and technical skills were necessary to do the job. Mr. Matlock again stated that we would have a 10 percent profit in this work and even though we did not have complete plans and specifications, we agreed to sign the contract for approximately 2.2 million dollars. All of the estimating was done by the SBA and to this day I have never seen the estimate. Mr. Matlock and Richard Simmons handled all of this.

We had very difficult problems obtaining a bond for these projects. The SBA introduced us to various bonding agents who wanted money in addition to bond premiums. We were told we would have to pay anywhere between $31,000 and $71,000 in addition to the bond premiums for the bond. Finally, we got a bond for a flat 2 percent premium but we each had to supply a $100,000 irrevocable letter of credit and each buy a life insurance policy for $100,000. The policy was never given to me although I paid for it. When I tried to force delivery of the policy through the Florida Insurance Commissioner's Office, Mr. Matlock told me to drop the matter.

We obtained a price form Barred and Cobo Contractors in Miami, to do the engineering, design and inspection work for $43,000. Mr. Matlock told us that he had a very good friend in Atlanta who badly needed the engineering and architectural work for the project. He identified this man as Virgil Pinnell who had an office in Mr. Matlock's building in Atlanta. We agreed to do this and this work cost the joint venture $95,000 by using Mr. Pinnell.

We started work on the Coast Guard job in about October 1973. We immediately ran into very serious construction problems. Mr. Pinnell's plans were drawn to standards more than required by the Miami Building Code and they contained many errors. We often had to pay Mr. Pinnell's travel expenses to Miami to correct errors in the plans.

We had onsite supervision problems, we ran out of money since, as the job went on, we did not know whether we were making or losing money, but we kept being assured that we would receive our 10 percent profit.

I will now return to the FAA Jacksonville job, which you should understand was proceeding at the same time as the Coast Guard job.

As I said earlier, John Peyton was running the FAA job which started in early January 1973. We encountered rain delays. Our electrical subcontractor defaulted and the FAA was issuing change orders. In August 1973, Mr. Matlock instructed me to terminate John Peyton because he was not cooperating with the SBA. Charles Leigh of the SBA told me that everything would work out fine if we let John Peyton go and so I did. My brother, Howard, took John Peyton's place leaving the company with no one who could handle change orders and time extension requests.

The job fell behind schedule and the FAA threatened to terminate the contract. This schedule was called a CPM, or critical path method of scheduling. I had never worked with one before and it never worked on this job.

Our financial problems started to surface in December of 1973 when we were hit by increased material costs, increased labor costs and change order work which we performed without reaching agreement on the price of the change orders and we realized in January 1974 that several items of work had been omitted from the estimate. When we told Mr. Matlock of the financial problems, he told us

our information was wrong and we would not have any financial difficulties on this job.

As the job progressed the SBA became harder to reach on the telephone when we needed money to pay for window walls, siding and other construction materials which had to paid for upon delivery. Finally, in May 1974, Mr. Matlock called and asked what additional monies over the contract amount would be necessary to finish the job. I estimated that about $150,000 in addition to change order increases had to be added to the contract.

I understand that what caused Mr. Matlock's call was pressure from John Copeland and the Coast Guard since both of those jobs were in trouble.

Mr. Matlock said he would get me the $150,000 immediately on the FAA job and $550,000 on the Coast Guard job and that Copeland would get $350,000 for his job and that Mr. Leigh would process all of the change orders. In this conversation (May 1974), Mr. Matlock said he was sending his secretary to Miami on Sunday morning. He said she would not have time for me to read these papers since she had to return to Atlanta on the next flight. On Sunday morning we met this young woman on Miami Beach in a hotel lobby. She had a stack of papers, almost one foot high. She gave these papers to us and told us to sign them. We asked to read the papers but she explained that time would not permit reading the papers and she had to return to Atlanta. She told us that we would get copies from Mr. Matlock. I never received a copy of those papers and I did not discover until later in the year that the papers signed reflected a loan of $150,000 to me by the SBA. When I discovered the true nature of the papers I was told by the SBA, a Mr. Zemeki, that I should not worry about it and when the job was 95 percent complete, the loan would be written off.

I should add that prior to my signing these papers, the SBA auditors came to my office in Jacksonville and conducted a complete audit of the FAA job. I should also say that the SBA has always had unrestricted access to every record on these jobs. I was not told the results of this audit until this year when I discovered that the SBA audit showed that the FAA project would lose money.

Anothr audit was conducted by the SBA in July 1974 which reflected a $165,000 loss on the contract and during 1974, I had at least two meetings with the SBA in which I was assured that I would come out of the job in good shape and that the SBA would make me whole.

I continued on the FAA job and in December 1974 I was told that the SBA would not permit the FAA to make any more payments on the contract to me. I was told by Mr. Matlock to declare bankruptcy and let the bonding company take care of the losses. This was unacceptable to me since I felt I was entitled to a profit and, besides, I was at the end of the line so-to-speak as the last indemnitor.

I thought matters were brought to a head in March 1975 at a meeting in Washington, D.C. between the FAA, SBA, Copeland, Singleton, various creditors and the Copeland-Singleton joint venture.

By March 1975 the Coast Guard was threatening to terminate the joint venture for default. The joint venture's bonding company was in receivership. At this meeting, the SBA said it would advance 1 million dollars to complete the Coast Guard job and all that was needed for the FAA Jacksonville job and that job would be no problem.

I am not certain about what additional monies were put into the Coast Guard job by the SBA because I was not involved in it. Mr. Matlock required the joint venture to hire Richard Gardner to be the project manager and run the job. I was told that the joint venture would be defaulted if Copeland and I would not agree to permit Richard Gardner to complete the job. When this threat was made, Richard Gardner was present with his brother, Fred Gardner, who I understand is the owner of Lenoire Construction Company. This was the same Fred who had declined to become involved in the Coast Guard job at the outset. I felt I had no choice but to agree to the SBA's demand.

I cannot, at this point, say how much was spent on the Coast Guard contract, what the losses were, and what if anything is due the venture. I have asked for an accounting but have not received one. I know, however, that there was what was called a "controlled account" into which contract monies had been deposited and on which the SBA was a signatory. Although this account contained sufficient monies, the SBA refused to permit the payment of payroll taxes due the I.R.S. This resulted in penalties and interest and I believe the I.R.S. levied on the joint venture contract balance with the Coast Guard.

Although I do not know what occurred on the Coast Guard job, I do know the status of the FAA job. I have total losses of approximately $215,000 on this job of which the SBA has confirmed direct losses of at least $157,000 by an audit completed in February 1976.

These losses have been the subject of an ongoing discussion with Messrs. Matlock, Scruggs, Zemecki and Bullock of the SBA. These discussions have centered about the $150,000 which remains in the FAA contract and how that money can be disbursed to me to off-set, in part, these losses. This started when I was told by Messrs. Scruggs, Zemecki and Matlock that the $150,000 contract balance on the FAA project had to be used to repay the $150,000 advanced to me in May of 1974. I was informed that the $150,000 advance could be handled in the form of a grant to me of Business Development Expense funds in the amount of $150,000. I was told that the $150,000 was the largest grant of these funds which could be made available under SBA regulations. The vehicle through which I was to get this money to make me whole on the loss I suffered on the FAA job was to be another 8(a) contract. As part of this contract, the Business Development Expense money (BDE) would be paid to me and I could use the funds to pay off the outstanding expenses which I had incurred on the FAA project. Several projects were suggested through which the payment of BDE funds could be accomplished including proposed construction projects in Biloxi, Mississippi and Savannah, Georgia.

The first job offered was a job in Biloxi, Mississippi. Mr. Matlock called me and told me that he had a way to help and that I would be given a job in Biloxi, Mississippi. He stated that I would have a joint venturer in the form of Mr. Fred Gardner and his company, Lenoir Construction Company. Mr. Matlock explained that I would be required only to travel to Biloxi and pick up the $150,000 BDE money as soon as the contract was signed. I would not be required to provide any bond or be responsible for the progress of the job in any respect. Mr. Gardner was to provide all of the money and supervise the project. I refused to agree to this proposal and, after several discussions with Mr. Gardner and the SBA officials, the matter was dropped. The reason I refused to go along with this proposal was my belief that I could not sign a contract by which I agreed to perform work without at the same time being responsible for that work.

I was next offered a very similar proposition in connection with a barracks renovation project at Ft. Benning, Georgia. After many telephone conferences, I met with Mr. Matlock, Mr. Gardner, an estimator from Mr. Gardner's company and the Corps of Engineers in Savannah, Georgia. The prices were negotiated on this project on February 18, 1976. At the conclusion of those negotiations there were three items on which Mr. Gardner and the Corps of Engineers could not agree. I was told to come back on February 24, 1976 to complete the negotiations.

By this time I had become very concerned about the SBA's desire to place me in joint ventures with Lenoir Construction Company and Mr. Gardner. I contacted Mr. William Thomas of The Poole and Kent Company in Miami, and asked if they would be willing to assist me on the Ft. Benning job. The Poole and Kent Company was the mechanical subcontractor on the FAA project and was owed money by me. It was understood that the only realistic prospect that The Poole and Kent Company had for payment of its account on the FAA project was to assist me in obtaining the BDE monies. I also asked attorney William Frye who was representing The Poole and Kent Company to attend the next negotiating session and advised the SBA that he was representing me and Singleton Construction Company in these matters. At the next negotiating session in Savannah, Mr. Frye advised the SBA that he wanted to review all contracts before I signed them. In a few minutes, Mr. Gardner, Mr. Matlock and the Corps of Engineers took a coffee break. When they returned they announced that agreement could not be reached with the Corps of Engineers and the Ft. Benning negotiations terminated.

Throughout these negotiations and throughout our negotiations in connection with the Fire Crash & Rescue Station contract which is presently in construction by a joint venture between Singleton Construction Co., Inc. and The Poole and Kent Company, I was repeatedly advised by the SBA that $150,000 of BDE money would be made available upon my entering another 8(a) contract. Indeed, I was told by Mr. Walter Bullock of the SBA that the SBA had so refined its procedures in connection with the BDE funds that within a few days of signing the contract for the Fire Crash & Rescue Station, I would receive the $150,000. Mr. Frye has or will provide the committee with an outline of his involvement in negotiating with the SBA representatives for the $150,000 BDE money, in-

cluding some 27 separate documents consisting of correspondence and memoranda which reflect those contracts. It was not until August 1976, well after the commencement of work on the Fire Crash & Rescue Station project that Messrs. Matlock, Zemecki, Scruggs and Christianson finally advised that they were experiencing some problems in obtaining the $150,000 BDE money for me. They advised that various SBA regulations appeared to prevent the SBA from paying the $150,000 to me. They suggested, however, that the $150,000 liability which they insisted that I still owed the SBA from the FAA project be transferred to the Fire Crash & Rescue Station job. I insisted that I had already been promised the $150,000 BDE money and that was why I entered into the Fire Crash & Rescue Station contract. I was promised at this meeting that the matter would be studied in Washington and in September 1976, Mr. Matlock informed me that my files were being transferred from the Atlanta SBA office to the Washington SBA office for further handling.

I am not sure whether the SBA can be persuaded to honor its commitment to me with respect to the BDE money. If not, I expect I will be required to litigate the matter. I am sure, however, that before becoming involved in the 8(a) program, I was a moderately successful contractor. In terms of black contractors, I was a very successful contractor. At this point, however, Singleton Construction Company is on the brink of financial ruin. My contracting business and my responsibilities have been reduced to those of a joint venturer. I no longer have the authority to direct the manner in which my construction work will be performed. I have no bonding capacity. My family's personal financial resources have been exhausted and my health and the health of my wife, Grace, have been greatly threatened by the anxieties and pressures created by the FAA and Coast Guard projcts.

I can teli you in all sincerety that I wish I never had become involved in the 8(a) program.

SINGLETON CONSTRUCTION CO., INC.,
By ROBERT L. SINGLETON.

*Subcommittee evaluation*

After hearing the testimony of Robert Singleton, Diane Costarakis, bookkeeper for the Singleton Construction Company, John Peyton, former project manager for Singleton Construction, William Thomas, Vice President of Poole and Kent Company, Wiley Messick, Regional Administrator of Region IV in Atlanta, John Scruggs, Assistant Regional Director for Procurement Assistance and William Matlock, Deputy Assistant for Procurement Assistance, the subcommittee notes the following conclusions:

1. Singleton Construction Company did not seek out the Small Business Administration for contracts. Instead the SBA sought Singleton. The SBA became the prime contractor without assuming the primary responsibility for the projects.

2. Singleton Construction was a viable solvent small business before engaging in the SBA 8(a) program.

3. The contract on the Federal Aviation Administration—Small Business Administration job was negotiated at a rate virtually designed to lose money for the contractor (Singleton Construction, Inc.). Allegations were made that the initial contract was put out for competitive bid and the lowest bid was $2.8 million. If the SBA officials, in agreeing to a $2.4 million negotiated bid, knew that the lowest competitive bid for that job was $400,000 above the negotiated bid then they (the SBA) should have so informed its subcontractor, Singleton. (See hearing record.)

4. The technical, managerial, assistance that was available to Singleton was wholly inadequate.

5. The joint venture of two disadvantaged contractors (as was the situation with the Singleton Construction/Copeland Con-

struction, Inc.) on a single job usually works to the disadvantage of both, particularly when SBA must then be the sole source of proper management procedures.

6. The Small Business Administration should recognize a moral and perhaps legal justification for assisting the Singleton Construction Company to regain solvency. The basic faults for the failure of the Singleton Construction Company's project rests with the SBA.

CASE STUDY NO. 2

Company: Atlantic Materials.
President: Joseph Harris.
Location: Richmond, Va.

Re: Minority "front" involvement to obtain SBA consideration.

*Circumstances*

Joseph Harris, a black orphanage superintendent, was approached by several white businessmen who made him president of a rock quarry in order to seek SBA funds and possible 8(a) contracts.

Harris testified before the subcommittee on July 6, 1977 and stated:

STATEMENT OF JOSEPH HARRIS, FORMER PRESIDENT, ATLANTIC MATERIALS, INC., PETERSBURG, VA.

Mr. HARRIS. My name is Joseph Harris. I live at 20603 Matoaca Road, Petersburg, Virginia. Mr. Chairman, I am here today because I know of your desire to expose situations where minority persons have been exploited in SBA programs. I have knowledge of such a situation.

It happened to me. In the summer of 1970 I was approached by Mr. John Williams of Petersburg, Virginia. I had known Mr. John Williams about 15 to 17 years.

When Mr. Williams told me about the opportunity to purchase land and start a sand and gravel company, I thought that this was an opportunity which was too good to turn down.

I wish now I had turned it down. Mr. John Williams and his brother, Dr. Louis Williams, asked me to approach the SBA in Richmond about an SBA loan to get the business started.

We later hired a black attorney, a Mr. Sheffield, to compile a loan package and organize a company and act as the registered agent for the company.

Later we hired Mr. Richard Obenshain and George Hinnert as the agent after Mr. Sheffield left the firm. Mr. Obenshain helped us to obtain a 90 percent SBA guaranteed loan under a minority program, which was Mr. Sheffield's loan package.

Nothing was changed, other than one new name submitted in the package was Dr. Harold Williams. It was made clear to me that I was the President of the company, but later I found that the Williams brothers actually controlled the company and the decisions.

I had the understanding that I was 51 percent stockholder in both the company and the land, due to the SBA loan. Let me make it clear that part of the SBA loan was for the purchase of the land which the Williams brothers had the option on, made a down payment on, I think.

The breakdown on the loan was $130,000 for land purchase; $131,000 for the plant equipment; the rest was for plant operations.

The fact that the company was minority-owned set it off from its competition. In fact, it was the only minority-owned sand and gravel company in the country.

Before the loan was agreed to by the SBA and my company, the Williams brothers were friendly toward me, but after we got the loan and went into business their whole attitude changed.

In one meeting at the house of Dr. Louis Williams in Richmond, Virginia, I was cursed and had to run out of the house because I was asking too many questions at the meeting.

The SBA told me that I had to quit my job at the orphanage and work for the company. I was the only officer that the SBA approved a salary for.

I was the Sales Director for the company. After the loan was made I was called into a meeting by the Williamses in John Williams' basement.

I was told that I would be paid $1,000 per month and a bonus at the end of the year. I mentioned that the SBA contract called for no bonus.

John Williams said the SBA contract was for blacks; that they, the Williamses, could do anything they wanted to. This was mid-December of 1971 before any work had started.

This meeting was on a Sunday night, and I reported the whole affair to Mr. Tom Regan on Monday morning, who was the Director of SBA, Richmond, but nothing was said or done about the matter.

There were certain things that went on regarding the company's operation which I did not agree to. For instance, although I was the company's President I did not have an office nor even toilet facilities at the plant site.

The other company officers did have both offices and facilities. New transportation, using the company funds, was purchased for the white employees, but the blacks, including myself, had to do whatever they could to get to and from work.

The business opened on January 1st. Clearing and preparation began in January of 1972. Plant construction began in March of 1972.

Plant operation began in August of 1972. Whenever I went to the SBA office in Richmond to tell them about some of the things that were going on, the Director, Mr. Tom Regan, would tell me not to worry, that nothing could be done without SBA's consent.

The company was taken over completely by the corporate attorney's and the Williams brothers. I asked to see the company records several times, including the check book for items bought by the company, but I was told that this was none of my business.

So I never saw the records. I think the records were kept at Attorney Obenshain's office. When I heard that the company was going to be sold I went to the SBA and told them that the Williams brothers were trying to sell my company.

SBA encouraged me to try to buy them out and they gave me SBA approval and suggested an attorney. Mr. George Robinson of the central office came down to Richmond with an attorney who had funds available for me to buy them out and ordered a hold on the company.

Also, Mr. Robert Tar of EET Institute with funds to help buy the Williams brothers out came down. My attorney, the one SBA suggested, took my case. Mr. Doug Wilder. He and I met with the Williams' in early November of 1972 and we attempted to settle the situation by buying them out.

I turned all of the dealings to the attorney. Five months later my attorney learned the company was sold and I never knowingly agreed to do so.

Senator, I will answer any questions you have.

Senator CHILES. Mr. Harris, in your statement you say you were approached by Mr. John Williams. Exactly what did he say to you, and did he tell you how much money you would be required to put in in joining in the business?

Mr. HARRIS. Senator, he said that he and his brothers had bought an option on one piece of land and paid down on another piece.

They were having problems meeting their obligations and if I would pay for putting the loan together I would not have to put in anything, other than the expense of putting the loan together.

Senator CHILES. Why do you think they wanted you to come into the business, Mr. Harris?

Mr. HARRIS. At that particular time I thought it was because of friendship. Now I see it was because I was black.

Senator CHILES. Then you were going to try to get an SBA minority loan?

Mr. HARRIS. Well, this was one of the conditions that John Williams suggested, that I would go to SBA and get a minority loan.

Senator CHILES. That was the condition under which you were coming into the company. You were not going to have to put up any money, but you were going to have to be successful in getting the loan?

Mr. HARRIS. Yes, sir.

Senator CHILES. Did SBA officials or your partners mention the possibility of getting any 8(a) contracts, 8(a) set-aside contracts?

Mr. HARRIS. At that time they were calling the 8(a) contracts set-aside contracts, and this was mentioned.

Senator CHILES. Can you recall who first brought this up?
Mr. HARRIS. John Williams.
Senator CHILES. Did the SBA officials talk about this also?
Mr. HARRIS. Yes. The SBA officials talked about this also.
Senator CHILES. On the package prepared by the SBA specialist, was that prepared with an eye towards gaining an 8(a) or set-aside contract, because you would be a minority firm?
Mr. HARRIS. Yes, it was.
Senator CHILES. When you first went to SBA, and they put the package together for you as the 51 percent stockholder, did the officials give you a market rating for your company?
In other words, did they project your sales as good, average, poor, very good, excellent? Did they give you any market rating?
Mr. HARRIS. Well, in several conversations, I would hear them talking, and they said that this company would have a 1000 percent chance to survive, the only black company in the country of this sort.
Senator CHILES. You would have been the only black sand and gravel company in the country, and that would have allowed you to qualify for set-aside contracts?
Mr. HARRIS. Yes, it would have.
Senator CHILES. From your statement you indicate that you found yourself in a situation where your partners did what they wanted to, as far as running the business, since they controlled the checks and the records, but every time you would go to SBA they would tell you that you were the President?
Mr. HARRIS. Right. Well, my name became a household word at the SBA, because I was there about once or twice a week, reporting something that had gone wrong.
Also, I was attending a class there, learning about the quarry business. Each time I would go there I would have something new to report of some wrongdoings.
Each time I met with the Director or persons involved, they would say, "Harris, you have nothing to worry about; SBA has control of this company. You are the major stockholder and so you cannot do anything about it."
Senator CHILES. You said you did not have an office space. Did you have a desk at the company?
Mr. HARRIS. No. We built a new office building and I could take my clients out behind the house, behind the building, under the shed, and just the laborers had an office.
I had no office. The toilet facilities, I had to take my company down into the woods.
Senator CHILES. You were not allowed to use the desks that were in—you did not have a desk in the building that was built? You did not have facilities there?
Mr. HARRIS. At that time the white workers were resentful, and John Williams had told me that the Superintendent, which I was paying 51 percent of his salary, had asked him for me to stay away from the business as much as possible.
Senator CHILES. But you were President of the company?
Mr. HARRIS. Yes, I was President of the company.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY,
*Washington, D.C., September 7, 1971.*

Re. Fredricksburg, Va., project.

Mr. JOSEPH HARRIS,
*Atlantic Material, Inc.,*
*Petersburg, Va.*

DEAR MR. HARRIS: In my position as Equal Employment Opportunity for Washington Metropolitan Area Transit Authority, (WMATA). I think that Mr. Harris endeavor has great potential as a minority owned sand and gravel supplier for Metro construction. The operation of Mr. Harris will help implement the policy of WMATA. Please, see attachments.
Within the year, it appears that the materials that Mr. Harris will have to offer will be in short supply. His company will be in the position not only to implement the policy of WMATA, but to satisfy the objectives of the Washington Plan of U.S. Department of Labor.
The Authority will assist within its legal capabilities your attempt to become a minority supplier.

We wish success in your endeavor and, please, contact us if we can be of any help in the future.

Thanking you for your concern.

Sincerely yours,

PETE BROWN.

ATLANTIC MATERIALS, INC.,
*Petersburg, Va., October 24, 1972.*

Mr. THOMAS REGAN,
*District Director, Small Business Administration,*
*Richmond, Va.*

DEAR MR. REGAN: This is in reference to Atlantic Materials, Inc. At a recent board meeting of the corporation, one of the officers presented a proposal from a concrete company in Washington that was interested in buying Atlantic Materials for $1,000,000.00.

The three other board members that own 49% of stock of the corporation agreed to sell, however I was not in agreement to selling the company. The other three board members then notified me that they would sell their interest to me, for the same price. I am now in process of trying to locate funds to purchasee their interest, with the assistance of my attorney, John J. Carmody and Mr. J. Reginald Harris, Sr., and Mr. Robert H. Tarr.

I feel that some consultation from the Small Business Administration is needed in order to protect my interest in the corporation. I would hope that you would give this request your usual prompt attention.

Yours truly,

JOSEPH HARRIS, *President.*

P.S.—Mr. Regan—I was offer for my 51 percent of this $14 million company $35,000.00.

PETERSBURG, VA., *November 27, 1972.*

Re Atlantic Materials, Inc.

Mr. THOMAS REGAN,
*District Director, Small Business Administration,*
*Richmond, Va.*

DEAR MR. REGAN: This is in reference to the conference held in your office in early October, concerning Atlantic Materials, Inc.

I stated that I would purchase the 49 percent interest from the stockholders for the sum of $30,000. I wish to continue with the company, if it is at all possible, as it is the only Black Sand and Gravel Company in the State of Virginia. I also stated that I would contact Attorney Wilder to assist with the legal settlement. Since that time, I have acquired the services of Attorney Wilder, both for the legal settlement and financial arrangements.

Subsequently, I have contacted a company which has verbally agreed to purchase all the material I can produce during the year. This company has also agreed to assist with the financing, management and record keeping of my operation. A contract to this effect is being prepared, which will be sent to you and the bank of Fredericksburg, for approval.

I sincerely hope that these arrangements are satisfactory. Again, thank you for your cooperation.

Sincerely,

JOSEPH HARRIS.

---

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
*Richmond, Va., November 3, 1972.*

Mr. JOSEPH HARRIS,
*Petersburg, Va.*

DEAR JOE: I have talked with SBA officials in Richmond and Washington, D.C. They intend to stand behind you and your interest as far as your business venture is concerned.

However, as I understand it, the advice given to you was to secure a lawyer who perhaps could help you clear up some of the problems which now exist. Senator Douglas Wilder was the person most recommended by SBA officials.

At this particular time letters from me won't do you that much good because all of the people to whom I would be writing these letters are familiar with the problems. Therefore, I think it would be in your best interest to secure an attorney from this area to assist you in clearing up the existing situations.

I am not exactly certain what it will cost, but with you, an attorney and the Small Business Administration working together I am almost certain that these matters can be resolved.

If you would like for me to assist you in explaining the situation to an attorney, whether it be Senator Wilder or some one else, I will be most happy to do so.

After consulting with parties involved, I am almost certain that this is the natural course you should be taking.

Respectfully,

WILLIAM B. ROBERTSON,
*Special Assistant.*

---

ANSCOTIC DEVELOPMENT CORP.,
*Washington, D.C., March 18, 1972.*

Re Atlantic Materials Inc.

Mr. GEORGE H. ROBINSON,
*Office of Program Development and Supervision Minority Enterprise, Small Business Administration, Washington, D.C.*

DEAR GEORGE: As a result of further investigation into the feasibility of Atlantic Materials, Inc. establishing a branch location in the Washington, D.C., area as opposed to selling through a marketing or sales firm to other sand and gravel suppliers we have reached the following conclusions:

(1) That the cost of selling wholesale to area major sand and gravel suppliers through an agent, the sales group, and paying the resultant commission would be greater than the cost of transporting sand and gravel from Fredericksburg by railroad car to the company's proposed site in D.C. and selling the product directly to contractors on a retail markup.

(2) That the existing market for sales to contractors is very lucrative in the Metropolitan area due to the fact that two of the largest sand and gravel suppliers, Baltimore Sand and Gravel and Potomac Sand and Gravel, have been forced to suspend most of their digging operations for sand and gravel.

(3) That the prime consideration made by SBA in granting a 90 percent loan guarantee to Atlantic Materials, Inc. was its sales projections and, consequently, there is much greater assurance that the firm will be able to repay its financial debts if it is able to make sales on a retail basis as projected rather than on a wholesale basis to other sand and gravel suppliers.

(4) That if it is decided that a marketing or sales group be located in Washington, D.C. to sell to other sand and gravel suppliers rather than the company establishing its own retail sales location in the area, then it is strongly recommended that the sales or marketing group be a subsidiary of Atlantic Materials, Inc. This would enable Mr. Harris to maintain a 51% interest in the sales company and consequently, he would be able to continue to meet his financial responsibilities in controlling 51% of the firm.

In closing, it is also strongly recommended that SBA maintain a close and periodic surveillance of Atlantic Materials, Inc.'s internal operations in order to protect its guarantee and its requirement that Mr. Harris remain in control thereby assuring minority control of the firm.

Sincerely,

DARRYL A. HILL,
*Executive Director.*

---

WASHINGTON AREA CONTRACTORS ASSOCIATION,
*Washington, D.C., September 6, 1971.*

Mr. JOSPEH HARRIS,
*Atlantic Materials, Inc.,*
*Petersburg, Va.*

DEAR MR. HARRIS: The Washngton Area Contractors Association is proud to know of a minority owned sand and gravel supplier in our area. We as a minority building contractors' association will be more than delighted to encourage membership participation whenever possible.

We strongly feel a need for such a business as yours. In the District of Columbia where the construction industry is at its peak, Atlantic Materials, Incorporated has a great potential and should reap many benefits.

Kindly let us know if we can be of any direct assistance in the near future. Best wishes for much success.

Sincerely yours,

EDWARD L. FEGGANS,
*Executive Director.*

# SMALL BUSINESS ADMINISTRATION

## AUTHORIZATION

*Authorization approving bank's request for SBA guaranty*

THE NATIONAL BANK OF FREDERICKSBURG,
*Fredericksburg, Va.*
(Attention of Mr. Stuart H. Payne, President).

Your request on SBA by letter dated September 15, 1971 for SBA to guarantee 90 percent of a Loan in the amount of $350,000 to be made by Bank to Atlantic Materials, Inc., % James Edward Sheffield, Attorney, 12 West Leigh Street, Richmond, Virginia 23220, and guaranteed by SBA to the extent provided in the Guaranty Agreement between Bank and SBA, is hereby approved pursuant to section 7(a) of the Small Business Act, as amended, subject to:

(*a*) Provisions of the Guaranty Agreement herein referred to, and

(*b*) First disbursement of the loan being made not later than six months, and no disbursement being made later than twelve months, from the date of this Authorization, unless such time is extended pursuant to prior written consent by SBA, and

(*c*) Provisions set forth on reverse side hereof.

The following forms are herewith enclosed:

(1) Three partially completed copies, executed by SBA, of Guaranty Agreement (SBA Form 597). At the time of execution of note and loan agreement by borrower, and prior to first disbursement on account of the loan, Bank shall complete the details of the Guaranty Agreement, execute and date the same and forward two copies to the appropriate SBA office.

(2) Three copies of SBA Form 147 "Note," one to be executed by the Borrower, the other two to be conformed. The original executed copy is to be retained by you, one conformed copy to be sent to SBA, and the other copy, may be delivered to the Borrower.

(3) A supply of SBA forms for your use in reporting transactions (including the initial disbursement) in connection with the loan. Immediately upon disbursement, please forward to this office the original of SBA Form 740, original of the Certification of Use of Proceeds and SBA copies of SBA Form 172.

THOMAS S. KLEPPE,
*Administrator,*
(By Kenneth P. Bowe, Chief, Financing Division.)

September 29, 1971.

SBA Form 529B (8–66) edition of (4–66) will be used until stock is exhausted.

### PROVISIONS

1. Completion of loan on basis of, and subject to requirements or conditions set forth below. Bank or holder of Note (hereinafter referred to as "Bank") may, from time to time, impose any other conditions which it may consider desirable, and which are not inconsistent with this Authorization nor with the Guaranty Agreement (SBA Form 597), provided that such conditions do not establish any preference in favor of Bank.

2. The Bank may, without the prior written consent of SBA, (A) extend any of the scheduled payments thereon for a period not exceeding three months, or (B) release from the collateral securing the loan real or personal property upon the substitution of other collateral or like character and of equal or greater value, or (C) release from the collateral securing the loan real or personal property for cash sale at fair market values prevailing at the time of sale, provided

(a) the proceeds of such sale are applied on the loan in inverse order of maturity and (b) the remaining collateral adequately secures the loan.

3. (a) Repayment Terms, Interest Rate(s), and Maturity.

Note payable ten years from date of Note, with interest at the rate of eight and three-quarters percent (8¾%) per annum, and installments, including principal and interest, each in the amount of $4,387, payable monthly, beginning one month from date of Note, and the balance of principal and interest payable ten years from date of Note. With the further provision that each said monthly installment shall be applied first to interest accrued to date of receipt of said installment, and the balance, if any, to principal.

(b) Use of proceeds of loan as follows: (show specific uses for which loan is authorized).

1. Approximately $130,000 for land acquisition.
2. Approximately $131,000 for purchase of machinery and equipment.
3. Balance solely for operating expenses of Borrower.

(c) Loan conditions imposed by Bank/SBA.

1. First deed of trust on 176 acres of land located in King George County.
2. First security interest in and to all furniture and fixtures, inventories and accounts receivable now owned and hereafter acquired or created.
3. Security interest in and to all machinery and equipment (excluding automotive equipment) now owned and hereafter acquired subject to prior lien.
4. Guaranty of the following:
   (*a*) Dr. Louis H. Williams and wife.
   (*b*) Dr. Harold Williams and wife.
   (*c*) John Williams and wife.
   (*d*) Joseph Harris and wife.
6. No dividends (stock or cash) or bonuses to be paid without prior approval of SBA/Bank.
7. Financial statements from audit shall be furnished annually beginning with year ending December 31, 1971.
8. Hazard insurance, including flood insurance if available, to be furnished in minimum amount of 60 percent of value, taking into consideration applicable co-insurance clause.
9. Corporate salary scale to be approved by SBA/Bank.

In all cases, before Bank effects a change in the provisions of the loan pursuant to the authority contained in paragraph 2, above, Bank shall first receive a written opinion from its attorney stating that no rights of Bank or SBA are or will be impaired, limited, or adversely affected by such proposed action. Unless expressly authorized herein, inventory or accounts receivable are not to be substituted for other collateral or accepted as additional collateral without prior written consent of SBA.

Except as expressly permitted by this Authorization, the loan shall be administered as provided in paragraph 5 of the Guaranty Agreement (SBA Form 597). Any changes made should be reported immediately, to SBA by the holder of the Note.

SMALL BUSINESS ADMINISTRATION,
FEDERAL BUILDING,
*Richmond, Va., April 1, 1974.*

Reply to Attention of: CED.
Subject: 7(a) Loan—Atlantic Materials, Inc.—Paid, Possible Irregularities.
To: Rush Crain, Acting District Director.

Attached is the latest edition of the Afro-American which is sold in the newsstand of the Richmond Federal Building. You will note that SBA is mentioned in three separate, front page articles.

The purpose of this memo is to call to your attention certain allegations made by a Mr. Joseph Harris, of Chesterfield County, Virginia relative to his $10 million lawsuit against his former partners who were guarantors to this SBA insured loan which I understand has been paid.

As my memory serves me (without consulting the paid file) this $350,000 loan was originally filed as a Direct—ME loan. After reviewing the file and after a personal interview with Mr. Harris, I explained to him that I didn't think it was appropriate for our Agency to place $350,000 of direct, minority designated money into this situation.

During the course of the conversation, it became very obvious that Mr. Harris, while a nice individual personally, was merely being used as a "minority front."

I would also like to state that I never met with any of the other three individuals mentioned in the article as "wealthy Virginia Republicans." nor was I ever aware that Mr. Richard D. Obenshain, State Chairman of the Virginia Republican Party and an attorney here in Richmond, formerly represented Atlantic Materials (borrower) as the article alleges.

The exact timing of events as they unfolded is unclear to me now; however, I remember a series of meetings with Mr. Harris in our office. During one of the visits, Mr. Harris made the remark to me, "I understand that you personally feel that $350,000 is too much money for any black man to have." I believe my response was something like, "I think you are going to be getting into deep problems in view of your total lack of experience in this field and that you really have no visible managerial function in this particular enterprise."

Mr. Harris persisted in this "anti-black" line of conversation and I told him I was sorry but I wouldn't be a party to granting this loan under the guise of a 51% minority owned business when it was quite obvious to me what his purpose was in the management, which was to obtain a "cheap" loan at 5½% interest.

Mr. Harris continued his pressure in varying degrees. Many of the interviews which later took place were in the District Director's Office and in his presence. During the many interviews at which Mr. Regan was present, I believe he (Mr. Regan) took the same point of view I did.

If my memory is correct, our former Minority Enterprise Representative, Mr. Jerry Carter, had a series of interviews with Mr. Harris in his office as well as being present on many occasions when Mr. Harris, Mr. Regan and I would meet in Mr. Regan's office.

It is my belief that Mr. Carter shared the opinions of Mr. Regan and myself that the entire situation was not appropriate for direct SBA minority earmarked monies to be consumed in this type of a "black front."

Events are unclear from that point on; however, I remember a banker in Fredericksburg, Virginia getting in touch with our Jones Lawson, L/O, who was acting in the capacity of Bank Relations Officer. The banker (I believe his name was Stuart Payne) expressed an interest in making the loan under SBA's 90% guaranty program.

A conference was held in Mr. Regan's office and the general decision made that we could go along with a 90% guaranty since no government funds would be used in the project, purely our guarantee secured by the personal guaranties of the management of the SBC (all of whom had the capacity to guarantee except Mr. Harris who had little in the way of tangible assets) and a first mortgage on the land which appraised for an amount more than sufficient to cover the loan.

It should be noted that Mr. Harris was exerting his own form of pressure upon all SBA personnel concerned which was primarily his endless series of visits to the office and the fact that we would go over the same material again and again.

Mr. Harris insisted that he truly was needed in the business and that his particular skill in management would be in the sale of sand and gravel to the purchasing agents who represented the construction company that was building the Washington, D.C. Subway. It was his feeling that the fact that Atlantic Materials was minority owned would be his entree' to the D.C. contractors.

My personal feeling was that the contractors would purchase materials from anyone who could deliver at a price since the construction of the subway would consume vast quantities of sand and gravel. Mr. Harris contended his gravel yard was the closest to the construction site and, therefore, he could give the best price.

After the bank guaranty loan was made, Mr. Harris again began to visit our office to complain that he was not being considered when Atlantic Materials was making management decisions. He complained further that funds would flow through the corporation without his ever being told where they came from or where they were going. Mr. Regan, Mr. Carter and I advised him to consult with an attorney of his choice as the problems he was having were the same problems we had attempted to protect him from. In any event, these were legal problems and did not relate to the loan itself or the administration of that loan since the bank was handling the case and we were the guarantors of a current loan.

I believe Mr. Harris made a visit to the Central Office a few times during 1973 and as a result of those visits the Philadelphia Regional Office sent Mrs. Harriet Warfield to Richmond. During Mrs. Warfield's visit I was interviewed and I gave the same set of facts to Mrs. Warfield who seemed to be satisfied that here was a case of SBA attempting to guide and protect a minority individual who would not listen to our advice.

CONCLUSION

In view of the fact that our guaranty loan is paid in full, you may not see the need for any further involvement on our part or for any additional investigation. However, there are allegations being made in the article that this loan was made for political reasons which include involvement of high ranking members of the Virginia Republican Party.

Unfortunately, Mr. Carter is no longer employed by the Agency and neither is Mr. Regan, so that the other two SBA employees who handled this matter are unavailable to verify the contents of this memorandum.

However, I would like to emphasize that I did not, at any time during any of the interviews with Mr. Harris, ever become aware of the political affiliations of the other officers nor did I ever, to the best of my knowledge, ever meet with them.

I would also like to state that the only time I have ever met Mr. Obenshain was once about two years ago when I had lunch with Mr. Regan at the John Marshall Hotel in Richmond. Present at the table of four (including myself) was Mr. Goodling, State Director, Farmers Home Administration.

I was invited to the short luncheon by Mr. Regan on the spur of the moment and was not aware of who the others at the table would be until we arrived at the hotel. Other than pleasant conversation, I do not remember anything of any great significance taking place at the meeting.

Prior to reading the article, I was never aware that Mr. Obenshain allegedly represented Atlantic Materials, Inc. at any time nor was his name ever mentioned to me in connection with the processing of the case.

KENNETH P. BOWE,
*Acting Chief, CED.*

*Subcommittee evaluation*

The Harris/Atlantic Materials situation offered the subcommittee a classic study of how "fronts" were formed and how they functioned. As the subcommittee got involved with the Harris case, it became increasingly clear that although no 8(a) program contracts were issued, Joseph Harris' sponsors had counted on some type of "set-a-side" or minority "consideration" procurement for Atlantic Materials, Inc.

The central characteristics were true in many 8(a) fronts were similarly true in Mr. Harris' case. The common characteristics included:

1. The establishment, by monied interest, of a minority as president of a firm for the sole purpose of having the firm designated "minority owned".
2. The management and control of actual company operations, being taken over by non-minority stockholders who supposedly own less than fifty percent of the firms' stock, but who, in reality, control the company.
3. The recruitment of a minority "president" who is not familiar with corporate management and operations.
4. Full knowledge by SBA a "front" existed and minority or disadvantaged persons were not in actual control.

CASE STUDY NO. 3

Name: John Kyle
Company: Kyle Engineering Co.
Location: Los Angeles, Calif.
RE: 8(a) contract award

*Circumstances*

Mr. John Kyle of Kyle Engineering Company, entered into an 8(a) subcontract with the Small Business Administration to manufacture cabinets, auxiliary tables, electrical distribution boxes, and terminal board productions.

Mr. Kyle contends that the SBA did not treat him fairly, negotiated a terrible contract, repossessed his company's equipment and effectively put him out of business.

Mr. Kyle has generated concern for his plight and has enlisted the assistance of Congressman Glenn Anderson.

The contending points made by Mr. Kyle are basically these:

Contract No. SBA–0129–8(a) 70, provide for the fabrication of various components of a Electronic Work Bench 63A114J2 was negotiated by SBA.

The original quote of *$180,227* was presented to the SBA by Mr. Kyle but was downgraded to *$166,440*.

Mr. Kyle sought and received financial assistance from a Gulf Oil Corporation consultant who advised Mr. Kyle that "it is highly probably that this contract would lose money at $160,440." However, Mr. Kyle felt that because the contract would product jobs in a deprived community and the SBA assured him of their support, the risk of loss was minimal.

The following information was taken from files provided by Mr. Kyle:

MOTION FOR STAY PENDING DISPOSITION BY THIS COURT OF PETITION FOR WRIT OF MANDAMUS

Comes now petitioners, Kyle Engineering Co. and John E. Kyle, Sr., by their attorneys, and hereby move this Court for an order staying the transfer of that action entitled *Kyle Engineering Co., etc., et al.*, v. *Thomas S. Kleppe, Administrator of the Small Business Administration*, United States District Court, Central District of California, Civil No. 73–8–R, to the Court of Claims, under an order entered May 2, 1974, pursuant to 28 U.S.C. § 1406(c), said order was stayed for 30 days from its entry, and in support of said motion alleges:

1. On April 15, 1974, the respondent Judge orally announced that the above-entitled action should be transferred to the Court of Claims pursuant to 28 U.S.C. § 1406(c).

2. On May 2, 1974, a written order of transfer was entered. By stipulation and order said transfer was stayed for 30 days from entry to allow further motions to be filed.

3. Among other motions, a motion to reconsider said transfer was filed and was denied on May 24, 1974.

4. On May 31, 1974, a Petition for Write of Mandamus was served by mail upon the respondents and forwarded to this Court's Clerk for docketing. Said Petition seeks issuance of a Writ of Mandamus directing the respondent Judge to reconsider and vacate his order whereby petitioners' action was ordered transferred to the Court of Claims.

5. On June 3, 1974, respondent Judge granted an order shortening time for filing and hearing of petitioners' motion for a stay pending disposition of this Court of the Petition for Writ of Mandamus filed herein. Respondent Judge then granted a stay of the transfer of this action to the Court of Claims for a period of only 10 days. The respondent Judge gave no reasons as to why he limited the stay to only 10 days.

6. The reasons that a stay should be granted are that if a stay is not granted and the action is transferred, as a practical matter this Court may have lost its appellate jurisdiction and in the event the Writ sought is issued the file and action will be in Washington, D.C. Petitioners incorporate hereat by reference the contents of their Petition for Writ of Mandamus.

7. For the facts and circumstances relative to the need for a stay of transfer of this action to the Court of Claims, please refer to the allegations in the Petition for Writ or Mandamus and Exhibits attached thereto, which Petition is on file with this Court.

Respectfully submitted,

CLENDENING AND MURRAY,
By JAMES D. MURRAY,
*Attorneys for Petitioners,*
*Kyle Engineering Co., and John E. Kyle, Sr.*

Dated: June 4, 1974.

PROOF OF SERVICE

I hereby certify that on June 4, 1974, I served the foregoing Motion for Stay Pending Disposition By This Court of Petition For Writ of Mandamus on the respondents named therein and the petitioners listed below by placing a copy thereof in an envelope addressed to each of the following and depositing it fully postpaid in the United States mail at Santa Monica, California:

Hon. Manual L. Real, U.S. district judge, U.S. Courthouse, 312 North Spring Street, Los Angeles, Calif. 90012.

William D. Keller, U.S. attorney; James R. Dooley, assistant U.S. attorney, first assistant, civil division; Donald J. Merriman, assistant U.S. attorney, Suite 1100, U.S. Courthouse, 312 North Spring Street, Los Angeles, Calif. 90012.

David Kyle, attorney at law, Suite 670, 610 South Main Street, Los Angeles, Calif. 90014.

Dated: June 4, 1974.

DONNA HATTAWAY.

PETITION FOR WRIT OF MANDAMUS

Comes now, Kyle Engineering Co., a California corporation, John E. Kyle, Sr., David Kyle, and Georgia Mae Kyle, petitioners who petition this Court to issue a Writ of Mandamus directing the Honorable Manual L. Real, Judge of the United States District Court for the Central District of California to reconsider and vacate his order which was entered on May 2, 1974, whereby petitoners' action was ordered transferred to the Court of Claims pursuant to 28 U.S.C. § 1406(c) and to proceed to judgment in this action.

1. This Court has jurisdiction of these proceedings under 28 U.S.C. § 1651. Relief is here sought in aid of this Court's appellate jurisdiction.

2. The facts supporting this petition are as follows:

That petitioner, Kyle Engineering Co., is a corporation existing under and by virtue of the laws of the State of California, with its principal place of business located within the territorial jurisdiction of this Court. Said petitioner is a small business concern as defined in 15 U.S.C. § 632 and a minority contractor entitled to the assistance, advise, counseling, and preference as prescribed by 15 U.S.C §§ 631, *et seq.*, and the orders and regulations promulgated thereunder or relevant thereto.

Respondent, Thomas S. Kleppe is the Administrator of the Small Business Administration, and is sometimes hereinafter referred to as the respondent Administrator. Said respondent is sued in his official capacity only.

On or about November 7, 1968, Kyle Engineering Co. borrowed $80,000 from the Bank of Finance, Los Angeles, Calif., the repayment of which sum was partially guaranteed by the Small Business Administration (SBA). On or about July 10, 1970, Kyle Engineering Co. borrowed $60,000 from the Bank of Finance, Los Angeles, Calif., the repayment of which sum was partially guaranteed by SBA. Kyle Engineering Co. executed a security agreement covering virtually all of its assets and the individual petitioners personally guaranteed the repayment of a portion of said sums borrowed by Kyle Engineering Co. Among other assets pledged by the individual petitioners was the residence of petitioners, David Kyle and Georgia Mae Kyle.

On or about April 29, 1970, petitioner Kyle Engineering Co. entered into a written agreement with the Small Business Administration (SBA) pursuant to 15 U.S.C. § 637(a)(2). Thereafter, on or about October 6, 1970, Kyle Engineering Co. entered into a second written agreement with SBA pursuant to 15 U.S.C. § 637(a)(2). These contracts are commonly referred to as set-aside contracts and SBA in its program to aid minority small business concerns negotiated these contracts with petitioner John E. Kyle, Sr., on behalf of Kyle Engineering Co., and represented that the contract price on the first contract was 130 percent of the price of prior procurement and that the price on the second contract was 120 percent of the price of prior procurement.

Kyle Engineering Co. undertook to perform these contracts, but soon found that certain drawings furnished by SBA were illegible and some delay occurred. Thereafter, Kyle Engineering Co. found that the cost of performance was exceeding the contract prices and brought this to SBA's attention. No adjustment was made. Kyle Engineering Co. also submitted its claim for excess costs caused by the illegible drawings. Discovery has disclosed that in some instances the prices for items in the contracts were less than prior procurement

by competitive bidding and overall the contract prices were not as represented by SBA.

Based upon information and belief, petitioners allege: That without notice to petitioners, the respondent Administrator or his agents and employees, sometime between July 1971, and approximately November 1971, took steps whereby SBA would be in a position to foreclose upon all the property of petitioner, Kyle Engineering Co. The first knowledge petitioners had of such intent and procedure was from a newspaper advertisement of November 21, 1971, which gave notice of a sale to be conducted of all petitioner Kyle Engineering Co.'s assets on November 24, 1971. On November 24, 1971, SBA caused to be sold petitioner Kyle Engineering Co.'s plant, work in process, materials, and even some personal property of third persons located at said plant, all for scrap prices. The respondent Administrator and his agents and employees failed to follow prescribed procedures for inventory and liquidation of said property which was sold. On or about November 29, 1971, by telegram, petitioner Kyle Engineering Co. was advised that SBA was terminating the abovementioned contracts, allegedly based upon petitioner Kyle Engineering Co.'s "default."

Not until on or about December 29, 1971, was petitioner Kyle Engineering Co. notified of its right to appeal from such termination. Petitioners were never advised of SBA's decision regarding intent to default prior to the sale of November 24, 1971, nor was petitioner Kyle Engineering Co. given a cure letter or a notice of default, as required by applicable law, regulations and due process, prior to the sale as aforesaid.

On or about November 20, 1972, petitioners John E. Kyle, Sr., and Kyle Engineering Co. filed an action in the Superior Court of the State of California for the County of Los Angeles against the Administrator of SBA, four individual employees of SBA, the Bank of Finance, and Does I through XX. The Government filed its Petition for Removal and the action was transferred to the United States District Court for the Central District of California.

On October 3, 1973, the undersigned attorneys for petitioners, Kyle Engineering Co. and John E. Kyle, Sr., substituted into this action and pursuant to stipulation and order thereon filed the First Amended Complaint which is attached hereto as Exhibit 1.[1] In their First Amended Complaint, petitioners rely upon 15 U.S.C. § 634(b)(1) and the Fifth Amendment to the U.S. Constitution for jurisdiction.

This is more than an action based upon contracts. Petitioners seek a declaration of their rights and obligations relative to the security pledged and loss of their property and profits, past and future. Petitioners have moved to file a Second Amended Complaint which adds 28 U.S.C. § 1331(a) and 5 U.S.C. §§ 701–706 as additional jurisdictional statutes. On May 24, 1974, the respondent Judge declined to rule upon petitioners' motion to file their Second Amended Complaint since he has ordered this case transferred to the Court of Claims.

On April 15, 1974, incident to hearing the respondent Administrator's Motion to Dismiss petitioners' First Amended Complaint, the respondent Judge ruled that the causes of action alleged in said Complaint are within the exclusive jurisdiction of the Court of Claims and ordered that the action be transferred to the Court of Claims pursuant to 25 U.S.C. § 1406(c). A true copy of said Order is attached as Exhibit 3. On May 1, 1974, petitioners filed a Motion to Reconsider said Order. At pages 5 through 7, line 16 of Exhibit 2 attached hereto, petitioners set forth case authorities which clearly establish that the United States District Court has jurisdiction of this action pursuant to 15 U.S.C. § 634(b)(1) and is not dependent upon the Tucker Act, 28 U.S.C. § 1346(a)(2). Respondent Administrator filed his Memorandum In Opposition, a true copy of which it attached hereto as Exhibit 5. Petitioners filed a Reply Memorandum attached as Exhibit 6, which supports petitioners' contention that no conflict exists between Circuits as the respondent Administrator contends in Exhibit 5.

Petitioners' Motions for leave to File a Second Amended Complaint and to Reconsider the Order to Transfer this Action to the Court of Claims were heard on May 24, 1974, and the Court denied both.

3. The issue herein presented is as follows: Is the Order of the respondent Judge to transfer this action to the Court of Claims pursuant to 28 U.S.C.

---

[1] Exhibits attached to and incorporated in said Complaint are voluminous (112 pages) and have been omitted from Exhibit 1 hereto.

§ 1406(c) clearly erroneous in that the United States District Court has jurisdiction under 15 U.S.C. § 634(b)(1)?

4. The relief sought by this petition is: That this Court issue a Writ of Mandamus directing the respondent Judge to reconsider and vacate his order which was entered on May 2, 1974, (Exhibit 3), whereby petitioners' action was ordered transferred to the Court of Claims pursuant to 28 U.S.C. § 1406(c).

5. The reasons why the Writ should be issued are: The United States District Court for the Central District of California has jurisdiction of petitioners' action under 15 U.S.C. § 634(b)(1). Transfer to the Court of Claims pursuant to 28 U.S.C. § 1406(c) deprives petitioners of their appellate rights which otherwise exist to this Court as a matter of right. Transfer to the Court of Claims would deprive petitioners of their right to a jury trial relative to issues of fact; the relief available in the Court of Claims is limited and would leave issues which could be resolved by declaratory relief or otherwise in the District Court, unresolved. On or about November 21, 1973, petitioners filed claims under the Federal Tort Claims Act, 28 U.S.C. §§ 2671, *et seq.*, relative to the facts involved in the pending action. To date, petitioners have not been notified of SBA's disposition of said claims. Accordingly, since six months have recently passed from the date of filing of said claims, petitioners are now eligible to file an action in the United States District Court relative to said claims. 28 U.S.C. §§ 1346(b), 2675. While discovery is not complete, it has been underway, depositions have been taken, and petitioners await the answers of the respondent Administrator to some 77 Interrogatories and 20 requests for admissions.

This is more than an action for breach of contracts. Petitioner Kyle Engineering Company, a minority owned and operated small business was summarily liquidated, without proper notice to petitioners. An industrial building and lot pledged and owned by petitioner John E. Kyle, Sr., was lost by forecolsure due to the actions of SBA, which were lacking in procedural due process. Presently, the principle exposure of SBA is for loss to petitioner John E. Kyle, Sr., of his wholly owned business, assets, credit, income and profits, and not for breach of contracts.

This case could reasonably be completed in the District Court on or before January 1, 1975. In addition to the vital aspects of this action of which the Court of Claims has no jurisdiction, there would undoubtedly be much delay and additional expenditure of time and money if this case were transferred. Petitioners have limited financial resources and they should not be required to go through a trial in the Court of Claims where relief will be incomplete and where any appellate right they possess relative to the pending order for transfer will be so expensive and long delayed that it is useless and meaningless.

Wherefore, petitioners pray that a Writ of Mandamus issue out of this Court directing the respondent Judge to reconsider and vacate his order which was entered on May 2, 1974, (Exhibit 3), whereby petitioners' action was ordered transferred to the Court of Claims pursuant to 28 U.S.C. § 1406(c).

GLENDENING AND MURRAY,
By JAMES D. MURRAY,
Attorneys for Petitioners,
*Kyle Engineering Co.*, and
*John E. Kyle, Sr.*
DAVID KYLE,
*In Propria Persona*
*and as Attorney for Petitioner,*
*Georgia Mae Kyle.*

REVISED 26 JULY 1966
GSA, FPR (41 CFR) 1-16.101
GSA, PROC. REG. (41CFR) 1-16.101

# AWARD/CONTRACT

(8)

PAGE 1 OF 3

1. CONTRACT (Proc. Inst. Ident.) NO.
SBA-0388-8(a)71

2. EFFECTIVE DATE
As 7.

3. ISSUED BY Small Business Administration
450 Golden Gate Avenue
San Francisco, CA 94102

☐ LARGE ☒ SMALL (100)

4. CERTIFIED FOR NATIONAL DEFENSE UNDER BDSA REG. 2 AND/OR DMS REG. 1.
RATING: See Continuation Sheet

15 USC 637(a)(2)

6. ADMINISTERED BY (If other than block 5)
CODE 805064
SCD "B"
DCASR - Los Angeles, California

7. DELIVERY
☐ FOR DESTINATION
☒ OTHER (See Schedule)

8. CONTRACTOR NAME AND ADDRESS
CODE 7899A FACILITY CODE

(Street, city, county, State, and ZIP code)
Kyle Engineering Corporation
15407 South Broadway
Gardena, California 90200

9. DISCOUNT FOR PROMPT PAYMENT
Net 30 Calendar days

10. Submit Invoices To:
☐ Designated Payment Office Listed below (See Block 12)
☒ See "Submitting Invoices" Clause (See Schedule)

11. SHIP TO/MARK FOR
See Continuation Sheet and/or Schedule

12. Payments will be made by:
☐ Navy Regional Finance Center
Code 612, Building 122
Great Lakes, Illinois 60088

Code 805054
☒ Commander, DCASR Los Angeles
11099 So. La Cienga Boulevard
Los Angeles, California 90045
Data and Finance Management Office

| 13 | Accounting and Appropriation Data See Continuation Sheet | AMOUNT See Block 21 |
|---|---|---|

14a CONTRACTOR REPRESENTS (To be completed by Contractor if block 22 is checked.)
1. That it ☐ IS, ☐ IS NOT, a small business concern. Generally, a small business concern for the purpose of Government procurement is a concern that (1) is not dominant in its field of operation and, with its affiliates, employ fewer than 500 employees, or (2) is certified as a small business concern by the Small Business Administration. *(See Code of Federal Regulations, Title 13, Part 103, as amended, which contains the detailed definition and related procedures.)* If Contractor is a small business concern and is not the manufacturer of the supplies covered by this contract, it also represents that all supplies to be furnished hereunder ☐ WILL, ☐ WILL NOT, be manufactured or produced by a small business concern in the United States, its Territories, its Possessions, or The Commonwealth of Puerto Rico.
2. That it is a ☐ REGULAR DEALER IN, ☐ MANUFACTURER OF, the supplies covered by this contract.
3. (a) That it ☐ HAS, ☐ HAS NOT, employed or retained any company or person *(other than a full-time bona fide employee working solely for the contractor)* to solicit or secure this contract, and (b) that it ☐ HAS, ☐ HAS NOT, paid or agreed to pay any company or person *(other than a full-time bona fide employee working solely for the contractor)* any fee, commission, percentage or brokerage fee, contingent upon or resulting from the award of this contract; and agrees to furnish information relating to (a) and (b) above as requested by the Contracting Officer *(For interpretation of the representation, including the term "bona fide employee," see Code of Federal Regulations, Title 44, Part 150.)*
4. That it operates as ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ CORPORATION, incorporated in the State of _____.

14b EQUAL OPPORTUNITY - REPRESENTATIONS TO BE FURNISHED BY CONTRACTOR *(Applicable if block 22 is checked.)*
"The bidder represents that he ( ) has, ( ) has not, participated in a previous contract or subcontract subject to either the "EQUAL OPPORTUNITY" clause or the clause originally contained in Section 301, of Executive Order 10925 that he ( ) has, ( ) has not, filed all required compliance reports; and that representations indicating submission of required compliance reports, signed by proposed subcontractors will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the clause.)"

Blocks 15 thru 20 - See Continuation Sheet

| 15. ITEM NO. | 16. SUPPLIES/SERVICES | 17. QTY | 18. UNIT | 19. UNIT PRICE | 20. AMOUNT |
|---|---|---|---|---|---|
| 21. | TOTAL AMOUNT OF CONTRACT | | | | $ 52,561.00 |

CONTRACTING OFFICER WILL COMPLETE BLOCK 22 OR 26 AS APPLICABLE

22. ☒ CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return five copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)

26. ☐ AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.

23. NAME OF CONTRACTOR
BY John E Kyle
(Signature of person authorized to sign)

27. UNITED STATES OF AMERICA Small Business Administration
BY C. D. Ryan
(Signature of Contracting Officer)

| 24. NAME AND TITLE OF SIGNER (Type or print) | 25. DATE SIGNED | 28. NAME OF CONTRACTING OFFICER (Type or print) | 29. DATE SIGNED |
|---|---|---|---|
| JOHN E KYLE PRESIDENT | 10-6-70 | C. D. Ryan Contracting Officer | 10-19-70 |

26-103 (REV. 6-69) 1007E

| STANDARD FORM 35, JULY 1966 GENERAL SERVICES ADMINISTRATION FED. PROC. REG. (41 CFR) 1-16.101 | CONTINUATION SHEET | REF. NO. OF DOC. BEING CONT'D. | PAGE 2 OF |
|---|---|---|---|

MARK ALL PACKAGES AND PAPERS WITH CONTRACT AND/OR ORDER NUMBER

THE CLAUSES SET FORTH HEREINAFTER THAT ARE MARKED WITH AN "X" IN THE SPACE PROVIDED THEREFOR SHALL FORM A PART OF THIS CONTRACT.

[X] General Provisions comprise additional General Provisions (ESO) 9ND-7655 (current edition) consisting of pages 1 thru 2, and General Provisions incorporated by reference in the contract schedule continuation sheet.

[X] FOR NAVY USE ONLY: Item(s) for stock (is) (are) included in the Interservice Supply Support Program and required Interservice Screening has been accomplished.

[ ] SUPERSEDURF OF PRELIMINARY CONTRACT:
(a) Supersedure. This contract supersedes the preliminary contract consummated on _____ by exchange of telegrams/written messages/letters/ combination of such documents, between the parties hereto, bearing the same number and date of consummation, made in anticipation of the execution hereof, and constitutes the entire agreement between the parties with respect to the subject matter hereof. (b) Time of Delivery. The time of delivery set forth herein in terms of specified time "after receipt of contract" means such specified time after the consummation date (set forth in paragraph (a) above) of the preliminary contract superseded by this contract.

[ ] This material contains information affecting the National Defense of the United States within the meaning of the Espionage Laws, Title 18, U.S.C. Sections 793 and 794, the transmission or revelation of which in any manner to an unauthorized person is prohibited by law.

[ ] DISCOUNT: (a) Discounts will be allowed by the Contract for prompt payment as follows: _____percent, 10 calendar days;_____percent, 20 calendar days;_____percent, 30 calendar days. (b) In connection with any such discount, time will be computed from date of delivery of the supplies to carrier when delivery and acceptance are at point of origin, or from date of delivery at destination or port of embarkation when delivery and acceptance are at either of those points, or from date the correct invoice or voucher is received in the office to which invoices are to be submitted under this contract if the latter date is later than the date of delivery. Payment is deemed to be made, for the purposes of earning the discount, on the date of mailing the government check.

[ ] NOTE: The consignee(s) will furnish six (6) copies of the DD Form 250, one (1) properly certified, directly to the DCASR designated as the Paying Office promptly after receipt and acceptance of the supplies.

[X] NOTE TO CONTRACTOR AND/OR CONTRACT ADMINISTRATION SERVICE COMPONENT REPRESENTATIVE: All shipping papers shall include the billed amount for each shipment.

[X] NOTE TO CONTRACTOR: In the event that partial shipments are made, the following precedence shall apply: (1) Ship to all consignees in order of priority, i.e., priorities 1,2,3,4, etc. in descending order, (2) Where all consignees for stock are listed as priority 20, ship first quantities to NSC Charleston (#612-NRZ) or NSC Puget Sound (#406-NUZ) if these activities are among the consignees, and (3) Ship to all other priority 20 consignees in descending order of size of quantities, i.e., largest quantity first, second largest second, etc.

[X] NOTE TO CONTRACTOR/ADMINISTRATIVE CONTRACTING OFFICER: If the Contractor or the ACO wishes to contact Electronics Supply Office regarding this award, call Code 1020 (Contract Administration Branch), Telephone Number(s) 912-688-6798/6867.

STANDARD FORM 36, JULY 1966
GENERAL SERVICES ADMINISTRATION
FED. PROC. REG. (41 CFR) 1-16.101

CONTINUATION SHEET

REF. NO. [illegible] C. MEMO CONT'D.

PAGE 2A OF 34

NAME OF OFFEROR OR CONTRACTOR

| ITEM NO. | SUPPLIES/SERVICES | QUANTITY | UNIT | UNIT PRICE | AMOUNT |
|---|---|---|---|---|---|

The Small Business Administration (hereinafter called SBA) has entered into contract No. N00126-71-C-0509 (hereinafter called the prime contract) with the Navy Electronics Supply Office (hereinafter called NSO) to furnish Work-Bench series 5 line items for table, Electrical Test/Maintenance. and related data as more specifically described therein. A copy of said prime contract is attached hereto and made a part hereof.

The Parties hereto agree that Kyle Engineering Corporation, 15407 South Broadway Gardena, California 90248 (hereinafter called the Subcontractor) shall for and in the stead of SBA fulfill and perform all of the requirements of the prime contract for the consideration stated therein. The Subcontractor acknowledges that it has read and is familiar with each and every part of the prime contract.

Payments will be made directly to the subcontractor by the DCASR, Los Angeles, Calif The subcontractor further understands and agrees that the responsibility for administering this subcontract has been delegated to the DCASR installation in Para 6 above and that the subcontractor will honor directions and requests for changes by that installation in like manner as if issued by SBA.

NOTE: INFORMATION FOR GOVERNMENT USE ONLY

Both prime and sub-contract prepared in accordance with Defense Procurement Circular No. 76 dated 2 Jan. 1970, now ASPR 1-705.5

24-108

0108 200 84

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., April 18, 1977.*

Hon. A. VERNON WEAVER,
*Administrator, Small Business Administration,*
*Washington, D.C.*

DEAR MR. WEAVER: This letter is in reference to a pending Appellate Court case involving Thomas S. Kleppe in his former role of Small Business Administration's Administrator, as defendant to John E. Kyle, former President of Kyle Engineering Corporation.

Pursuant to Section 8(a) of the Small Business Act, Kyle Engineering entered into a subcontracting agreement through SBA in 1970, with the Department of the Navy. This contract was terminated by SBA in November, 1971.

The judicial proceedings that resulted from this action are still continuing. I have been informed that Mr. Kyle is regarded as having an excellent chance of winning his suit. This however could take several years, years of inconvenience for all those involved.

It is his hope, and mine, that you will exercise your prerogative of reviewing the circumstances surrounding this unfortunate situation, and negotiate a consiliatory agreement with Mr. Kyle. After rebriefing the situation, my belief is once again affirmed that Mr. Kyle's case deserves the attention from a fresh perspective that you alone are in a position to render. Mr. Kyle would be most happy to discuss the issue with you at your convenience.

Certainly, this action would be in line with the spirit of co-operation that has returned to Washington with the new Administration.

Sincerely,

GLENN M. ANDERSON,
*Member of Congress.*

---

U.S. GENERAL ACCOUNTING OFFICE,
*Washington, D.C., March 14, 1977.*

B-132740.
CED7-302.

Hon. GLENN M. ANDERSON,
*House of Representatives.*

DEAR MR. ANDERSON: Your letter of February 16, 1977, asked us to review the case of Kyle Engineering Company, a former Los Angeles small business contractor who was assisted under the Small Business Administration's section 8(a) procurement program. The file enclosed with your letter indicates that Kyle Engineering has a dispute with the Small Business Administration which it is litigating in the Federal courts. According to information in the file, the case is currently on appeal to the U.S. Court of Appeals for the Ninth Circuit, after being dismissed by the U.S. District Court for the Central District of California.

It has long been the policy of our Office not to become involved in issues which are in litigation in the courts because, once an issue is before the judiciary for determination, it is for that branch of the Government to resolve. Our Office has no authority to intervene in such proceedings. Further, once an issue is before a court, neither party to the suit would be bound by a decision by our Office. Therefore, we think it would be inappropriate for us to comment on this matter at this time.

We are returning herewith the case file enclosed with your letter of February 16, 1977.

Sincerely yours,

HENRY ESCHWEGE,
*Director.*

Enclosure.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., August 19, 1975.*

Hon. THOMAS S. KLEPPE,
*Administrator, Small Business Administration,*
*Washington, D.C.*

DEAR MR. KLEPPE: This is in further reference to the Kyle Engineering Company, last doing business at 15407 S. Broadway, Gardena, California, with an 8(a) contract with your agency.

Your letter of June 3rd advised as follows:

"We have learned that Mr. Kyle has appealed the dismissal of his case against the Small Business Administration by the United States District Court, Central District of California, to the 9th Circuit Court of Appeals. This being the situation, we cannot comment on the case at this time since it is subject to future hearing. We can say, however, that Kyle Engineering Company was given full consideration by the Small Business Administration and the Board of Contract Appeals before any action was taken against the firm."

In your letter of June 26th, 1975, you advised as follows:

"I have since learned, however, that Mr. Kyle did not take his case to the Board of Contract Appeals and, therefore, could not have received consideration from that body."

Mr. Kyle has advised me that he has not appealed the dismissal of his case against the Small Business Administration by the United States District Court, Central District of California, to the 9th Circuit Court of Appeals, and that the Small Business Administration appealed the case. (Meaning, I assume, the Department of Justice.)

I would appreciate further comments and a reply from you relative to the case, and as to the date the case was appealed by the Government, as reported by Mr. Kyle.

Sincerely,

GLENN M. ANDERSON, M.C.

---

SMALL BUSINESS ADMINISTRATION,
*Washington, D.C., May 9, 1977.*

Hon. GLENN M. ANDERSON,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN ANDERSON: This is in reply to your letter dated April 18, 1977, requesting my review of a claim made by the Kyle Engineering Company against the Small Business Administration. The claim, presently in litigation, arises out of certain services performed by Kyle Engineering for the Department of Navy at Los Angeles, California, during 1970 and 1971. The three Navy contracts under dispute were entered into pursuant to subcontracts with the Small Business Administration under authority of Section 8(a) of the Small Business Act.

The plaintiffs have alleged in the litigation that they were induced by fraudulent representations of SBA employees to enter into the contracts. They also allege that SBA employees negligently advised them regarding the contracts. Damages in the amount of $920,000 are sought against the SBA. On March 15, 1975, the United States District Court for the Central District of California dismissed the suit on grounds that the Court lacked jurisdicion over the subject matter. An appeal was taken by plaintiffs to the United States Court of Appeals for the Ninth Circuit and on March 14, 1977, the appeals were dismissed, affirming the holding of the lower Court. We do not know if this litigation is concluded inasmuch as further motions or appeals may be filed.

The files in this matter have been reviewed by our Office of General Counsel. I am advised that the SBA does not have authority to negotiate a settlement of this claim. The General Counsel ascribes two reasons for this. First, the Department of Justice possesses sole responsibility for presenting the Government's interests in pending litigation. Therefore it would not be appropriate for the SBA to conduct independent negotiations with the plaintiffs while litigation is pending. Any offer of settlement of the claim should be directed to the Department of Justice through plaintiffs' counsel. Secondly, my authority as Administrator of SBA does not extend to the settlement of claims founded upon breach of contract or tort. Such claims must be brought before an appropriate judicial or administrative proceedings. Plaintiffs' choice of forum should be made by their counsel.

I regret my inability to be of greater service in this matter.

Sincerely,

A. VERNON WEAVER,
*Administrator.*

*Subcommittee Evaluation*

The SBA's participation as the prime contractor with the U.S. Navy is the normal relationship which is undertaken in 8(a) procurement. This practice consists of assuming the *role* of prime contractor while not also assuming the *risk* that a "normal" prime contractor would assume. The 8(a) firm in its role as the "subcontractor" assumes *all* of the risk but often has to yield to SBA on vital management matters which also include final pricing on contracts.

The implications of faulty management advice given by the SBA to Mr. Kyle should be sufficient cause for the SBA to review the circumstances involved with the bankruptcy of the Kyle Engineering Company.

## Case Study No. 4

Company: General Maintenance, Inc.
President: Rodney Albert.
Location: Orangeburg, S.C.
Re: 8(a) Contract Awards.

*Circumstances*

General Maintenance, Incorporated is a janitorial and supply firm and has experienced difficulties in dealing with the Regional office of the SBA in Atlanta, Georgia.

Mr. Albert submitted the following statement to the committee:

### Statement

June 10, 1977.

Early in the first quarter of 1977 I submitted documents to the SBA regional office in Atlanta for continuation of my eligibility requirements under the 8(a) assistance program. On 21 March 1977 I received a reply, signed by Mr. Wiley S. Messick, Regional Director of the SBA, indicating that the performance of my company up to this time in terms of development had not been sufficient for me to be graduated from the program; and, as a result of this, I would be continued under the 8(a) program. He also indicated that if there were any problems which might arise as a result of this to contact Ms. Loraine S. Stoval, who was serving as the SBA Region IV Contract Negotiator.

On 12 April 1977 I received a letter from Ms. Stoval inviting me to submit a proposal for the project that we were currently operating, that is the Veterans' regional office building in Columbia. We proceeded to comply with her request and submitted the proposal to her office on 29 April 1977. It was our understanding that the contract would be awarded in May 1977, and would have to be received by her office by 6 May 1977. There was also an addenda that we submitted to her office along with the contract, on 29 April 1977.

Having not heard from Ms. Stoval after submitting the proposal, I contacted her office during the week of the 20th of May 1977. She was out of the office, and some person, whose name I don't recall, indicated that a price had been fixed for this particular project; I think it was about $51,500.00, and I would have to get back in touch with Ms. Stoval if we wanted to negotiate, or just what we wanted to do in terms of that price.

On 23 May 1977 I contacted the Regional SBA Office again and was able to speak with Ms. Stoval, and she indicated that she had my proposal before her at that time and that she was re-working it, but she would need additional information from me to justify the costs of some of the items she had. She gave me a list of the items—she wanted to know exactly how much the fringe benefits as far as the holdings for each particular worker that we had. She also wanted to know, and could I document and substantiate the amount of the figure we had down for supplies and equipment: I told her yes, this could be done, but I would have to get back in touch with her the next day because I didn't have all of the information she needed. So she proceeded to give me a further list of things I would need to do to assist her in justifying this.

On the following day we were in touch again and she was supplied with the information which she had requested. On the twenty-third she indicated that she had been in touch with the people at General Services and had found that the person who was negotiating the contract was an individual who had been negotiating one, who she thought was no longer with General Services and no problems would be presented because he would understand the kinds of things which we were trying to present. It was her feeling at that time, with mine, that the figure which we came up with was adequate, because we pointed out to her that she should make mention to the negotiating people, whoever they were in General Services, that the difference in the contract from last year and this year included an additional person; that is 4 additional hours per day.

Also, if they would include this figure, those additional 4 hours and the overall cost of supplies and equipment, fringe benefits, over the previous year, they would see that this would be justified. She felt the same way. She was in touch

with people at the SBA, and on Thursday of this week she was able to pull all of the figures together and said that she would present it to them.

It was her and my feeling at that time that the only thing that was necessary to negotiate the differences, which at this time was down to about $6,000.00. At no time was I given the impression that she had the feeling or impression that the contract would be taken from us and put on the street. She said that she was going over on Friday the 27th and talk with the people in SBA, and she would have a couple more days in which to have everything straightened out, and we could get together on the final figure. She would not be back in the office, because the following Monday would be a holiday for that office. So, I did not hear from her on the 31st, that was the day after the holiday, so I called her on Wednesday, June 1, 1977, asking just what the status of the negotiations was. She indicated that she had bad news, that it had been decided to take the contract and put it on the street.

Now you can imagine my shock and disappointment as to why this would be done without contacting me. It just seemed that in all fairness, that if this decision was going to be made or had been made, that I would have the opportunity to accept whatever they considered the top price they could pay, or I could reject it. I was not given this alternative, and as a result it has put me in a very vulnerable position, because I have people who were already notified that we had the contract for another year, and they were anticipating, and my business also depends to a great extent on the income from, as small as it is, this particular job.

My concern is that I don't see how General Services, SBA, or whoever is responsible for the negotiating, can make a decision on my behalf without me being brought in at some level to at least give my impressions as to whether I will go along with what they say or if I decide to do something else. I think that is one of the most serious breaches of faith committed in this whole negotiating process. Certainly I was on my way, carrying on my business as usual with that behind me because I had already been told that the contract was 8(a), I was to negotiate it, I was the 8(a) contractor, it was just a matter of negotiating the price. This has left me in a very very bad situation in terms of the operation of my business.

When I made inquiries to Ms. Stoval as to her feelings to why GSA would just break off negotiations, or would make a decision as they did, she said, "To be honest with you Mr. Albert, I feel that there are people in the organization who do not like the idea of 8(a), and they are doing everything they can to sabotage the whole 8(a) project." Naturally I was very shocked to learn that we had people in government, who had been committed to helping minority contractors, that would resort to this kind of action. She also indicated to me then that she had gotten a complaint directly from the Columbia General Services Office, on May 23rd, a letter dated, just a general statement saying that it had been brought to their attention that some unauthorized person was using office equipment, i.e. Xerox machines and typewriters.

Now, even though this letter was mailed to me and my company, signed by Mr. Jack Terry, the building manager, in no instance did he specifically say or accuse any of the people employed by me as being responsible for what he had alleged. So, as far as we're concerned, we aren't going to take credit for this unless some particular or specific charge is brought against us. We also realize that up until this point we had never for the whole time this project had been in operation, at no time had we received written or verbal complaint about anything like not performing well as far as the contract was concerned, misuse of the building or office equipment. All of this seemed to have transpired within the week when the negotiations were beginning to take place.

We also had a verbal, I understand that the supervisor had some verbal, received some verbal complaints from the people downstairs in SBA, saying that the floors were not kept as well as they had been in the past and a few other minor things. Notwithstanding the fact that construction is going on around the building. The new Federal building, the Strom Thurmond Building is being built right on the grounds of this particular building. And as a result of that our people have had to put in extra time in order to keep the dust down and also to deal with the traffic of people who normally do not use the building—the cafeteria, the workers come in with their dirty boots in the hallways—so this is an added expense we have had to absorb and didn't pass on to the GSA. We've also noticed almost double the number of handtowels and toilet tissue, that we

have had to supply because of the increase in population and use of this particular building.

We felt that as contractors, it was our obligation to do the best we could under the circumstances. This was brought to the attention of the building service people, but for some reason their impression was that we were just supposed to absorb it as part of the over-all contract, rather than as an additional expense. I assure you that at no time has the level of performance, that is in terms of upkeep, has been reduced to where complaints could have been justified. And all one would have to do would be to look back at the reports written up by the building service people themselves.

One complaint that we have against the building service people is that they have no particular time to inspect their buildings. They would come in sometimes during the middle of the day, or come in the mornings after people would have arrived, and say that maybe a coffee spill might have been on the floor, or paper in the wastebasket, or something very very insignificant—not realizing that work had been previously done, in the previous night, and we could not be responsible for things that happened after we had left the building, and the building secured. Most of these things were minor, but yet it's the kinds of things we receive from them. I'm sure that anyone would understand that if you do not have control of the building that people frequently use it, that you cannot be responsible for what happens whenver you have left the building and it has been secured.

The last thing I would like to mention is that I felt that we have been dealt a severe blow and a great injustice and it has caused me serious concern, mentally and otherwise, to sit down or to talk with people over the telephone with people in good faith, and to find out that some decision had already been made or is going to be made, and we were not involved in that process.

RODNEY ALBERT,
*General Maintenance, Inc.*

*Subcommittee Evaluation*

Mr. Albert's situation was very similar to other cases heard by the subcommittee staff. The entire communications aspect of the contract process is confused by the infusion of the Small Business Administration.

The bulk of the information received by Mr. Albert concerning the janatorial contract was first passed through the SBA.

During the field interview sessions, many minority contracts expressed a belief that they would be able to deal with procurement officers of the various executive branch agencies on a better basis than the SBA has been able to do.

## CASE STUDY NO. 5

Company: Quality Maintenance Service.
President: William Greene.
Location: Charleston, S.C.

*Circumstances*

Mr. Greene, a black Vietnam veteran, has encountered many problems in trying to gain 8(a) certification for his janitorial firm. He has not been successful.

William Greene was initially recruited by the SBA because of his business background and because he could easily be considered "disadvantaged."

The Charleston, South Carolina area would present many opportunities for the Greene firm to have participation opportunities, in fact, other firms have had much success in the area.

However, there were firms with "sponsorships". Mr. Greene has shown a willingness to "market" for his firm in an effort to gain 8(a) acceptance.

In a field interview with subcommittee staff, Mr. Greene supplied the following information about his firm, Quality Maintenance Service. The information, though lengthy and extensive is what is normally required of an 8(a) applicant.

MAG, LTD.,
QUALITY MAINTENANCE SERVICE,
*Charleston, S.C., June 20, 1977.*

To: Senator Lawton Chiles.
(Attention of Mr. Robert F. Harris, Committee on Government Affairs, Washington, D.C.).

MR. HARRIS: Per our conservation I am enclosing a copy of my application and business plan as submitted to SBA in November of 1975. Also enclosed you will find copies of correspondence and other documents forwarded to and received from the Atlanta Regional Office. On one of four visits to the Regional Office, I spoke to Mr. Ivy personally as to what was required for 8A certification. SBA letter dated 8 April 1977, shown as Enclosure 5, states that my application was held in suspense since 7 November 1975 because of (1) Mr. Ivy did not receive requested information and (2) nonreceipt of requirements at the SBA Office suitable for my firm. Attached to Enclosure 5 are documents to show that I did provide required information as requested. (See MAG, Ltd. Letter dated 20 May 1976). Since my last contract with the Regional Office, I have knowledge of one contractor who has been certified and provided a contract here in the Charleston area.

Enclosure 7 is provided to show when and how I was made aware of the 8A contracting program. Enclosure 8 is provided to show some of my qualifications to handle a contract(s) that may be deemed suitable for my firm.

I sincerely hope this information will prove to be of some assistance in your investigation. If I can be of further help, in anyway possible, please feel free to contact me at the above office number or at home (803) 795–4671.

Sincerely,

WILLIAM J. GREENE,
*President, MAG, Ltd.*

Enclosures.

U.S. SMALL BUSINESS ADMINISTRATION,
REGION IV,
*Atlanta, Ga., February 25, 1974.*

Mr. WILLIAM GREENE,
*813 Piccadilly Circle,*
*Charleston, S.C.*

DEAR MR. GREENE: Per our telephone conversation of February 22, 1974, I am enclosing additional forms for your information. Please furnish the following information:

1. A Business Plan, an outline is enclosed.
2. A Financial Statement, if you are unable to furnish a firm financial statement, please supply a personal statement.
3. Complete the eligibility questionnaire.
4. Supply copies of any Corporation Charter, Articles of Incorporation and By-laws, if applicable.

Also enclosed is an excerpt from SBA policy for your information. If you should have any questions or if we can be of any further assistance, please feel free to contact this office at any time, telephone A/C 404–526–3683.

Sincerely,

DONNA H. GLENN,
*PA/8(a) Division.*

---

U.S. SMALL BUSINESS ADMINISTRATION,
*Atlanta, Ga., December 16, 1974.*

MINORITY DEVELOPMENT AND MANAGEMENT ASSOCIATION,
*Charleston, S.C.*
(Attention of Richard Wigfall).

DEAR MR. WIGFALL: We appreciate your interest in the Small Business Administration 8(a) Program and hope we can be of some assistance to your client, Mr. William J. Greene. As per our telephone conversation, we are enclosing a copy of the business plan, articles of incorporation for MAG, and a list of equipment.

In order for this office to fully evaluate the firm's eligibility we will require the following:

1. SBA Form 413, one for each key person in the firm.
2. An expanded Business Plan, including MAG, Ltd.'s participation in the firm.
3. By-laws for MAG, Ltd.
4. Articles of Incorporation must be amended to include service oriented work.
5. Furnish a copy of the firm's most recent financial statement.

If you should have any questions or if we can be of any further assistance, please feel free to contact this office at any time.

Sincerely,

HAROLD W. MUIR,
*Business Development Specialist.*

---

U.S. SMALL BUSINESS ADMINISTRATION,
*Atlanta, Ga., October 20, 1975.*

Mr. CHARLES H. BROWN,
*Business Developer*
*Charleston, S.C.*

DEAR MR. BROWN: The business plan as submitted for Quality Janitorial Service was received October 16, 1975. Your cover letter indicated we should contact you for additional information.

We have reviewed your business plan and find it to be completed in detail. However, our regulations require the business plan to be submitted on an updated form. This form is enclosed for your review and consideration. When completed, return it to this office. Further, enclosed is a Small Business Administration Form 912 for personal history. Upon receipt of the updated business plan and SBA Form 912 for Mr. William Greene, the business plan will be reviewed.

If we can be of assistance, please advise.

Respectfully,

RICHARD B. IVEY,
*Business Development Specialist.*

---

U.S. SMALL BUSINESS ADMINISTRATION,
*Atlanta, Ga., November 7 1975.*

Mr. CHARLES H. BROWN,
*Business Developer*
*Charleston, S.C.*

DEAR MR. BROWN: We received the business plan for Quality Janitorial Service on October 31, 1975. With the use of the original plan and the one received on the proper form we have sufficient information on hand to review the business plan.

Our review disclosed the papers for incorporating Quality Janitorial Service relates to a former company MAG, Ltd. It makes no reference to Quality nor does it include janitorial work. It refers to buying, selling, rental of real estate, operating a trailer park and other like businesses.

Accordingly, we will require documentation and papers showing the inclusion of Quality and/or documentation incorporating Quality Janitorial Service.

Further, should the papers for MAG, Ltd. be used, we will require By-Laws, Certificate of Inc. and SBA Forms 912 and 413 for Virvatine G. Manigault and George H. Greene.

Please advise if we can be of assistance.

Respectfully,

RICHARD B. IVEY,
*Industrial Engineer, B.D.S.*

---

MAG, LTD.,
*Charleston, S.C., May 20, 1976.*

Mr. RICHARD B. IVEY,
*U.S. Small Business Administration,*
*Atlanta, Ga.*

DEAR MR. IVEY: Per our telephone conversation of yesterday, enclosed you will find a copy of my by-laws and a document showing the resignation of George H. Greene from the organization.

Respectfully,

WILLIAM D. GREENE, *President.*

U.S. SMALL BUSINESS ADMINISTRATION, REGION IV,
*Atlanta, Ga., April 8, 1977.*

Mr. WILLIAM J. GREENE,
*Quality Janitorial Service*
*Charleston, S.C.*

DEAR MR. GREENE: As you know, the application and business plan submitted in your behalf by Charles H. Brown, Business Developer, has been held in suspense in our files since November 7, 1975. Our Mr. Richard B. Ivey requested information relative to Quality Service and its parent organization. MAG, Ltd. To date we have not received required information.

In addition, there has not been requirements submitted to this office suitable for your firm. Indications are that the availability of suitable requirements are highly unlikely in the foreseeable future. Therefore, we are returning your application and business plan without action.

Sincerely,

WILLIAM S. MATLOCK, Jr.,
*Deputy Assistant Regional Director for Procurement Assistance.*

Enclosure.

QUALITY JANITORIAL SERVICE BUSINESS PLAN

1. Quality Janitorial Service, 1870 Freedom Drive, Charleston, S.C. 29407, 556–9153.

2. Description of Business: Type—Janitorial Service; purpose—To provide a complete cleaning service for the Charleston market; goals—To organize and operate a sound profit-making business and expand to the extent most practical.

3. Company History—New.

4. Ownership—Sole Proprietorship.

5. Service—Complete domestic and commercial cleaning services to: offices, hospitals, factories, clubs, homes, government facilities, etc.

6. Management—none.

In addition to management of business by owner, two assistants will be salaried both having long experience janitorial service. One assistant is presently employed as a salesman of janitorial supplies and equipment.

7. Marketing—The market shows a great demand for janitorial services in the Charleston, S.C. area. Greatest competition will be felt from the few large businesses that tend to dominate the market by underbidding. Quality work, which appears not be the norm, is to be the salvation for the smaller businesses and, also, one of the best means of advertising. Other advertising will be through the yellow pages, local news media, etc. Assistance is required in obtaining sizable contracts that will enable this company to become stable and self-sufficient.

8. Production—An old army barrack will be relocated from Fort Jackson and placed on a five acre track of privately owned property to provide office and warehouse space for the business. Supervisors have been identified for the initial operation and will, in the future, be identified from employees coming from a ready labor source, which could possibly be 100% disadvantaged. Following is a list of equipment currently available for use in the business:

| Description: | *Quantity* |
|---|---|
| Sander, Floor (each) | 2 |
| Cleaner, Vaccum (Household) (each) | 2 |
| Heater, Furnace | 1 |
| Cleaner, Floor, Auto | 1 |
| Machine, Floor | 4 |
| Machine, Shampoo | 1 |
| Cleaner, Vaccum (Commercial) | 5 |
| Squeegee, window | 9 |
| Ladders (Extention & Step) | 5 |
| Scaffolds w/Rollers (sets) | 2 |
| Cord, Extension | 7 |
| Mop Head, Dust | 7 |
| Buckets | 6 |
| Wringers | 7 |

Additional equipment is available as required.

9. Financial—Accounting services will be provided by General Business services, Charleston, S.C.

| | |
|---|---|
| Fixed assets: | |
| Land (5 acres) | $8,000 |
| Equipment | 5,300 |
| Mobile home (office) | 3,000 |
| 1971 Ford wagon | 2,500 |
| 1968 Dodge economy | 1,000 |

Working Capitol—Profits generated from current small contracts will be utilized to assist in expanding the existing business. It is also the intent of this company to utilize local banking community development programs for advance money to cover commitments on any sizable contract until assistance can be received through the SBA 8A contracting program.

Projection—See Enclosure 1.

WILLIAM J. GREENE,
*Owner-Manager.*

QUALITY JANITORIAL SERVICE PROFORMA BALANCE SHEET—OPENING DAY OF BUSINESS

*Assets*

| | |
|---|---|
| Current Assets: | |
| Cash on hand and bank | $1,000 |
| Supplies—office | 34 |
| Supplies—operating | 43 |
| Total current assets | 1,077 |
| Fixed Assets: | |
| Shop equipment | 12,000 |
| Reserve for depreciation | (1,500) |
| Auto | 2,500 |
| Reserve for depreciation | (833) |
| Home and comm. window washg. and acct. | 5,000 |
| Reserve for depreciation | (333) |
| Total fixed assets | 16,843 |
| Total assets | 17,911 |

*Liabilities and capital*

| | |
|---|---|
| Liabilities: | |
| Account payable | 250 |
| Long term notes (loans) | 8,500 |
| Total liabilities | 8,750 |
| Capital | 9,161 |
| Total liabilities and capital | 17,911 |

## Quality Janitorial Service

*Projected income statement for first 12 months of operation*

| | |
|---|---|
| Sales | $72,000.00 |
| Operating expenses: | |
| Gross Wages | 24,000.00 |
| Operating Supplies | 900.00 |
| Repairs & Maint | 900.00 |
| Auto & Truck (gas) | 960.00 |
| Advertising | 1,200.00 |
| Taxes & Licenses | 174.96 |
| Administrative & Legal | 480.00 |
| Utilities | 240.00 |
| Insurance | 1,200.00 |
| Depreciation | 2,400.00 |
| Telephone | 240.00 |
| Office Supplies | 180.00 |
| Payment (loan) | 1,104.00 |
| Miscellaneous | 480.00 |
| Total operating expense | 34,158.96 |
| Net profit before taxes | 37,841.04 |
| Less tax (48 percent) | 18,163.70 |
| Net Profit | 19,677.34 |

Net profit per month: $1,639.78.

## Applicant's History Resumé

1. Full name: William J. Greene (Jonathan).
2. Present address: Hq, 34th Medical Battalion, Fort Benning, Ga. 31905.; 813 Piccadilly Circle, Charleston, S.C. 29412. 803–795–5772.
3. Home phone number:
4. Marital status: Married.
5. Children: Three (3) ages: 13, 11, and 10.
6. Race: Negro.
7. Childhood family background: Born the youngest of nine (9) children to Bessie and Mitchell A. Greene of Georgetown, S.C. My father was self employed in the construction (carpentery) business. My mother died when I was at an early age and my three older sisters became instrumental in my development. By high school, the members of my family had left home for reasons such as military duty, personal careers, marriage, etc., to include my father, who had remarried. Remaining at home was one sister, a school teacher, and myself.
8. Date and place of birth: 12 January 1938, Georgetown, S.C.
9. Education: BA Degree in sociology from Morgan State College, Baltimore, Md.—1960.
10. Military status: Will separate from the military in the grade of Major (MSC) on 31 March 1974.
11. Work experience: My work experience is primarily military where I have served for approximately six (6) years as a unit commander. My career field is that of Medical operations and I have worked as the Chief, Plans Operations & Training at General Hospitals. For the past three (3) years I have served as the Executive Officer of a Medical Battalion consisting of ten (10) subordinate units.

Note.—Items 7 and 11, please be as detailed as possible.

NOVEMBER 27, 1974.

The following is a listing of equipment and vehicles on hand with Quality Janitorial Service as of the date indicated above.

Equipment description and quantity:

Sander, floor—3.
Cleaner, vacuum (household)—3.
Heater, furnace—1.
Cleaner, floor auto—2.
Machine, floor—7.
Machine, shampoo—2.
Cleaner, vacuum (commercial)—7.
Squeegee, window—13.
Ladder, (extension and step)—11.
Scaffolds, with rollers—2 sets.
Cord, extension—11.
Mop head, dust—22.
Buckets—12.
Wringers—12.
Edger, floor—1.
Additional equipment available as required.

Vehicles: 1971 Ford Wagon, 1969 Ford Van, 1968 Chevrolet Van, and 1968 Chevrolet Sedan.

QUALITY JANATORIAL SERVICE BALANCE SHEET YEAR ENDED APRIL 1975

*Assets*

| | |
|---|---|
| Cash | $1,000.00 |
| Accounts receivable | 300.00 |
| Building and land | 18,500.00 |
| Less depreciation | (850.00) |
| | 16,650.00 |
| Equipment, janitorial | 15,106.00 |
| Less depreciation | (1,510.60) |
| | 13,595.40 |
| Auto-truck | 7,800.00 |
| Less depreciation | (685.42) |
| | 7,114.58 |
| Total assets | 38,659.98 |

*Liabilities*

| | |
|---|---|
| Accounts payable: | |
| Note—Falcon Capitol Corp | 13,000.00 |
| Andrews Bank and Trust | 4,100.00 |
| Total liabilities | 17,100.00 |
| Shareholders' equity: | |
| Shareholders, capital | 21,559.98 |
| Total liabilities and capital | 38,659.98 |

## Quality Janitorial Service Income Statement

*Year ended April 30, 1977*

| | |
|---|---|
| Revenue: service fees | $15,410.35 |
| Expenses: | |
| Salary expense | 16,963.59 |
| Auto-truck expense | 4,786.18 |
| Depreciation expense | 4,045.02 |
| Notes expense | 2,550.00 |
| Operating supplies expense | 2,040.44 |
| Insurance expense | 788.30 |
| Tax expense | 709.38 |
| Advertising expense | 660.00 |
| Telephone expense | 503.75 |
| Office supplies expense | 296.82 |
| Rent expense | 100.00 |
| Bank expense | 20.48 |
| Water expense | 5.00 |
| Total expense | 33,468.96 |
| Net loss | 18,058.61 |

*Quality Janitorial Service profit and loss statement*

| | |
|---|---|
| Sales | 72,000.00 |
| Operating expenses: | |
| Gross wages | 24,000.00 |
| Operating supplies | 900.00 |
| Repairs and maintenance | 600.00 |
| Auto and truck (gas) | 960.00 |
| Taxes and licenses | 174.96 |
| Advertising | 1,200.00 |
| Administrative and legal | 480.00 |
| Utilities | 240.00 |
| Insurance | 1,200.00 |
| Depreciation | 2,400.00 |
| Telephone | 240.00 |
| Office supplies | 180.00 |
| Payment (loan) | 1,104.00 |
| Miscellaneous | 480.00 |
| Total operating expense | 34,158.96 |
| Net profit before taxes | 37,841.04 |
| Less tax (48 percent) | 18,163.70 |
| Net profit | 19,677.34 |

Net Profit per Month ($1,639.78)

QUALITY JANITORIAL SERVICE

*Pro-former balance sheet*

| | |
|---|---|
| Current assets: | |
| Cash on hand and bank | $1,000.00 |
| Supplies—Office | 34.00 |
| Supplies—Operating | 43.00 |
| Total current assets | 1,077.00 |
| Fixed assets: | |
| Shop equipment | 12,000.00 |
| Reserve for depreciation | (1,500.00) |
| Auto | 2,500.00 |
| Reserve for depreciation | (833.00) |
| Home and commercial window washing account | 5,000.00 |
| Reserve for depreciation | (333.00) |
| Total fixed assets | 16,843.00 |
| Total assets | 17,911.00 |
| Liabilities and capital: | |
| Liabilities: | |
| Accounts payable | 250.00 |
| Long-term notes (loans) | 8,500.00 |
| Total liabilities | 8,750.00 |
| Capital | 9,161.00 |
| Total liabiliites and capital | 17,911.00 |

IV. *Company history*

(Narrative of purpose, chronological development, problems and successes):

Quality Janitorial Service was organized in April 1974 as one of two businesses started by a corporation, MAG Limited. Because of a shortage of funds, management assistance, and adequate controls, MAG Limited relinquished controls of the other operation and continued with Quality Janitorial Service as a single entity.

Since the beginning of this venture, Mr. Greene, the owner and manager has been successful in obtaining a number of small contracts. These contracts have not been sufficient to sustain the venture on a profitable basis. Funds used to start the business were exhausted as efforts to obtain sizeable contracts for services failed.

V. *Product or service*

(Narrative of characteristics, uses and applicability to commercial market. Nature of work performed with own forces, area of operations):

The Charleston area is dotted with military bases and a number of U.S. Government installations. The area is growing with large businesses, office buildings, apartments, and a variety of opportunities for a business of this type.

The company offers complete domestic and commercial cleaning services to offices, hospitals, factories, clubs, homes, and governmental facilities. It is centrally located and accessible to all main highways in the target area.

With increased contract responsibilities, work crews and supervisors will be brought aboard to handle the same.

VI. *A. Management*

(A copy of this form must be completed by all directors, officers, and senior management personnel.):

1. Name: William J. Greene
2. Age: 38
3. Sex: Male
4. Marital Status: Married.
5. Social security number: 249–58–8196.
6. Military serial number: 05210437.

7. Present position (Include description of duties) : Owner/manager—Quality Janitorial Service; Duties: To provide overall supervision of the service and all personnel employed by the compay.
8. Other jobs and positions held and salaries: Resume attached.
9. Formal schooling: BA Degree in Sociology 1960, Morgan State College, Small Business Management, 1972, Columbus College.
10. Technical training and qualifications:
11. Management training: Small Business Management—Columbus College, 1972; Medical Operations Officer Course, 1971.
12. Military experience:

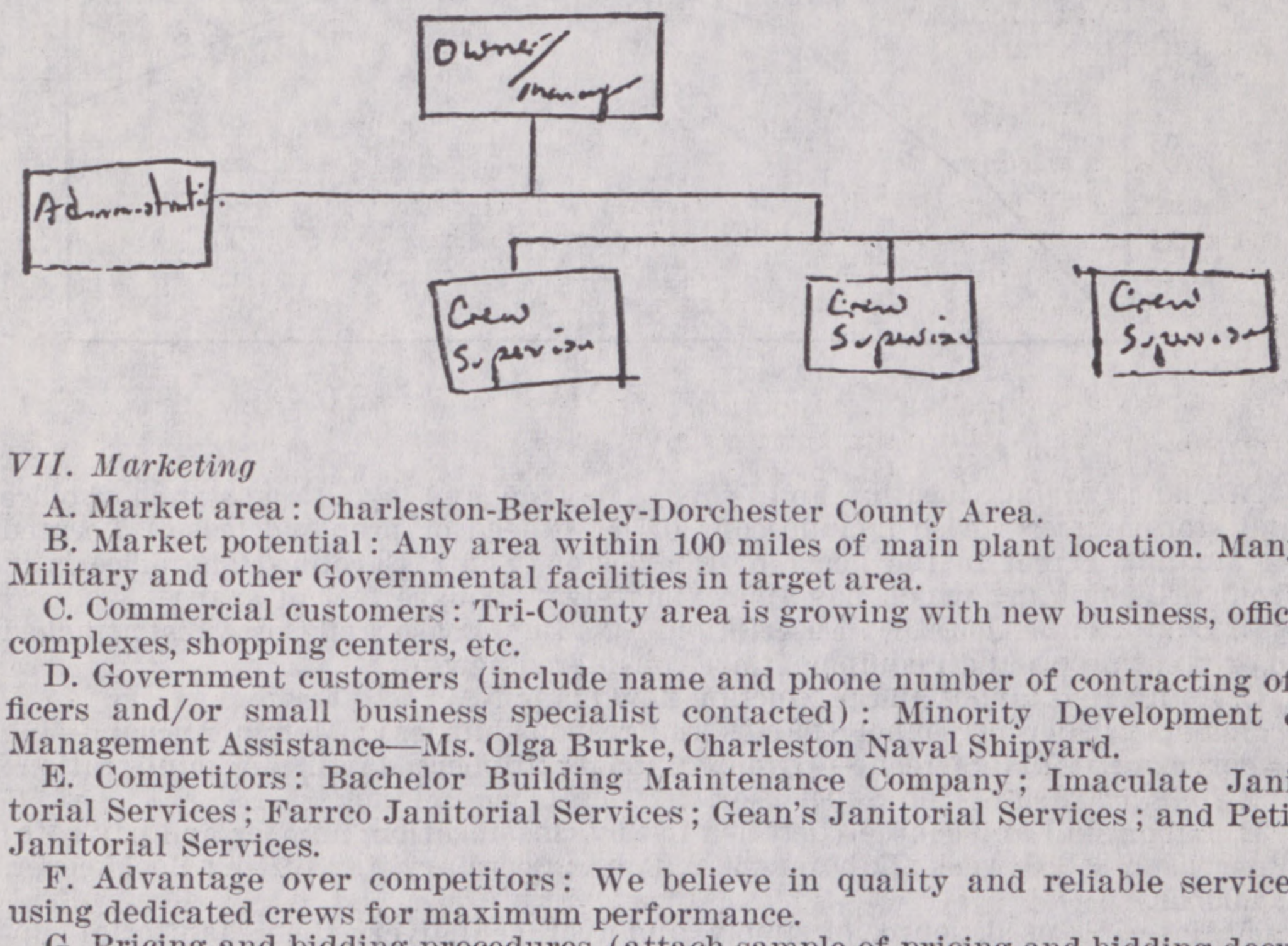
(*a*) Branch of service, place, period of service, MOS, and rank:
U.S. Army, Ft. Lewis, 1961–1963, Platoon leader, Lt.
U.S. Army, Hanau, Germany, 1963–1964, Commander, Lt.
U.S. Army, Stuttgart, Germany, 1968–1971, Commander, Captain.
U.S. Army, Ft. Benning, Ga., 1971–1974, Chief Operation, Major.

(*b*) Service schools attended and date of attendance: AMED Officer Basic, Ft. Sam Houston, Texas, 1961; Air Transportability Planning School, 1363; AMED Officer Advanced School, Ft. Sam Houston, 1966–1967; Medical Operations Off. Course—Denver, Colo., 1971; and DOD Race Relations Institute, 1972.

B. List professional, management and technical resource support to be received by your company. (Attach copies of all Management and Technical Support Agreements.)

Name, address, phone, service, and compensation: Charles H. Brown, 854 Rutledge Avenue, 577–3727, Business Development, $250.00; Robert Martin, 6 Ranger Drive, 747–5177, Accounting, $4.00/hr.

C. Diagram organization chart of firm:




*VII. Marketing*

A. Market area: Charleston-Berkeley-Dorchester County Area.

B. Market potential: Any area within 100 miles of main plant location. Many Military and other Governmental facilities in target area.

C. Commercial customers: Tri-County area is growing with new business, office complexes, shopping centers, etc.

D. Government customers (include name and phone number of contracting officers and/or small business specialist contacted): Minority Development & Management Assistance—Ms. Olga Burke, Charleston Naval Shipyard.

E. Competitors: Bachelor Building Maintenance Company; Imaculate Janitorial Services; Farrco Janitorial Services; Gean's Janitorial Services; and Petit Janitorial Services.

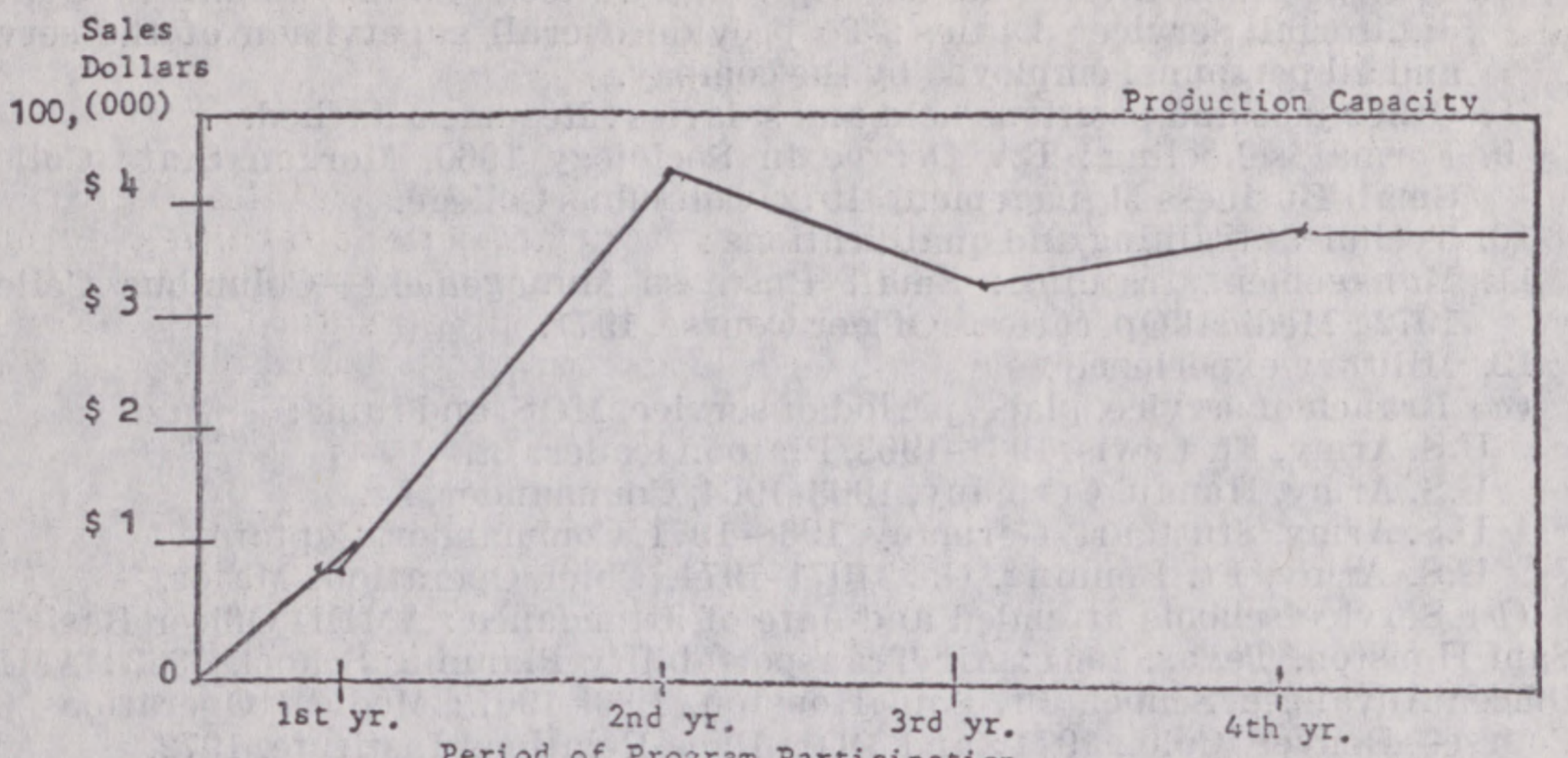
F. Advantage over competitors: We believe in quality and reliable services using dedicated crews for maximum performance.

G. Pricing and bidding procedures (attach sample of pricing and bidding documents) : Attached.

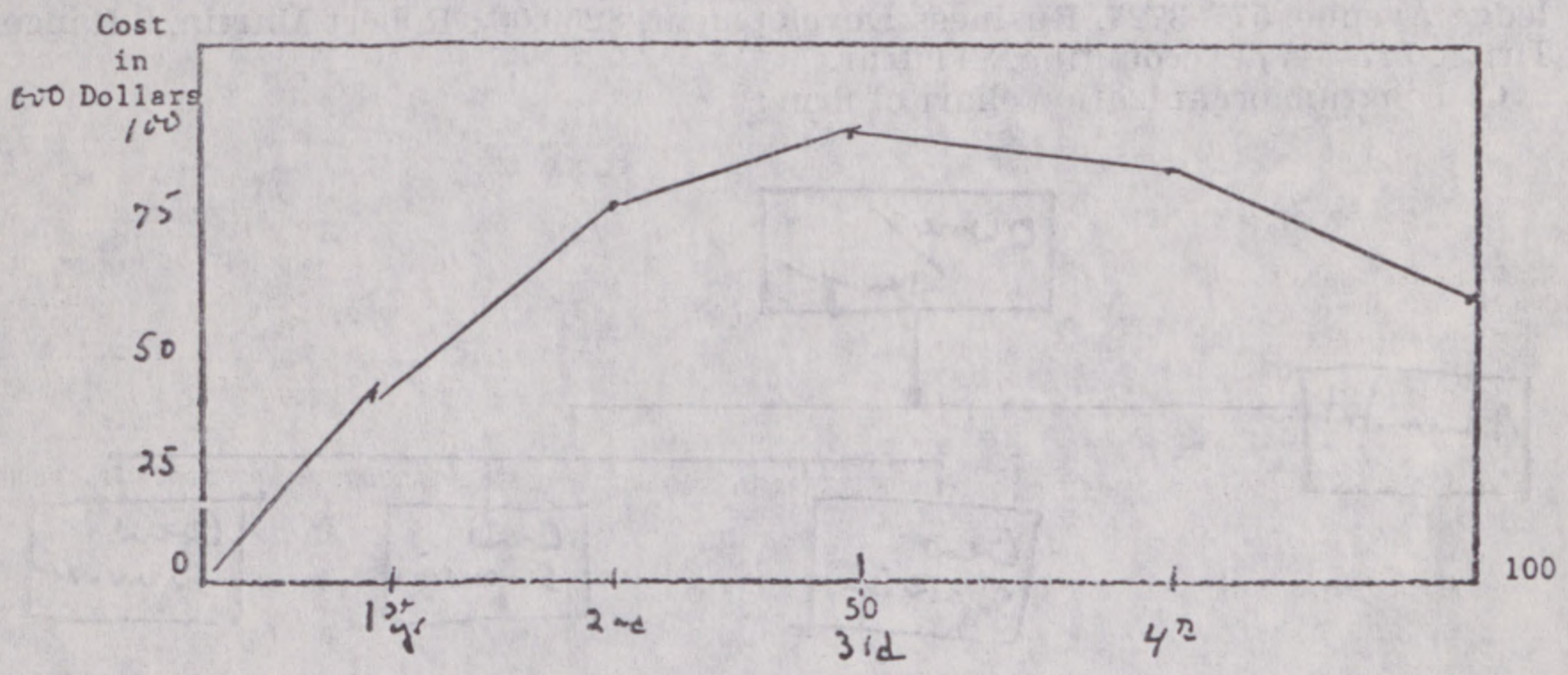
H. Sales forecast by product or service category: Services performed $72,000/year.

I. Sales and distribution plan (including advertising, pricing, credit terms, etc.) : Advertising cost projected $1,200.00; Contract Pricing 180 percent; Credit terms—Regular monthly billings.

J. Business Plan Graph (reflect commercial and non 8(a) Government sales, 8(a) projected support and break even point) :




K. Break Even Chart (reflect income from sales, fixed cost, variable cost and break even point) :




*VIII. Production*

A. Plant (Include location, total square footage, and layout and sketch of office and storage areas. Also include copy of lease deed or proposed lease.) Located on Meeting Street in the heart of Charleston, South Carolina. The office is in front of a building which has approximately — square feet of space.

B. Equipment—Quantity, Description, Age, Buy/Lease, and Cost : List attached to original proposal all equipment are considered new.

C. Equipment layout and production flow plan : NA.

D. Supervisory personnel (names and responsibilities) : Melvin Ancrum—Job Supervisor ; William Greene—Owner/Manager ; Robert Martin—Administration ; and Joseph Frasier—Job Supervisor.

E. Labor skill and source (detailed list by classification, number and pay rate : Supervisor, 2, $85/week ; Laborers, 6, 2.10/hr. ; Secretary, 1, 2.10/hr. ; Bookkeeper, 1, 4.00/hr.

F. Materials used, source of supply, and average delivery time : Janitorial supplies, Buff Janitorial Supply Company, One day delivery ; cleaning supplies, Charleston Chemical Company, One day delivery ; wax and cleaners, Southern Chemical Company, One day delivery.

G. Shipping facilities and accessibility to transportation : This business is located in the heart of Charleston. It is readily accessable to the Tri-County area of Berkeley-Charleston-and Dorchester Counties. Located on the main artery.

H. Quality control system : A control system for use of supplies and equipment is in use to insure maximum use and efficient operations.

I. Workforce classified as disadvantaged and training programs : All of the work force is classified as minority, disadvantaged. A continuous (OJI) training program is in effect rendering new employees effective in our methods of operations.

J. Expansion capability : There is plenty of room for expansion in this venture. We have a tremendous amount of floor space for storage and have identified sources of additional trained employees when needed.

*IX. Operational Plan:*

The company seeks to offer complete domestic and commercial cleaning services to offices, hospitals, factories, clubs, homes, and government facilities. To offer these services, crew supervisors and other personnel have been identified. Others will be available when contracts become available. This venture will afford an opportunity for full employment for low income minority, disadvantaged individuals in this community.

*X. Financial:*

Attach year-end and current business balance sheet on applicant and affiliates, year-end and current profit and loss statements on applicant and affiliates, aging of accounts receivable and payables on applicant, monthly cash flow for twelve months on applicant and annual detail projection for two years on applicant.

A. Sales history (applicant) :

Year-end to date as of April 30, 1975 :

| | |
|---|---|
| Commercial | $14, 810 |
| Government 8(a) | ------- |
| Government other | 600 |
| Total | 15, 410 |

B. Profits and losses (applicant) : Not available.

C. Projection (applicant) :

| | 1st year | 2d year | 3d year | 4th year |
|---|---|---|---|---|
| 8(a) projected support | 0 | $400, 000 | $300, 000 | $100, 000 |
| Commercial sales | $14, 810 | 58, 400 | 75, 000 | 200, 000 |
| Other Government | 600 | 13, 600 | 25, 000 | 50, 000 |
| Total | 15, 410 | 472, 000 | 400, 000 | 350, 000 |

Note: Projected 8(a) support should decline with each progressive year. Commercial and other Government sales should increase.

D. Condensed Balance Sheets (applicant) :

*Current as of 1975*

| | |
|---|---|
| Current assets | $1, 077 |
| Fixed assets | 16, 843 |
| Other assets | ------- |
| Total | 17, 911 |
| Current liabilities | 1, 550 |
| Long-term liabilities | 7, 000 |
| Net worth | ------- |
| Total | 8, 550 |

E. Sales history : (affiliate) : Not available.

F. Condensed balance sheets (affiliate) : Not available.

*XI. Other pertinent information*

A. Contracts or jobs in-house.

Customer and representative, description, amount, percent completed, and scheduled completion :

Charleston Air Force Base, general cleaning, $1,035 per month, 80 percent, November 1975.
Sea Land, general cleaning, $371 per month, continuous.
Minority Management, general cleaning, $600 per month, continuous.
AVCO, general cleaning, $840 per month, continuous.
Motherhood Maternity, general cleaning, $200 per month, continuous.
Home Security Life, general cleaning, $96 per month, continuous.
Triest & Sholks Ins., general cleaning, $110 per month, continuous.

B. Average monthly billings: $2,500.00.

C. Record of surety and fidelity bonds: Bonding is available for jobs which require bonding.

D. Contracts or jobs completed within the last two (2) years—customer, description, and amount:

Medical University of S.C., general cleaning, $7,280.
Benton's Bar-B-Q, general cleaning, $660.
Conklin's Women Wear, general cleaning, $420.
Minority Development Management, general cleaning, $600.
AVCO Finance Company, general cleaning, $840.
Community Builders Corp., general cleaning, $11,269.
Motherhood Maternity Shop, general cleaning, $200.

E. Schedule of insurance—company, contractors and manufacturers, amount, expiration date, agent or agency:

American Mutual, Liability Workmen's Compensation, $325,000, continued, Trust & Sholks.

American Mutual, Employers Liability, $100,000, July 15, 1976, Trust & Sholks.

American Mutual, Combination Automobile, $85,000, September 18, 1976, Trust & Sholks.

F. Bank and trade references: Name and address—Ist National Bank of South Carolina; contact person and position—Mr. Russell.

G. Availability of credit and financial assistance: None.

H. List of loans or loan guarantees provided by the Small Business Administration: None.

I. Outline of business goals (necessary to become competitive):

Annual sales $72,000; current ratio to .

Annual profits $20,000; debt to net worth ratio 1 to 2.

Bondability $300,000 estimated number of years to become competitive—3 to 5 years.

J. Additional equipment necessaryy to conduct competitive business—description, purchase cost, and lease cost.

Three commercial vacuum cleaners, $1,125, none.
Two floor machines, $400, none.
Two machine shampoo, $700, none.
Total, $2,225, none.

K. Other resources needed to become competitive—type, amount, and anticipated source:

Advertising, $1,200, newspapers and other media.
Shop equipment, $12,000, industrial suppliers.

L. Licenses and certificates in effect—type, amount, and place of issue:

Chartered by the State Business, not available, Charleston, South Carolina.
City license, $5, Charleston, South Carolina.
Other licenses to be purchased as needed.

M. List trade association and other organizations of which company is a member: None at present; Chamber of Commerce.

N. Labor agreements in effect: None.

O. Contracts with suppliers: All of the suppliers deliver needed Janitorial Supplies on a one day delivery schedule. All supplies are charged to the companies account.

P. List law suits in force or pending: None.

Q. Patents, royalties, etc.: None.

R. Product research and development.

S. Annual sales volume in dollars required for company to break even: $72,000.

*VII. Statement of cooperation*

I understand that if approved for participation in the 8(a) program I will assume certain obligations as listed below. I understand and agree that if I do not meet these obligations, Small Business Administration may, in its sole discretion, remove me from further participation. I further understand that SBA cannot assure the availability of 8(a) contracts to my company, either now or in the future.

I pledge to use my best efforts to develop my business by actively soliciting business (either commercial or competitive Federal) in accordance with the projections made in my business plan.

I pledge to provide SBA with timely and accurate financial information which will consist of at least quarterly profit and loss statements and quarterly balance sheet. The income from 8(a) contracts is to be shown separately from other income. If requested, I will provide such other information as may be required.

To the best of my ability, I will put into practice the business methods and advice provided to me by the Small Business Administration. I will discuss with appropriate SBA personnel any major changes or long-term commitments prior to entering into such commitments.

I will conduct my business affairs in an ethical manner.

I hereby certify that I have not paid fees to third parties, whether directly or indirectly, in the process of obtaining 8(a) subcontract. If such fees have been paid, or contracted to be paid, I attach full details of such agreement.

I further certify that the statements contained in this application and attachments are true and correct to the best of my knowledge and belief.

Signature of Authorized Officer of Firm: ——— ———.
Title: Owner/manager.
Date: October 30, 1975.

Technical and Management Assistance Agreement:

The undersigned requests the SBA to provide technical and management assistance in connection with this Business Plan and Qualifications Resume. It is understood that said assistance shall be performed free of charge. I thereby authorize SBA to furnish information and data contained in the Business Plan and Qualifications Resume to those persons providing this company with technical and management assistance. All information will be treated in strict confidence.

In consideration of this assistance, I hereby waive all claims arising therefrom against SBA and aforereferenced persons.

Signature of Authorized Officer of Firm: — ———

Title: Owner/manager.
Date: October 30, 1975.

**PERSONAL FINANCIAL STATEMENT**

As of August 22, 1975 . 19 75.

Return to: Small Business Administration

For SBA Use Only

SBA Loan No.

Name and Address, including ZIP Code *(of person and spouse submitting Statement)*

William J. Greene
813 Picadilly Circle
Charleston, South Carolina 29412

SOCIAL SECURITY NO. 249-58-8196

Business *(of person submitting Statement)*

Quality Janitorial Services

This statement is submitted in connection with S.B.A. loan requested or granted to the individual or firm, whose name appears below:

Name and Address of Applicant or Borrower, Including ZIP Code

Please answer all questions using "No" or "None" where necessary

| ASSETS | | LIABILITIES | |
|---|---|---|---|
| Cash on Hand & In Banks | $ 1,500 | Accounts Payable | $ NONE |
| Savings Account In Banks | 2,000 | Notes Payable to Banks | 3,10 |
| U. S. Government Bonds | 150 | *(Describe below - Section 2)* | |
| Accounts & Notes Receivable | None | Notes Payable to Others | None |
| Life Insurance-Cash Surrender Value Only | None | *(Describe below - Section 2)* | |
| Other Stocks and Bonds | None | Installment Account (Auto) | 3,850 |
| *(Describe - reverse side - Section 3)* | | Monthly Payments $ 220 | |
| Real Estate | 73,000 | Installment Accounts (Other) | 545 |
| *(Describe - reverse side - Section 4)* | | Monthly Payments $ 85 | |
| Automobile - Present Value | 4,000 | Loans on Life Insurance | None |
| Other Personal Property | 2,500 | Mortgages on Real Estate | 42,000 |
| *(Describe - reverse side - Section 5)* | | *(Describe - reverse side - Section 4)* | |
| Other Assets | None | Unpaid Taxes | None |
| *(Describe - reverse side - Section 6)* | | *(Describe - reverse side - Section 7)* | |
| | | Other Liabilities | None |
| | | *(Describe - reverse side - Section 8)* | |
| | | Total Liabilities | 59,496 |
| | | Net Worth | 28,654 |
| Total | $ 88,150 | Total | $ 88,150 |

**Section 1. Source of Income**

*(Describe below all items listed in this Section)*

| | | CONTINGENT LIABILITIES | |
|---|---|---|---|
| Salary | $ None | As Endorser or Co-Maker | $ None |
| Net Investment Income | None | Legal Claims and Judgments | None |
| Real Estate Income | None | Provision for Federal Income Tax | None |
| Other Income *(Describe)* | | Other Special Debt | |

Description of items listed in Section I

John Hancock - $10,000
USLI - 10,000 (National Servicemens Life Ins.)
AFBA - 20,000 (Armed Forces Relife & Benefit Assoc.)
AMLA - 9,000 (Army Mutual Life Assoc.)

Life Insurance Held *(Give face amount of policies - name of company and beneficiaries)*

**SUPPLEMENTARY SCHEDULES**

**Section 2. Notes Payable to Banks and Others**

| Name and Address of Holder of Note | Amount of Loan Original Bal. | Amount of Loan Present Bal. | Terms of Repayments | Maturity of Loan | How Endorsed, Guaranteed, or Secured |
|---|---|---|---|---|---|
| C.O. Fed Credit Union | $ 7,500 | $ 6,000 | $ 198 | | Cash/Real Estate |
| SCN | 6,000 | 5,101 | 174 | | Signature |
| Guardian Fin. | 7,600 | 6,000 | 114 | | Real Estate |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

SBA FORM 413 (8-67) REF: ND 820-1 EDITION OF 1-67 MAY BE USED UNTIL STOCK IS EXHAUSTED

(OVER)

Section 3. Other Stocks and Bonds: Give listed and unlisted Stocks and Bonds *(Use separate sheet if necessary)*

| No. of Shares | Names of Securities | Cost | Market Value Statement Date Quotation | Amount |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Section 4. Real Estate Owned. *(List each parcel separately. Use supplemental sheets if necessary. Each sheet must be identified as a supplement to this statement and signed). (Also advises whether property is covered by title insurance, abstract of title, or both).*

Title is in name of: William J. Greene

Type of property: Residential

Address of property (City and State): Charleston, South Carolina

Original Cost to (me) (us): $ 32,000.00

Date Purchased: September 1973

Present Market Value: $ 36,000.00

Tax Assessment Value: $

Name and Address of Holder of Mortgage (City and State): First Federal Savings and Loan Charleston, Sotuh Carolina

Date of Mortgage: September 1973

Original Amount: $ 31,000.00

Balance: $ 28,000.00

Maturity: 30 Years

Terms of Payment: Monthly $262.00

Status of Mortgage, i.e., current or delinquent. If delinquent describe delinquencies

Current

Section 5. Other Personal Property. *(Describe and if any is mortgaged, state name and address of mortgage holder and amount of mortgage, terms of payment and if delinquent, describe delinquency.)*

Section 6. Other Assets. *(Describe)*

Section 7. Unpaid Taxes. *(Describe in detail, as to type, to whom payable, when due, amount, and what, if any, property a tax lien, if any, attaches)*

Section 8. Other Liabilities. *(Describe in detail)*

(I) or (We) certify the above and the statements contained in the schedules herein is a true and accurate statement of (my) or (our) financial condition as of the date stated herein. This statement is given for the purpose of: *(Check one of the following)*

☐ Inducing S.B.A. to grant a loan as requested in application, of the individual or firm whose name appears herein, in connection with which this statement is submitted.

☐ Furnishing a statement of (my) or (our) financial condition, pursuant to the terms of the guaranty executed by (me) or (us) at the time S.B.A. granted a loan to the individual or firm, whose name appears herein.

William J. Greene — 9-26-73

Signature — Signature — Date

Enclosure 7, not available at the time of typing, is a certificate showing the completion of a Small Business Management Course sponsored in 1972 by SBA, The Urban League and Columbus College in Columbus, Ga.

*Subcommittee evaluation*

Mr. William Greene first made application to the Small Business Administration early in 1974 in April of 1977, the regional office of the SBA (Atlanta) returned Mr. Greene's business plan to him noting that there were no present opportunities available for his business. The regional office also noted that no contracts were anticipated which Mr. Greene could participate in.

A subcommittee staff visited the Charleston area. The available government market for competition on 8(a) contracts abound in the Charleston area through and abundance of military installations as well as other government buildings.

As was noted earlier, large sponsorships were the recipient of many of the earlier 8(a) contracts in this area. If the SBA moves to implement a modified competitive bid system then the agency would necessarily need to expand its certification.

## Case Study No. 6

Company—Java Associates, Inc.
President—John L. Davis.
Location—Columbia, South Carolina.

Re amount of collateral required for minority loan.

*Circumstances*

The primary concern expressed by Mr. Davis centered around providing collateral that far exceeded the loan request. The other concern generated around the Java Company to enter the "8(a) arena".

The following information was supplied by Java Associates, Inc. to the Committee.

U.S. Government Small Business Administration,
*Columbia, S.C., October 5, 1976.*

Mr. John L. Davis,
*President, Java Associates, Inc.,*
*Columbia, S.C.*

Dear Mr. Davis: We are pleased to advise that your loan has been approved by this Administration (pursuant to Section 7(a) of the Small Business Act, as amended) in reliance upon your Application dated *September 15, 1976*, Loan Case No. *L–ME–816485 10 07–Cola* in the amount and upon the conditions as follows:

1. *Amount:* Twenty-four thousand dollars ($24,000.00).

2. *Note payable*: Five (5) years from date of Note with interest at the rate of six and five-eighths percent (6⅝%) per annum, in installments, including principal and interest, each in the amount of $499.00 payable monthly, beginning four (4) months from date of Note, and the balance of principal and interest payable five (5) years from date of Note: with the provision that each said installment shall be applied first to interest accrued to the date of receipt of said installment, and the balance, if any, to principal.

3. Collateral:

(a) First security interest in all equipment, fixtures and accounts receivable (excluding leased and automotive equipment) now owned and hereafter acquired, and proceeds therefrom.

(b) Collateral assignment of premiums on renewal rights on written insurance business.

(c) Guaranty on SBA Form 148 of John L. & Ann B. Davis secured by a mortgage on their personal residence located at 155 Boulters Lock Road, Colum-

bia, S. C., subject only to existing lien in approximate amount of $39,720.00 held by Standard Savings and Loan Association, Columbia, S. C.

4. Use of proceeds of loan:

(a) Approximately $12,600.00 for working capital to pay overhead and operating expenses.

(b) Approximately $11,400.00 to reimburse Borrower for first four (4) months salary expenses for each of the following:

(1) General Solicitor $3,600.00 at $900.00 per month.

(2) Senior Solicitor $2,800.00 at $700.00 per month.

(3) Staff Solicitor $2,200.00 at $550.00 per month.

(4) Administration Assistant $2,800.00 at $700 per month.

Proceeds under b, above, to be disbursed only upon receipt by SBA of certification of payment by Borrower. Also, disbursement under b, above, to be made only upon receipt of monthly balance sheet and profit and loss statement not more than 30 days old.

5. Other conditions:

(a) Lessor to provide letter or written agreement that in event Lessee defaults in terms of lease that Lessor will notify Lender in writing and permit Lender thirty (30) days in which to remove any collateral assigned against any of Lessee's outstanding notes to Lender or the right to correct such default.

(b) Borrower to maintain adequate accounting records and provide annual financial statements (to include balance sheet and profit and loss statement) beginning December 31, 1976, prepared by a qualified outside public accountant, licensed by the State of South Carolina.

(c) Borrower to maintain satisfactory hazard insurance on collateral securing this loan, with long form mortgage loss payable clause showing SBA as loss payee, said insurance to be the lesser of: (1) amount of the loan; (2) insurable value of the property; or, (3) maximum limit of coverage available.

(d) Agreement of Borrower that at any time during the life of the loan when Borrower's location is designated, falls within the boundaries of a special flood hazard area, and Federal Flood Insurance becomes available, he will purchase and maintain Federal Flood Insurance in amounts and coverages equal to the lesser of: (1) amount of the loan; (2) insurable value of the property; or, (3) maximum limit of coverage available.

(e) Borrower to pay closing fee of $30.00 prior to, or concurrent with, loan closing.

(f) Assignment of life insurance in amount of $24,000.00 to be obtained on life of John L. Davis. This shall be reducing term insurance or assignment of existing insurance.

(6) Such other conditions as District Director or District Counsel may impose pursuant to outstanding general requirements and instructions of this Administration.

(7) Disbursement of the Loan shall be made in the discretion of District Director in accordance with the provisions of this Authorization and the applicable general requirements and instructions of this Administration, provided that no disbursement shall be made later than six months from the date hereof.

Instructions for disbursement of the Loan are enclosed. Your prompt compliance with these will help to speed disbursement.

Sincerely yours,

MITCHELL P. KOBELINSKI,
*Administrator.*

By W. C. GRIMES,
*Chief, Financing Division,*
*Small Business Administration.*

---

SBA LOAN NO. L–ME–816485 10 07–COLA.

SMALL BUSINESS ADMINISTRATION (SBA) GUARANTY

OCTOBER 14, 1976.

In order to induce Small Business Administration (hereinafter called "Lender") to make a loan or loans, or renewal or extension thereof, to Java Associates, Inc. (hereinafter called the "Debtor"), the Undersigned hereby unconditionally guarantees to Lender, its successors and assigns, the due and punctual payment when due, whether by acceleration or otherwise in accordance with the

terms thereof, the principal of and interest on and all other sums payable or stated to be payable, with respect to the note of the Debtor, made by the Debtor to Lender, dated 10–14–76 in the principal amount of $24,000.00 with interest at the rate of 6⅝ percent per annum. Such note, and the interest thereon and all other sums payable with respect thereto are hereinafter collectively called "Liabilities." As security for the performance of this guaranty the Undersigned hereby mortgages, pledges, assigns, transfers and delivers to Lender certain collateral (if any), listed in the schedule on the reverse side hereof. The term "collateral" as used herein shall mean any funds, guaranties; agreements or other property or rights or interests of any nature whatsoever, or the proceeds thereof, which may have been, are, or hereafter may be, mortgaged, pledged, assigned, transferred or delivered directly or indirectly by or on behalf of the Debtor or the Undersigned or any other party to Lender or to the holder of the aforesaid note of the Debtor, or which may have been, are, or hereafter may be held by any party as trustee or otherwise, as security, whether immediate or underlying for the performance of this guaranty or the payment of the Liabilities or any of them or any security therefor.

The undersigned waives any notice of the incurring by the Debtor at any time of any of the Liabilities, and waives any and all presentment, demand, protest or notice of dishonor, nonpayment, or other default with respect to any of the Liabilities and any obligation of any party at any time comprised in the collateral. The Undersigned hereby grants to Lender full power, in its uncontrolled discretion and without notice to the undersigned, but subject to the provisions of any agreement between the Debtor or any other party and Lender at the time in force, to deal in any manner with the Liabilities and the collateral, including, but without limiting the generality of the foregoing, the following powers:

(a) To modify or otherwise change any terms of all or any part of the Liabilities or the rate of interest thereon (but not to increase the principal amount of the note of the Debtor to Lender), to grant any extension or renewal thereof and any other indulgence with respect thereto, and to effect any release, compromise or settlement with respect thereto;

(b) To enter into any agreement of forbearance with respect to all or any part of the Liabilities, or with respect to all or any part of the collateral, and to change the terms of any such agreement;

(c) To forbear from calling for additional collateral to secure any of the Liabilities or to secure any obligation comprised in the collateral;

(d) To consent to the substitution, exchange, or release of all or any part of the collateral, whether or not the collateral, if any, received by Lender upon any such substitution, exchange, or release shall be of the same or of a different character or value than the collateral surrendered by Lender;

(e) In the event of the nonpayment when due, whether by acceleration or otherwise, of any of the Liabilities, or in the event of default in the performance of any obligation comprised in the collateral, to realize on the collateral or any part thereof, as a whole or in such parcels or subdivided interests as Lender may elect, at any public or private sale or sales, for cash or on credit or for future delivery, without demand, advertisement or notice of the time or place of sale or any adjournment thereof (the Undersigned hereby waiving any such demand, advertisement and notice to the extent permitted by law), or by foreclosure or otherwise, or to forbear from realizing thereon, all as Lender in its uncontrolled discretion may deem proper, and to purchase all or any part of the collateral for its own account at any such sale or foreclosure, such powers to be exercise only to the extent permitted by law.

The obligations of the Undersigned hereunder shall not be released, discharged or in any way affected, nor shall the Undersigned have any rights or recourse against Lender, by reason of any action Lender may take or omit to take under the foregoing powers.

In case the Debtor shall fail to pay all or any part of the Liabilities when due, whether by acceleration or otherwise, according to the terms of said note, the Undersigned, immediately upon the written demand of Lender, will pay to Lender the amount due and unpaid by the Debtor as aforesaid, in like manner as if such amount constituted the direct and primary obligation of the Undersigned. Lender shall not be required, prior to any such demand on, or payment by, the Undersigned, to make any demand upon or pursue or exhaust any of its rights or remedies against the Debtor or others with respect to the payment of any of the Liabilities, or to pursue or exhaust any of its rights or remedies with respect to any part of the collateral. The Undersigned shall have no right of

subrogation whatsoever with respect to the Liabilities or the collateral unless and until Lender shall have received full payment of all the Liabilities.

The obligations of the Undersigned hereunder, and the rights of Lender in the collateral, shall not be released, discharged or in any way affected, nor shall the Undersigned have any rights against Lender: by reason of the fact that any of the collateral may be in default at the time of acceptance thereof by Lender or later; nor by reason of the fact that a valid lien in any of the collateral may not be conveyed to, or created in favor of, Lender; nor by reason of the fact that any of the collateral may be subject to equities or defenses or claims in favor of others or may be invalid or defective in any way; nor by reason of the fact that any of the Liabilities may be invalid for any reason whatsoever; nor by reason of the fact that the value of any of the collateral, or the financial condition of the Debtor or of any obligor under or guarantor of any of the collateral, may not have been correctly estimated or may have changed or may hereafter change; nor by reason of any deterioration, waste, or loss by fire, theft, or otherwise of any of the collateral, unless such deterioration, waste, or loss be caused by the willful act or willful failure to act of Lender.

The Undersigned agrees to furnish Lender, or the holder of the aforesaid note of the Debtor, upon demand, but not more often than semiannually, so long as any part of the indebtedness under such note remains unpaid, a financial statement setting forth, in reasonable detail, the assets, liabilities, and net worth of the Undersigned.

The Undersigned acknowledges and understands that if the Small Business Administration (SBA) enters into, has entered into, or will enter into, a Guaranty Agreement, with Lender or any other lending institution, guaranteeing a portion of Debtor's Liabilities, the Undersigned agrees that it is not a coguarantor with SBA and shall have no right of contribution against SBA. The Undersigned further agrees that all liability hereunder shall continue notwithstanding payment by SBA under its Guaranty Agreement to the other lending institution.

The term "Undersigned" as used in this agreement shall mean the signer or signers of this agreement, and such signers, if more than one, shall be jointly and severally liable hereunder. The Undersigned further agrees that all liability hereunder shall continue notwithstanding the incapacity, lack of authority, death, or disability of any one or more of the Undersigned, and that any failure by Lender or its assigns to file or enforce a claim against the estate of any of the Undersigned shall not operate to release any other of the Undersigned from liability hereunder. The failure of any other person to sign this guaranty shall not release or affect the liability of any signer hereof.

JOHN L. DAVIS,
ANN B. DAVIS.

NOTE.—Corporate guarantors must execute guaranty in corporate name, by duly authorized officer, and seal must be affixed and duly attested; partnership guarantors must execute guaranty in firm name, together with signature of a general partner. Formally executed guaranty is to be delivered at the time of disbursement of loan.

---

SBA LOAN NUMBER L–ME–816485 10 07–COLA.

NOTE

COLUMBIA, S.C., *October 14, 1976.*

$24,000.00.

For value received, the undersigned promises to pay to the order of Small Business Administration at its office in the city of Denver, Colorado, or at holder's option, at such other place as may be designated from time to time by the holder twenty-four thousand dollars, with interest on unpaid principal computed from the date of each advance to the undersigned at the rate of 6⅝ percent per annum, payment to be made in installments as follows:

Four Hundred Ninety-Nine Dollars ($499.00), payable monthly, beginning four months from the date hereof and Four Hundred Ninety-Nine Dollars ($499.00) on the same day of each month thereafter, until the principal with interest to accrue thereon is fully paid; provided, however, unless sooner paid, the entire indebtedness shall be due and payable five years from the date thereof. Each said monthly installment, or any portion thereof, to be applied first to the pay-

ment of interest accrued to the date of receipt of said installment and the balance, if any, as a credit to principal.

Payment of any installment of principal or interest owing on this Note may be made prior to the maturity date thereof without penalty.

The term "Indebtedness" as used herein shall mean the indebtedness evidenced by this Note, including principal, interest, and expenses, whether contingent, now due or hereafter to become due and whether heretofore or contemporaneously herewith or hereafter contracted. The term "Collateral" as used in this Note shall mean any funds, guaranties, or other property or rights therein of any nature whatsoever or the proceeds thereof which may have been, are, or hereafter may be, hypothecated, directly or indirectly by the undersigned or others, in connection with, or as security for, the indebtedness or any part thereof. The Collateral, and each part thereof, shall secure the Indebtedness and each part thereof. The covenants and conditions set forth or referred to in any and all instruments of hypothecation constituting the Collateral are hereby incorporated in this Note as covenants and conditions of the undersigned with the same force and effect as though such covenants and conditions were fully set forth herein.

The Indebtedness shall immediately become due and payable, without notice or demand, upon the appointment of a receiver or liquidator, whether voluntary or involuntary, for the undersigned or for any of its property, or upon the filing of a petition by or against the undersigned under the provisions of any State insolvency law or under the provisions of the Bankruptcy Act of 1898, as amended, or upon the making by the undersigned of an assignment for the benefit of its creditors. Holder is authorized to declare all or any part of the Indebtedness immediately due and payable upon the happening of any of the following events: (1) Failure to pay any part of the Indebtedness when due; (2) nonperformance by the undersigned of any agreement with, or any condition imposed by, Holder or Small Business Administration (hereinafter called "SBA"), or either of them, with respect to the Indebtedness; (3) Holder's discovery of the undersigned's failure in any application of the undersigned to Holder or SBA to disclose any fact deemed by Holder to be material or of the making therein or in any of the said agreements, or in any affidavit or other documents submitted in connection with said application or the indebtedness, of any misrepresentation (or the making of any agreement therefor) without the prior written consent by, on behalf of, or for the benefit of the undersigned; (4) the reorganization (other than a reorganization pursuant to any of the provisions of the Bankruptcy Act of 1898, as amended) or merger or consolidation of the undersigned of Holder; (5) the undersigned's failure duly to account, to Holder's satisfaction, such time or times as Holder may require, for any of the Collateral, or proceeds thereof, coming into the control of the undersigned; or (6) the institution of any suit affecting the undersigned deemed by Holder to affect adversely its interest hereunder in the Collateral or otherwise. Holder's failure to exercise its rights under this paragraph shall not constitute a waiver thereof.

Upon the nonpayment of the Indebtedness, or any part thereof, when due, whether by acceleration or otherwise, Holder is empowered to sell, assign, and deliver the whole or any part of the Collateral at public or private sale, without demand, advertisement or notice of the time or place of sale or of any adjournment thereof, which are hereby expressly waived. After deducting all expenses incidental to or arising from such sale or sales, Holder may apply the residue of the proceeds thereof to the payment of the Indebtedness, as it shall deem proper, returning the excess, if any, to the undersigned. The undersigned hereby waives all right of redemption or appraisement whether before or after sale.

Holder is further empowered, to collect or cause to be collected or otherwise to be converted into money all or any part of the Collateral, by suit or otherwise, and to surrender, compromise, release, renew, extend, exchange, or substitute any item of the Collateral in transactions with the undersigned or any third party, irrespective of any assignment thereof by the undersigned, and without prior notice to or consent of the undersigned or any assignee. Whenever any item of the Collateral shall not be paid when due, or otherwise shall be in default, whether or not the indebtedness, or any part thereof, has become due, Holder shall the same rights and powers with respect to such item of the Collateral as are granted is respect thereof in this paragraph in case of nonpayment of the Indebtedness, or any part thereof, when due. None of the rights, remedies,

privileges, or powers of Holder expressly provided for herein shall be exclusive, but each of them shall be cumulative with and in addition to every other right, remedy, privilege, and power now or hereafter existing in favor of Holder, whether at law or in equity, by statute or otherwise.

The undersigned agrees to take all necessary steps to administer, supervise, preserve, and protect the Collateral; and regardless of any action taken by Holder, there shall be no duty upon Holder in this respect. The undersigned shall pay all expenses of any nature, whether incurred in or out of court, and whether incurred before or after this Note shall become due at its maturity date or otherwise, including but not limited to reasonable attorney's fees and costs, which Holder may deem necessary or proper in connection with the satisfaction of the Indebtedness or the administration, supervision, preservation, protection of (including, but not limited to, the maintenance of adequate insurance) or the realization upon the Collateral. Holder is authorized to pay at any time and from time to time any or all of such expenses, add the amount of such payment to the amount of the Indebtedness, and charge interest thereon at the rate specified herein with respect to the principal amount of this Note.

The security rights of Holder and its assigns hereunder shall not be impaired by Holder's sale, hypothecation or rehypothecation of any note of the undersigned or any item of the Collateral, or by any indulgence, including but not limited to (a) any renewal, extension, or modification which Holder may grant with respect to the Indebtedness or any part thereof, or (b) any surrender, compromise, release, renewal, extension, exchange, or substitution which Holder may grant in respect of the Collateral, or (c) any indulgence granted in respect of any endorser, guarantor, or surety. The purchaser, assignee, transferee, or pledgee of this Note, the Collateral, any guaranty, and any other document (or any of them), sold, assigned, transferred, pledged, or repledged, shall forthwith become vested with and entitled to exercise all the powers and rights given by this Note and all applications of the undersigned to Holder or SBA, as if said purchaser, assignee, transferee, or pledgee were originally named as Payee in this Note and in said application or applications.

This promissory note is given to secure a loan which SBA is making or in which it is participating and, pursuant to Part 101 of the Rules and Regulations of SBA (13 C.F.R. 101.1(d)), this instrument is to be construed and (when SBA is the Holder or a party in interest) enforced in accordance with applicable Federal law.

In Witness Whereof, the undersigned has caused this Note to be executed in its behalf by its President and its corporate seal to be affixed and attested by its Secretary the day and year first above written.

[SEAL] JAVA ASSOCIATES, INC.

Attest:

_____ _____, _____ _____,

*Secretary.* *President.*

NOTE.—Corporate applicants must execute Note, in corporate name, by duly authorized officer, and seal must be affixed and duly attested; partnership applicants must execute Note in firm name, together with signature of a general partner.

---

*Subcommittee evaluation*

The JAVA Company expressed to the subcommittee a redundant verse on the amount of a collateral that is required in order for disadvantaged businesspersons to secure a 7(a) or direct loan from the SBA.

The JAVA Company also expressed a willingness to join the 8(a) portfolio but wasn't encouraged to do so because the SBA expressed little interest in insurance companies.

If the charge that disadvantaged business firms have to "over-collateralize" in order to secure loans is true and that this is not a normal requirement then SBA should change its regulation to reflect a necessary change in attitude.

## Case Study No. 7

Name: Mr. Skinitis.
Company: Atlanta Construction and Maintenance.
Location: Huntsville, Alabama.
Re 8(a) Eligibility.

*Circumstances*

The firm became eligible for the 8(a) based on "social and economic" criteria. The president, Mr. Skinitis related to SBA a difficult childhood experience during World War II.

During the subcommittee hearings on the program, Senator Chiles raised serious questions concerning the "economic" criteria regarding the firm since the principal stockholder has a personal net worth in excess of $250,000 and own and control another business venture besides Atlanta Construction and maintenance.

*Subcommittee evaluation*

The criteria concerning "social or economic" disadvantage is "soft" and depends purely on the subjective evaluation of 8(a) program personnel in the regional offices. It is altogether possible for an individual to be eligible in Region IV but ineligible in Region V. The base discrepancies in eligibility which does not consider income levels, educatonal levels, levels of business expertise, etc. clearly leads to debate on entries by persons who are not clearly socially disadvantaged.

## Case Study No. 8

Name: Mr. Ira Gelber.
Company: Military Services of Georgia.
Location: Atlanta, Georgia.

*Circumstances*

The SBA Atlanta Regional Office advised SBA headquarters in 1975 that military services was for all intents and purposes, graduated from the 8(a) program. In early June, 1977, however, the Central Office of SBA learned that Atlanta had subsequently awarded Military Services another $2 million in contracts which it failed to report to Washington, moreover, Atlanta had approved a management services contract with Mr. Ira Gelber of Miami, the former sponsor, for an annual fee of $100,000 for each of the next four years after the last 8(a) contract had expired.

*Subcommittee summary*

The biblical analogy of a finger trying to move on its own without consulting the head is perhaps a most picturesque example of the SBA situation. If the individual branches of SBA run their own programs and businesses according to individual whim, then it is no wonder SBA has never developed a consensus on how the 8(a) program functions or what direction it should take. It seems the head sits by itself while the fingers do their own walking sometimes crossing each others paths and contrary to the wishes of the head.

In such a situation where the lines of authority become unclear, it is no wonder that Military Services was able to be reinstated into a program after its graduation. What needs to be addressed are the reasons for reinstatement of a graduated company, whether Washing-

ton was deliberately or accidentally not informed and what role the sponsoring company might have played in the scheme since they were rehired for the same company at an exorbitant amount. The deliberateness and cost factor involved in this incident certainly makes this more than just a "goof-up" on SBA's part.

## Case Study No. 9

Name: Mr. James Rice.
Company: Oklahoma Aerotronics.

*Circumstances*

Oklahoma Aerotronics (OA) was admitted to the 8(a) program on the basis of minority ownership of the firm, which was sponsored and run by Mr. James Rice, a caucasian.

Subsequently, the Office of Business Development (OBD), discovered that the majority ownership was controlled by Rice, that none of the minority employees held any sort of supervisory position, and that sole control of the company lay with Mr. Rice.

*Subcommittee summary*

The necessary ingredients for successful sponsorship relationships might well include: competent, disadvantaged businessmen who perhaps need extra assistance to start, but have the promise of succeeding on their own (oftentimes white businessmen chose most minority members to simply serve as fronts to insure they could never develop to potential competitors); sponsors who can offer management services, and any other assistance to the 8(a) firms; and SBA officials who can closely regulate the relations and enforce guidelines for proper conduct between the sponsor and entrepreneur.

The sponsorship concept can only work if all parties are mutually benefitting. Anything less which works to the advantage of one at the expense of the other is a farce on that concept.

## Case Study No. 10

Name: John B. Duncan.
Company: Capitol Contractors, Inc.
Location: Washington, D.C.
Re 8(a) Eligibility.

*Circumstances*

Mr. Duncan is a 65 year old retired attorney who held a series of high posts in District and Federal Government. At the time he was receiving 8(a) contracts, Mr. Duncan was also receiving an income of $43,000 a year in retirement benefits and other income.

Mr. Duncan owns a construction business but his established competency is in the legal field. The 8(a) contracts he has received from SBA were subcontracted by him to other firms. He is the sole employee of his company.

*Subcommittee summary*

The loopholes within the 8(a)'s program became very apparent in Mr. Duncan's case. First, he manages to qualify himself as a "social and economic disadvantaged." Second, he obtains business contracts

for a business he knows little about. Third, he subcontracts whole 8(a) contracts to other firms, in essence acting only as a "broker" for these procurement opportunities.

The subcommittee found no attempt by Mr. Duncan to deceive the SBA, in fact, the SBA was clearly aware of the conditions under which the contract awards were made.

## Case Study No. 11

Name: Mr. Raphael Vega.
Company: Cabrillo Food Services.
Location: Los Angeles, Calif.
Re 8(a) eligibility.

*Circumstances*

At a time when Cabrillo Food Services was in the 8(a) program and receiving contracts set aside for the socially and economically disadvantaged, Mr. Vega also owned one of the better restaurants in Los Angeles, two other companies and a factory in Mexico. In early June, 1977, after the subcommittee had expressed considerable interest in the case, the SBA dropped Mr. Vega from the 8(a) program.

One reason Mr. Vega was reportedly dropped was because of his consistently conflicting reports to SBA which, confirmed and denied his ownership of other companies.

*Subcommittee summary*

When the Federal Government designs a program which sets aside non-competitive government contracts for disadvantaged businessmen, there is no doubt that thousands of truly needy businessmen would be clamoring for entry.

In reviewing Cabrillo Food Services, there is considerable doubt that Mr. Vega was or ever has been socially or economically disadvantaged. There is even doubt that he would ever have been dropped had it not been for the pending subcommittee's investigation. Thus, an SBA internal report questioned whether the 8(a) program was designed to create multinational conglomerates at taxpayer's expense.

# APPENDIX

## Opening Statement of Senator Lawton Chiles

This morning we will continue our investigation into the management and operation of the Small Business Administration's "Section 8(a) Program." The "8(a)" program designated is a shorthand reference to a program which was derived from Section 8(a) of the Small Business Act of 1933. It provided language which, when read together with other legislation, provided authority for SBA to develop a program whereby certain government contracts were withdrawn from the competitive market and set aside, to be given to minority businessmen who, because of their inherent social and economic disadvantages, were unable to compete in the open market. By 1972, the aim of the program became better defined 8(a): set asides were used to let disadvantaged and mostly minority firms train and learn and develop themselves in a kind of sheltered atmosphere until they could graduate from the program and compete on even terms with anyone.

Earlier this year, we conducted a series of field hearings in SBA's Region IV, headquartered in Atlanta, and which serves most of the south, to see how well SBA was operating the program.

The results were both depressing and appalling. In sworn testimony from a variety of witnesses, we heard such things as:

"* * * A white businessman who was neither socially or economically disadvantaged was given $29 million in government contracts. His company today has a net worth well in excess of $1 million and operating capital in the same amount."

"* * * This businessman is still in the 8(a) program. Using what amounts to a series of fronts, our millionaire businessman is still reaping the benefits of the program. And, as nearly as we can determine, he has committeed no crime and broken no law in so doing. So vague are SBA's regulations, which in any event are ineptly and unevenly applied, that he, or anyone else, can take the taxpayer for a very costly ride."

"* * * A broken down cannery plant in Florida, worth at most 10 to 20 thousand dollars, became almost overnight a 'minority enterprise.' Unfortunately, the minority officers were fronts—they got $2.35 an hour for picking tomatoes and had no control over the operations of the company. Somehow, after a series of bungles which provide suitable material for a Marx Brothers movie, the taxpayers ended up holding the bag for some $200,000. When I asked an SBA investigator where the taxpayers' money had gone, he said that the records were so deficient as to be unauditable. His only response was to shake his head sadly and say 'I don't know.'"

"* * * A review of Region IV records suggest that few, if any, contracts over $15,000 were awarded to minority firms who did not have some sort of sponsor. One group of firms centered in Dunn, North Carolina, and generally referred to as the 'Dunn Group,' set up a series of black front companies to obtain $16 million in government contracts. The white sponsors in turn extracted over $4 million of this amount for 'management fees' and other services. SBA, in attempting to correct the situation, characteristically made it worse: by forcing the sponsors to divest themselves of their 49 percent interest in the fronts, the wealthy sponsors earned almost a 3,000 percent return on their invested capital. (In contrast, General Motors, which considers itself a well run company, usually seeks a return of 20 percent on its invested capital)."

* * * The reason the sponsors were able to manipulate their fronts so easily was because they usually went to great lengths to ensure that their minority officers were as ill educated and as unknowing of business as could be found. One front company used an illiterate, 73-year-old farm laborer as its Secretary Treasurer. The sponsors then reported to SBA about how well the poor old man was

coming along as a senior then reported to SBA about how well he was coming along as a senior officer in a multi-million dollar corporation. This time, however, I believe someone has gone too far. Beyond the inherent cruelty of mocking an old and uneducated man, someone signed the checks and minutes of the meetings for him. This and other matters connected with the Dunn Group are being referred to the Attorney General for appropriate action under the criminal statutes of the United States Code.

* * * On the other hand, minority businessmen who had no sponsors did not fare as well. Mr. Robert Singleton was a modestly successful black contractor who was thinking of retirement until he got recruited by an SBA employee who told him he would "set his race back 50 years" if he didn't join up. Today, he is in ill health and $150,000 in debt. SBA has washed their hands of the matter.

There are many other stories which grew out of the field hearings. What remained to be seen was whether this was, as we have been so often assured by Washington SBA officials, a local problem caused by singular ineptness by senior SBA Atlanta employees and the subtle, and sometimes not so subtle, references to the lingering racism of the "Old South".

While I shall not challenge SBA's Washington Office characterization of their Atlanta colleagues, and do not contend that racism has been eradicated from the South—or anywhere else for that matter—I believe we will show over the next three days that the pattern of maladministration of the 8(A) program is a nationwide matter, involves several hundred million dollars, and has been going on for the last six years.

I believe that through the testimony and evidence which we expect to receive, or already have in hand, that these points can be documented:

A. Through a variety of guises, sponsors of minority contractors have, in large measure, abused their position for their own advantage and have reaped millions in unwarranted profits at the expense of disadvantaged minority fronts.

B. That there is no clear understanding of the degree of social or economic disadvantaged required for entry into the 8(a) program. As a result, a number of former White House aides and SBA officials have managed to enter the program themselves. This "buddy system", unfortunately, appears to still be in operation. Since a principal complaint we have received is that hundreds of genuinely disadvantaged businessmen have been denied entry into the program, it seems especially cynical to use the program as an employment agency for former high salaried government officials.

C. That there is no criteria for establishing when the original disadvantages have been overcome. As a result, a number of shrewd businessmen continue to avoid the rigors of competition which the rest of us must undergo and enjoy the fruits of operating already successful businesses in part at the taxpayers' expense.

D. That there is evidence of corruption and conflict of interest. In such a loosely run program, some element of corruption appears inevitable. Thus, no one should be surprised to find some persons involved in the programs are, if not crooked, at least somewhat bent.

E. That no one seems to be in charge of the program. SBA regional offices are not, in large measure, required to be responsive to central office policy directives. Thus, they are free to act as independent baronys who show only ceremonial alliegance to their alleged superiors in Washington. At the same time, field officers complain bitterly that they receive no regular, useable guidance from their central office. In response to the classic question "who's in charge here?", the answer must be "No one."

F. That even by bureaucratic standards, the SBA has been almost criminally negligent by failing to respond to a steady flow of information from their own auditors and investigators that something was seriously wrong with the 8(a) program. From December 1972 onwards, the most senior officials in SBA were fully aware that the 8(a) program, like mackeral, lay "shining and stinking in the moonlight."

The time has come to lay all of this out in public. Our evidence is not news to SBA: the same information has lain unread in SBA file cabinets for years. Our purpose is to let a little sunshine in, understand as best we can what has gone wrong and why it has gone wrong. Then, we propose to ask for the collective opinion of the new Administrator and his management team as to how we can best go about fixing the 8(a) program.

For this program has to be made to run properly. It must use the available resources, that is, the taxpayers' money, for the purpose of assisting disadvantaged

businessmen into the mainstream of our society, and for no other purpose. It must not used, as it has been in the past, for the further benefit of persons who are not disadvantaged now and never were disadvantaged in the first place. There must be a set of clear guidelines as to who is or is not eligible. There must be competent SBA employees supervising the disbursement of over 300 million dollars a year. There must be equitable treatment of all persons applying for entry, and no further reliance on the whim of individual employees. There must be no more taxpayer supported multinational conglomerates in the 8(a) program.

Let me repeat again my strong support for the 8(a) program. In concept, it gives us a rare opportunity to help thousands of our own citizens overcome the prejudices of what I hope are bygone years. At the same time, the taxpayers receive, for the most part, goods and services in return for their tax dollars. Some hope that these hearings will work against my purposes, and that the program itself is in danger.

I think not. The program is in danger, if it is in danger at all, because SBA has done an absolutely dismal job of administering it. The sooner we fix it, the sooner the thousands of legitimate people in the program can rest easier, knowing that the program has been cleansed of the avaricious, the ineligible, the corrupt and the incompetents.

---

### Testimony of the Honorable Parren J. Mitchell

Good morning, Mr. Chairman and Members of the Subcommittee. I would like to thank you for the opportunity to appear before the Subcommittee today and share my perspective on the issue of alleged irregularities in the spending practices of the Small Business Administration's Section 8(a) Program.

I am aware of the Subcommittee's recent investigations into the Section 8(a) program. It is my understanding that the Subcommittee, under the fine leadership of its Chairman, may have identified several instances of gross misusage of Federal spending practices which were designed to assist in the growth and development of a viable minority business enterprise component in our national economy. The crux of the problem seems to be that of so-called "Black or minority fronts" being used to the advantage of white or non-minority businesses.

Frankly, Mr. Chairman, I have followed press accounts of the Subcommittee's activities in this area with both sustained interest and rekindled fear. I emphasize "interest" and "fear" rather than the surprise and shock that is the building response of many of my Colleagues in the Congress as well as segments of the press and the general public.

Make no mistake about it: non-minority businesses, both large and small, using bogus front operations to siphon the pittance of Government procurement dollars labeled for the minority business community are neither new nor are they confined to the 8(a) program. Tragically, rather, such spurious activities tend to be found wherever legitimate minority businesses seek inclusion in the economic benefits of Government spending.

In my State of Maryland, specifically in Baltimore City, most of which I represent in the House, we are in the process of building a multi-million dollar subway system. Minority entrepreneurs, led by groups such as the Baltimore Association of Minority Contractors and the Maryland Association of Minority Contractors, fought hard for and received a warranted minimum 10% participation factor in all subway work.

Following the initial series of contracts and subcontracts and based on information which I had received from the Maryland minority business community, I urged both the State Secretary of Transportation and the United States Secretary of Transportation to investigate the legitimacy of "minority firms" receiving awards. Already, the Maryland Mass Transit Administration has disqualified three front minority businesses which were slated to receive a total of $1.9 million of subcontractual work.

The most blatant abuse involved an electrical firm which was created on April 7, 1977, just weeks before the awarding of contracts, and was headed by a sixty-five year old Black man who had retired on April 29th as a warehouse manager for one of the largest white-owned electrical companies in the region. The so-called minority firm had no assets and no record of performance. In fact, the only thing that the minority firm had was the identical address of the white-owned electrical business and a subcontract to receive well over $350,000 in electrical work.

Back in 1974, during the 93rd Congress, I served on the Small Business and Minority Enterprise Subcommittee of the, then, House Committee on Banking, Currency and House. At that time, now some three years ago, investigative hearings into the SBA demonstrated that there were non-minorities which formed dummy companies, just simply bringing together some Blacks and other minorities in name only who knew nothing about business, and reaped enormous benefits. The hearing revealed where one or two large or corporate interests simply broke themselves up into smaller corporate interests and moved into the 8(a) area securing contracts and really rooking the Government out of substantial sums of money. The hearings even identified interlocking patterns which had been developed between some banks and some of the more unscrupulous operators who abused and misused the 8(a) program.

During those hearings of the Minority Enterprise Subcommittee I expressed a deep-rooted fear.

In July of 1975, during the 94th Congress and exactly two years ago this month, the Subcommittee on SBA Oversight and Minority Enterprise of the House Committee on Small Business examined the 8(a) program as a part of its hearings on "Minority Enterprise and Allied Problems of Small Business." The Subcommittee hearing record will document at that time I again expressed that fear which I must reiterate today.

That burning concern was and still is that those non-monorities who have abused the 8(a) program through subterfuge, and duplicity and all other kinds of untoward behavior would have their conduct used in an attempt to wreck the 8(a) program.

The problems with 8(a) currently under investigation as well as others expressed to my office daily by minority entrepreneurs across the country notwithstanding, the bottom line is that the Section 8(a) program is the jugular of the Government's effort to foster the survival and growth of a minority business community. Sever the jugular, consciously or unconsciously, directly or indirectly, on purpose or by default, and the whole thing dies. Period!

I would respectfully submit that any abuse which has occurred or that is occurring is not the fault of minority enterprise. Why cut your own throat?

In each case of misconduct, those who suffer the most are legitimate minority contractors.

Let me refer again to the situation with the Baltimore subway. For the record, I emphasize that the Baltimore subway contracts are not under the aegis of the SBA 8(a) program, but in each and every other aspect the situation mirrors the problem under discussion here today.

Following the dismissal of the three bogus minority firms, three new, legitimate minority businesses were selected to do subcontracting work. However, the specific nature of the subcontracts given to the new firms was not the same as that of those held by the dismissed businesses. The result was a drop in the total minority business participation factor of from 16% to 11%, a loss of some 5% of the total $17.5 million prime contract. Minority business enterprise can ill afford to lose any percentage of any contract.

With respect to the 8(a) program, the abuse that took place, the responsibility for that abuse then and now must fall squarely upon the shoulders of the Small Business Administration. It is an administrative function to determine whether or not a front company is being employed. It is an administrative function to monitor that company once it has gotten an 8(a) contract and to see whether or not all of the participants in that corporation are really bona fide. If they are not, the contracts should be immediately terminated.

It would also seem reasonable that the Justice Department must vigorously prosecute those firms which are clearly designed to abuse the 8(a) program.

In any event, the Section 8(a) program must be tightenend and strengthened and continued to assist a vital segment of our populace. The 8(a) program is much too critical to be allowed to be destroyed by an existant group of "loopholders." The House Small Business Committee, in fact, in its "Summary of Activities" Report to the 94th Congress in November of 1976 pointed out that: "* * * the 8(a) program is too important to the Nation's well-being to have it experience the disappointment of aborted procurement opportunities."

The final blame for existing program failures or irregularities rests on pure Congressional recalcitrance. Congress has both legislative and oversight responsibilities. Yet, in the case of the overall operation of the 8(a) program, even in light of Committee statements and affirmations of importance, we have only done half of the job.

Mr. Chairman, I submit that although the Congressional oversight function has been followed through to some degree, we have failed dismally in the area of corrective legislation. The problems, themselves, have been identified again, and again, and again. The same problems have been identified by the minority business community, various Administrations, the SBA, the GAO, and by the House and the Senate.

As I mentioned earlier, the problem of so-called Black front operations was identified and investigated by the House at least three years ago, in 1974. Still no meaningful legislative action has taken place.

If we shift to the related base problem of the paucity of available 8(a) contracts, one need only examine the record. In July of 1971 and again in April of 1972 the Subcommittee on Minority Small Business Enterprise of the House Small Business Committee held hearings to "determine the progress, effectiveness and the experinces of the various Government agencies' programs in promoting minority enterprise." In October of 1972 that Subcommittee issued its report stating:

"In the opinion of this Subcomittee, the initial step in achieving this equitable balance in procurement activity would require the enactment of legislation that would establish the unquestionable authority for the minority 8(a) type program which is now in question. Provision should be made for the establishment of definite goals from the procuring agencies in dollars and on a percentage basis of total procurement, for minority businesses, without affecting the present general small business area and efforts. These goals and percentages should be separate and apart from small business set-asides and procurements now in the small business arena."

In July of 1975 the Subcommittee on SBA Oversight and Minority Enterprise of the House Small Business Committee held hearings on "Minoriy Enterprise and Allied Problems of Small Business." In September of that same year the Subcommittee report indicated that:

"* * * the President: (a) give consideration to the issuance of an Executive Order which would contain specific criteria applicable to all Federal Agencies to determine whether a particular procurement should be set aside for the 8(a) program so that the greatest number of disadvantaged firms could participate in the program.

"* * * the SBA: * * * (a) consider proposed legislation to increase the statutory authority of SBA to establish 8(a) contracts, under criteria to be established by Executive or legislative action."

Again, in the 1976 "Summary of Activities" Report of the House Small Business Committee it is pointed out that:

"The Subcomittee notes that SBA has no statutory authority to mandate that a particular procurement be set aside for the 8(a) program. Once the SBA representative recommends that the procurement be set aside for 8(a), the procuring officer is 'authorized in his discretion' to do so. The ability to effectively implement the program is, therefore, discretionary and this discretion is as widespread as there are agencies participating in the program. The Subcommittee finds that the full potential of the 8(a) program will not be realized until there is one centralized authority which has statutory authority over all Government procurements to determine which are suitable for 8(a) businesses."

Even the Senate Committee on Small Business Report on the "Small Business Administration 8(a) Contract Procurement Program" of February, 1977, this very year, cites:

"A number of witnesses were quite emphatic in their recommendation that there be established a system whereby the Federal agencies would be required * * * to set aside a portion of their procurement in a wide range of activities for contracting with the SBA pursuant to the SBA's authority under section 8(a)."

With all that documentation and identification of problems spanning, at least, some seven years, the Congress has yet to act meaningfully.

The problem of illegitimate minority firms may have to be addressed by the development of a new, more tightly woven definition of a "minority business enterprise."

The ploy of so-called "Black front organizations" may have to be handled through the establishment of Federal, State, and local Minority Business Certification Boards—Boards or groups with real statutory monitoring and enforcement clout to weed out the phonies and hasten their prosecution by the appropriate authorities.

But, Mr. Chairman and Members of this Subcommittee, the situation must be addressed by immediate and comprehensive legislative action followed by meticulous oversight all the way down the line.

It is my heartfelt hope that this Subcommittee's work will, finally, be the necessary catalytic agent for the warranted legislative action which has been ignored for all too long.

I stand ready to be of assistance in any capacity in this effort. As I have said and will continue to say, a strong, viable minority business community is a must for America. Economic parity for minority groups is a clearly desirable and attainable goal, a direction in which this country must move or suffer the consequences of continued high unemployment, high taxes, and increased Government spending.

Thank you again and I would be more than happy to answer your questions.

---

STATEMENT OF A. VERNON WEAVER, ADMINISTRATOR
U. S. SMALL BUSINESS ADMINISTRATION

Mr. Chairman, I appreciate the opportunity of appearing before you today to discuss the Section 8(a) Business Development Program at the Small Business Administration.

At the outset I want to commend you and this Committee for your study and investigation of the 8(a) program—and I look forward to receiving your recommendations. I have been provided with reports on the hearings you have held and I am aware of the issues that have been raised by this Committee, by internal audit reports, by reports of the General Accounting Office and by our own surveillance teams which must be addressed.

Like you, I favor the objectives of this program.

Like you, I feel that the program has been abused to the benefit of unscrupulous businessmen who have used minority businessmen as "fronts."

Like you, I want to change the situation so that minority businessmen in every instance will receive the benefits of the program. I assure you that the necessary changes will be made to put the program on a sound basis.

This Agency will not tolerate continued abuses.

This Agency will work with you in correcting abuses.

This Agency will work to revamp and reshape this program in a responsible way so that it will be responsive to the need to assist minority small businessmen.

In this connection I propose to initiate several administrative actions which my review of the program to date indicates are needed.

ACTIONS PLANNED

My first action will be to discontinue any new entries into the program and to discontinue completions until we complete an evaluation of all firms in the portfolio, renegotiate any agreements considered not consistent with the objects of the program. The only exceptions will be firms accepted with my personal approval.

This constitutes a temporary suspension of new program entries or completions—other than terminations resulting from a re-evaluation of for cause established in existing program rules, regulations, policies and procedures.

There will be no new sponsorships and all sponsorships now in being will be reviewed by the 8(a) Appeals Committee of the Central Office to determine whether the 8(a) firm remains in the program.

The second action will be the renegotiation of new existing management, divestiture and personal services agreements. The new agreement will include (1) a limitation of one year on any agreement, (2) a 60-day cancellation clause, (3) no provisions for ownership by non-disadvantaged firms in the 8(a) firm, (4) a stipulation that all fees to be paid by the 8(a) firms will be paid from net profits after taxes, and (5) a stipulation that only when the 8(a) firm is unable to provide contract financing from its own resources will SBA provide advance payments or other financial assistance.

My third action relates to ownership in 8(a) firms by non-disadvantaged individuals. This will be closely controlled. Minority ownership by a non-disadvantaged individual is acceptable providing such individuals are not former employees of the disadvantaged owner—and are not affiliated or associated with other firms operating in the same or similar type business.

Further the non-disadvantaged owner must be actively involved in the business on a 100 percent basis—on a day-by-day operational basis.

Compensation received by the disadvantaged owner as the firm's chief executive must exceed that of any other employee.

Any exceptions must be justified.

My fourth action will be an evaluation of each firm in the 8(a) program portfolio to determine (1) whether the firm's owners qualify under the established eligibility criteria, (2) whether the individual used as a basis for eligibility is in need of 8(a) assistance, (3) whether the firm has the potential of achieving a competitive position in the economy, and (4) whether the firm can compete in the economy on its own.

Another action will be a prohibition of any former employee of the United States Government participating in the 8(a), or any other SBA financial program, within two years of his leaving the Government.

Finally, I will appoint a Review Board to evaluate the 8(a) program and make recommendations.

The Board will also study the effect of SBA's organizational structure and established line of authority on the 8(a) program, as wel las the degree to which the program advances the objectives of achieving parity in our economic system for minorities.

I will take these actions immediately. We will consider the recommendations of the Review Board as soon as it reports—with a view to implementing, as quickly as possible, recommendations we consider appropriate and helpful.

I want to assure you further that we will look into the issue of specific criteria for the various stages of the program—for entry into the program for termination of firms in the program, and for graduation of firms from the program.

We will develop realistic standards, reasonable standards and consistent standards.

Obviously I cannot rectify past mistakes made by SBA in the 8(a) program. However, I can terminate activities resulting from those mistakes that are at variance with the intent and purpose of the 8(a) program.

I can also—and will—take measures to ensure that we do not repeat those mistakes.

I want to assure this Committee that we will set the policy for operation of the 8(a) program in the Central Office and we will see to it that the regulations and standard operating procedures set by the Central Office will be followed by the Regional Office.

As rapidly as I can determine what remedial measures are required to improve the 8(a) program, I will implement them. And, Mr. Chairman, we look forward to receiving your Committee's recommendations in this regard.

We believe that the objectives of the 8(a) program are sound—and we want to develop policies and procedures as sound as the objectives.

Thank you for this opportunity to testify before this Committee and I will be pleased to try to answer any questions you may have.

---

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SUBCOMMITTEE ON FEDERAL SPENDING
PRACTICES AND OPEN GOVERNMENT,
*Washington, D.C., August, 30, 1977.*

Hon. A. VERNON WEAVER,
*Administrator, Small Business Administration,*
*Washington, D.C.*

DEAR MR. WEAVER: Thank you for your letter of July 29, which outlined some of the preliminary steps you are taking to overhaul the 8(a) program. Before Senator Chiles departed Washington for the August recess he asked me to respond to you.

Senator Chiles is aware that you have a very formidable task on your hands. Naturally, he is ready to help you in any way that he can to get this particular ball of string unravelled. Also, he wants you to know that the subcommittee staff is available to assist you in any way that they can. As you know Bob Harris and Peter Roman met today with Bill Bolling, Ray Randolph and Ed Lewis for an informal progress report.

Senator Chiles hopes that you will, from time to time, continue to let him know the status of your operation.

Thank you again for your letter.

With kindest regards, I am

Sincerely yours,

RONALD A. CHIODO,
*Chief Counsel and Staff Director.*

---

U.S. SMALL BUSINESS ADMINISTRATION,
*Washington, D.C., July 29, 1977.*

HON. LAWTON CHILES,
*Chairman, Subcommittee on Federal Spending Practices and Open Government, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reference to my statement before your Committee on July 8, 1977, during the hearings on the Section 8(a) Business Development Program.

We have enclosed copies of directives to appropriate officials of the Small Business Administration, to implement the actions outlined in my statement and to apprise them of those actions in greater detail. One is a message placing a moratorium on certain 8(a) program actions. This was done because it took longer than anticipated to complete the necessary internal coordination of the enclosed letter directive. The other, a letter directive, concerns actions to improve the program that are in the initial stages of implementation and instructions concerning the moratorium. More definitive instructions will be issued as changes to existing program policy and procedures documents.

We will keep you informed of additional actions concerning the program as they are implemented.

Sincerely,

A. VERNON WEAVER, *Administrator.*

---

U.S. SMALL BUSINESS ADMINISTRATION,
*Washington, D.C., July 29, 1977.*

HON. LAWTON CHILES,
*Chairman, Subcommittee on Federal Spending Practices and Open Government, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reference to my statement before your Committee on July 8, 1977, during the hearings on the Section 8(a) Business Development Program.

We have enclosed copies of directives to appropriate officials of the Small Business Administration, to implement the actions outlined in my statement and to apprise them of those actions in greater detail. One is a message placing a moratorium on certain 8(a) program actions. This was done because it took longer than anticipated to complete the necessary internal coordination of the enclosed letter directive. The other, a letter directive, concerns actions to improve the program that are in the initial stages of implementation and instructions concerning the moratorium. More definitive instructions will be issued as changes to existing program policy and procedures documents.

We will keep you informed of additional actions concerning the program as they are implemented.

Sincerely,

A. VERNON WEAVER, *Administrator.*

Small Business Administration
Office of AA/PA
Washington, D. C. 20416

ACTION: O
INFO

TYPE OF MESSAGE
☐ SINGLE ☐ BOOK
☐ MULTI ADDRESS

ACCOUNTING CLASSIFICATION
2700.97.41100.23.25

UNIT CLASSIFICATION

STANDARD FORM 14 REV. MARCH 15, 1957
GSA REGULATION 2-IX-301.00
14-304

TELEGRAPHIC MESSAGE

OFFICIAL BUSINESS
U. S. GOVERNMENT

THIS BLOCK FOR USE OF COMMUNICATIONS UNIT

GDA 24

MESSAGE TO BE TRANSMITTED (Use double spacing and all caps. letters)

THIS COL. FOR AGENCY U

START MESSAGE ADDRESS HERE

TO: ALL REGIONAL DIRECTORS

THRU: AA/O

BY DIRECTION OF THE ADMINISTRATOR A MORATORIUM IS PLACED EFFECTIVE JULY 20, 1977, ON THE FOLLOWING ACTIONS WITHIN THE 8(A) PROGRAM:

1. THERE WILL BE NO NEW CONTRACTS.
2. ANY MODIFICATIONS TO EXISTING CONTRACTS MUST BE APPROVED BY AA/PA, AA/O, OR THE ADMINISTRATOR, DEPENDING UPON AVAILABILITY.
3. THERE WILL BE NO NEW PROGRAM ENTRIES.
4. THERE WILL BE NO FURTHER PROCESSING OF ANY BUSINESS PLANS NOW IN PROCESS.
5. THERE WILL BE NO GRADUATIONS.

THIS MORATORIUM WILL REMAIN IN EFFECT UNTIL AUGUST 1, 1977, AND IN THE INTERIM PERIOD DEFINITIVE INSTRUCTIONS IN THE FUTURE CONDUCT OF THE PROGRAM WILL BE ISSUED.

For EDWARD H. LEWIS
ASSOCIATE ADMINISTRATOR
PROCUREMENT ASSISTANCE

DO NOT TYPE MESSAGE BEYOND THIS LINE

PAGE NO 1 | NO. OF PA 1

NAME AND TITLE OF ORIGINATOR (Typed)
Robert F. McDermott
Director, OPA

ORIGINATOR'S TEL. NO.
653-6635

DATE AND TIME PREPARED
July 20, 1977 4:30 I

SECURITY CLASSIFICATION

I certify that this message is official business, is not personal, and is in the interest of the Government.

(Signature)

U.S. SMALL BUSINESS ADMINISTRATION,
*Washington, D.C., July 25, 1977.*

Attention of: OBD.
Subject: Section 8(a) business development program.
To: See distribution.

The 8(a) program is one of the most important elements of the Federal Government's efforts to assist minority and disadvantaged business people to participate fully in the economic system of our Country.

21-491—78——8

However, this program has been abused to the benefit of unscrupulous business men and others. Such abuses have been detrimental to the Government's Minority Enterprise Program efforts, our Agency's reputation and to small businesses in the 8(a) program.

I intend, with your help, to revamp and reshape the program to make it responsive to the need to assist minority small business people and to ensure that eligible disadvantaged business people will receive the benefits from the program in every instance.

To this end, I am appointing a Review Board to evaluate the 8(a) program, to assess the success of the program in realizing the objective of achieving parity for minorities in our economic system and to make recommendations. The Board will also study the effect of SBA's organizational structure and established line of authority on the 8(a) program.

We will examine closely the issue of specific criteria for the various stages of the program; for entry, termination and graduation.

We will evaluate each firm in the portfolio to determine whether, (1) the firm's owners qualify under the established eligibility criteria, (2) the individual used as a basis for eligibility is in need of 8(a) assistance, (3) the firm has the potential of achieving a competitive position in the economy, and (4) whether the firm can compete in the economy on its own.

We will closely control ownership in 8(a) firms by nondisadvantaged individuals. Such ownership arrangements will be permitted, providing the nondisadvantaged individuals are not former employers of the disadvantaged owner and not affiliated or associated with other firms operating in the same or similar type business. A nondisadvantaged individual may participate as a minority owner in only one 8(a) firm. His involvement in the business must be commensurate with his percentage of ownership in the 8(a) firm. If the percentage of ownership in the 8(a) firm exceeds 35 percent, the nondisadvantaged owners must also be actively involved in the business on a 100 percent, day-by-day operational basis. In every case, compensation received by the disadvantaged owner, as the firm's chief executive, must exceed that of any other employee.

We will prohibit ownership in 8(a) firms by any other firm except those approved for continuation in the 8(a) program by the Associate Administrator for Procurement Assistance (AA/PA) following an evaluation of such existing ownership arrangements. Exceptions to this prohibition will be made only with my express personal approval. 8(a) firm involved in existing sponsorship arrangements where in the 8(a) firms has expressed disagreement with SBA termination or completion plans for the 8(a) firm, will be subject to a review by the Board of 8(a) Appeals. Disposition will be determined by the Board.

We will initiate the changes required to prohibit participation by any former employee of the United States Government in the 8(a) program, or any other SBA financial program, for at least a 2-year period after that person leaves the Government.

These actions are in the initial stages of implementation and require no action by SBA regional offices at this time.

The following actions do require implementation or assistance to Central Office elements by the field offices and will be implemented by all regional office directors when indicated.

The moratorium on new contracts, and modifications to existing contracts established by the AA/PA telegraphic message of July 20, 1977, is hereby canceled.

The moratorium on new program entries and completions established by the AA/PA message will be continued. This constitutes a temporary suspension, pending completion of an evaluation of all firms in the portfolio. The moratorium does not apply to terminations resulting from the evaluation or for cause established in existing program rules, regulations, policies and procedures. My personal approval will be required for any exception to this moratorium.

Until the moratorium is lifted no further action will be taken to process new entries.

Those 8(a) firms that have already received a program completion notice and have allowed, or allow, subsequent to July 11, 1977, the 30-day period for submitting an appeal to expire without appealing, may continue to be processed out of the program. All other completions will be held in abeyance until the suspension is lifted.

No new sponsorships will be permitted.

Effective immediately, all management and personal services agreements forwarded to the Associate Administrator for Procurement Assistance for approval

must include the following provisions: (1) a limitation of 1 year on any agreement, (2) a 60-day cancellation clause, (3) no provisions for ownership in the 8(a) firm, (4) a stipulation that all fees to be paid by the 8(a) firms except fixed fees, will be paid from net profits, and (5) a stipulation that the 8(a) firm will not borrow or accept financing from the individual or firm entering into the agreement with the 8(a) firm.

The recommendations of the Review Board will be considered as soon as the Board reports with a view to implementing those we consider appropriate and useful to the improvement of the 8(a) program.

I want to make it very clear that the objective of the program is to assist the socially or economically disadvantaged small business persons—and the 8(a) program will be administered to achieve that objective.

A. VERNON WEAVER, *Administrator.*

---

FARMINGTON MFG. CO.,
*Farmington, Conn., August 9, 1977.*

SENATE SUBCOMMITTEE ON FEDERAL SPENDING,
*Washington, D.C.*
(Attention Mr. Peter Roman).

GENTLEMEN: At your suggestion and because of information provided us by you that Mr. Weaver of the Small Business Administration in Washington, D.C. had given public assurance to Senator Chiles that "Section 8–A" cases of Small Business Administration mismanagement as well as others which your committee had uncovered as a result of your investigation would be fully investigated and satisfactorily resolved, we did contact Small Business Administration in Washington, D.C.

Our first contact as you suggested was with Ms. Esther Katz on August 1, 1977. She listed attentively to the problems as outlined by us. She indicated that she would immediately look into the matter and have someone from the SBA office call us on Tuesday morning. We requested a meeting with SBA in Washington, D.C. but she said that would not be necessary. On Tuesday, August 2, 1977, we spoke with Mr. Russell Bates of Financing and again briefly outlined our problems. He was told how urgent it was that we receive an extension of time to make our August 1977 rent payment as we were experiencing a temporary lag in our collection of monies due to the vacation shutdown of our customers. He said that he would contact Mr. Thomas Higgins, of the Hartford office of SBA and call us back that same day. We were very nervous about this situation since the attorney for SBA, Mr. Backmender had told our attorney that if we were late at any time, the rent being due each month, with the payment of the rent then he would immediately get a court action to have Farmington Manufacturing Company evicted immediately. When he had not returned the call by 4:00 P.M. we called him and he said Thomas Higgins was not at his desk but that he would call him Wednesday, August 3, 1977 in the morning. Mr. Bates then said that he did not realize the call was so urgent.

On Wednesday, August 3, 1977, Mr. Ainsworth, Financial Planning analyst Mortgage Division of SBA called and said he had spoken to Mr. Higgins of SBA Hartford, Connecticut and was told that the matter between Farmington Mfg. Company & SBA was in litigation and there was nothing he could do.

We then called Ms. Esther Katz on Wednesday afternoon August 3, 1977 and she said she would call Mr. Higgins herself and call us back. She did call us back later in the day. She said Mr. Higgins of SBA Hartford had told her he was surprised we had never contacted him for assistance. Also, since the loan was now in litigation and everyone is awaiting a decision from the Federal Court, nothing could be done. Further, he said we should have no cause to worry as their records reflect that the rent had been paid through the end of August 1977. Ms. Katz then suggested we speak further to Mr. Harvey Backmender, Assistant U.S. Attorney, Hartford as he would like to be most helpful. She also said we could contact the Regional Office of SBA in Boston if we wanted to go higher than Hartford. We told her that we contacted the Washington Office so we could work directly with the people who would ultimately have to make an administrative decision on any resolution of the differences between us, and, that this route had been suggested by Mr. Peter Roman of Senator Chiles' office. She also told us that in as much as numerous legal questions had been raised by us we should talk to Mr. George Kaplan, legal counsel for SBA in Washington.

We called Mr. Kaplan on August 4, 1977 and he said that once the matter was in the hands of the U.S. Attorney there was nothing SBA could do.

We called Mr. Kaplan back on Friday August 5, 1977 to tell him that nothing was in litigation relative to the loan. The only question was whether or not we had a valid lease and should or should not be evacuated from our building.

Mr. Kaplan became quite insistent that he would do nothing and he and John W. Conlon Jr. became involved in an extremely heated argument over the "do-nothing" attitude that SBA was assuming. Mr. Kaplan finally said that if we had any evidence of wrong doing by SBA employees he would review the material and make a determination as to whether or not he should pass the information along to the FBI for investigation. If he did decide to forward the information to the FBI; then, if they decided to investigate; then if there were possible criminal violations; then, they might decide to prosecute the people involved. I told him that if we forwarded all of this material to him then we were concerned that they might choose not to investigate and could utilize the information to our disadvantage in possible future litigation with the SBA. Namely, by having access to all of our priviledged information and then building their case around special defenses designed especially to thwart our possible lawsuit. He then told John W. Conlon, Jr. "Well, that is your problem".

During the conversation Mr. Kaplan said he was always sorry when a borrower's business went "sour" but that we had borrowed the money and no matter what the circumstances of SBA's conduct were, we were obligated to repay the loan in full.

If that is the case then perhaps SBA has unilaterally set aside the whole body of law regarding Contracts, damages and performance. I find extremely interesting this governmental philosophy that Government is somehow above the law.

After these many comments and conversations which we began at your suggestion and did so in good faith, we think that it is hopeless to ask SBA to investigate its own policies, practices, mismanagement and misdeeds. The analogy that best applies seems to be the old saw about asking Mr. Fox to guard the chicken coop.

We do sincerely appreciate your efforts extended in our behalf and regret that this particular thrust has been to no avail. Perhaps though you may be able to suggest alternate avenues for us to try to resolve these difficulties without resorting to the Courts and the extremely lengthy proceedings that would ensue.

However, if we must resort to litigation we would request your assistance in obtaining sponsorship of a private bill in the Congress to allow us to sue the Small Business Administration as is required by the Federal Tort Claims Act.

Thank you so much for your continuing interest in our problem. We would like to get it solved so that we can make the business grow and give people employment which is so badly needed throughout the country.

Very truly yours,

JOHN W. CONLON, Jr.

---

WRIGHT, INC.,
*Seattle, Wash., July 26, 1977.*

Re 8(A) Program.

Hon. LAWTON CHILES.

DEAR SIR: Lately there has been a tremendous amount of news about the 8(A) program. We have been writing letters, talking, and trying to open the eyes of public figures from this State for some time, and all we've gotten was a form letter telling us that the letter from the SBA (which would be attached) was self explanatory.

While minority companies continue to suffer from the misuse of this program.

We feel that there will always be misuse as long as the rules and guide lines are made by people who have nothing to lose, people who never have to make a pay roll at the end of each week, people who never had to put up a Bond, and as you are very familiar by now, these are the types of persons administrating the program.

People who have failed in business, school teachers, retired service persons. Is there any wonder that there is a problem?

Enclosed is a recent letter from the SBA to Wright Inc. telling us of their decision to cut back our projection. Here is a panel of people who know nothing about our company, have never talked to us but have the power to cut a projection back.

It took us (3) three weeks to put the projection together using company records and other data. They didn't have any thing except the will to control minority companies. The only excuse to us was there just wasn't enough contracts around, yet there have been millions in possible contracts turned back to the agencies in their area.

At this time, we would like to make some recommendations toward making a good program to do the job it was intended to do. We recommend that

(1) Minority business men be on every committee when decisions have to be made effecting their business.

(2) The procurement section of 8(A) USE the help of the contractors to select projects.

(3) Allow the contractor to work directly with the agency (the agencies are willing to by pass the SBA. This would save money, time and the problem of wrong doing.)

(4) No project can be turned back. Find some contractor to perform that work. (that is what is done in competitive bidding).

(5) All minority companies be eligible for the 8(A) (in this area some are selected others are not).

We would like to say, if you expect a working program there is going to have to be the Minority Businessmen's participation in the decision making.

We are volunteering to do anything that will help put the program in a proper functioning order.

Please keep us informed on your progress in the hearings.

Sincerely,

H. WRIGHT.

---

BLACK MBA ASSOCIATION OF WASHINGTON,
*Washington, D. C., June 8, 1977.*

Hon. LAWTON CHILES,
*Old Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR CHILES: The members of the Black MBA Association of Washington are concerned about the direction and purpose of your current investigation of the SBA 8(a) program. While we welcome an investigation to expose fraud and abuse and to reduce opportunities for future abuse, we are concerned that opponents may subvert your investigation to destroy a generally successful program.

Our concerns have been heightened by recent media coverage of your investigation which imply that the program is a total failure. We are personally aware of a number of minority-owned firms which owe both their existence and success to the 8(a) program. However, because of partial media coverage, negative findings have been publicized while positive achievements remain unreported.

Because of our commitment to the SBA 8(a) program, the members of the Association are taking steps to make available their considerable business skills and experience to minority-owned businesses. Though our resources are finite, we are hopeful that this assistance will contribute to the number of viable minority-owned businesses capable of participating successfully in the 8(a) program.

In addition, we would like to solicit your assistance in preserving one of the more important government-sponsored minority business assistance programs.

Sincerely,

MORGAN J. HALLMON, *President.*

---

DAYTON MESBIC, INC.,
*Dayton, Ohio, September 2, 1977.*

Hon. LAWTON M. CHILES, Jr.,
*Russell Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR CHILES: We believe that the logic in Mr. Raspberry's article is in complete concurrence with an overwhelmingly large number of us operating in the area of Minority Entrepreneurship.

We do believe that your committee will continue to endorse and strengthen the SBA 8(a) Program that extends ingredients of an equalizational factor within the free enterprise system. The article also gives succinctly the definition of a

minority. The definition also includes the well-trained Blacks as Minority Entrepreneurs.

It is my hope that your committee will not only eliminate the abuse of SBA 8(a), but also in your definition include well-trained Blacks as Minority Entrepreneurs.

Very truly yours,

L. A. LUCAS,
*President and Chief Executive Officer.*

---

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
*Washington, D.C., July 8, 1977.*

MR. RONALD A. CHIODO,
*Chief Counsel and Staff Director, Subcommittee on Federal Spending Practices, U.S. Senate Committee on Governmental Affairs, Washington, D.C.*

DEAR RON: Please find enclosed my formal prepared testimony which is being submitted for the record of your hearings on the Small Business Administration's 8(a) program.

I hope you will feel free to call upon this Office to use its authorities to rectify the problems in the program.

Best personal regards,

LESTER A. FETTIG, *Administrator.*

Enclosure.

STATEMENT OF HON. LESTER A. FETTIG, ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY OFFICE OF MANAGEMENT AND BUDGET

Mr. Chairman and members of the committee, I appreciate the opportunity to appear this morning before your Subcommittee. Members of my staff and I have worked closely with your Subcommittee staff, of course, and will continue to do so.

Let me at the outset offer our appreciation for your continuing role in Federal spending reforms ever since your membership on the congressional Commission on Government Procurement. Your dedication to constructive review of these procurement matters has given an essential momentum and sense of importance to our corollary efforts in the Executive Branch.

In preparing comments, I have had the benefit of the 1975 General Accounting Office (GAO) report on the effectiveness of the 8(a) program and the 1976 Office of Management and Budget (OMB) report, done in cooperation with the Department of Commerce and the Small Business Administration (SBA), on the general subject of Federal Minority Business Development Programs. I have also had the benefit of recent work of the Subcommittee on the 8(a) program. My staff has also spoken with Government officials, including, of course, those in SBA familiar with the 8(a) program.

To begin with, I believe it goes without saying that it is vital for business enterprises owned by minorities and other disadvantaged persons to be brought into the economic mainstream. That objective is valid. It is important. There has been a national commitment to achieve that result. Since 1968, the "8(a)" program of SBA has come to represent a critical part of the effort to fulfill that commitment.

BACKGROUND

The 8(a) program takes its name from Section 8(a) of the Small Business Act of 1953 which authorizes the SBA to enter into procurement contracts with Federal agencies and, in turn, to subcontract the work to small businesses. The idea of channeling contracts to small businesses through an intermediate Federal agency had its origin in an effort to insure that small businesses were not overlooked in wartime. A predecessor agency, Small Defense Plants Administration, made use of that authority. In 1968 SBA began to use Section 8(a) authority to obtain Federal contracts and, in turn, subcontract them to firms agreeing to perform in areas where jobs would be provided for the unemployed and underemployed. Shortly thereafter, the emphasis of the program changed from hiring the unemployed in ghetto areas to developing sucessful firms owned by disadvantaged persons. After a period in which the SBA was criticized for

awarding 8(a) contracts almost entirely to minority owned persons, the basis of eligibility was extended to cover all firms owned by "socially or economically disadvantaged" persons.

SCOPE OF 8(A) ACTIVITY

Since the late 1960's the number and value of 8(a) contracts have grown tremendously. In the first year of the program, fiscal year 1968, there were only eight 8(a) awards worth a total of 10.5 million dollars. In fiscal year 1970 there were 199 with a total value of 22.5 million dollars. In fiscal year 1974 there were 2,246 with a total value of 272.1 million dollars. And in fiscal year 1977 there were 1,377 subcontracts with a total value of 306.7 million dollars. 1,584 firms are currently enrolled in the 8(a) program.

| Fiscal year | Awards | Value (millions) | Firms awarded contracts |
|---|---|---|---|
| 1968 | 8 | $10.5 | 7 |
| 1969 | 28 | 8.9 | 21 |
| 1970 | 199 | 22.5 | 145 |
| 1971 | 809 | 67.8 | 506 |
| 1972 | 1,646 | 142.3 | 924 |
| 1973 | 1,976 | 213.0 | 1,067 |
| 1974 | 2,246 | 272.1 | 1,132 |
| 1975 | 2,137 | 320.9 | 1,044 |
| 1976 | 2,228 | 382.2 | 1,029 |
| 1976A (transition period) | 644 | 98.0 | 446 |
| 1977 | 1,377 | 306.7 | 754 |
| Total | 13,298 | [1] 1.8 | 7,075 |

[1] Billion.

AWARD PROCEDURES

A firm becomes a member of the 8(a) by submission to, and acceptance by, the SBA of a Business Development Plan (BDP). This plan, briefly, describes the business (its history, ownership and control, management, facilities and equipment, financial status, etc.) along with its plans for development and a statement of what resources and assistance, in projected 8(a) contracts, will be needed to accomplish the objective. The SBA will accept an otherwise acceptable plan only from an "eligible" (disadvantaged) applicant; but also has a "sponsorship" program, which I will mention later in these comments.

BREAKDOWN IN THE 8(A) PROGRAM

Mr. Chairman, on the strength of your Committee's investigation, previous management audit reports and staff reviews, we believe that the 8(a) program is simply not working.

I do not say this because it is the role of OFPP to pass judgment on the SBA program. Rather, we view our role as providing leadership and initiative to make the 70 billion dollars a year Federal procurement process more effective and efficient. However, when 1 billion dollars is taken out of the competitive process to achieve such an important socio-economic objective and when it appears that little is being accomplished, our views may be appropriate.

In its 1975 report the GAO measured the progress of 110 firms that had been in the program for several years. These firms received 81.4 million dollars in 8(a) subcontracts. Of the 110 firms only 18 had achieved self-sufficiency. By SBA's own count only 93 firms have to date "graduated" since the inception of the program nine years ago although thousands of companies have been granted assistance.

Having said that, I would like to proceed to consider the more important issue: What have been the root problems and how do we proceed to fix the program?

ESTABLISH MISSION NEED AND GOALS

Any effective reconstruction of the 8(a) program should begin with a careful definition of the mission need: the end-purpose objective to be accomplished.

While today we refer to the "8(a) program" as aimed at minority assistance, the legislation itself never clearly laid out this mission need and the history cited

earlier, in fact shows shifting objectives from small business, to unemployment areas and ghettos, to disadvantaged assistance.

This vagueness may contribute to difficulty in setting program goals and to examining all alternatives to meet the need for minority business development. As the General Accounting Office's report noted, you do not measure success by how many dollars—or contracts—thrown into the program. You must measure output results: how many firms have truly been assisted, with careful definitions of which kinds of firms are in need.

There is a strong emphasis in the program upon goals, in terms of number and dollar amount of 8(a) contracts awarded. The departments and agencies stress total annual 8(a) contract awards. This generally results in award to 8(a) contractors of contracts too large or too complex for them to perform. The results of such contracts are known to your Subcommittee. The emphasis must be on, and the goals relate to, successful program completions, not mere placement of contracts.

## OTHER MANAGEMENT PROBLEMS

*Stable contracts*

A key element in the success or failure of the 8(a) program is, of course, the process of matching the needs of 8(a) contractors for contracts with the ability of the procuring agencies, through SBA, to supply them. The 8(a) contract must (1) be the type and size the contractor can perform; and (2) be available at a time the contractor needs it. Also, there must be a continuity of appropriate contracts over a period of years.

In 1975, the SBA noted it was unable to provide needed contract assistance because it did not have suitable requirements from the procuring agencies. I am informed that this condition still exists, though to a somewhat lesser extent because of the joint efforts of the SBA and the agencies to meet the problem. In an agency such as the Defense Logistics Agency where the requirements are reasonable, recurrent and predictable, the problem is less severe than in agencies where they are not. Nonetheless, lack of suitable and timely requirements does remain a problem, generally, because neither the SBA nor the military agencies can control the supply of contracts or guarantee the availability of appropriate contracts over a period of several years.

At the same time that procuring agencies are unable to produce contracts for the SBA and its 8(a) contractors, the SBA is, at times, unable to supply 8(a) contractors to perform contracts offered by the procuring agencies. In some instances, the SBA states the fault does not lie with it (lead time too short, incomplete procurement package, Miller Act problems, etc.). In others, the SBA simply does not have a contractor available or cannot produce one within the time constraints of the procuring agency.

I believe this interagency coordination problem is one area worth considering where the authority of the OFPP can be used to good advantage to provide advance planning and stable, matched commitments.

*Definition of eligible firms*

Another element in the program's effectiveness is the composition of the firms in the program.

Firms should not be in the program if they do not have the potential, with 8(a) subcontract assistance, for growth and eventual self-sufficiency. SBA should monitor the program to assure that its contractors aggressively pursue and, it is hoped, obtain commercial sales in a competitive environment. Reliance on sole-source 8(a) contracts, alone, is not sufficient. Firms not making progress in the commercial environment should not be allowed to remain in the program indefinitely.

Similarly, firms which have become self-sufficient during the course of the program should not be allowed to remain in it. The 8(a) firm continues to receive non-competitive awards and the procuring agencies and SBA have a contractor who performs efficiently at a reasonable price with a minimum of difficulty and problems. Also, awarding to such a contractor enables the SBA and the agencies to meet ever-increasing quotas for placement of 8(a) awards. Again, close monitoring of the program by SBA is required.

Firms which, at the time of their acceptance into the program, were already self-sufficient and improperly deemed eligible, should not remain in the program. As to eligibility, the SBA guidelines state that the applicant must be, with certain exceptions, a small business owned and controlled by a disadvantaged person(s). Disadvantaged persons are defined as those who "have been deprived of the

opportunity to develop and maintain a competitive position in the economy because of social or economic disadvantage." (Emphasis added.) "Such disadvantage," it is stated, "may arise from cultural, social or chronic economic circumstances or background or similar cause. The term "disadvantaged persons" may include, but is not limited to Blacks, Indians, Spanish-Americans, Oriental Americans, Eskimos and Aleuts. Also, being a veteran of the armed services "may be a contributing factor in establishing social or economic disadvantage."

Subsequent to earlier criticism, the present SBA guidelines (SOP 60–41–2; par 18a (3)) now appear to require documentation of the "connection between the applicant's social or economic disadvantage and his inability to compete successfully in the economic mainstream," the criteria are still quite general and all-inclusive and stress social deprivation. (In one instance, the guidelines suggest "additional factors for consideration" if "a determination for eligibility cannot be made readily and clearly" under the basic provisions.) More particularly, there is no specific requirement that the applicant be economically disadvantaged in terms of assets, personal net worth, etc. Objective criteria could also exclude persons with significant education attainments and/or substantial job experience and training. In sum, I believe that a firm or person should be both socially and economically disadvantaged in order to qualify for the 8(a) program.

*Sponsorship*

My final point on areas for management improvement concerns the use of "sponsorship." Certainly, the 8(a) program should not improperly benefit non-advantaged sponsors.

To begin with, there seems to be confusion as to what constitutes a sponsorship arrangement. SBA guidelines presume ownership and control in the non-disadvantaged firm either outright, subject to a divestiture agreement, or through a management agreement. By that definition, there are only 65 "sponsored" firms out of the 1,584 firms in the program. However, as the term is generally used and understood, it also covers those many instances where a non-disadvantaged firm has, formally, a non-controlling interest in the stock of an eligible disadvantaged firm, but, in fact, exercises varying degrees of management and controls over the affairs of the 8(a) firm. There is substantial evidence, of course, that some of these arrangements do not meet the stated SBA requirement of being "clearly for the benefit of the disadvantaged firm."

There are indications that non-disadvantaged firms control the activities of the 8(a) firms and that 8(a) firms and their officers, in some instances, did not know much about, and had little to do with, the actual running of the company. If the "sponsor" is a small or medium sized firm in the same line of work as the disadvantaged firm, it would be surprising if he would assist the 8(a) firm to the point where it would become one of his competitors for both commercial and Government business. The problem does not arise with large sponsors in different areas of work.

Abuses by the non-disadvantaged 8(a) firms have been documented by your Subcommittee. The GAO found that the SBA had relinquished to sponsors its responsibilities to provide financial, management, and technical assistance. This is consistent with other criticism that the SBA does not furnish to 8(a) contractors the necessary regular and continuing assistance needed in the performance of the contract, leaving that job to the procuring agency. Your Subcommittee should consider whether the weaknesses of the sponsorship concept call for its replacement by a program of effective assistance by SBA to the 8(a) firms, either directly or through management and technical assistance firms on "call" to the SBA through contract. In any event, more effective monitoring of the sponsorship program by the SBA is in order; and a current audit made to determine whether the abuses reported in 1975 still exist.

I would be less than fair if I did not recognize some of the very serious difficulties facing SBA in administering this program. As the agency itself has noted, the program attempts to make business successes of concerns owned by individuals whose position in society reflects past, and sometimes current, discriminatory practices. In general, minority business enterprises in this country have been service-oriented, small, poorly capitalized, and lacking in technical and management capability. The failure rate of small minority businesses has, historically, been extremely high. The failure rate of small businesses, generally, is high.

Further, in our opinion, the SBA has not devoted the appropriate staff in terms of numbers or calibre of personnel to do the difficult job expected of it.

In an internal 1974 SBA audit it was reported that the 8(a) field staff members themselves felt a need for technical training with many feeling "unprepared for their job." In addition, there are inherent limitations upon the usefulness of non-competitive Government contracts—even as a part of an overall coordinated program of financial and technical assistance—in helping a minority or disadvantaged firm become competitive in the commercial marketplace. In this regard, more consideration should be given to the use of Government subcontracts as a more flexible and possibly more effective means of assisting disadvantaged firms to its place in the commercial mainstream.

The 8(a) program should be an integral part of this Nation's effort to bring minority firms, and others, into our economic mainstream. Your review, this morning, of the program will, I believe, help to make it more effective and worthwhile. The Office of Federal Procurement Policy stands ready to use its authority to assist you, the Small Business Administration, other Federal agencies and, most of all the small minority firms, to achieve that end.

---

EXPEDIENT SERVICES, INC.,
*Titusville, Fla., July 13, 1977.*

Hon. LAWTON CHILES,
*U.S. Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR CHILES: Enclosed please find a Written Submission on the 8(a) Contractors and the economic effect of the 8(a) program on business opportunities of disadvantaged persons.

Will you kindly make this submission a part of the record on the 8(a) investigation.

I would appreciate any questions or comments.

Very truly yours,

JUANITA E. WRIGHT,
*Assistant Vice President.*

Enclosure.

WRITTEN SUBMISSION

To: Subcommittee on Federal Spending Practices, Efficiency and Open Government—Committee on Government Operations, U.S. Senate.
From: Juanita E. Wright, Assistant Vice President, Expedient Services, Inc., 2223 S. Washington Avenue, Titusville, Florida, 32780.
Date: May 15, 1977.
Subject: Economic effect of 8–A program on the business opportunities of disadvantaged persons.

I. INTRODUCTION

My name is Juanita Wright, Assistant Vice President of Expedient Services, Inc. I have held this position since July, 1973. Expedient Services, Inc., is wholly owned and operated by the Shareholders, all of whom are disadvantaged. Mr. Otis L. Lewis is President and major shareholder. We were organized in August, 1971 under the sponsorship of Dynamic Enterprises, Dunn, North Carolina. This sponsorship arrangement was terminated on July 17, 1975.

Mr. Lewis has asked that I submit this statement on behalf of him and the Company. I would like to take this opportunity to thank Senator Chiles and this committee as representatives of the United States government, for the 8(a) program. It is one of the very few ways open to us to achieve economic equality. Doing business today, even in a small way, is extremely complicated and expensive. Without 8(a), very few disadvantaged persons would ever have the opportunity to get into government contracting, no matter how simple the actual tasks to be performed. Even food handling and janitorial contracts would be closed to us because of the complexity of bidding and the intial economic requirements.

The SBA 8(a) program has totally changed all that. Without the initial pressures of competitive bidding the 8(a) Contractor can concentrate on learning the business, knowing that he will have a continuation of jobs, rather than risking everything to get one contract, only to lose the next one and be left holding the bag.

In the prior hearings it was brought out that some 8(a) companies have had problems; but most new companies have problems. Many, if not most new companies don't make it, whether 8(a) or non-8(a). Under the 8(a) program,

we have a much better chance to succeed than without the program. However, if the owners and managers cannot run a company, it will certainly fail, and no amount of help will cure that. Unfortunately, no one can know who will fail until after they are given an opportunity to try. This is no discredit to the 8(a) program or its administrators. It's just business. I would like to point out that we, the American people, have elected Presidents, Senators and other elected officials, and they have, due to their actions, grieved us, but we have not abolished either or any of these offices, instead we have made the necessary adjustments and pushed ahead. The Civil Rights Act that caused much bitterness, bloodshed, etc. was not abolished, we all have made adjustments. So the SBA is no different in my opinion. It has been making adjustments to correct the problems in the program. Most of the problems, now being investigated, took place in the early days of the program, and the mistakes have already been corrected for some time.

## II. COMPLEXITY OF TODAY'S BUSINESS WORLD

I do not believe the public is aware of the extent of know-how and business experience required in even the smallest government contract. I would like to touch on the major items all contractors must know to get into this business.

To be an independent government contractor, you must know and understand and work with all of the following:

A. First you must know how to get a contract. This area has a alphabet all of its own: "RFP"—Request for Proposal; "IFB"—Invitation of Bid; and "COC"—Certificate of Competency, etc. You must know all the procedures to find a contract, where, when, how much, prior bid prices, etc. To figure the bid you must know the number of people the job will use, the costs, fringes, holidays, sick leave pay, supplies, etc., you must be very knowledgeable or be a lawyer to to read and interpret these bids.

B. If you are fortunate enough to get a bid, you must be able to work with: Federal Income Tax, State Income Tax, FICA, FUCA, SUCA, Workmen's Compensation, OSHA, Wage and Hour laws, Wage standards, State and local licensing, etc. You must be able to meet and deal with all your employees on the job, staff, office, etc. State employment offices, Contracting Officers, SBA representatives, Auditors, civilian or military staff on bases, all the people you serve, all the Vendors, private Accountants, lawyers and bankers. You must understand financing; how to bill the government, how to collect, how to finance long and short term, how to finance equipment, how to finance payrolls, all accounting necessary to determine profit and/or loss. You must deal with employee relations, organized labor, unfair labor practices, insurance, motivation, turnover, training, etc. You are to know buying, how much, cheapest, best terms, how to invest, etc. Certainly, not the least of all of these items, you must know how to actually perform a contract successfully. I have not even mentioned the problems in Contract negotiations, change orders, conflicts of interpretation, resolution of conflicts, reading and understanding a Profit and Loss Statement.

## III. THE SPONSORSHIP RELATIONSHIP

Much has been said about how bad sponsorships are. There is no doubt that there has been some abuse in this area. Our Company has had that experience, but I believe the concept of sponsorship is a good one. When I say "sponsorship", I mean joint venture agreements, Management contracts, etc. They are all "sponsorship" in the sense that an existing contractor, for a net sum or a percentage of the profits, agrees to be responsible for the training and operations of an 8(a) Contractor. Without sponsorship or some type training vehicle, how can we disadvantaged get into the mainstream of business? Yes, there are problems, but to abolish the sponsorship program will deny many the opportunity of getting to this business stream. With proper guidelines, monitoring and follow through, the 8(a) sponsorship program can work.

If sponsorship has problems, what alternatives exist?

A. Can the Government assign an official to train the Contractor and initially run his job? Would the Government post the bonds and take the risks? Obviously not. There are very few persons in government who really know all phases of private business. Those who do are generally pulled into private business themselves sooner or later. To find several hundred of these persons to assign to each 8(a) Contractor would be impossible.

B. The Sponsors could be drawn from ex-business men who have failed or been unable to successfully run their own businesses. These persons could be

gotten cheaply and would be less subject to criticism for "unreasonable profits". Would they be the answer or would they simply fail again this time in the 8(a) program? Would the contracting agency permit their contracts to be poorly performed?

C. What about "big business"—General Motors, etc., as sponsors? Who in big business knows the problems of the small businessman? Will the production Chief of Lockheed know how to borrow money? Will the Estimator at Ford know how to avoid unfair labor practices? Will a Division Manager of Texaco know how to figure the Florida Unemployment Compensation rates? Would this be any different from the Government being the Sponsor?

D. What about using existing, successful Contractors? They will want to be paid in accordance with the risks and trouble involved; and the risk and trouble the sponsor faces in sponsoring an 8(a) job is equal or greater to the risk and trouble of running the job on their own. Not only must the job be done, but the disadvantaged person must be trained. The sponsor is making his own competitors. 100% of the profits would not be unfair. 49% of the profits is fully fair. Once the 8(a) Contractor can take the trouble and risk itself, the Sponsor should be, and is phased out. The only time the Sponsor is receiving any compensation is while he is performing services. This is the cheapest and best way to bring the 8(a) Contractor into Government contracting. The problem arises where the sponsor won't get out or won't train.

This is where the SBA must and does monitor the contracts. Criticism has been aimed at the administration of the 8(a) program by the SBA in Region IV. The Atlanta office has 180/200 8(a) Contractors under its supervision. These Contractors are engaged in all phases of Government work from construction contracting to food handling to manufacturing of clothing. On each of these jobs, the SBA is the Prime Contractor with the 8(a) company as the Subcontractor. This is the way the program is organized. So, we have a Prime Contractor with 180+ untrained Subcontractors in many different fields. Is there any wonder that there would not be confusion? Of the 180 who have gotten in the program, how many first-rate independent Contractors can be expected to be produced? How closely can the SBA watch each company on each contract? How can the SBA determine exactly how much risk should each of the 180 Contractors take? Can a staff of 3 or 4 Contracting Officers in the SBA keep up with this and answer the unnumbered calls, worries, bids, negotiations, which each contractor generates? There will be mistakes! There will be losses! There will be failures! But all of this is worth the risk if it achieves the goal of opening the door of the economic mainstream to the otherwise hopeless cycle of the disadvantaged. The 8(a) program is the hope. The 8(a) program is the answer.

## IV. CONCLUSION

You have singled out, and you have heard from the disgruntled few. I would like to speak to the silent majority; the hard working, the hopeful, the succeeding majority who look to this program and those that administer it as the most important event and most important people that they have ever had the opportunity to meet.

The majority of the small businessmen fail and that is the risk in entering business. 8(a) has been a shelter of many risks. The 8(a) program, with all its faults, has exposed me to the business world, that previously, I would never have entered, because I know nothing about it. We are now in competition with our former sponsor. My economic status has changed upward!

I state that I know there have been many problems, but I also know that had not been for the 8(a) sponsored program, I would be either sub-teaching or cleaning offices or be a trouble call janitor for some successful business person. If the intent of this Committee is to curtail the program because of all the alleged problems of Region IV, then we, the disadvantaged who have been and still are on the bottom of the business totem pole, will remain there. We, the disadvantaged 8(a) contracting Americans (through it all) are in much better condition now than we were before entering the program. We have learned from our errors, been exposed to terms and people in the business world, and been able to enjoy a better economic standard.

Yes, it is costly to take an unlearned, no experience, disadvantaged person and bring him into the biggest of the white man's world—business. For a sponsor to take such a person and make him a competitor is costly; but will the many, many disadvantaged of America be denied an opportunity to enter

the business world? I say that the program is good and important to the disadvantaged getting into the business mainstream, and there is definitely a need of correction from Washington, throughout all Regions I am sure. But the correction should broaden the abilities of the SBA to respond to our need, not limit them. I respectfully request a copy of the minutes of this hearing.

---

SHORELINE, INC.
*Saratoga, Fla., July 13, 1977.*

Hon. LAWTON M. CHILES,
*Dirksen Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR CHILES: I have been following with interest your hearings on the SBA matter. I thought you might like to know of an experience we had with them here.

We are a real estate brokerage firm dealing in real estate plus business opportunities. As such we had the opportunity to sell a very unsuccessful restaurant to two Chinese gentlemen we felt would qualify under the minority lending division of SBA. We contacted your office in Lakeland to find out who we should contact relative to this SBA loan for them. We were referred to Suncoast Business Development Co. and a Mr. Gene Iwaniec.

We made up a packet of information on the purchase and operation of this restaurant; which by the way was contracted at a price of $275,000 which included a 4,000 sq. ft. building and real estate located on Rt. 41 between Sarasota and Bradenton. The contract called for a downpayment of $20,000 at closing with an additional $20,000 due and payable in 6 months. In addition to that, the Buyers were anticipating costs of $20,000–$30,000 in renovations and changes including additional cooking equipment.

We approached Mr. Iwaniec for a possible loan of the second $20,000 down and the monies needed for the renovation and improvements. After some discussion we were advised by Mr. Iwaniec that there would be no problem in them receiving a loan for this amount and it would only take enough time for them to complete regular processing and the money should be available within 30–40 days, and that he would personally make an inspection of the facilities.

The 30–40 days passed rather quickly with no notification from Mr. Iwaniec as to the status of the loan or anything that would indicate that the loan was being processed. We then tried to reach Mr. Iwaniec and he refused to answer our telephone calls, even after repeated calls by our agency.

As there was a strong language and communication problem between the Chinese people and any other banking agency, we felt we could best talk for them. After receiving absolutely nothing from Mr. Iwaniec we contacted the SBA regional office in Atlanta and a Mr. Charles McMillian who advised us he would look into the problem and we heard nothing further from him either. We then decided to contact the agency in Washington; again expressing our dissatisfaction with the general attitude we received from the SBA officials. We subsequently received a letter from SBA either out of Washington or Atlanta, stating that our best bet would be to see Suncoast Business Development Co. in Tampa and that they would take care of the matter promptly.

The sum total of all of this was that there was no loan forthcoming and Suncoast refused to call us; and follow up with the two other agencies produced absolutely nothing. Certainly it seemed that the Chinese people were well qualified under the minority program. The only problem seemed to be finding someone who would acknowledge that we existed.

For your further information, the Chinese people were able to borrow the money elsewhere to renovate the restaurant and make a roaring success of it; and were able from the profits to pay the additional $20,000. Obviously this would have been a very secure loan for SBA.

We were all appalled at this strange behavior. We can only guess at some of the reasons but I think a few of them may well have been obvious. If you can use this information to benefit any future minority groups who might wish to obtain an SBA loan, I hope it will be of help.

The Asia Restaurant (formerly Barney Maddens Pirates Inn) at 6844 14th St. W., Bradenton, Florida was the restaurant mentioned above and it is presently owned by Man Chu Cheng and Kai Chiu Lam.

Oh yes, I might add that we were working with a Mr. Lorenzo Martinez from Chicago who wished to purchase a motel here in this area. He had a very small

amount of cash, $20,000. He was originally from Cuba although several years ago. We approached Mr. Iwaniec with his packet and received the same run-around. Yes he was interested but no further reply or response of any kind. We also sent this packet to Mr. Antonio Machido of NEDA in Miami who advised us he would follow up immediately. About six weeks later we called him and were advised that he had lost the packet of information and that was that. Mr. Martinez is now back in Chicago with a total disgust for the entire SBA program.

Very truly yours,

MARVIN D. DEUITCH, *Broker.*

---

SHORELINE INC.,
*Sarasota, Fla., November 5, 1976.*

MR. GENE IWANIEC,
*Suncoast Business Development,*
*Tampa, Fla.*

DEAR GENE: Enclosed is the sheet including monies required by Man Chu Cheng and Kai Chiu Lam in connection with the Asia Restaurant and Bar, 6844 14th St. W., Bradenton, Fla. Messrs. Cheng and Lam still are planning on an opening on or about November 15th with a preview cocktail party scheduled for Wednesday, November 10th.

Per our conversation a few days ago, we have indicated to them that loan monies may be available on or about Nov. 15. Please let me know should there be any additional information required or any change from this payout time.

Very truly yours,

MARVIN D. DEUITCH.

---

SHORELINE, INC.,
*Sarasota, Fla., December 22, 1976.*

ASSISTANT, SECRETARY,
*Economic Development Administration,*
*Department of Commerce,*
*Washington, D.C.*

DEAR SIR: We would appreciate very much your help in a matter which we deem extremely important. To date we have tried repeatedly to obtain help for a minority group in obtaining an SBA loan for the purpose of financing a restaurant operation recently purchased by this group. This business was purchased with the understanding that help would be readily available through an agency known as OMBE and its affiliate Suncoast Business Development in Tampa.

With this in mind, we presented a complete proposal along with an appraisal of the property to this particular agency. This was months ago. In the meantime, the restaurant is open and operating, somewhat successfully although in desperate need of these funds. We were promised repeatedly help from Suncoast but in the past several weeks they have refused to answer our telephone calls or respond in any way at all.

Following their total lack of cooperating, we contacted Mr. Swarez of OMBE in Miami, Florida. Mr. Swarez advised us he would talk with Mr. Iwaniec and make sure he contacted us. Again no answer. Mr. Swarez also advised that we should contact Mr. Charles McMillan of the Office of Minority Business Enterprise, Atlanta, Georgia. We left word for Mr. McMillan to call us and again no response.

It appears that there is a total lack of interest in these agencies in helping a minority group or that perhaps your entire system has broken down. I feel at this point an answer is deserving from any one or all of you. I frankly can not understand this total lack of interest in helping, considering the social and economic problems of this country today.

For your information, the names of the intended recipients are Man Chiu Cheng and Kai Chu Lam. Both are hard working individuals who felt that the federal government would have enough consideration to help them in their new venture.

An early reply would certainly be appreciated. As the two gentlemen above mentioned have a definite communication problem, we have tried to act as a go-between here; although we certainly would be glad to stand aside should you wish to try to contact them directly. They can be reached at the Asia Restaurant and Bar, 6844 14th St. W, Bradenton, Florida 33505. In lieu of contacting them, please by all means, contact us.

Very truly yours,

MARVIN D. DEUITCH.

SHORELINE INC.,
*Sarasota, Fla., January 17, 1977.*

Mr. HUBERT WRIGHT,
*Project Specialist,*
*Office of Minority Business Enterprises,*
*Atlanta, Ga.*

DEAR MR. WRIGHT: This will confirm our telephone conversation last week regarding our problems with Suncoast Business Development Co. located at 5401 W. Kennedy Center, Suite 271, Tampa, Florida. We have enclosed a package of information which we supplied to Suncoast. We were promised by Suncoast a prompt and immediate response to an inquiry for an SBA loan on the Asia Restaurant & Bar owned by Man Chiu Cheng and Kai Chu Lam as they are both Chinese we felt they would qualify for a minority business loan. This response was made prior to them obtaining possession of the Asia Restaurant and Bar. Subsequent to this request and because of the long delay in hearing from Suncoast, they decided to go ahead and purchase the restaurant. We were advised at the time of the request that it would take 4–6 weeks before money could be made available to them.

Approximately 4–6 weeks after the request was made we contacted Suncoast and received no answer whatsoever and, in fact, later found out that we were not able to reach them by telephone at all. They would not answer or return calls to us.

Although our office would receive a commission for the sale we did not ask for a commission on the loan or any fee for helping them obtain same. Therefore, we had no interest in them obtaining this loan other than in seeing them successful in their new business.

If Suncoast had no interest in helping with the loan they should have said so at the time the loan was applied for and our party could have looked elsewhere. We would certainly appreciate some follow up from your office to find out what the problem is and to see if there is any way of obtaining an SBA loan for these people. They are hard working, intelligent and, I believe, good restaurant people. Should anybody be deserving of a loan of this type, I think they would be the ones.

---

SHORELINE INC.,
*Sarasota, Fla., January 17, 1977.*

MR. HUBERT WRIGHT: The funds requested will help them to pay for monies expended by them in making some of the improvements and in making a $20,000 cash payment due approximately April 1, 1977 as part of the purchase price of the restaurant. They have advised me that under their present volume they are making a little money but would have a great deal of difficulty accumulating enough money to make the April payment due. Your help in this matter would be greatly appreciated.

I cannot understand why Suncoast has been so derelict in their duties and why they handled this matter so poorly. We would appreciate hearing from you direct as to your follow up.

Very truly yours,

MARVIN D. DEUITCH.

---

U.S. DEPARTMENT OF COMMERCE,
OFFICE OF MINORITY BUSSINESS ENTERPRISE,
*Atlanta, Ga., January 27, 1977.*

Mr. MARVIN D. DEUITCH,
*Shoreline Realtors, Inc.,*
*Sarasota, Fla.*

DEAR MR. DEUITCH: This letter will acknowledge receipt of your recent correspondence regarding the Suncoast Business Development Corporation, in Tampa, Florida.

Our office has contacted Mr. Noble Sissle about assistance provided the clients and his communication with your office. He has assured us that his office will contact the clients directly for follow-up assistance on the loan package.

Further, we have requested a detail report of activities by Suncoast as it relates to past services rendered to Asia Restaurant and Bar.

Thank you for your letter and I am confident that Suncoast will provide the necessary management and technical assistance to the minority business.

Sincerely,

CHARLES F. MCMILLAN,
*Atlanta Regional Director.*

404 CONSTRUCTION CO.,
*Detroit, Mich., August 30, 1977.*

Subject: Selfridge Air Force Base procurement request.

Mr. ALAN J. GIBBS,
*Assistant Secretary of the Army,*
*Installations, Logistics and Financial Management,*
*Washington, D.C.*

DEAR SIR: Thank you for your letter dated August 24, 1977.

I wish to take this opportunity to again refute the S.B.A.'s assessment of our firm along with the statement per your letter "that they had no firms in Detroit or the Region with this degree of management, financial and bonding capacity to meet these requirements." Therefore, I am requesting an investigation of the methodology used by the Army that permits the exclusionary practices of S.B.A. in regards to the Department of the Army Contracts with minority firms.

Also, I wish to appeal the process ued by your Department to dispose of my original objections to the way S.B.A. handled this particular case. I have been denied due process in that the Army has taken at face value the statement of those against whom the complaint was lodged. Neither the Army nor S.B.A. has made any effort to ascertain our financial, bonding, management nor resource capabilities. Is it not the responsibility of the S.B.A. 8(a) to assist the disadvantaged who have ability but lack the resources to compete successfully with the established economic structure? Is it not the duty of the Army to give priority to firms in a local surplus manpower area? Do you believe that no local minority firm is capable of even being considered for the Selfridge Air Base project?

I think you do us a disservice in accepting the false statement of S.B.A. without an impartial gathering of the facts.

Please consider this as our formal appeal from your decision and findings. Request your immediate reply.

Sincerely,

AVIS E. HOLMES, *President.*

---

404 CONSTRUCTION CO.,
*Detroit, Mich., August 29, 1977.*

Mr. EDWARD H. LEWIS,
*Associate Administrator, Procurement Assistance, U.S. Small Business Administration, Washington, D.C.*

DEAR SIR: In response to the letter dated August 15, 1977, I would like to raise several issues and formally reject the findings and procedures utilized by the Detroit District Office and the Chicago Regional Office as being unfair, discriminatory, ludicrous and totally based on the inadequacy of the Small Business Administration's procedural guidelines and personal assistance to assure applicant compliance.

The whole concept of the Small Business Administration was to assist minority and disadvantaged enterprises to compete realistically in a white-orientd capitalistic based economic structure. This concept seemed to be purposely undermined by the illusive and stalling practices of the Detroit and Chicago offices.

From the day of our initial application until today, 404 Construction Company has not been advised nor apprised of minimum standards, requirements, or capital levels. No one can be expected to submit the type of application worthy of approval in proper content and form unless he/she is knowledgeable of the steps and procedures to follow. Overt failure by the Small Business Administration offices aforementioned lends support to my observation that S.B.A. had no real intention of aiding minorities, and black women, but rather sought only to be an instrument of pacification and delay.

Your assessmet of our capabilities is not based on fact and therefore are misleading and professionally damaging to the reputation of the principals of this organization.

It should be noted that S.B.A. is not supposed to block a firm's entry into the 8(a) Program because it cannot be definitively established the exact size of contracts the firm can be expected to perform. The S.B.A. should be about the business of certifying companies and helping them find suitable contracts. However, the 404 Company is prepared to find work for itself if need be.

Our application was submitted prior to the July 20, 1977 Moratorium, and prior to the award of the Selfridge Air Force Base procurement. It appears that a deliberate attempt may have been made to prevent a local 8(a) firm's partici-

pation in that business opportunity. Accordingly it appears that many companies currently enrolled in the program and benefitting therefrom are in violation of the inclusion limitational period and the intent of the act. If these firms had been dealt with equitably, other minority businesses could have an opportunity to participate.

Therefore, please consider this letter as our formal appeal of your decision to deny 8(a) status, and thereto we request a hearing forthwith. Please reply at once.

Respectfully,

AVIS E. HOLMES, *President.*

---

POOLE AND KENT CO.,
*Miami, Fla., August 16, 1977.*

Re SBA/Singleton Construction Co., FAA Jacksonville, Fla., Contract No. DOTFA73-SO-7071.

Hon. LAWTON CHILES,
*Miami, Fla.*

DEAR SENATOR CHILES: I would first like to compliment you on the fine job you and your committee did in exposing the irregularities conducted in the SBA program for helping minorities. Friends and business constituents sent us newspaper clippings throughout the Southeastern United States concerning the investigation.

It was interesting to note that in most of the findings, white business men used subterfuge with black minorities to qualify for SBA grants and contracts to reap excessive profits; however, in the case of Robert Singleton of Jacksonville, Florida, the exact opposite happened. Mr. Singleton, as you well know, is an honest qualified sincere black minority contractor who performed an SBA contract at the FAA project in Hilliard, Florida. He completed the contract at a severe financial loss and because of this contract is on the verge of bankruptcy.

I am sure you are also aware of the fact that Mr. Singleton has been trying for three years to get some relief from SBA or any other governmental agency to help in the losses he has incurred on his SBA contract. He has been receiving promises of financial aid in the form of BDE money for three years but as yet has not seen one additional penny from anyone.

As the investigation has proved, the SBA contract has ruined Mr. and Mrs. Singleton both financially and healthwise. This is all a matter of record.

Frankly, Senator Chiles, we are writing this letter pleading with you to help Mr. Singleton. We do not know, nor does Mr. Singleton know, who to turn to in this unfortunate situation. He continues to get promises of help from everyone but promises do not pay bills, put food on the table or provide you with money for mortgages and every other necessity that we all have to endure today. Mr. Singleton has been patient and has put his trust in many, many people including yourself but he has now contacted us pleading for help so hat he may stay in business and remain a good tax paying citizen.

We would appreciate anything you could do for Mr. Singleton as far as putting him in touch with the proper people, helping him directly yourself or any other suggestions you may have. The Poole and Kent Company honestly does not know any way to help Mr. Singleton without the direct paying of financial aid to him. We hardly think this is fair under the circumstances that the SBA has gotten Mr. Singleton into this dilemma and we feel should help him to at least survive.

We urgently request your help and will sincerely appreciate any assistance you may offer to Mr. Singleton. It's a shame to see a person of Mr. Singleton's integrity be penalized so severely when other participants of the SBA program reap huge profits and were dishonest with the program and the government of the United States.

Your reply will be sincerely appreciated.

Very truly yours,

WILLIAM W. THOMAS.

---

MOSELEY WOODCRAFT, INC.,
*Austin, Tex., July 6, 1977.*

Hon LAWTON M. CHILES, Jr.,
*U.S. Senator,*
*Washington, D.C.*

DEAR MR. CHILES: I applaud your efforts in the investigation of the Small Business Administration's 8a Program. Our firm has been a qualified 8a contractor for two years and as yet have not had one contract. The response when asked

about contracts for our firm is always "There is nothing in our area", though our firm is the only minority firm that manufacture our kind of product in this area. Also in the past year I have collected articles of several contracts either up for bid on open market or that was awarded that are definitely products we can manufacture; also we are located in an area surrounded by military installation where procurement occurs daily (I'm sure) especially in the San Antonio area which is where the S.B.A. office for our region is located. Certainly I would like to know just who is getting 8a contracts and what area of product are they supplying? How can I get more information that would help our firm get 8a contracts?

I certainly hope that your investigation will receive whatever support is necessary to get answers to the question of many 8a contractors who are in our condition.

Will you send me the names of the other congressmen working with you on this investigation also will you keep me up to date on the results.

Yours very truly,

ARTHUR C. MOSELEY.

---

STATEMENT OF QUENTIN S. TAYLOR, DEPUTY ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

Mr. Chairman and members of the subcommittee, over the past few weeks there has been much information in the press concerning the operation of the Small Business Administration's Section 8(a) Program. I was pleased to learn that your Subcommittee was holding hearings on the administration of this important program. Because of my close association with the 8(a) Program from its very inception and the tangible ways in which I have observed it assist minority and other disadvantaged persons over the years, I want to add my personal support for the continuation of the Section 8(a) Program.

While there are indications that there may have been abuses in the administration of the 8(a) Program, it is my belief that the benefits to persons who have been helped by the program far surpass the abuses which the program has experienced.

Throughout the United States there are significant numbers of highly specialized and qualified minority business persons in all fields of endeavor who for a long time had been shut out of participation in government programs due to their disadvantaged status. Many of them are now performing important jobs for the Federal Government—and doing them well—but would still be out in the cold had it not been for the Section 8(a) Program.

The Section 8(a) Program has not only provided minority firms with enormous opportunities to demonstrate their capabilities and excellence but has enabled them to earn reasonable profits from their efforts. It has also brought dignity to minority entrepreneurs. After all, not only are minority business persons interested in making profits, but they are equally as interested in knowing that their abilities are recognized and respected.

In over 15 years as an FAA employee, I have had a unique opportunity to observe the Section 8(a) Program. From 1969 to 1971, as Director of Civil Rights for the Federal Aviation Administration, I worked very closely with the 8(a) Program. During that period it was my observation that, although a limited number of minority firms were included in the Agency's contracting process, the participating firms were mainly those engaged in janitorial and related types of non-technical services. The resulting dollar awards to minority firms during those years, due to the restricted areas of participation, were extremely low.

In 1970, for example, of some $230,000,000 in total FAA procurement only $713,559 went to minority firms. With the inception of the Section 8(a) Program, the dollar awards to minority contractors and firms grew appreciably. I should point out, Mr. Chairman, that not only did the awards to minorities grow in terms of dollars, but the sophistication of the firms participating in FAA programs also grew subsantially.

After 1970, we began to see minority construction engineers, architects, computer systems analysts, experts in noise abatement, and firms engaged in other aspects of research and development. The work they have performed has contributed significantly toward helping us in promoting aviation safety.

The excuses often used to exclude minority firms and entrepreneurs from government contracts are that (1) minority firms are not qualified or (2) we cannot find any minority firms. Through an extensive outreach program in FAA from 1970 on, we did find large numbers of minority contracts, qualified in many

facets of work that FAA was performing, and we awarded them sizeable contracts for technical and scientific projects under the 8(a) Program. Contracts awarded under the FAA-wide Minority Business Program were as follows:

| Year | Total FAA procurement | Minority awards | Percent |
|---|---|---|---|
| 1970 | $363, 351, 000 | $713, 559 | 0. 196 |
| 1971 | 322, 846, 000 | 2, 389, 717 | . 74 |
| 1972 | 318, 787, 000 | 5, 142, 000 | 1. 6 |
| 1973 | 266, 051, 000 | 26, 957, 000 | 10 |
| 1974 | 268, 115, 000 | 9, 913, 000 | 3. 7 |
| 1975 | 309, 760, 000 | 18, 720, 000 | 6. 1 |
| 1976 | 391, 579, 000 | 22, 294, 000 | 6. 7 |

As the above statistics reflect, our awards to minority contractors reached a zenith of $26,957,000 in 1973. This peak was reached as a result of the modernization of six Air Route Traffic Control Centers constructed by minority contractors around the country that year, the cost of each facility averaging between two and one-half to three million dollars. These Centers were established to give added control over aircraft engaged in long distance flying, and to provide the necessary safeguards for aviation safety. I should add that these construction projects were carried out by minority contractors with a great degree of expertise and professionalism. A limited number of propects were carried out through joint ventures with majority firms which also proved to be worthwhile and rewarding for our minority contractors. Had it not been for the provisions of Section 8(a), we probably would not have been able to discover these talened contractors.

Since the inception of our Minority Business Program, we have discovered minority contractors across the board in scientific and technical areas. For example, there are minority contractors engaged in weather data collection and analysis who have developed sophisticated technical systems to provide instantaneous weather information to inflight pilots. Minority contractors have proven to be among the best in the filed of runway preparation and paving. Minority contractors are also performing work under FAA contracts in the area of minicomputer operation and analysis. There are also minority firms engaged in the manufacture and supply of radar and electronic components which we use in our highly sophisticated Air Traffic Control System. The role of the minority contractor in all facets of FAA programs has in recent years been significant.

Although grant programs are not legally covered by the Small Business Act, the Section 8(a) Program has given strong impetus to Federal grant recipients for including minority firms in projects being carried out by those recipients. There are spin-off programs as well from the Section 8(a) Program such as the Subcontracting Construction Programs, Minority Banking Program, and programs conducted under the Airport and Airway Development Act of 1970, as amended.

In the same spirit that the Section 8(a) Program was conceived, the Congress included in the 1976 amendments to the Airport and Airway Development Act of 1970, a special provision, Section 30, to help assure adequate participation by minority firms and minority entrepreneurs in activities using funds provided grant recipients under this Act.

I firmly believe that the Section 8(a) Program has been one of the most helpful pieces of economic legislation to minority business enterprise enacted by the Congress in recent years. Despite the problems encountered, and perhaps because of them, the Program should be strengthened and broadened rather than weakened.

Based on my knowledge of the amount of assistance that has been rendered to minority firms through the Section 8(a) Program since its inception, I am convinced that Section 8(a) has served as a vital economic stimulus to the national economy.

We in the Federal Aviation Administration have faith and confidence in the Section 8(a) Program and in the minority entrepreneurs that have contributed, and are continuing to contribute, so effectively to the critical safety mission of the FAA.

We hope that the Congress will not only continue the Section 8(a) Program but will seek meaningful ways in which the Program may be improved and expanded. I firmly believe that innocent minority contractors, who are the intended beneficiaries of this Program, should not be penalized for abuses that may have

occurred with the Program. The Section 8(a) Program has been an important tool for administrators of government programs to use in bringing about equality in government spending and, based upon my personal experience with the Program, it has in fact proven to be a great "equalizer."

---

CHEMICAL TECHNOLOGY, INC.,
*Washington, D.C., September 15, 1977.*

Subject: Emergency help for a small business.

Mr. BOB HARRIS,
*Deputy Staff Director, Senate Subcommittee on Federal Spending Practices,*
*Washington, D.C.*

DEAR MR. HARRIS: Our small Company is in a state of crisis, as described in the enclosed letter to the new SBA Administrator dated September 2, 1977.

It is now September 15 and we have not succeeded in getting high level interest at SBA in our problems, or a satisfactory response to our presentation.

We keep getting delegated back to the SBA staffers who have caused our problems—and of course, they merely keep defending their actions and keep telling us "we are sorry."

To survive, CTI needs three things:

(1) A moratorium on SBA taking contracts away from us for their 8–A Program, to our detriment;

(2) An SBA direct loan; and

(3) A declaration that CTI has become economically disadvantaged due to the adverse impact of SBA programs; and a remedy, which would be to certify CTI as a *recipient* of 8–A support.

Can you help, please? We sure would appreciate it.

Sincerely,

WILLIAM L. DEVRIES, *President.*

---

CHEMICAL TECHNOLOGY, INC.,
*Washington, D.C., September 2, 1977.*

Re Emergency assistance for a nonminority small business.

Mr. A. VERNON WEAVER,
*Administrator, Small Business Administration,*
*Washington, D.C.*

DEAR MR. WEAVER: Our small Company, CTI, has been thrust into a state of crisis due to the SBA 8–A Program and other factors which have adversely impacted on our ability to survive. Your emergency help would be greatly appreciated.

INTRODUCTION

CTI was formed in April, 1973, with $40,000 initial equity capital. The mission of the Company was (and is) to compete for government and commercial contracts in four areas: kitchen police, guard services, janitorial services, and temporary help services. CTI management is college-educated and several CTI executives have had over 10 years successful operating experiences in these fields prior to forming the new Company. CTI employees are nearly all low socio-economic and minority persons.

Now, four and a half years since starting, CTI has survived a multitude of serious obstacles and has developed a superior service—as evidenced by the enclosed testimony (Exhibit #1)—but has generally been unsuccessful in the marketplace. Sales have gone from zero to over $230,000 per month then down to $100,000 per month, and are currently plummeting. Sales will drop to $12,000 per month in December, 1977. (See enclosed Bar Chart, Exhibit #2).

Emergency action is needed to save our Company.

THE PROBLEMS

1. The SBA 8–A Program has severely impacted on CTI, causing substantial loss of sales volume and weakened ability to compete. Sales have dropped from a high of $2.2 million (annualized) to present level of $1.3 million. No new contracts have been won by CTI since May, 1977, and 90 percent of our present contracts either expire September 30, 1977, or are to be converted to SBA 8–A on that date, leaving CTI virtually bankrupt.

As shown on the attached Exhibit #3, over 70 percent of the government contracts awarded to CTI have been converted to 8–A. Several of CTI's con-

tracts were converted to 8–A prematurely and in apparent violation of SBA's own rules and regulations. Our vigorous protests have had little impact.

CTI aggressively sought to replace business lost to the 8–A Program by obtaining new contracts via competitive bidding. But some of these new contracts were also converted to 8–A.

For example, at March Air Force Base in 1976, CTI was under consideration for a $340,000 contract award. Then to our surprise, the entire procurement was cancelled and awarded to an 8–A company belonging to Art McZier (former head of the SBA 8–A Program under the Nixon Administration) at a price over $100,000 higher than ours.

As the number of 8–A companies entering the government service contract marketplace has increased, CTI's competitive problems have worsened: partly because 8–A companies are compelled to bid for competitive contracts in order to demonstrate to SBA their progress and worthiness to keep getting extended in the 8–A Program. It is no secret that many affluent 8–A companies would merely "buy-in" a competitive contract and subsidize it from the excess profits generated from its 8–A Program (see attached Exhibit No. 4) and then persuade SBA to bail out the losses by increasing 8–A support . . . all to the competitive detriment of CTI and other legitimate non-minority small businesses.

Right now SBA is attempting to take an additional 31 percent of our sales into the 8–A Program (see Exhibit #5). Such action would kill our Puerto Rico Division, would fatally cripple our total operations, and would bankrupt our Company.

We believe that a careful review of this letter and attached exhibits demonstrate how CTI's non-participation in the SBA 8–A Program has been to its detriment.

2. A second factor contributing to CTI's demise is the proliferation of powerful non-minority and minority "sponsors" of "front" 8–A companies which dominate the "small business set-aside" marketplace and are guilty of "dumping" (i.e., deliberately underselling so as to kill off legitimate small business competitors).

A loophole in the SBA 8–A regulations allows some 8–A companies to be considered "small business" regardless of their large-sized 8–A contracts or other affluence which would normally exclude a company as "small" under SBA size standard regulations. This loophole says (paraphrased) that companies which sponsor 8–A companies do not have to declare the sales of the 8–A sponsoree in a size standard determination of the sponsor. The impact of this loophole is that a sponsor earning $12 million in "consulting fees" from his 8–A sponsorees can continue to bid in its own parent company name on "100 percent small business set-aside procurements" so long as its non-8–A revenue does not exceed the SBA size standard. Theoretically, the combined sales of a "small business" sponsor and its 8–A sponsorees might be $30 million per year, yet the sponsor could still be certified as an SBA "small business."

The above problem is magnified when a "large business" masquerades as a "small business" and also sponsors other 8–A companies. For example, on information and belief, there are several medium-sized or large service business "sponsors" with non-8–A sales volumes of over $20 million per year which have structured their organizations such that their affiliations with their own non-minority subsidiaries are concealed to the extent that each subsidiary can qualify as a "small business" under the SBA set-aside program.

Although other small businesses have the right to protest such activity, it is very difficult for a legitimate small business to have the resources to go about investigating its competition to the degree necessary to prove covert violation of SBA regulations. Yet, the impact of these large businesses, which operate in the total small business set-aside procurement environment, is devastating to legitimate small businesses.

The economies of scale, which are available to large businesses, allow them to operate at much lower cost and much greater efficiency than legitimate little businesses, and they can underbid the little businesses on competitive "small business set-aside" procurements.

Thus, the large business "sponsor," which can carefully capitalize on all of the regulatory loopholes, has the best of all worlds: (1) its large organization and economy of scale allows it to submit hundreds of highly competitive "small business set-aside" bids under various "small business fronts"; (2) contracts won competitively can often be converted to its own 8–A "front" companies at considerably higher prices; (3) its 8–A "fronts" can also bid competitively and generate additional business; and (4) the affluent parent "small business" can *buy-in* choice large contracts to kill off competition and then convert the loss

to a profit for one of its own 8–A companies by converting the contract to the 8–A Program. For example, on information and belief, in 1975 Fort Lewis, Washington, awarded a $2 million KP services contract at a price which was substantially below our cost . . . and within eight months the contract was converted to 8–A by the incumbent contractor.

Similar examples abound. In the aggregate, both CTI and the marketplace have been harmed by such actions.

3. A third factor contributing to CTI's demise is its inability to get working capital. While CTI is very grateful to SBA to have received a SBA participation loan in 1974, no lender since that time has been found who will make even short-term loans to CTI. This is because SBA has a senior blanket assignment on all of CTI's assets, as part of the SBA loan agreement.

CTI's sales doubled since receiving the loan in 1974 while its working capital declined due to scheduled installment repayments of the loan . . . leaving CTI strapped for cash to meet rising payroll and/or start-up costs on new contracts. Yet, when CTI applied to SBA for a loan increase in 1976 and 1977, the loan increase was denied.

To make things worse. in November, 1976, GSA requested a Certificate of Competency on CTI to award of a new contract, but withdrew the request and made award to CTI on the strength of a phone call from SBA indicating that our new loan would be approved. The SBA loan was not approved and CTI got stuck with a contract it could not afford to finance.

CTI's inability to exercise sound cash management via short-term and long-term borrowing has had a crippling effect on our Company.

Now, however, new evidence merits re-opening CTI's loan request on an emergency basis at this time.

4. Lastly, CTI's own naive, inexperienced management must be called to task for its mistakes in identifying and solving business problems.

We have made numerous, serious mistakes. Yet, in point of fact, today, after four and a half years in business, CTI has achieved its best chance for succeeding due to the installation of a sophisticated, new cost-accounting system, the implementation of new systems and procedures, and the seasoning of CTI's management staff. CTI appreciates the management assistance rendered to it by SBA, via SCORE, ACE, various management aids, publications, and student management programs.

## THE EMERGENCY SOLUTION

A. We respectfully request re-examination of CTI's loan application and in light of the current emergency, authorization of a direct loan to CTI in the amount of $360,000.

B. We request that CTI be certified as an "economically disadvantaged" small business, eligible for participation itself in the SBA 8–A Program. We believe the factors shown in our presentation here demonstrate CTI's imminent eligibility. Then, the pending 8–A conversions at this time could be converted to 8–A and sub-contracted to CTI itself as the SBA 8–A sub-contractor. These moves would allow CTI to pull itself up by its own bootstraps and survive.

## SUMMARY

We have a number of creative suggestions to offer which may be of interest to the new administration at SBA. We plan to submit these suggestions, under separate cover, to your Deputy Administrator, Patricia M. Cloherty, who has asked for recommendations. Further, we would welcome an opportunity to discuss potential solutions personally with you.

The recent Chiles Sub-Committee hearings showed that, in many respects, well-meaning programs of the Small Business Administration, which were designed by fair and reasonable men for the benefit of struggling little businesses, have—in the past—been misapplied such that a privileged few received astounding benefits under some SBA programs often at the expense of the legitimate little businesses for whom the programs were really designed. We appreciate the positive and aggressive stands you have taken in attempting to correct problems which occurred before you entered the picture at SBA.

## CONCLUSION

CTI has been rendered critically economically disadvantaged, to a large extent, by the very SBA programs designed to assist small business. Unless CTI receives emergency help from SBA, the Company will be in bankruptcy by the

end of this month and the undersigned, as well as its 300 mostly low-economic minority employees, will suffer substantial financial hardship.

Your review of our case would be greatly appreciated.

Sincerely,

WILLIAM L. DEVRIES, *President.*

---

EXHIBIT No. 1

DEPARTMENT OF THE ARMY,
HEADQUARTERS COMMAND, USAQMCENFL,
*Fort Lee, Virginia, August 24, 1977.*

Thru: Director, DIO,
Attention: ATZM–DI–P&C (Mr. Johnson),
Fort Lee, Va. 23801.

To: Honor Guard Security Service,
Div. of Chemical Technology, Inc.
Suite 217, 910 17th Street NW.,
Washington, D.C. 20006.

Your company has been under contract with Fort Lee to provide guard service for the Ammunition Supply Point (ASP) for about one and a half years. On behalf of the Fort Lee Commanding General, I want to take this opportunity to bring you up to date on their job performance.

Through Captain Martin's efforts, we have been able to develop a workable set of special orders for the guards to follow. The guards take their jobs seriously and are able to perform their duties very well. The guards are courteous to everyone they deal with and are still able to do their jobs in a professional way. They are knowledgeable in their jobs which provides the proper level of security required at the ASP always. Their uniforms and appearance are above reproach. We are more than pleased with their cooperation and performance to date.

I want to mention that recently a Pentagon Intelligence Force tried to gain access to the ASP. The guards prevented their entry during a night time exercise. Quick thinking, adherence to the guards instructions and firmness kept the ASP secure.

I hope that the good work of your employees continue into the future.

WILLIAM E. MCCURRY,
*Major, OMC, Commander.*

EXHIBIT No. 2

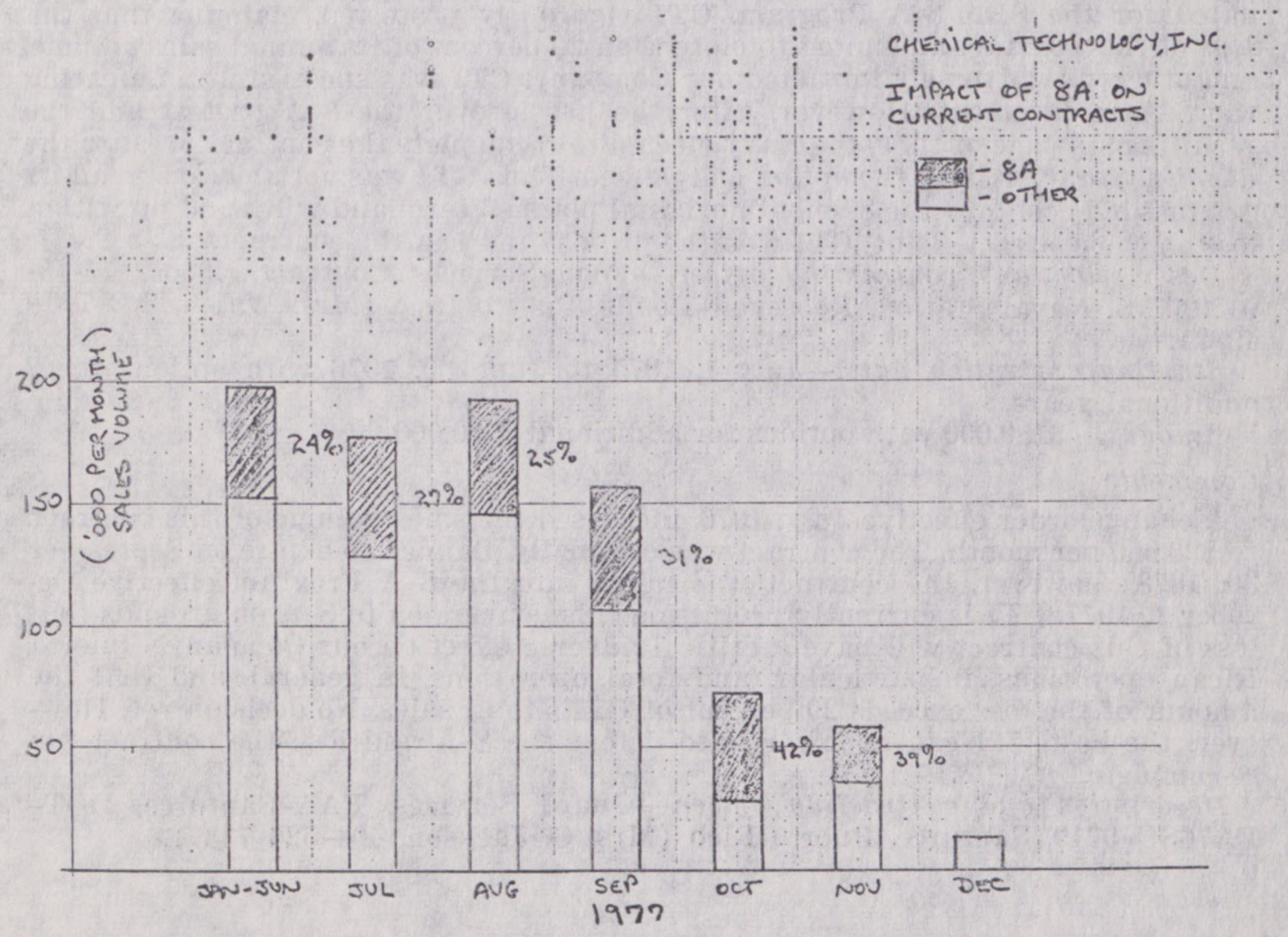


EXHIBIT No. 3

COMMENTS ON PROTESTS/CONTRACTS LOST TO 8–A PROGRAMS/8–A CONTRACTORS

*Description and contracting officer.*—Guard Service, DOT–FA74WA–3468, Federal Aviation Administration—Nationwide (Mr. Jim Thompson 202–426–3089).

*Starting/expiration date.*—July 1, 1974 to September 30, 1975.

*Amount.*—$1,080,000.

*Comments*

CTI was the incumbent contractor on the above contract for one year and 3 months. The contract involved rendering guard services at 26 different sites in the United States, Puerto Rico and Panama. CTI satisfactorily performed. At the end of the contract term, FAA decided to carve up the contract into little pieces, converting most of it to 8–A guard service contracts and re-competing the remainder. CTI retained only $96,000 the following year.

*Descriptiion and contracting officer.*—Food Services Contract, F02604–90241, Luke AFB, Ariz. (Lt. Jump, 602–935–7411).

*Starting/expiration date.*—July 20, 1975 to September 30, 1976.

*Amount.*—$280.000.

*Comments*

This contract was originally designed as a 12-month contract with option for additional 3 months. At the end of 12 months, the contract was cancelled and converted to 8–A at a price of approximately $450,000. CTI vigorously protested the taking of this contract into the 8–A Program because of the adverse impact on CTI's total sales. After inclusion of the value of pending change orders the loss of Luke represented over 20 percent of CTI's annual sales. CTI lost the protest and the contract.

*Description and contracting officer.*—Food Services Contract N00123–75–C–1441, Naval Construction Battalion Center, Port Hueneme, Calif. (Capt. Hagadorn, 213–547–8430).

*Starting/expiration date.*—July 1, 1975 to July 30, 1976 with options for 2 additional years.

*Amount.*—$260,000 with options for additional $520,000.

*Comments*

This contract was recently cancelled after 2 years and 3 months and nominated for the SBA 8–A Program. CTI vigorously protested, claiming that the loss of this contract amounted to more than 20 percent of its annual sales volume, and otherwise adversely impacted our Company. CTI was successful in defeating the 8–A requirement. However, after the hassle over the 8–A protest and the resulting slippage of time, the Navy elected to recomplete the contract because the deadline for exercising the option had passed. Thus CTI was not able to spread its original bid cost over the 39-month original planned term and will wind up with a loss on the contract. Thus, CTI won the protest and lost the contract.

*Description and contracting officer.*—Food Services Contract N00612–75–C–0189, U.S. Naval Station, Roosevelt Roads, Puerto Rico (Mrs. Walsh, 803–743–4982).

*Starting/expiration date.*—July 1, 1975 to June 30, 1976 with options for 2 additional years.

*Amount.*—$180,000 with options for additional $360,000.

*Comments*

A change order effective July, 1976, increased the sales volume of this contract to $23,000 per month. The contract was originally planned to expire on September 30, 1978; however, the contract was taken into the 8–A Program effective October 1, 1977. CTI is currently protesting this conversion to 8–A on grounds that loss of this contract will have a critical adverse effect on our Company's Puerto Rican operations, in particular, and total operations, in general, and that the amount of the loss exceeds 20 percent of CTI's total sales. No decision yet. However, the best CTI can hope for is to defeat the 8–A and lose the contract for re-complete.

*Description and contracting officer.*—Guard Services, FAA–Santurce, DOT–FA76SO–9719, Santurce, Puerto Rico (Mrs. G. Jackson, 404–526–7337).

*Starting/expiration date.*—October 1, 1975 to September 30, 1976 with option for 1 additional year.

*Amount.*—$67,000 with option for additional $71,000.

*Comments*

This contract has recently been proposed to be converted to the SBA 8–A Program. The loss of this contract when combined with the loss of the above-named food service contract, also in Puerto Rico, constitutes nearly 30 percent of our total sales volume and constitutes over 90 percent of the sales of our Puerto Rico division. Thus, CTI is protesting this conversion. No decision yet.

*Description and contracting officer.*—Food Services Contract DABT19–76–D–0028, Fort Leavenworth, Kans. (Mr. Jewell, 913–684–2532).

*Starting/expiration date.*—December 1, 1975 to September 30, 1976.

*Amount.*—$70,000 with option for additional $160,000.

*Comments*

This contract, when bid, was proposed as a one year contract with options from two additional years. The options were not accepted, but instead the contract was turned over to 8–A to the Chester Lewis Company. CTI protested vigorously, alleging that the premature canceling of this contract did economic injury to CTI and also the fact that the Chester Lewis Company was a sponsoree of Toombs & Son, a large business with multiple sponsorships. CTI lost the protest and lost the contract.

*Description and contracting officer.*—Janitorial Contract GS–06B–13992, GSA, Kansas City, Mo. (Mrs. Ida Usted, 816–926–7078).

*Starting/expiration date.*—July 1, 1976 to June 30, 1977.

*Amount.*—$264,910.

*Comments*

This contract was awarded to our minority manager, who apparently worked up his 8–A proposal while he was in our employment and in possession of our Company's confidential operating data. The award price under 8–A was $125,000 higher than our competitive bid price.

*Description and contracting officer.*—Custodial Services DAEA08–77–C–0006, Ft. Ritchie, Md. (Site R)—(Mr. Russell Blair, 878–5584).

*Starting/expiration date.*—October 1, 1976 to September 30, 1977.

*Amount.*—$43,186.

*Description and contracting officer.*—Custodial Services, DAEA08–77–C–0005, Ft. Ritchie, Md. (Base) (Mr. Russell Blair, 878–5584).

*Starting/expiration date.*—October 1, 1976 to September 30, 1977.

*Amount.*—$83,894.

*Comments*

We have been advised by the contracting officer that the above contracts have been nominated for 8–A, effective October 1, 1977. The 8–A contractor selected is Office Cleaners of Washington, D.C. . . . a company which has received long and generous 8–A support for many years. CTI is currently protesting these actions. No decision yet.

*Description and contracting officer.*—Janitorial Subcontract DABE31–73–C–4037, at Ft. Sill, Okla. (Mr. Jack Rylant, 405–351–2869).

*Starting/expiration date.*—July 1, 1973 to January 31, 1976.

*Amount.*—$1,060,000.

*Comments*

This contract was a $360,000 per year contract with options for two additional years. At the end of the term, the contract was re-competed and was awarded competitively to an SBA 8–A contractor at a price $175,000 cheaper than CTI's bid price, a dramatic price difference. The 8–A contractor was Triple S Service/Blueford Services which was the incumbent contractor at the same military base on a $2 million per year KP services contract. It was our unsupportable claim that this 8–A contractor "bought" the competitive contract at below cost and subsidized it from his lucrative KP contract. CTI protested to the contracting officer without success.

*Description and contracting officer.*—Janitorial Contract DABT51–74–C–0007, at Fort Bliss, Tex. (Ms. Beatrice R. O'Connell, 915–568–2780).

*Starting/expiration date.*—August 1, 1974 to December 31, 1975.

*Amount.*—$595,000.

*Comments*

CTI successfully performed this competitive contract for one year. The contract was re-competed and awarded to one of the largest 8–A "front" contractors in the history of the SBA 8–A Program: Best Services, Inc. Best's price was under CTI's price by approximately $100,000. CTI mounted a massive protest against Best Services before the SBA Size Appeals Board, alleging that Best was a "front" of Worldwide Services of Smithville, Tennessee, and that both companies were large businesses ineligible to participate in any small business set-aside procurement. To our chagrin, after four months of deliberations, the SBA Size Appeals Board wrote a narrow opinion proclaiming Best Services to be a large business for future procurement and was completely silent on the matter of its affiliation with Worldwide Services and silent on the size status and eligibility of Worldwide. Further, to our disappointment, the SBA Regional Office in Atlanta re-certified Best Services as an eligible small business within two weeks after the SBA Size Appeals Board decision! Thus CTI lost the protest and lost the contract.

*Description and contracting officer.*—Guard Services, DABT–76–B–0013, Fort Lee, Va. (Mr. C. H. Johnson, 804–734–4308).
*Starting/expiration date.*—May 1, 1976–April 30, 1977 with options for 2 additional years.
*Amount.*—$75,600 with options for additional $152,000.

*Comments*

In March 1977, the contracting officer informed us that our contract would be cancelled as of April 30, 1977 and would be converted to the SBA 8–A Program by the Richmond area office of SBA. We protested vigorously on grounds that the 8–A decision was premature because our contract had options for two additional years. We succeeded in forestalling the 8–A decision but were only able to negotiate a one year extension to that contract, which is currently running.

*Description and contracting officer.*—Food Services Procurement, F04605–76–09010, March AFB, Calif. (I. J. Brenner, 714–655–3227).
*Starting/expiration date.*—October 7, 1976 to September 30, 1977.
*Amount.*—$400,000.

*Comments*

CTI was the apparent low bidder after the two lower bidders were disqualified during pre-award surveys. CTI was advised by the Air Force that it was under consideration for contract award. The procurement was then canceled prior to the commencement date of the work and it was later learned that the contract had been converted to SBA 8–A and awarded to a company from Washington, D.C., headed by Art McZier (former national director of the SBA 8–A Program) at a price considerably higher than CTI's bid. Thus, CTI lost the contract.

*Description and contracting officer.*—Mess Attendant Services, N00612–77–B–0076, Orlando, Fla. (Ms. Anderson, 803–743–4982).
*Starting/expiration date.*—October 1, 1977.
*Amount.*—Approx. $1 million per year.

*Comments*

CTI recently protested this to SBA and contracting officer on the grounds that SBA's own regulations were violated by taking this job out of the competitive marketplace after advertising publicly for competitive bids. CTI lost the protest and lost the opportunity to bid. (See our Exhibit No. 5 telegram.)

EXHIBIT NO. 4

SMALL BUSINESS,
SERVICE CONTRACTORS ASSOCIATION,
*Washington, D.C., January 22, 1976.*

Re Recent hearings on the Small Business Administration programs.

Hon. GAYLORD NELSON,
*Chairman, Senate Small Business Committee,*
*Russell Senate Office Building, Washington, D.C.*

DEAR SENATOR NELSON: Thank you for this opportunity to submit testimony in connection with the referenced hearings. I am President of a small

business government services contracting firm which specializes in rendering contract guard services, contract janitorial services, and contract food services to military bases and federal installations. I also serve as the volunteer President of the Small Business Service Contractors Association, a group of similar small businesses.

One of the main goals of SBSCA is to help clean up the government service contract industry to ensure that a fair proportion of government contracts for various services are set aside and awarded to legitimate "small businesses"—as required by law and policy. At the present time some large businesses and conglomerates take advantage of technical loopholes in government regulations and masquerade as "small business" or as "minority-owned enterprise" in order to gain preference for contract awards.

One of the thrusts of SBSCA is to seek to call attention to companies which either illegally or unethically self-certify themselves to be "small business" on government procurements which are reserved for small busineses only, in hopes that SBA, the Congress, and the Justice Department will move to disqualify these companies from the legitimate small business marketplace.

SBSCA would like your committee to know that, in many respects, well meaning programs of the Small Business Administration, which were designed by fair and reasonable men for the benefit of struggling little businesses, are instead being misapplied such that a privileged few receive astounding benefits under the SBA programs often at the expense of the legitimate little businesses for whom the programs were really designed.

For example, on information and belief, there are several medium sized and in fact large service busineses with sales volumes over $20 million per year which have structured their organizations such that their affiliation with their own subsidiaries is concealed to the extent that the subsidiary can qualify as a small business under the SBA Set-Aside Program. Although other small businesses have the right of protesting such activity if discovered, it is very difficult for a legitimate small business to have the resources to go about investigating its competition to the degree necessary to prove fraud. Yet, the impact of these large businesses which operate in the total small business set-aside procurement environment is devastating on legitimate small businesses. The economies of scale which are available to large businesses allow them to operate at much lower cost and greater efficiency than legitimate little businesses and thus they underbid the little businesses on competitive "small business set-aside" procurements. Thus the big get bigger and the little get littler.

Allow us to provide you with some examples of economy of scale:

1. Many government services contracts now-a-days require bid and performance bonds. A successful large business can often buy a performance bond for 0.35 percent of the annual contract amount, whereas a struggling little business which must use the SBA bond guarantee program pays as much as 1.7 percent of the contract amount. Thus the little business pays quintuple the price paid by the larger business and can not hope to be the low bidder on a competitive procurement.

2. Large successful businesses can obtain money from banks at the prime rate which is currently in the 7 percent range. Our own company, for example, paid over 18 percent interest in its first year in business and currently pays up to 14 percent interest on borrowed capital. Again, this makes it very difficult to compete with the larger more successful businesses for contracts which must be awarded to the lowest bidder.

3. We know of one business with annual sales reported to be in excess of $27 million which has structured its associates and affiliates such that each represents itself to be a small business. Although we have protested this concern many times, we have not been able to pierce the veil of secrecy so as to prove that this is in truth a large conglomerate not a small business. Yet this company has a tremendous cost advantage over a legitimate small business. For example, if this $27 million company marks up costs only 2 percent, this would throw off $540,000 which could be used to support a first class home office staff complete with professional estimators, accountants, price analysts, and technical experts . . . all of which can be used to clobber the legitimate small business man in the competitive marketplace. On the other hand, a legitimate small business with an annual sales volume of only $1 million which marks up 2 percent over cost yields only $20,000, not enough to support even a one man home office staff to manage the entire company. The problem which SBSCA sees is that both of these entities are competing for the same "small business set-aside" procurements, and the big guy is winning every time.

We would urge your committee to empower SBA to expand its investigative activities so as to expose and eliminate these unworthy competitors. Then your committee must persuade the Justice Department to prosecute these cases, whereas now Justice is reluctant.

4. Another problem which adversely affects legitimate small businesses is the SBA 8(a) Program. As you know, this is the program which allows the SBA to award sole source procurements to minority owned businesses, often at greatly inflated prices well above competitive levels. I would like to make it clear that SBSCA is not opposed to the SBA 8(a) Program per se, and in fact several valuable members of SBSCA are minority firms which participate in the 8a Program. The problem with the SBA 8(a) Program, as we see it, is the fact that there has been an uneven hand in parceling out the 8(a) contracts and in administering them such that the program has impacted negatively on other legitimate little businesses which need and deserve as much help in getting started as the minorities need and deserve.

For example, one of our SBSCA members, a non-minority owned small business, operated an Army food service contract at Fort Meade, Maryland in 1973 at an annual competitive cost of $435,000 per year. This contract was taken over by SBA under the 8(a) Program and awarded to a minority firm at a price of $700,000 per year. The minority firm immediately hired away the incumbent manager and all of the employees of the predecessor contractor such that there was virtually no change at all in the operating personnel. The only real change was the huge potential profit which was generated for one small business at the expense of the other small business.

Since 1969, 8(a) transactions similar to our example have taken place hundreds of times all over the country. We believe it is fair to say that some of the 8(a) contractors have become so powerful, due to the lucrative 8(a) contracts that they have received, that they now have resources far superior to the legitimate small non-minority businesses who also compete in the small business set-aside marketplace.

Sometimes these 8(a) companies have the resources to "buy in" on service contracts whereas a legitimate struggling small business would not have the resources to do this. An example would be one of our SBSCA members which recently had several years experience as the incumbent contractor on a large janitorial procurement in Texas. Our member bid a price of $34,000 per month on the new solicitation this year but lost the competition to an 8(a) company which bid over $8,000 per month cheaper. Many knowledgeable people in the industry believe that there is no way that the 8(a) company can hope to perform this contract without taking a substantial cash-out-of-pocket loss. However, since it is reported that this 8(a) company is earning over $100,000 per month profit on its 8(a) contract, it can well afford to take a substantial loss in the competitive marketplace and still come out all right by strengthening its market position. The injustice, of course, is that the non-minority struggling small business bidder had no such $100,000 guaranteed profit to fall back on and thus would go bankrupt if it had bid the contract at a similar loss.

In another example, concerning a Virginia 8(a) company, on information and belief this company sustained a high loss on a competitive janitorial contract it won as the low bidder. Normally, such a company would go bankrupt after sustaining such losses, but SBA came to this firm's rescue making up for all losses by merely increasing the contract price on another 8(a) contract held by this firm. The injustice, of course, is that a non-minority firm in similar straits would receive no such help from SBA or anywhere else and in all likelihood go bankrupt.

We would also like to call your committee's attention to the GAO report "The Questionable Effectiveness of the SBA 8(a) Program" issued as a report to Congress by GAO in April 1975. Page 23 of that report addresses itself to non-minority owned companies which have profited handsomely by worming their way into the SBA 8(a) Program as partners with minorities, by consultants to minorities, and via the use of a "straw man" minority to front a so called "minority company" which is then controlled by a non-minority company behind the scenes.

One such non-minority consultant, designated as "Company A" in the GAO report, earns $2.5 million per year in "consulting" service fees from the captive 8(a) companies he himself created. This represents 15 percent of the sales of the—not one—but six different 8(a) companies which he indirectly controls.

Other similar enterprising non-minority "sponsors" of 8(a) companies are listed in the GAO report, and there are many more such companies which we know about but which are not contained in the GAO report.

The shocking fact is not only that the American tax payers have been bilked out of millions of dollars in excess procurement costs as a result of the "skimming" by non-minority "sponsors" of 8(a) companies, but nothing has changed as a result of the GAO report issued in April 1975. SBA has renewed nearly all of the "sponsored" 8(a) contracts for another year commencing in July 1975, and is currently developing additional contracts for these same sponsors.

Aside from the injustices noted above, another loophole in the SBA 8(a) Program which needs to be closed is the loophole which allows any 8(a) company to be considered "small business" regardless of its large size or other affluence. Further, this loophole says that companies which sponsor 8(a) companies do not have to declare the sales of the 8(a) sponsoree in a size standard determination of the sponsor. The impact of this loophole is that "Company A", in our example listed above, who earned $2.5 million in consulting fees from his 8(a) sponsorees can continue to bid in his own name on "100 percent small business set-aside procurements" even though the combined sales of his consulting company and its 8(a) affiliates might be $40 million, even $75 million per year!

The moral of the story is that a legitimate, struggling little business doesn't stand a chance against these affluent "large business" competitors.

SBSCA earnestly hopes that the Senate Small Business Committee will move forcefully to correct these evils which are gravely damaging the interests of legitimate small business companies.

Sincerely,

WILLIAM L. DEVRIES, *President.*

---

EXHIBIT No. 5

[Mailgram]

CHEMICAL TECHNOLOGY INC.,
*Washington, D.C., September 6, 1977.*

CHIEF PROGRAM DEVELOPMENT DIVISION,
SMALL BUSINESS ADMINISTRATION,
*Washington, D.C.*

As the incumbent contractor we hereby protest the Taking of the referenced contracts out of the competitive market place to be given sole source to a minority enterprise under the SBA 8(a) program. Such a decision would violate SBA's own regulations in that the current contracts and other contracts being taken from CTI for the 8(a) program represents more than 20 percent of this contractor's total sales volume and are therefore ineligible for taking by SBA.

Our company is a small business which is financed with SBA and SBIC loans. We have repeatedly lost business to the SBA 8(a) program to the extent that our viability is in serious jeopardy. Just last month we lost a $300,000 GSA janitorial contract in kansas city to 8(a). The 8(a) award price was nearly $100,000 higher than our price. In February 1977 we prematurely lost a $200,000 army KP contract at Fort Levanworth to 8(a) even though there was an option to extend the contract for one more year.

In July 1976, we prematurely lost a $230,000 KP contract at Luke Air Force Base to 8(a) even though there was an option to extend for another term. The Luke (8a) price was $440,000. In August 1976 our company was the apparent low bidder at March Air Force Base KP services yet this $400,000 procurement was cancelled after bid opening and was given into an 8(a) company headed by the former national director of the SBA 8(a) program, our price at March Air Force Base was $100,000 per year lower than the 8(a) award price.

Last month FAA, Atlanta notified CTI our FAA Santurce Puerto Rico contract was being shifted to the 8(a) program. This represents an additional loss of $90,000 per year in gross sales.

Currently SBA is attempting to shift the Navy Roosevelt Roads mess attendant requirement to 8(a) which is under contract option with CTI. This amounts to $300,000 per year loss.

The 8(a) candidate company is Office Cleaners of Washington, D.C., an 8(a) company which has already received generous support for many years under 8(a).

When will these reparations stop? Our company has lost so much business to 8(a) that we can no longer survive. Please review this matter and stop this unfair action immediately. A prompt reply would be appreciated.

WILLIAM L. DEVRIES, *President.*

[Mailgram]

CHEMICAL TECHNOLOGY, INC.,
*Washington, D.C., August 17, 1977.*

CHIEF, PROGRAM DEVELOPMENT DIVISION, SMALL BUSINESS ADMINISTRATION,
*Washington D.C.*

CTI protests the commitment of the FAA Santurce guard contract and the Navy Roosevelt Roads mess attendant services contract to the 8(a) program.

Both of these requirements are under contract option with CTI, FAA, Atlanta issued contract DOT–FA7680–9719 covering guard services in the amount of $90,000,000 and Navy Regional Procurement Office Charleston, S.C. issued contract N00612–75–C–0189 for mess attendant services in the amount of $276,000.00. The Navy contract extends through September 30, 1978 under option at a current monthly billing price of $23,000.00.

Withdrawal of these contracts for 8(a) violates SBA rules and severly impacts CTI. The aggregate value of these 8(a) offerings are $376,000.00 which is 34.1 percent of CTI gross sales.

CTI has spent considerable money, time and effort in developing the Puerto Rican market. Abrupt withdrawal of these contracts from CTI has a devastating effect on company survival.

Request immediate action by you to stop all effort of New York office to place Santurce guard and Roosevelt Roads mess attendant service programs under 8(a).

WILLIAM L. DEVRIES, *President.*

[Mailgram]

CHEMICAL TECHNOLOGY, INC.,
*Washington, D.C., August 17, 1977.*

NAVY REGIONAL PROCUREMENT OFFICE, NAVAL SUPPLY CENTER,
*Charleston, S.C.*

(Attn: Jamrogowicz and Anderson).

CTI protests the cancelation of referenced solicitation covering mess attendant services at Naval Training Center, Orlando Florida.

This requirement was committed by you to the competitive market place when it was synopsized in the commerce business daily during early July and the solicitation was mailed to prospective bidders July 27, 1977. Shifting the requirement to 8(a) at this time is uncautionable. This violates SBA's rules and procedures that prohibit placing the requirement under 8(a) after release of the IFB to industry.

The recent series of actions by your office to withdraw several non-personal service programs from competitive procurement impacts the small business community. The continued movements of these programs to selected 8(a) sources place us in other small business companies in an economically disadvantaged position. It places you in violation of your own procurement policies that state all procurements shall be made on a competitive basis to the maximum practicable extent to obtain the most advantageous contract for the Government.

Request immediate action by your office to re-issue referenced solicitation using the 8(a) program, there is cause for concern when a significant requirement within your department such as naval training center mess attendant services program is shifted to 8(a). This million dollar program is part of a select group of large complex DOD mess attendant contracts that require the expertise and capability of an experienced contractor to perform, your policy within DOD to assist the establishment in growth of small concerns under 8(a) should be followed using programs of a similar magnitude relating to the 8(a) contractor capabilities thereby allowing them to learn and become self sustaining when the SBA certifies an 8(a) company to perform a large complex contract for mess attendant services at the naval training center, we believe you in effect conclude the company is a competitive entity and not qualified for special help from the government.

Request immediate action by your office to re-issue referenced solicitation using competitive procedures, at the same time we request you suspend and cancel other 8(a) actions on significant mess attendant programs such as Roosevelt Roads Puerto Rico.

WILLIAMS L. DEVRIES, *President.*

[Mailgram]

CHEMICAL TECHNOLOGY INC.,
*Washington, D.C., August 11, 1977.*

NAVAL SUPPLY CENTER,
*Charleston, S.C.*
(Attn: Carol Walsh, Contract Administrator).

As the incumbent contractor we hereby protest the taking of the referenced contract out of the competitive market place to be given soul source to a minority enterprise under the SBA 8(a) program, such a decision would violate SBA's own regulations in that the current contract represents more than 20 percent of this contractors total sales volume and is therefore ineligible for taking by SBA.

Our company is a small business which is financed with SBA and SBIC loans, we have repeatedly lost business to the SBA 8(a) program to the extent that our viability is in serious jeopardy, just last week we lost a $300,000 GSA janitorial contract in Kansas City to 8(a), the 8(a) award price was nearly $100,000 higher than our price. In February 1977 we prematurely lost a $200,000 Army KP contract at Fort Levanworth to 8(a) even though there was an option to extend the contract for one more year

In July 1976, we prematurely lost a $230,000 KP contract at Luke AFB to 8(a) even though there was an option to extend for another year, the Luke 8(a) price was $440,000. In August 1976 our company was apparent low bidder at March AFB, KP services, yet this $500,000 procurement was cancelled after bid opening and was given to an 8(a) company headed by the former national director of the SBA 8(a) program. Our price at MARCH AFB was $100,000 per year lower than the 8(a) award price.

Last month FAA, Atlanta notified CTI our FAA Santurce Puerto Rico contract was being shifted to the 8(a) program, this represents an additional loss of $90,000 per year in gross sales.

Curently SBA is attempting to shift the Navy Port Hueneme mess attendant requirement to 8(a) which is under contract option with CTI. This amounts to $300,000 per year loss.

When will these reparations stop? Our company has borne more than its fair share of lost business to the 8(a) program, please review this matter and stop this unfair action immediately, please advise the name of the 8(a) candidate company. A prompt reply would be appreciated.

WILLIAM L. DEVRIES, *President.*

[Mailgram]

CHEMICAL TECHNOLOGY INC.
(Attn: J. Broomhead).
*Washington, D.C.*

OFFICER IN CHARGE,
NAVY REGIONAL PROCUREMENT OFFICE
LONG BEACH, CALIF.

As the encumbent contractor we hereby protest the taking of the referenced contract out of the competitive market place to be given sole source to a minority enterprise under the SBA 8(a) program. Such a decision would violate SBA's own regulations in that the current contract represents more than 20 percent of this contractor's total sales volume and is therefore ineligible for taking by SBA. Further, the current contract contains an option clause which allows the government to unilaterally extend the contract through September 1978. If the government elects not to exercise the option, then this procurement should be adverised in the competitive market place so that our company will not be denied the opportunity to compete for this work. In point of fact, the Government has already advertised in the commerce business daily to the effect that a new solicitation No. 77–B–1132 will be forthcoming for mess attendant services at Port Hueneme. SBA regulations state that procurements previously advertised will not be turned over for 8(a).

Our company is a small business which is financed with SBA and SBIC loans. We have repeatedly lost business to the SBA 8(a) program to the extent that our viability is in serious jeopardy. Just last week we lost a $300,000 GSA Janitorial contract in Kansas City to 8(a). The 8(a) award price was nearly $100,000 higher than our price. In February, 1977 we prematurely lost a $200,000 Army KP contract at Fort Leavenworth to 8(a) even though there was an option to extend the contract for one more year.

In July 1976, we prematurely lost a $230,000 KP contract at Luke AFB to 8(a) even though there was an option to extend for another year. The Luke 8(a) price was $440,000. In August 1976, our company was the apparent low bidder at March AFB, KP Services, yet this $500,000 procurement was cancelled after bid opening and was given to an 8(a) company headed by the former national director of the SBA 8(a) program. Our price at March AFB was $100,000 per year lower than the 8(a) award price.

When will these reparations stop? Our company has borne more than its fair share of lost business to the 8(a) program. Please review this matter and stop this unfair action. Please advise the name of the 8(a) candidate company. A prompt reply would be appreciated.

Sincerely,

WILLIAM L. DEVRIES, *President.*

---

JOHNSON FOREST PRODUCTS,
*San Francisco, Calif., September 20, 1977.*

Re: Denial of 8(a) Status Through Deliberate Misstatement of Facts by S.B.A. Official.

HON. PHILLIP BURTON,
*U.S. House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN BURTON: As the former President of Domingo Alison Lumber Company I wrote to you on November 30, 1970 regarding denial of 8(a) status. Enclosed is a copy of that letter. Because my firm was described as "non-manufacturer," or "broker-dealer" by Mr. C. D. Ryan, then Chief Procurement and Management Assistance Officer of the S.B.A. Ninth Region, it was declared unable to participate in the program.

Throughout the past seven years I have stated that Mr. Ryan's interpretation of policy as applied to 8(a) was a deliberate misstatement. The letter to you from Marshall J. Parker (1–29–71) upholds this interpretation (cf. enclosed). We at no time received notice from the G.S.A. of their "concurrence in this policy." Contrarily, the G.S.A., at that time, was prepared to submit an order.

I find *no* section in the Code of Federal Regulations which denies 8(a) status to a "broker-dealer" or small business status to firms that broker or wholesale supplies. The Code of Federal Regulations, Title 13, "Business Credit and Assistance," Revised January 1, 1976, governing regulations for the S.B.A. states in Part 121.3–10:

121.3–10 Definition of small business for SBA loans.

(g) Wholesale. (1) Any wholesaling concern is classified:

(i) As small if it is primarily engaged in an industry or subindustry set forth in Schedule C of this part and its annual receipts do not exceed the size standard established therein for that industry or subindustry.

(ii) As small if it is primarily engaged in an industry or subindustry not set forth in Schedule C of this part and its annual receipts do not exceed $9.5 million.

(Johnson Forest Products belongs to the latter group.)

Likewise, 41 CFR 1.701–1 defines small business nonmanufacturer as:

Any concern which submits a bid or offer in its own name, other than for a construction or service contract, but which proposes to furnish a product not manufactured by itself, is deemed to be a small business concern when:

(1) It is a small business concern within the meaning of 1–1.701(a);

(2) Its number of employees does not exceed 500 persons; and

(3) In the case of Government procurement reserved for or involving the preferential treatment of small business concerns (including equal low bids), such nonmanufacturer shall furnish in the performance of the contract the products of a small business manufacturer or producer which products are manufactured or produced in the United States.

Moreover, Title 13, 124.8–1 lists eligibility requirements for participation in the 8(a) program as (1) Social or economic disadvantage, and (2) Ownership and Control. There is no exclusion of the nonmanufacturer.

And S.B.A.'s own Fact Sheet (enclosed) refers to suppliers without limiting the term in any way.

The present moratorium has been imposed on the 8(a) program because of the participation of illegitimate companies. Ironically, the "cure" being prescribed for the "disease" is the very cause of it, viz arbitrary interpretation of policy. And the practitioners are allowed to continue with impunity.

Summarily, I have been unable to participate in a program in which, according to the Code of Federal Regulations, I am entitled to participate because of an arbitrary interpretation of policy by an S.B.A. official. Participation in the 8(a) program would immeasurably strengthen my company and prepare it to enter the competitive market.

I again submit my position to you and request a review and re-determination.

Thank you for your attention.

Very truly yours,

GERALD W. JOHNSON.

Enclosures.

DOMINGO ALISON LUMBER CO.,
*San Francisco, Calif., November 30, 1970.*

Hon. PHILLIP BURTON,
*450 Golden Gate Avenue, Room 11152,*
*San Francisco, Calif.*

DEAR CONGRESSMAN BURTON: Domingo Alison Lumber Company is a wholesale and retail lumber company operating in the industrial section of San Francisco. We are a minority owned firm with a work force of thirteen employees. Domingo Alison was formed a little over three years ago by my wife and myself with a $600 capital investment and with the express purpose of providing a livelihood for ourselves and alleviating the problem of unemployment of minority groups. Therefore it is no mean achievement that we have in two years time employed and trained personnel of all races in sales, management, inventory control, bookkeeping, accounting and yard functions including lumber handlers, lumber clerks, and yard foremen. We believe that as a business we have more than kept our commitment to ourselves and to the community at large in attempting to solve some of the problems plaguing our cities. We achieved our present level of successful operation without government participation. Ours is strictly a bootstrap operation.

Having demonstrated our ability to conduct a successful operation, we became aware that the 8(a) Contract Program under the Small Business Administration could give us assistance in expanding our operation and also assist in putting our business in a better competitive position with other lumber operations. Expansion for us would mean the employment of more minority personnel as truck drivers, millmen, office workers, etc. as well as reaching out to the lumber mills themselves for minority employment. With this in mind, we engaged Payne & Maxie Consultants (contract consultants for the SBA) to prepare a business plan for submission to the SBA as required under the 8(a) Contract Program.

Concurrent with the preparation and submission of our business plan to the SBA, I had been in touch with Robert Snodgrass of the General Services Administration with respect to 8(a) contracts and had submitted a price on some 330,000 board feet of lumber.

Following the submission of our plan to the SBA, Mr. Harold McPherson of the Pacific Coastal Area, Region IX, 450 Golden Gate Avenue, San Francisco, informed me by telephone that he saw no problem with respect to Domingo Alison qualifying for an 8(a) contract and he further stated that he had so informed Mr. Snodgress of GSA. Subsequently, Mr. Snodgress informed me that our submitted price and availability were satisfactory and that his agency was prepared to submit an order.

On November 16, 1970, I received a call from Mr. McPherson of the SBA informing me that our request for an 8(a) Contract had been denied by his superior Mr. C. D. Ryan, Chief, Procurement and Management Assistance Division. On November 17, I spoke with Mr. Ryan in his office regarding his denial of our request. I took exception to Mr. Ryan's ruling at that time and I continue to believe that we meet SBA requirements and do in fact qualify for the 8(a) Contract Program.

A copy of Mr. Ryan's letter of November 20, 1970, in which he outlines his reasons for denying our plan is attached. In paragraph two, Mr. Ryan infers that Domingo Alison is a brokerage operation. May I point out that while we do handle direct shipments, as do most lumber companies, such sales constitute no more than 10 percent of our total sales volume. We are primarily a wholesale lumber yard carrying a varied inventory of lumber and building materials valued at approximately $150,000. Our prime markets are government agencies, contractors, and commercial and industrial accounts. In dealing with the question of markets, may I further point out that lumber mills, i.e., manufacturers, are selling not only to brokers, dealers, and wholesalers, but directly to contractors as well. As a result of this practice, we find ourselves in direct competition with mills for both the general market and the government market. In my view, by attempting to picture Domingo Alison as solely a broker or dealer, Mr. Ryan not only misinterprets the facts of our competitive situation, but assists in perpetuating the trust-like activities of manufacturers which has resulted and continues to result in a squeeze-out of wholesale lumber operations.

In paragraph three of his letter, Mr. Ryan refers to "long-term and long-run cintracts whereby the minority business firm would itself be performing a considerable amount of work on the project using his own labor force as much as possible . . .". In our business plan as submitted to the SBA long term supplying over a three year period discussed in conjunction with the cash flow projection as required by the 8(a) Contract Program. On the use of our personnel, it would be impossible to deliver either directly or through our yard without involving some if not all of our work force. Moreover, the Fact Sheet put out by the SBA of which a copy is attached and their brochure on the 8(a) Contract Program refer to construction-related enterprises and suppliers as qualifying businesses. Without a doubt, Domingo Alison falls into this category.

In the final portion of paragraph three, Mr. Ryan attempts to justify his position that we are not qualified for 8(a) contracts based on his interpretation of Domingo Alison as a broker/dealer. Considering that such is not the case, his remarks do not apply.

Mr. Ryan's final paragraph in which he appeals to the General Services Administration for confirmation of his opinion is misleading. It seems to us that the final determination of Domingo Alison Lumber Company's qualification under the SBA 8(a) Contract Program should be undertaken by higher authorities of the SBA with a view to a more thoughtful resolution of the question.

Very truly yours,

DOMINGO ALISON LUMBER CO.,
GERALD W. JOHNSON,
*President.*

---

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C.*

MEMORANDUM

The enclosed information is sent in response to your recent inquiry.

Sincerely,

PHILLIP BURTON,
*Member of Congress.*

---

SMALL BUSINESS ADMINISTRATION,
*Washington, D.C., January 29, 1977.*

Hon. PHILLIP BURTON,
*Member, U.S. House of Representatives, 1152 Federal Building, 450 Golden Gate Avenue, San Francisco, Calif.*

DEAR MR. BURTON: This is in further reply to your letter of December 1, 1970, concerning Mr. Gerald W. Johnson of Domingo Alison Lumber Company, San Francisco, California.

The business plan presented by the firm describes their operations as follows: "Domingo Alison Development, Incorporated, is a wholesale lumber and building materials dealer operating from a yard at 398 Quint Street in San Francisco. The company services primarily heavy construction and multi-family unit contractors and industrial corporations in the area, with about 75 percent of its

business represented by wholesale lumber and 25 percent by brokerage." This clearly indicates the firm is not a manufacturer.

The General Services Administration requirement of 330,000 board feet of lumber to fill a need at Stockton, Calif., would appear to be a brokerage transaction thereby not meeting our 8(a) criteria.

Mr. C. D. Ryan, Chief, Procurement and Management Assistants of our San Francisco Regional Office, in his letter to Mr. Johnson of Domingo Alison Lumber Company, is correct in his interpretation of our policy of not placing 8(a) contracts with broker-dealer firms. It is our understanding that the General Services Administration has advised our San Francisco Office of their concurrence in this policy.

Thank you for your interest. We appreciate the opportunity to clarify the policy of this important program.

Sincerely,

MARSHALL J. PARKER,
*Associate Administrator,*
*Procurement and Management Assistance.*

---

[The White House—September 12, 1977]

## STATEMENT BY THE PRESIDENT

During the last decade the Federal government has played a crucial role in stimulating the development of minority businesses in this country. Working in partnership with private enterprise, the government has sought to promote participation in our economy by entrepreneurs from socially and economically disadvantaged segments of society. There have been some successes and some failures in these minority business development efforts, but the important benefit to society to be gained from these efforts have never been questioned. Building strong minority business enterprises is in the national interest because they contribute to our efforts to reduce unemployment and to stimulate community development.

It is the policy of this Administration to promote the development of minority business enterprise. The experiences of the past decade show that the government cannot solve all the problems in this area, but government at all levels has an important leadership role. This Administration will actively support minority business development, and we strongly encourage the private sector to increase its involvement in this area. The overwhelming majority of existing minority businesses are in the retail and service fields. While I am confident that businesses in these areas will continue to prosper, it is my hope that we can promote the participation by minorities in industries with growth potential such as energy and telecommuncations, where opportunities for development are greatest.

I have discussed this matter with the members of my Cabinet and found enthusiastic support among them for the Federal government's promotion of minority business development. Some departments already have ongoing minority business development activities, but others do not. We must improve the performance of existing activities and create programs in other departments in recognition of the fact that all departments of government have a role to play in minority business development.

I intend to rely on the Interagency Council, chaired by Sidney Harman, the Under Secretary of Commerce, to promote, coordinate and monitor federal programs relating to minority business enterprise. The Council should meet regularly to make certain that the issue of minority business development receives the attention of policy-makers at the highest level of the government.

In order to provide a focus for our efforts and to set achievable goals for this Administration, I have taken the following actions:

First, I fully endorse the efforts underway to revamp and improve the SBA Section 8(a) program. Vernon Weaver has established an 8(a) Review Board. I have asked him to move expeditiously and to consult with interested members of Congress and other concerned citizens to make certain that this key program operates in the most efficient, effective and fair manner possible. We should not permit our disappointment at the manner in which this worthwhile program has been administered in the past to diminish our desire to make it work.

Second, I have instructed all Executive departments to work with the Office of Minority Business Enterprise and the Small Business Administration to devise effective minority business assistance programs.

Third, I have aked the Office of Federal Procurement Policy to review and to revise procurement regulations to assure adequate involvement of minority and small business firms by requiring that recipients of major federal contracts show how they will involve minority and small businesses before rather than after a contract has been awarded.

Fourth, I have requested that the Treasury Department, as an Interagency Council member, lead a task force to prepare a report on sources of capital and mechanisms for financial assistance for minority business.

Finally, I have instructed all Executive departments to double their purchases of services from minority firms through direct and indirect procurement activities during the next two fiscal years and to report to me on their progress in meeting this goal. This increase should raise the level of Federal government purchases from minority firms to about one billion dollars. We will closely monitor the effort of each department to see that this goal is achieved.

I believe that we should improve and strengthen existing programs rather than make wholesale changes at this time. However, we will assess the operation of these programs under their new leadership, and we will not hesitate to recommend changes where they seem warranted.

These steps provide a good beginning for our efforts in this area. We will show steady and sustained progress throughout my term of office in promoting the development of minority business enterprise.

---

[The White House—September 12, 1977]

## Fact Sheet—The Interagency Council For Minority Business Enterprise

The Interagency Council for Minority Business Enterprise promotes minority business assistance from within the Government. It assures that minority businesses have ready access to all Federal opportunities and programs having the potential to assist them in their endeavors.

The Council is chaired by Dr. Sidney Harman, Under Secretary of Commerce, and its membership includes Under Secretaries, Deputy Secretaries and Deputy Administrators of major agencies and departments having programs to promote and strengthen minority businesses. The Council functions through an Executive Committee and various program-oriented committees.

Generally, Council members chair the committees whose Executive Directors are provided by the Commerce Department's Office of Minority Business Enterprise (OMBE). Dr. Randolph T. Blackwell, Director of OMBE, supports the Council with staff assistance, with additional support coming from member departments and agencies. Under the provisions of Executive Order 11625, OMBE is the lead agency in the Federal government for the minority enterprise program.

The program-oriented areas of concentration include: Business Management Development (Education and Training); Indian Business Development; Minority Business Opportunities Committee (MBOC) Coordination; Procurement; and Special Programs. The MBOC Coordination Committee merits special emphasis in that it represents the link between the Council and 37 Minority Business Opportunity Committees. These 37 MBOCs are the local Federal Counterparts of the Council with the responsibility to ensure that department and agency commitments of programs and resources to minority business within the Council come to fruition in the 37 jurisdictions.

Primarily the Council seeks to assist minority businesses by: identifying appropriate resources within each agency, developing strategies to provide access to the resources, assuring agency support of the strategies, and implementing a comprehensive and coordinated program to assist the minority businesses.

### Members of the Interagency Council for Minority Business Enterprise

Martha M. Mitchell, Special Assistant to the President, The White House, Washington, D.C. 20500.

Sidney Harman, Under Secretary, Department of Commerce, Washington, D.C. 20230.

Hale Champion, Under Secretary, Department of Health, Education, and Welfare, Washington, D.C. 20201.

James Joseph, Under Secretary, Department of the Interior, Washington, D.C. 20240.

Elsa A. Porter, Assistant Secretary for Administration, Department of Commerce, Washington, D.C. 20230.

Warren Christopher, Deputy Secretary, Department of State, Washington, D.C. 20520.

Mary E. King, Deputy Director, ACTION, Washington, D.C. 20525.

Robert W. Fri, Deputy Administrator, Energy Research and Development Administration, Washington, D.C. 20545.

Barbara Blum, Deputy Administrator, Environmental Protection Agency Washington, D.C. 20460.

David J. Bardin, Deputy Administrator, Federal Energy Administration, Washington, D.C. 20461.

John C. White, Deputy Secretary, Department of Agriculture, Washington, D.C. 20250.

Charles W. Duncan, Deputy Secretary of Defense, Department of Defense, Washington, D.C. 20301.

Jay Janis, Under Secretary, Department of Housing and Urban Development, Washington, D.C. 20410.

Peter F. Flaherty, Deputy Attorney General, Department of Justice, Washington, D.C. 20530.

Robert J. Brown, Under Secretary, Department of Labor, Washington, D.C. 20210.

Bette B. Anderson, Under Secretary, Department of Treasury, Washington, D.C. 20220.

Alan Butchman, Deputy Secretary, Department of Transportation, Washington, D.C. 20590.

William Allison, Deputy Director, Community Services Administration, Washington, D.C. 20506.

Delio Gianturco, First Vice President and Vice Chairman, Export-Import Bank of the United States, Washington, D.C. 20571.

Grace Olivarez, Director, Community Services Administration, Washington, D.C. 20506.

Robert Griffin, Deputy Administrator, General Services Administration, Washington, D.C. 20405.

Wayne Granquist, Associate Director, Office of Management and Budget, Washington, D.C. 20503.

Alan Lovelace, Deputy Administrator, National Aeronautics and Space Administration, Washington, D.C. 20546.

A. Vernon Weaver, Administrator, Small Business Administration, Washington, D.C. 20416.

Rufus Wilson, Deputy Administrator, Veterans Administration, Washington, D.C. 20420.

Patricia Cloherty, Deputy Administrator, Small Business Administration, Washington, D.C. 20416.

Les Settig, Director, Office of Federal Procurement Policy, Office of Management and Budget, Washington, D.C. 20503.

Charles L. Clapp, Vice Chairman, Interstate Commerce Commission, Washington, D.C. 20423.

Randolph Blackwell, Director, Office of Minority Business Enterprise, Department of Commerce, Washington, D.C. 20230.

Edward C. Creutz, Acting Deputy Director, National Science Foundation, Washington, D.C. 20550.

Robert H. McCutcheon, Assistant Postmaster General for Procurement, Supply Department, U.S. Postal Service, Washington, D.C. 20260.

Richard E. Wiley, Chairman, Federal Communications Commission, Washington, D.C. 20554.

Dennis Green, Associate Director, Office of Management and Budget, Washington, D.C. 20503.

Arthur F. Williams, Executive Director, Interagency Council for Minority Business Enterprise, Washington, D.C. 20230.

## Selected Provisions of Controversy of the SBA 8(a) Program

During the hearings and the preceding investigations by the subcommittee, there were continued references to the "Standard Operating Procedures" of the SBA 8(a) Program. In an effort to provide comparisons between statements given during the hearings and the policy of the program administrators, the subcommittee provides these reprints of the selected provisions which provided the most controversy.

[SBA Form 989A (5–71)]

### Foreword

In order to protect individual privacy, record systems containing personal information on individuals are subject to the provisions of the Privacy Act of 1974 (Public Law 93–579). In keeping with the Act, certain safeguards concerning collection, maintenance, disclosure and individual access and amendment are now in effect as outlined in SOP 40 04, Privacy Act Procedures. These provisions require that: (a) only personal information which is relevant and necessary to the direct accomplishment of the SBA mission can be collected and maintained; (b) disclosure of this information without the prior written consent of the individual is strictly limited, and accountings of these disclosures must be maintained; (c) the individual must be allowed access to his or her record and must be given an opportunity to challenge the veracity of its contents.

All employees operating under this SOP should refer to SOP 40 04 for guidance in handling matters dealing with personal information. Procedures for allowing an individual access and amendment as well as guidance on whether or not a record is accessible to an individual can be found in SOP 40 04.

### Small Business Administration Standard Operating Procedure—National

Subject: Section 8(a) Program.
Effective date: February 2, 1976.

### Introduction

#### 1. PURPOSE

(*a*) To set forth policy, procedures and guidelines for personnel engaged in business development activities pursuant to Section 8(a) of the Small Business Act.

(*b*) To combine within one standard operating procedure the necessary policy, procedures and guidelines for effective and efficient decentralized program operations.

#### 2. PERSONNEL CONCERNED

All personnel who are directly or indirectly responsible for carrying out the Agency's 8(a) program functions.

#### 3. STANDARD OPERATING PROCEDURE CANCELED

60–41–1, dated November 14, 1974.
60–40, dated July 1, 1974.

#### 4. DISTRIBUTION

Standard.

#### 5. REPORTING REQUIREMENT

"Quarterly Report of Contract Terminations," (RCN 386), see paragraph 55.d.; SBA Form 1015, "Summary of Business Development Expense—8(a) Program," (RCN 357), see paragraph 60.g. and appendix 24; and, "8(a) Concession Program Report," (RCN 387), see paragraph 73 and appendix 30.

#### 6. ORIGINATOR

Office of Business Development, Associate Administrator for Procurement Assistance.

* * * * * * *

# CHAPTER 1. INTRODUCTION

## 1. PURPOSE

(*a*) Combine in one SOP all policies, procedures, instructions, and guidelines for carrying out, on a decentralized basis, the Small Business Administration (SBA) program responsibilities and functions under section 8(a) of the Small Business Act.

(*b*) Delineate to regional directors, within the scope of their delegated authority, responsibilities for conducting 8(a) program operations on a decentralized basis.

(*c*) Provide program operational standards for use by regional and district directors and program personnel.

## 2. RESPONSIBILITIES

(*a*) *Central Office*

(1) Develops policies and procedures for utilization of the Agency's authority under section 8(a) of the Small Business Act.

(2) Develops plans, goals, and standards for effective and efficient program execution.

(3) Evaluates the Agency's efforts in meeting 8(a) program objectives.

(4) Monitors and evaluates field offices and 8(a) firm operations, to include monitoring on a periodic basis, the compliance by 8(a) sponsors with the terms of sponsorship, divestiture, and/or management agreements as approved by the AA/PA.

(5) Reviews and advises regional offices as to the availability of national buy requirement support projections prior to approval of the business plans.

(6) Coordinates all national buy requirements sought by regions for subsequent negotiation and award to an approved 8(a) firm.

(7) Exercises approval authoirty on all individual 8(a) company marketing plans with respect to national buy type products.

(8) Maintains liaison and coordination with other Federal departments and agencies in the development of plans, policies, and procedures for providing assistance to 8(a) supported firms.

(9) Promotes the Agency's program to encourage the involvement of industrial concerns, professional and trade associations, State and local governments, and community groups in supporting and providing assistance to 8(a) approved firms.

(10) Hears and makes decisions on appeals concerning the termination or completion of a firm's participation in the 8(a) program.

(*b*) *Regional Office*

(1) Develops and administers the 8(a) program regionally.

(2) Evaluates the region's overall efforts in meeting 8(a) program objectives and goals.

(3) Monitors and evaluates the districts' activities in their performance and conduct of 8(a) program activities, to include monitoring and reporting to the AA/PA on a periodic basis, compliance by 8(a) sponsors with the terms of sponsorship, divestiture, and/or management agreements as approved by the AA/PA.

(4) Determines eligibility of 8(a) program applicants based upon criteria contained in chapter 2, paragraph 4. Ensures that documentation establishing the connection between social and/or economic disadvantage and the inability to compete successfully in the business world is contained in an applicants' file.

(5) Reviews, evaluates and exercises approval authority on joint venture agreements entered into for the purpose of performing on a specific 8(a) contract.

(6) Coordinates all intraregional local buy requirements needs of the districts.

(7) Coordinates all interregional local buy requests with each region where the procurement activity is located.

(8) Coordinates with Central Office all regional requests for national buy requirement support.

(9) Coordinates with Central Office on all individual 8(a) company marketing plans with respect to national buy type products.

(10) Exercises approval authority on business plan and revisions thereto.

(11) Maintains liaison and coordination with regional activities of other Federal departments and agencies.

(12) Promotes the Agency's 8(a) program in the region to encourage the involvement of industrial concerns, professional and trade associations, State and local governments, and community groups in supporting and providing assistance to 8(a) approved firms.

(13) Exercises approval authority on all regional requests for Business Development Expense (BDE).

(14) Recommends approval or disapproval of all 8(a) company sponsorship, management, and/or divestiture agreements.

(15) Exercises approval authority on all regional requests for advance payments.

(16) Maintains appropriate regional program files and controls.

(17) Provides district offices with contract pricing and negotiation support.

(18) Serves as the office of record for all 8(a) prime contracts awarded to SBA for subsequent subcontracting to firms approved in the region, and administers said prime and subcontracts or participates with contract administration office when that function has been delegated to the procuring activity or other contract administration office.

(19) Delegates subcontract administration responsibilities to the procuring activity as appropriate.

(20) Insures that all SBA forms and reports are submitted to Central Office as required.

(21) Assist 8(a) concerns in their progress toward program completion.

(*c*) *District Office* (*where delegated authority*)

(1) Develops and administers the 8(a) program in the district.

(2) Counsels and provides guidance to individuals desiring to participate in the 8(a) program.

(3) Makes evaluations and determinations of eligibility. Where this authority has not been delegated, makes evaluations and recommendations for determination of eligibility by the regional director or his designee. In all cases applicant's file shall include documentation establishing the connection between the social and/or economic disadvantage and applicant's inability to compete successfully in the business world.

(4) Exercises approval authority on joint venture agreements entered into for the purpose of performing on a specific 8(a) contract. Where this authority has not been delegated, reviews, evaluates and makes recommendations for approval or disapproval by the regional director or his designee.

(5) Reviews and evaluates business plans and exercises approval authority. Where this authority has not been delegated, makes recommendations for approval or disapproval by the regional director or his designee.

(6) Coordinates through regional office all requests for national buy requirements support.

(7) Maintains liaison and coordination with district activities of other Federal departments and agencies.

(8) Promotes the Agency's 8(a) program within the district to encourage the involvement of industrial concerns, professional and trade associations, State and local governments, and community groups in supporting and providing assistance to firms being developed pursuant to Section 8(a) of the Small Business Act.

(9) Negotiate and participates in contract administration function when delegated such authority. Normally performs contract preparation functions up to the point of negotiation.

(10) Assists 8(a) concerns in their progress toward program completion and viability.

(*d*) *Regional Director*

The regional director is responsible to the Administrator for 8(a) program activities within the region under his jurisdiction. He receives technical direction and guidance in the administration, operation and development of the 8(a) program from the Associate Administrator for Procurement Assistance (AA/PA). Supervision of the program is accomplished by the regional director through his Assistant Regional Director for Procurement Assistance (ARD/PA). In conformance with SBA's policy of decentralization, regional directors may redelegate to district directors such authority as may be deemed necessary and prudent for implementation of the 8(a) program within their respective district offices,

except for those nondelegatable limitations as set forth elsewhere in this SOP. All delegations and designations of authority, including exceptions, must be made in accordance with and pursuant to the provisions of SOP 00 01 "Delegation of Authority and Designations."

(e) *District Director*

The district director (when authority is delegated) is responsible to the regional director for the 8(a) program activities and provides the administrative direction for the program under his jurisdiction.

(f) *Responsibilities Concerning Investigation, False Representation and Irregularities*

The regional director or his designee shall submit reports with respect to investigation, false representation, and other irregularities involving 8(a) applicants or subcontractors to the Director, Office of Security and Investigations, (with a copy to the Director, Office of Business Development) in accordance with SOP 90 20 "Investigations Program."

* * * * * * *

## CHAPTER 2. SECTION 8(A) PROGRAM POLICY

### 3. PURPOSE

The authority of section 8(a) of the Small Business Act will be used to assist in the expansion and development of existing, newly organized, or prospective profit-oriented small business concerns owned and controlled by eligible disadvantaged persons. An extract from this Act follows:

"SEC. 8(a) [15 USC 637(a)] It shall be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary—(1) to enter into contracts with the United States Government and any department, agency, or officer thereof having procurement powers obligating the Administration to furnish articles, equipment, and supplies, or materials to the Government. In any case in which the Administration certifies to any officer of the Government having procurement powers that the Administration is competent to perform any specific Government procurement contract to be let by any officer, such officer shall be authorized in his discretion to let such procurement contract to the Administration upon terms and conditions as may be agreed upon between the Administration and the procurement officer; and (2) to arrange for the performance of such contracts by negotiating or otherwise letting subcontracts to small business concerns or others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Administration to perform such contracts."

### 4. ELIGIBILITY

(a) *General*

Except as noted herein with respect to divestiture agreements, to be eligible for the 8(a) program, the applicant firm must be a small business as defined in Part 121.3–8, SBA Rules and Regulations. In addition to being a small business, to be eligible the applicant firm must be owned and controlled by a disadvantaged person(s). These are persons who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social or economic disadvantage.

Such disadvantage may arise from cultural, social or chronic economic circumstances or background or other similar cause. In many cases, such persons may include, but are not limited to, members of the following minority groups: black Americans; American Indians; Spanish-Americans; oriental-Americans; Eskimos and Aleuts. Service in the Armed Forces of the United States that results in veterans status for the individual, may be a contributing factor in establishing social or economic disadvantage.

(1) The term "veteran" means a person who served in an active status in the Armed Forces of the United States, and who was discharged or released therefrom under conditions other than dishonorable.

(2) The term "Armed Forces" includes the Army, Navy, Marine Corps, and Air Force; the Coast Guard (where it is operating as a service under the Department of the Navy); and Environmental Science Services Administration, Public Health Service, and other organizations where assigned to, and serving with the armed forces.

(*b*) *Good Character*

(1) Good character is an eligibilty requirement. Determinations of character shall be made in accordance with the provisions of SOP 90 20, "Investigations Program."

(2) When a field office is in the possession of adverse information from outside sources or from information submitted by the applicant, no further processing action should be taken on the applicant. In accordance with the provisions of SOP 90 20 the information should be submitted to the SBA's Security and Investigations Division. Notification regarding further processing will be given by the Central Office.

(*c*) *Primary Recipient(s)*

(1) Except as provided herein with respect to a divestiture agreement, the person(s) upon whom eligibility is based must be the primary recipient(s) of the benefits of the program objectives. These benefits include: profits and the development of financial, technical, and management expertise. Consequently, eligible person(s) are expected to be engaged full-time in the day-to-day business operations and management. This precludes "absentee ownership" of 8(a) concerns. Provisions of this paragraph as first promulgated effective November 14, 1974, apply only to 8(a) concerns approved on and after that date.

(*a*) The requirement for the eligible person(s) to be engaged in the day-to-day business operations and management on a "full-time" basis may be waived at the discretion of the business plan approval authority in those cases wherein circumstances warrant continuation of salaried employment until such time as the financial requirements of the eligible person(s) can be sustained by the 8(a) concern.

(2) Applicants will be considered ineligible for 8(a) program participation where the sole proprietor, partner, officer, director, or stockholder with a 10 percent or more interest in the firm is included in any of the categories listed below:

(*a*) An employee of the United States Government.

(*b*) A member of the Armed Services of the United States.

(*c*) An appointed consultant of the Administration.

(*d*) A member of an SBA Advisory Council (National, regional or State), except for chief executive officers of approved 8(a) firms serving on 8(a) program advisory panels at the request of the AA/PA, or a regional or district director of SBA.

(*e*) Directors, officers, and employees of Federally-funded community, trade, or industry associations or organizations which serve in a consultative or advisory capacity to SBA.

(*f*) A spouse of any of the above.

(*d*) *Eligibility for Only One Business Entity*

A person's eligibility may be used in the qualification of only one business entity.

(*e*) *Noncitizens*

Noncitizens may be eligible to participate in the 8(a) program, if otherwise eligible, provided they are resident aliens legally admitted to and living in the United States.

### 5. OWNERSHIP AND CONTROL

(*a*) *Requirements and Conditions*

Actual ownership, control, and responsibility for the day-to-day firm operations must be exercised by the person or persons upon whom the program eligibility is based, except where a divestiture or management agreement approved by the AA/PA temporarily vests ownership or control elsewhere. The following requirements and conditions will apply to applicant concerns:

(*1*) *Proprietorships.*—The concern must be owned and controlled by an eligible disadvantaged person.

(*2*) *Partnerships.*—Ownership of at least 50 percent of the partnership by a disadvantaged person(s) will raise a rebuttable presumption of ownership and control.

(*3*) *Corporations.*—Ownership of at least 51 percent of each class of voting stock by disadvantaged persons will raise a rebuttable presumption of ownership and control.

(*4*) *Sponsorships.*—Arrangements wherein eligible disadvantaged firms are sponsored by nondisadvantaged firms may be approved for participation in the 8(a) program, provided that the sponsorships are entered into clearly for the benefit of the disadvantaged firm. Such arrangements shall be subject to terms and conditions, where applicable, as set forth below in paragraphs (5), "Divestitures," and (6), "Management Contracts," and shall be subject to approval by the AA/PA.

(*5*) *Divestitures.*—

(*a*) If an applicant concern is not presently owned and controlled by eligible disadvantaged persons, the person(s) or concern exercising such ownership and/or control must execute a divestiture agreement subject to the approval of the AA/PA. The purpose of divestiture is to ensure that ultimate ownership and control will be vested in, and exercised by identifiable and eligible disadvantaged persons, within a reasonable period of time. A divestiture agreement shall be required, in any event, under the following circumstances:

(*i*) When there is evidence of negative control by nondisadvantaged.

(*ii*) When at least 50 percent of ownership is vested in nondisadvantaged business entities that meet the small business procurement size standards.

(*iii*) When ownership is vested in business entities that do not meet the small business procurement size standards, the divestiture agreement shall provide for eventual total divestiture.

(*b*) All divestiture agreements shall be submitted to the AA/PA for approval. In all cases such submissions shall be accompanied by the recommendations of the regional director with detailed justification, including documentation.

(*c*) If, pursuant to a divestiture agreement, the sponsoring company or principals obtains fees, or shares in the profit of an 8(a) concern, the principals of the sponsoring company shall be required to submit completed SBA Forms 413, "Personal Financial Statement" and 912, "Statement of Personal History."

(*d*) The operation of divestiture agreements shall be monitored on a periodic basis for compliance by the 8(a) company sponsors with the terms of divestiture as approved by the AA/PA. Any deviation from those terms without prior, written, approval by the AA/PA may be cause for termination of the sponsored 8(a) company's participation in the program as discussed in chapter 7, paragraph 66.

(*6*) *Management Contracts.*—

(*a*) All contracts or agreements granting management or operational control of an 8(a) concern over the ownership interests otherwise vested in eligible disadvantaged persons shall be submitted to the AA/PA for approval. In all cases such submissions shall be accompanied by the recommendations of the regional director with detailed justification, including documentation.

(*b*) The requirements for submission of SBA Forms 413 and 912 set forth in paragraph (5) above with regard to divestiture agreements, are also applicable to management agreements.

(*c*) The provisions for monitoring the operation of divestiture agreements and the possible consequence for noncompliance with the terms of the agreement set forth in paragraph (5) above are equally applicable to management contracts.

(*7*) *Joint Ventures.*—For the purpose of performing a specific 8(a) contract, an approved 8(a) concern may enter into a joint venture agreement with another approved 8(a) concern or a nondisadvantaged concern. Each 8(a) joint venture agreement must be fair and equitable to, and for the substantial benefit of the 8(a) concern(s), and must be approved by the regional director, or his designee.

(*8*) *Nonprofit Organizations.*—Nonprofit organizations may participate in the 8(a) program for the purpose of assisting approved concerns. However, such organizations may not own a controlling interest in, or exercise management control over an otherwise eligible 8(a) firm except pursuant to a divestiture agreement approved by the AA/PA.

(*9*) *Indian Tribes.*—Indian tribes, a majority of whose members qualify as disadvantaged, may organize, own or co-own firms, and apply for 8(a) support provided the firms meet the eligibility criteria of paragraph 4 above, and satisfy the ownership and control requirements pertaining to partnerships or corporations. This exception recognizes the separate and unique treaties, laws, and regulations governing ownership and control of property by Indian tribes.

(*10*) *Change in Ownership.*—In the event of the sale, exchange, or transfer of the ownership interest(s) of a business to parties not meeting program eligibility criteria, the firm's participation in the 8(a) program shall be terminated. If transfer of control is to parties meeting eligibility criteria, the firm's further participation in the 8(a) program shall be contingent upon submission and ap-

proval of a revised business plan, and a determination of eligibility and approval thereto.

(*b*) *Exceptions*

Any exception in the policy as stated in this paragraph must be approved by the AA/PA. Exceptions will be granted, if appropriate, in conformity with the following standards:

(1) The exception will conform with the general purpose of the program as set forth in paragraph 3 above.

(2) The facts of the case are unique and were not intended to be covered by the policy in question.

(3) The facts of the case involve extraordinary circumstances warranting the exception in question.

6. BUSINESS PLANNING

(*a*) *Submissions*

An applicant must submit a business plan to SBA, which includes a statement setting forth the size standard criterion for the firm based upon the firm's principal business activity and which demonstrates how 8(a) subcontract assistance requested will foster or expand its capabilities to participate in the economy as a self-sustaining, profit-oriented small business.

(*b*) *Procurement Support*

(1) The maximum amount of 8(a) subcontracting assistance which may be requested in business plans for firms that have the size standard limitations expressed in dollar amounts of average annual receipts, is 50 percent of that limiting dollar amount in any 1 year. A limitation for all other types of firms will be determined on an individual case basis by SBA. SBA, to ensure that participating firms will not depend solely upon 8(a) subcontracting support, but will be required to generate non 8(a) business to meet the firm's business development objectives. This limitation on 8(a) subcontracting assistance is applicable to firms already participating in the 8(a) program as well as to applicant firms. Business plans of these participating firms which contain 8(a) support projections that exceed the limitation must be resubmitted and the amount of 8(a) support being provided to the firm must be reduced to the limiting amount, by June 30, 1976.

(2) Where SBA determines that the likelihood of sufficient 8(a) contracting support is unlikely or minimal, or there is no reasonable likelihood of a competitive market for the applicant firms' product or service, the applicant should be so informed and not encouraged to submit a business plan.

(3) Business plans will be approved by the SBA regional director, his designee, or district director where authority has been delegated, only when there is a reasonable likelihood that appropriate "requirements" (i.e., suitable contracting opportunities) will be available to SBA for support of the firm's development, and when there is an existing or projected competitive market for the firm's product or service. In cases where "National Buy" support is required, final approval of the business plan will be given by the regional director, his designee, or district director where authority has been delegated, only after receiving written OBD, Central Office concurrence that there is a reasonable probability of suitable procurement support to meet the needs set forth in the business plan projection.

(*c*) *Limitations*

In no event is the acceptance or approval of a business plan by SBA to be construed as a commitment on behalf of SBA to award a single contract, a continuing series of contracts, or provide any other assistance, contractual, financial, or otherwise to any specific firm. SBA has no control over the procurement requirements or actions of other Government agencies. SBA can only pledge its best efforts to assist in securing and subcontracting suitable contracts in support of approved business plans.

7. SELECTION OF POTENTIAL CONTRACTS

SBA will, in consultation and cooperation with other Government departments and agencies, select proposed procurements suitable for performance by 8(a) concerns.

(*a*) *Identification of Contracting Opportunities.*

The identification of a potential contract opportunity by an eligible firm, or the nomination of a firm by a procuring agency to perform a given contract, neither commits SBA to secure nor accept a contract with the procuring agency, nor

to consummate a subcontract with any specific firm. However, national buy type contracting opportunities marketed by an 8(a) firm will be reserved and utilized for the benefit of the firm identifying the opportunity, up to the annual approved 8(a) volume for that firm, subject to the guidelines and requirements set forth in chapter 4, paragraphs 34 and 40. The responsibility for final selection of an 8(a) subcontractor to perform a specific contracts and acceptance of any requirement for the 8(a) program rests with SBA.

(*b*) *Contracting Opportunities Not Acceptable for 8(a) Contracting.*

Because of SBA's obligation to protect the interests of all small business, contracting opportunities will not be accepted by SBA for 8(a) contracting where one or more of the following circumstances exists:

(1) The percentage of procurements considered for 8(a) contracting in the judgement of SBA is excessive in relation to the total purchases of like or similar products, or services procured by the Federal Government.

(2) Public solicitation has already been issued under a small business set aside for the specific procurement in question in the form of an Invitation for Bid (IFB), Request for Proposal (RFP), or Request for Quotation (RFQ). Procurement Information Notices (PIN), annual procurement forecasts and other methods of disseminating information of general intention to procure are not sufficient reasons, in and of themselves, to preclude a procurement from 8(a) consideration. Past procurement actions and future probabilities (including the appearance of products in catalogs) do not proclude prospective procurement actions from 8(a) consideration.

(3) The procuring activity can make an award directly to a small business concern owned by an eligible disadvantaged person(s) or there is a reasonable probability that a competitive award can be won by such a disadvantaged small business concern.

(4) It is determined by the SBA that a small business concern may suffer a major hardship if the procurement is removed from competition, thereby denying the concern, otherwise historically dependent on such recurring procurement(s), the opportunity to compete. In establishing this determination, the affected firm should be a regular producer receiving one or more awards within the past year, and be dependent upon such recurring award(s) for a significant part of its overall sales.

## 8. NEGOTIATION OF CONTRACTS

(*a*) *Prime Contracts.*

The price at which SBA will accept an 8(a) contract from another Federal agency must be fair and reasonable and consonant with 8(a) program objectives.

(*b*) *Subcontracts*

(*1*) *Selection.*—Selection of eligible 8(a) concerns to perform a given 8(a) subcontract shall be determined on the basis of limited competition to the extent feasible and practicable. Price will not be a factor in such competition. Elements of competition will include but not be limited to the following factors:

(*a*) The technical, financial, and management capability of the subcontractor to perform the contract.

(*b*) The need of the firm for the size and type of contract, consistent with the needs approved in the business plan.

(*c*) The determination that the contract will assist the firm in becoming competitive.

(*2*) *Pricing.*—Subcontracts will be negotiated at prices which are fair and reasonable to both the Government and the 8(a) subcontractor. If the amount needed to permit the 8(a) subcontractor to perform profitably is more han the amount negotiated for the prime contract, consideration may be given to utilization of Business Development Expense (BDE) for the difference. BDE shall be limited to situations determined essential to the fulfillment of program objectives.

(*3*) *Subcontracting.*—The need or intent by the 8(a) concern for lower tier subcontracting shall be brought to the attention of SBA prior to award of the subcontract and where acceptable, SBA will convey appropriate approval to the 8(a) concern at the time of 8(a) subcontract award. An 8(a) subcontractor shall not subcontract any additional portion of an 8(a) subcontract after award without the written consent of the SBA contracting officer. Failure to comply with this provision may be cause for SBA to terminate the subcontract for default.

(*4*) *Disclosures.*—The 8(a) subcontractor shall disclose the extent to which a nondisadvantaged person(s) or firm(s) will participate in performance and/or management of the subcontract.

21-491—78——11

(5) *Bonding.*—On construction contracts, payment bonds in the appropriate amounts as required by the Miller Act are mandatory. Performance bonds required by the Miller Act may be accepted in an amount deemed sufficient by the SBA to protect the interest of the Government.

### 9. CONTRACT ADMINISTRATION

(*a*) SBA will normally delegate to the procuring activity all normal subcontract administration responsibilities with the 8(a) subcontractor. This will permit the procuring activity to deal directly with the 8(a) subcontractor in essentially the same manner as if award were directly between the procuring agency and the 8(a) subcontractor.

(*b*) In the event SBA deems it appropriate, it may choose to retain all or part of the subcontract administrative responsibilities normally delegated to the procuring activity.

(*c*) All details concerning subcontract administration should be thoroughly discussed and resolved during the negotiations. Departmental personnel should be reminded that they are acting as SBA's agent in administering the 8(a) subcontract and that every effort should be made, consistent with the procuring activity's mission responsibility, to assist and support the 8(a) subcontractor in completing successful performance of the 8(a) subcontract. Subcontract administration personnel should be requested also to remind the 8(a) subcontractor of his various obligations with regards to labor standards and to monitor compliance during contract performance.

### 10. NATIONAL BUY REQUIREMENTS SUPPORT

The Office of Business Development, Central Office, will be responsible for the coordination of matters concerned with the identification and placement of national buy requirements to the regions

### 11. PROGRAMS COMPLETION OR TERMINATION

(*a*) *Business Plan Objectives*

It is expected that firms participating in the 8(a) program will show a pattern of continuing development throughout the 8(a) program term, consistent with their business plans as approved by SBA.

(*b*) *Assessment of Progress*

Periodic assessments of each 8(a) firm's progress with respect to developmental objectives will be made by SBA.

(*c*) *Corrective Measures*

(1) If the objectives and goals as set forth in the firm's business plan are not being met, the concern shall be given timely written notification by SBA to implement corrective measures as a condition for continued program participation.

(2) Corrective action is needed whenever it is determined by SBA that an 8(a) concern's ability to achieve a competitive and profitable position in the marketplace is being impaired by any adverse change, including but not limited to, changes in the following areas:

(*a*) Business structure (Proprietorship, Partnership, Corporation).
(*b*) Management knowhow.
(*c*) Financial stability.
(*d*) Production facilities and equipment.
(*e*) Market development.

(3) Responsibility for implementation of corrective action rests with the management of the 8(a) concern. SBA will assist management in effecting such actions to the fullest extent that available resources permit.

(*d*) *Continued Participation Not Justified*

In cases where it becomes apparent to SBA that a firm's continued 8(a) subcontract support will no longer further the objectives of developing a profitable competitive business, the matter shall be discussed with the firm. Subsequently, if appropriate, the firm will be informed in writing of the decision to withdraw 8(a) support, the reasons therefor, and the date that such action becomes effective.

(*e*) *Completion*

Firms achieving the developmental objectives set forth in its approved business plan shall be notified in writing of this accomplishment, and advised that further 8(a) subcontract support is not contemplated.

12. PAYMENT OF FEES

Fees paid or to be paid, costs incurred or committed to third parties whether directly or indirectly, in the process of obtaining 8(a) subcontracts, shall be fully disclosed to the SBA by the applicant prior to entering into any related 8(a) subcontract negotiations. Such disclosure does not relieve an 8(a) firm of the requirements to observe and comply with restrictive covenants against the payment of fees which may be included as provisions in 8(a) subcontracts awarded subsequent to 8(a) subcontract negotiations.

13. OTHER SBA PROGRAMS

(a) The 8(a) approved firms generally require more assistance than most small businesses to become viable and should therefore be involved in more SBA programs. Analysis of firms' business plan may reveal one or a combination of needs for procurement assistance, financial assistance, management assistance, technical assistance, minority enterprise advocacy, surety bond guarantees, MESBIC involvement, call-contract assistance, Minority Vendors Program, etc. In the initial business planning, care should be given to include use of each appropriate SBA program required for 8(a) company support.

14. PRIOR AGREEMENTS

All existing agreements, management contracts, divestitures, ownership and sponsorship arrangements entered into by an 8(a) subcontractor, whether or not previously approved by SBA prior to issuance of this SOP, shall be reviewed by the regional director or his designee before a subsequent subcontract is awarded to the 8(a) concern. In cases where the regional director judges that the purpose and intent of the program are not being met, he may request and require that appropriate modifications to any agreement, management contract, ownership arrangement, etc., be submitted to SBA for consideration and approval prior to permitting the award of such new subcontracts.

## CHAPTER 3. BUSINESS DEVELOPMENT: PLANNING, EVALUATION, AND APPROVAL

15. DEFINITIONS

(*a*) *Eligible.*—Meeting the criteria, as determined by SBA, for participation in the 8(a) program as described in chapter 2, paragraph 4, herein.

(*b*) *Business Plan.*—A comprehensive planning document which clearly describes the business developmental objective of an existing or proposed business, and what, how, and from where the resources needed to accomplish the objective will be obtained and utilized.

(*c*) *Approved 8(a) Firm.*—A firm that has received from a regional or district director of the SBA, formal written notification of acceptance into the 8(a) program through approval of the firm's business plan.

16. OBJECTIVE

(*a*) The objective of the 8(a) program is to assist eligible firms develop the capability to compete effectively in the nation's marketplace.

(b) The primary resource used by the Office of Business Development to assist firms under development is the legislative authority provided for under Section 8(a) of the Small Business Act [15 U.S.C. 637(*a*)]. The Act empowers SBA to enter into contracts with the United States Government and any department, agency, or office thereof having procurement powers.

(*c*) By using Section 8(a) authority, together with other financial, technical and management resources at its disposal, SBA is able to contract with other Federal departments and agencies to supply their goods, services, and construction needs, then subcontract the actual performance of the work thereof to 8(a) companies.

17. BUSINESS DEVELOPMENT

(*a*) The business development function is to assist existing and newly organized, or prospective eligible firms in applying resources and techniques designed to achieve self-sustaining independence in the competitive economy. The business plan approval authority shall determine the type and amount of resources necessary to realize the objectives of good business planning, and to provide the necessary aid required to support each firm in obtaining these resources.

(*b*) During the period in which SBA assistance is provided, the business plan approval authority shall insure that the firm's progress is being continuously monitored and evaluated in order for SBA to render advice, counsel, and guidance; and to arrange for management, marketing, technical, financial, and procurement assistance, as needed, from whatever source may be available.

(*c*) During the initial interview, the cognizant SBA official shall make certain that the prospective 8(a) program applicant fully understands what is required to make application, and the reason for these requirements. The prospective applicant shall also be informed that if his application is accepted, he will be required to submit certain business and financial information to the Agency on a continuing basis, and that failure to do so can result in the firm's being denied further 8(a) program assistance.

### 18. ELIGIBILITY DETERMINATION

(*a*) When an application is made for assistance under the 8(a) program, the regional director, his designee, or district director where delegated authority, shall make an evaluation and determination of eligibility using the criteria contained in chapter 2, paragraph 4. Such an evaluation and determination constitutes an administrative finding by the appropriate SBA official named herein, and, is based upon information obtained from the applicant. There is no requirement for an affidavit or written statement from the applicant supporting his or her claim to disadvantage. There are requirements that all applicants, to include in the case of corporations, each officer, director, and holder of 10 percent or more stock of the applicant corporation, shall be required to submit SBA Form 912, "Personal History Statement" and SBA Form 413, "Personal Financial Statement."

(1) The administrative finding should disclose that the individual falls within the eligibility category of socially or economically disadvantaged. The facts behind this finding can include such matters as depicted in the following examples which, alone or together, might justify the finding; there are other situations which undoubtedly would also apply:

(*a*) Because of his social background, the individual has been unable to obtain technical assistance, business assistance or financing of a quality or quantity similar to that available to the average entrepreneur in the economic mainstream (where possible, exclusions of this nature should be confirmed by specific examples).

(*b*) Because of past practices of discrimination, the individual has been impeded from normal entry into the economic mainstream (this example should be based upon specific facts applying to the individual involved and should not be based upon a generality applicable to a group, e.g., although many individual Blacks are "disadvantaged" and therefore eligible, it is insufficient to state that all Blacks are eligible simply because they are Black).

(*c*) Previous failures to compete effectively for government contracts could be traced, in significant part, to tendencies of regular financing and commercial agents to restrict their services to established businesses (specific instances of contract or financing "turn downs" would be helpful here).

(*d*) The individual is a long time resident of urban areas with high concentrations of unemployed or low income persons.

(*e*) The individual has been frequently unemployed or marginally employed due to his residency in depressed areas or due to past practices of discrimination.

(*f*) The individual has been in a low income status chronically.

(2) In making the administrative finding, care should be exercised to preclude any implication that eligibility is based principally upon the race, creed or ethnic background of the individual.

(3) Documentation shall include, in all cases, all information that is required to support the connection between the applicant's social or economic disadvantage and his inability to compete successfully in the economic mainstream.

(4) The administrative finding shall be summarized in writing and a copy, along with supporting documents, where necessary, shall be placed in the applicant's file.

(*b*) If a determination of eligibility cannot be made readily and clearly under the provisions of chapter 2, paragraph 4, the following additional factors will be considered in order to determine the applicant's eligibility:

(1) Service in the Armed Forces of the United States, resulting in veteran status' as it may affect social or economic disadvantage.

(2) Social background.

(3) Inability to obtain technical assistance, business assistance or financing.

(4) Impediments and obstacles encountered in entering into the economic mainstream resulting from discrimination or other circumstance.

(5) Inability to compete effectively in the marketplace because of restrictive practices on the part of financing or commercial agents.

(6) Frequency of unemployment or marginal employment due to residence in depressed areas or past practices of discrimination based on background or other circumstance.

(7) History of income status of applicant company and principal owners of company.

(*c*) The composite of the above factors and other pertinent information will establish a profile which will be used as the basis for determination of eligibility.

* * * * * * *

(5) *Management*

(*a*) Provide an organizational chart and outline of the firm.

(*b*) Provide personal resumes of all firm directors, officers, and key personnel.

(*c*) Identify additional key personnel required through the period being projected by the business plan.

(*d*) Describe all agreements or contracts for outside management and business consultants. The description shall include the following:

(i) Detailed description of services being provided.

(ii) Itemized cost of fee in detail and in the aggregate for services provided.

(iii) Timetable for the assumption of performing these services in-house in lieu of utilization of consultants.

(iv) Plan for the transfer and assumption of management responsibility to the disadvantaged.

(v) Copies of all applicable agreements.

(6) *Marketing*

(*a*) Indicate the geographical area(s) where the product(s) or service(s) will be marketed.

(*b*) Outline the marketing plan together with the sales and distribution system to be utilized.

(*c*) Indicate sales forecasts by product(s) or service(s) and prepare a business plan graph as illustrated in Figure 1.

(*d*) Indicate major competitors by product(s) or service(s).

# THE BUSINESS PLAN GRAPH

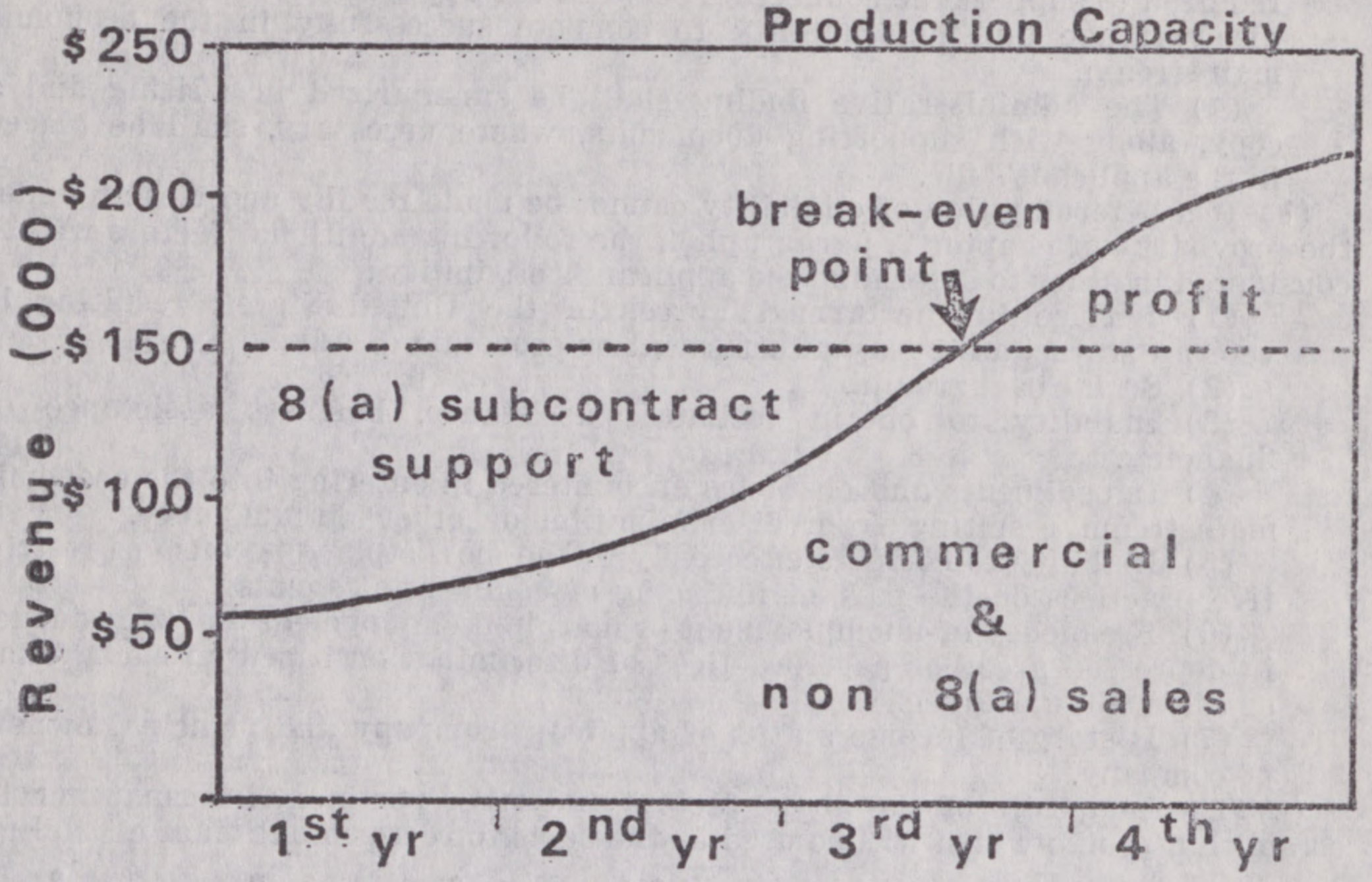



**Figure 1**

(See paragraph 23b(6))

# BREAK-EVEN CHART

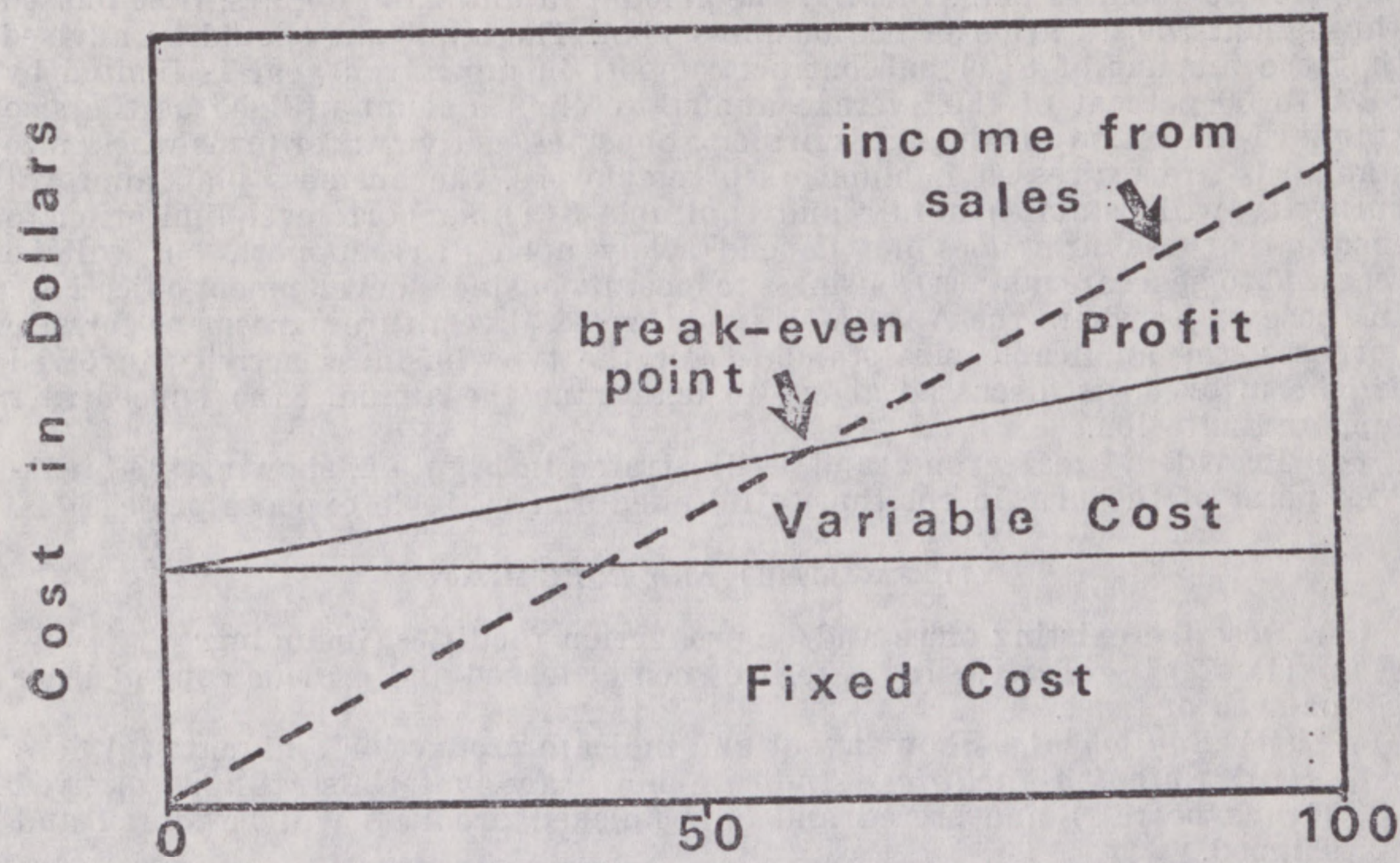



**Figure 2**

(See paragraph 23b(6))

(*e*) Indicate when, and by dollar value, the firm's internal marketing efforts are expected to provide sufficient sales volumes to permit profitable, competitive and independent operations.

(*f*) Indicate the total amount and duration of 8(a) subcontracts required to support the business plan. Identify the amount in units and dollars, time-phased throughout the duration of the business plan. The applicant should be advised that the amount of 8(a) subcontract support in any given year is limited by SBA to 50 percent of the average annual receipts amount utilized as the size standard limitation for the firm's principal business activity ; for firms whose size standards are expressed in numbers of employees, the business plan approval authority will establish a fair and equitable 8(a) support level limitation to ensure that the firm does not depend solely upon 8(a) support, but will be required to generate non8(a) business to meet its business development objectives. In those cases where the AA/PA has approved a divestiture agreement for size purposes, the applicable size standard for the type business activity involved will be utilized, as discussed above, to determine the annual 8(a) subcontract support limitation.

(*g*) Provide a break-even graph as illustrated in Figure 2, showing the break-even point of the firm in relation to its fixed and variable expense projections.

(7) FACILITIES AND EQUIPMENT

(*a*) Describe existing office and/or production facilities, including:

(i) *Real property.*—Indicate if owned or leased and provide copy of lease or deed of trust.

(ii) *Equipment.*—Show layout and indicate production and material flow.

(iii) *Shipping facilities.*—Indicate how raw materials will be received (truck or rail) and stored and how finished products will be stored and shipped.

* * * * * * *

Provide a copy of the firm's chart of accounts, identifying each line account to the appropriate overhead pools, where applicable or pertinent.

(*c*) *Signing of Business Plans.*—All business plans shall be signed by the principal officers of the firm certifying that the information presented is correct and that all material facts or conditions have been set forth. Business plans shall not be accepted unless property signed and dated.

24. REVIEW AND EVALUATION OF BUSINESS PLAN

(*a*) *District Office*

(*1*) *Screening.*—In those SBA regions wherein the 8(a) program is decentralized, the district director shall determine the adequacy and completeness of the information furnished in each business plan received. If the business plan is found to be incomplete or deficient, it should be returned to the applicant with specific instructions as to the appropriate information required. If the applicant is in need of assistance to complete the business plan, the district office shall arrange for the provision of the help needed from resources available in the district, or if needed, from regional resources.

(*2*) *Responsibility.*—The district director, in those regions wherein the 8(a) program is decentralized, is responsible for reviewing each business plan to insure that it is in acceptable form and contains the required information.

(*a*) The district director shall designate a committee responsible for evaluating and reviewing business plans and making appropriate recommendations concerning their adequacy and feasibility.

(*b*) The review shall consist of a succinct evaluation of available data to make a preliminary determination that the applicant:

(i) Has the necessary organization, experience, operational controls, materials, skills, facilities, or has the ability to obtain them on a timely basis.

(ii) Has, or has access to cash or credit from banks, financial institutions, SBA, suppliers, subcontractors, or other responsible sources to meet all financial requirements.

(*c*) The committee will take into consideration the type and size of the firm making application. For example, the detail required in a janitorial firm business plan will be much less than required for a manufacturing firm's business plan.

(*d*) The committee shall be chaired by the district director and shall include senior staff persons from at least the following areas:

The District Business Development Specialist, where applicable.
The District Minority Enterprise Representative.
Assistant District Director for Finance and Investment.
Assistant District Director for Procurement Assistance.
Assistant District Director for Management Assistance.

(*4*) *Approval or Recommendation.*—If the review indicates that the firm is likely to achieve it's business plan goals, and SBA can reasonably expect to provide the support indicated, and there is an existing or potential competitive market for the firm's product or service, the district director where delegated such authority, shall approve the business plan. Where approval authority has not been delegated, the district director shall submit the firm's official business plan file (retaining a working copy thereof), together with his recommendation to the regional director or his designee. The district director's recommendation or business plan approval, as appropriate, shall be supported by the following, which are to be made a part of the firm's file:

(*a*) Analysis of the eligibility, management, marketing, production, and financial sections of the business plan.

(*b*) Opinion as to strengths, weaknesses, and potential problem areas of the business, along with recommended solutions to be implemented by the district office.

(*c*) Legal review of the business plan including eligibility, divestiture agreement, or management contracts.

(*d*) Information concerning availability of requirements and existing and potential competitive market.

(*5*) *Actions Required Upon Approval.*—If the business plan is approved by the district director, the district office shall:

(*a*) Prepare and submit either SBA Form 893A or 893B as appropriate.

(*b*) Submit SBA Form 1017, "Capability Review and Requirements Request" to regional office for further submission to OBD, Central Office, if national buy support is requested, and initiate local or national buy requirement support activity as appropriate.

(*c*) Submit SBA Form 1023, "Minority Vendor Profile" if appropriate.

(*d*) Arrange for the provision of all management and technical assistance determined by the business plan evaluation and review committee to be required.

(*e*) Determine and request regional support required to fulfill business plan needs.

(*f*) Establish any mandatory action reports for monitoring and statistical needs that may be required by the regional office.

(*6*) To avoid confusion and unnecessary duplication of effort and the Agency's resources, a firm operating in more than one district in a region, or in more than one region, is to be approved by the district (if approval authority delegated), or region in which the applicant's principal business office is located. In such cases, the approving district or region has the primary responsibility for all program actions to support the firm. This may require close cooperation between district offices within a region, or between regional offices where the services of one office are needed to support a firm that was approved in another office.

(*b*) *Regional Office (Centralized 8(a) Program Operations)*

In several SBA regions the 8(a) program has not been decentralized to the district office level. The responsibilities and requirements set forth in paragraph 24a as applicable to the district director under a decentralized mode of 8(a) program operations for business plan screening, review and evaluation, establishment of a review and evaluation committee and business plan approval or recommendation, are equally applicable to the regional director, or his designee, in regions operating the 8(a) program under the centralized mode.

(*c*) *Regional Office (Decentralized 8(a) Program Operations)*

(1) In those instances wherein business plan approval authority has not been delegated to the district director, the assistant regional director for procurement assistance (ARD/PA), upon receipt of a business plan file and the district director's recommendation, shall review the file.

(2) If the documentation and rationale are in order and there are no divestiture or management agreements involved, the ARD/PA may exercise ap-

proval authority, if such authority has been delegated. If approval authority has not been delegated, the ARD/PA shall add his recommendation to that of the district director and submit the package to regional director for approval or disapproval. Where there are divestiture and/or management agreements involved, the package will be submitted to the AA/PA with the recommendation of the regional director, to include complete justification and documentation of the agreement involved. Upon receipt of the AA/PA's approval of the agreement concerned, the regional director, or his designee, may approve the business plan.

(3) Upon approval of a business plan by the regional director or his designee, the ARD/PA shall:

(*a*) Prepare and submit either SBA Form 893A or 893B as appropriate.

(*b*) Submit SBA Form 1017, "Capability Review and Requirements Request" to OBD, Central Office if national buy support is requested and initiate local or national buy requirement support activity, as appropriate.

(*c*) Submit SBA Form 1023, "Minority Vendor Profile" if appropriate.

(*d*) Arrange for the provision of all management and technical assistance determined by the business plan evaluation and review committee to be required.

(*e*) Determine and make arrangements to provide the district office with whatever regional support is necessary to fulfill the business plan needs.

(*f*) Establish any mandatory or regionally required action reports for monitoring and statistical needs.

### 25. NOTIFICATION OF BUSINESS PLAN APPROVAL ACTION

(*a*) Upon approval of a business plan by the regional director, his designee, or the district director, as appropriate, or upon receipt by the district director of notification of approval at the regional level, the applicant shall be notified promptly of the action taken.

(1) *Approval.*—The applicant shall be advised of the approval of the business plan. The approval letter shall include statements:

(*a*) Of the dollar amount of projected requirements for each year that assistance is required.

(*b*) To the effect that no assurance can be given that the level of support requested can be provided, but best efforts will be rendered by SBA to support the applicant's business plan.

(*c*) That the submission of financial statements (balance sheets, profit and loss statements and changes in financial position) on a quarterly basis is mandatory and a condition of program participation. The profit and loss statements shall indicate separately the amount of sales via 8(a) subcontracts and non-8(a) business. The annual statement shall be:

(i) *Audited.*—Fully audited statements shall be required for those firms with actual or projected gross annual receipts of $200,000 or above, and/or those firms approved for 8(a) program participation under divestiture and/or management agreements.

(ii) *Audited (Limited Scope).*—Statements with verification of only that data specified by the business plan approval authority as being necessary shall be required for those firms with actual or projected gross annual receipts ranging between $50,000 and $199,999. The business plan approval authority shall exercise his discretion with respect to the data requiring verification, if any.

(iii) *Verified as to Accuracy by the Chief Executive Officer.*—Firms with actual or projected gross annual receipts of less than $50,000.

(*d*) That fees paid or to be paid, costs incurred or committed to third parties, whether directly or indirectly, in the process of obtaining 8(a) subcontracts, shall be fully disclosed to the SBA by the applicant prior to entering into any related 8(a) subcontract.

(*e*) Requesting disclosure of the extent to which nondisadvantaged persons or firms will participate in performance and/or management of the subcontract.

(*f*) That the firm's progress in pursuing the goals outlined in the business plan shall be closely monitored by SBA and that any changes in ownership, management, or business pursuits of the firm without prior SBA approval will be cause to revoke the business plan approval and terminate the firm's participation in the 8(a) program.

(*g*) That the applicant must actively pursue commercial and competitive business in accordance with the business plan projection, such activity, on a continuing basis, is mandatory and a condition to continued participation in the 8(a) program.

(*h*) That the applicant acknowledges receipt of the letter and agrees with the conditions stated therein of business plan approval. A space under the statement should clearly indicate that the applicant should sign the statement and return to the SBA office from which sent.

(2) *Decline.*—The letter to the applicant shall clearly set forth the reasons for the declination. The better will include a brief comment on each reason so that the applicant may fully understand why the stated reasons are pertinent to the declination.

*Reconsideration of Application.*—Upon applicant's written request, an application which has been declined may be reconsidered. Such request must be made within 6 months from the date of receipt of the notice of the declination action. The request may be accepted provided:

Necessary information is brought up-to-date.

The reasons for declination have been substantially overcome.

(b) The district director shall forward to the regional director the following on all business plans approved:

(1) Copy of approval letter sent to applicant.

(2) Copy of SBA Form 1017, "Capability Review and Requirements Request."

### 26. ACTION UPON APPROVAL OR DECLINATION

Any application accepted for consideration shall be promptly acted upon, and a decision for approval or declination made in every case.

* * * * * * *

(*b*) *Progress payments*

Progress payments are made from the funding provided in the basic prime contract for payment of items or for services delivered and are most frequently used for long production contracts and construction contracts.

(*c*) *Advance payments*

(1) Advance payments shall not be made on a contract having an assignment, nor can any contract having unliquidated advance payments be assigned. When circumstances merit, an administrative determination is made by SBA to provide advance payments.

(2) To obtain advance payments, a "Findings and Determination" shall be prepared in accordance with the ASPR instructions. This document shall contain supporting justifications, and shall have legal concurrence prior to approval by the regional director.

(3) Once approval of the Findings and Determination (appendix 17) is obtained, a modification is prepared. (Appendix 18.)

(4) The file shall contain a justification and rationale for the 8(a) contractor's request for advance payment and also a liquidation schedule arranged according to subcontractor's ability to liquidate the advance consistent with cash flow projections. The following typical schedule is illustrated for consideration:

1 Percent of First $100,000 of invoicing—$1,000.
5 Percent of Second $100,000 of invoicing—5,000.
8 Percent of Third $100,000 of invoicing—8,000.
12 Percent of Fourth $100,000 of invoicing—12,000.
25 Percent of the Balance ($50,000)—12,500.

(An advance of $38,500 would be liquidated by this illustration against a total contract amount of $450,000. The important factor is to arrange repayment according to the contractor's ability to pay.)

(5) The "Agreement for Special Bank Account" (appendix 19) between the bank in which the advance payment will be deposited, the contractor, and SBA, delineates conditions pertaining to the account. Four signature cards shall be obtained for use by individuals authorized to issue checks against the account. An SBA countersigning agent and alternate shall be designated, and their signatures will be affixed to the signature cards. Only counter-signed checks will be honored by the bank. If the agreement for special bank account is processed

as a modification to the subcontract only, there shall be a minimum of four manually signed copies distributed as follows:

(*a*) Contract File.

(*b*) Accounting Operations Division. (Include prime and subcontracts and all modifications.)

(*c*) Subcontractor.

(*d*) Banking Institution.

If the agreement is being processed as a tripartite agreement (modification to the prime), additional manually signed copies will be required by the issuing office. Regardless of the issuing office appearing on the modification, the documents will be prepared and funded by SBA. The contracting officer's designee will prepare SF 1034, "Public Voucher for Purchases and Services Other than Personal" in original and three copies, and the original and two copies will be forwarded to the Accounting Operations Division, Office of Budget and Finance, with a request to deposit the amount indicated. The deposits may be made in increments up to the limit established by the modification.

(6) The terms of the modificaton require that the contractor submit quarterly profit and loss statements, balance sheets, and a monthly report on the operation of the special bank account to the SBA contracting officer or his designee.

(*a*) Minimum information for each monthly report shall include deposits, disbursements, balance available for disbursements, liquidations, unliquidated balances, and a summary of the items covered by the disbursements.

(*b*) In instances where modifications are bilateral (SBA and subcontractor only), the distribution to the paying activity will be accompanied by a transmittal letter emphasizing that payments shall not be made direct, but should be deposited in the bank account.

(*c*) In a tripartite modification, the payment provisions as changed are automatically enforceable on the disbursing office.

(7) Where advance payments are made against construction contracts, the surety (or) sureties shall be notified in writing prior to the approval of such payments.

### 55. TERMINATION ACTIONS

(*a*) The termination clauses in prime contracts apply against the subcontractor, but independent exercise of termination clause by either the PCO or administrative activity is restricted.

(*b*) Contractors may for one reason or another experience some difficulty in the performance of a subcontract. When this requires a revision of delivery schedules, a modification will be developed with the appropriate parties. If the contractor is unable to perform, then all efforts will be directed toward finding another 8(a) subcontractor who can fulfill the prime contract. In the event it is impossible to locate an alternate contractor, the PCO will be requested to recall the procurement, and arrangements shall then be made to terminate the contract by mutual consent without cost to either party.

(*c*) The PCO of the Procuring Agency shall be responsible for invoking default whenever it becomes necessary. The official CURE notice and Show Cause letter shall be directed to the SBA contracting officer under the prime contract.

Every effort should be utilized to terminate the contract at no cost to the contractor. In the event a no cost termination is not feasible, the SBA contracting officer shall upon receipt of the PCO's letters invoke the Cure Notice and Show Cause letter upon the 8(a) contractor.

(*d*) When a contract has been terminated for convenience or default, manually signed prime and subcontracts and modifications thereto, shall be sent to the SBA Office of Budget and Finance (B&F). At the end of each quarter, a letter reporting terminated contracts, (RCN 386), "Quarterly Report of Contract Terminations" shall be prepared by the ARD/PA and submitted to OB&F. Negative reports are required to facilitate control. The report will provide the number and dollar value of contracts that have been terminated during the quarter in each of the categories listed below. In each category, the reason for each termination action will be stated, and a statement regarding the effect on the 8(a) contractor relative to the contractor's performance or financial problems will be made in all cases wherein such problems precipitated the termination action:

(1) Termination for default.

(2) Termination for convenience.

(3) Cancellation.

## Chapter 6. Business Development Expense

### 56. definitions

(*a*) *Business Development Expense* (*BDE*).—An 8(a) subcontract payment made from SBA's business loan and investment fund, representing the difference between the fair market price and the price required by the 8(a) subcontractor to provide the product or service under an 8(a) subcontract with SBA.

(*b*) *Fair Market Price* (*FMP*).—The price negotiated between SBA and the procuring department or agency for an 8(a) prime contract.

### 57. general

(*a*) BDE is a fixed predetermined amount based on the subcontract price estimate established at the time of subcontract negotiations; it will not be increased due to subsequent contingencies or subcontract overruns.

(*b*) The use of BDE may be considered in accordance with the policy as set forth in Chapter 2, paragraph 8, above, and where additional financial capacity is needed to overcome firm deficiencies to produce a product at a competitive unit cost. BDE may include, but is not limited to:

(1) Facility and production engineering.
(2) Special tooling and test equipment.
(3) Development and implementation of quality control procedures.
(4) Training costs—low labor productivity due to inexperience.
(5) Labor costs.
(6) Material wastage costs.
(7) General and administrative expense. (This must be itemized into specific cost elements attributed to the applicable contract.)
(8) Differential due to low order purchasing power and/or material usage in comparison to its competitors.
(9) Interest expense to be borne by the 8(a) concern in connection with contract performance.

The use of BDE to defray the costs of interest expense will only be considered as it relates specifically to the performance of the proposed 8(a) contract, and where these funds are not available from company resources.

(10) Capital equipment.

The use of BDE for the purchase of capital equipment will be considered only in those cases wherein it is deemed to be essential to the efficient performance of the proposed 8(a) contract and where alternate funds are not available for this purpose from company resources or though conventional sources of financing. In addition, the use of BDE funds for this purpose must also enhance the firm's competitive market potential. Title to equipment purchases with BDE funds shall pass to the 8(a) concern immediately upon purchase of the equipment.

(*c*) BDE may not be considered for the following:

(1) Contract contingencies arising subsequent to subcontract award.
(2) Cost overruns.
(3) Entertainment expense.
(4) Any other costs not directly attributed to the performance of the subcontract.

### 58. responsibility

(*a*) *Office of Business Development, Central Office*

(1) No later than August of each calendar year, OBD shall submit to the Budget Division, Office of Budget and Finance, as part of the PA/OBD budget to be included in the external budget submission for the forthcoming fiscal year, an estimate of BDE funds required for program operations for the current fiscal year and for the next fiscal year.

(2) Prior to the beginning of the quarter preceding the quarter for which BDE funds are to be allotted, OBD will make recommendations to the Budget Division regarding the amount of BDE funds to be allotted to each region.

(3) The Director, OBD shall recommend reprogramming of BDE funds among regional offices as may be required. Such recommendations will be made only after consultation with the affected regions.

(*b*) *Office of Budget and Finance—Central Office*

(1) *Budget Division.*—At the beginning of each fiscal year, the Budget Division will issue quarterly allotments (cumulative after the first quarter) for BDE funds to each region.

(2) *Accounting Operations Division (AOD).*—AOD will maintain overall control of BDE funds, including accounting of individual business development expense accounts and of regional BDE account balances. AOD will also disburse BDE funds either to the procuring agency, or into a controlled checking account for payment of BDE to the subcontractor.

(c) *Regional Director*

The regional director is responsible for approval of the use of BDE funds in accordance with Agency policy and procedures.

(1) Overobligation of BDE funds by the regional office is prohibited. Regional requests for additional BDE funds shall be prepared in writing, including a justification, and forwarded through the Director, OBD to the Budget Division.

(2) Prior to forwarding a BDE Order to a procuring agency or to AOD for release of subcontract line item payment directly into a controlled checking account, the regional offices budget officers will certify as to availability of BDE funds.

### 59. PAYMENT OF BDE

(a) *Pricing of Prime Contracts*

The price negotiated for the prime contract should be the "fair market price," in accordance with program policy and prevailing interagency agreements.

(b) *Pricing of Subcontracts*

The total price of the subcontract will be equal to the total price of the prime contract plus the amount of any BDE to be included.

(1) BDE may be a separate line item(s) in the subcontract when authorized and approved for capital equipment or other frontend uses prior to actual subcontract performance.

(2) When not needed by the 8(a) subcontractor prior to contract performance, the procuring agency normally will be requested to disburse BDE funds to the 8(a) subcontractor as discussed in subparagraph (c)(2) below.

(c) *Disbursement*

(1) *By SBA Directly to the 8(a) Contractor.*—When BDE is to be paid as a separate subcontract line item, AOD will release the subcontract line item payment directly into a controlled checking account established by the 8(a) subcontractor and SBA. Disbursement need not be made to the procuring agency for subsequent disbursement to the contractor. The regional director or his designee shall authorize funds to be drawn from the subcontractor's BDE controlled account when these funds are required and as delineated in the BDE justification.

(2) *To the Procuring Agency.*—When BDE funds are to be disbursed by AOD to the procuring agency, they shall be added to the fair market unit(s) price(s) negotiated with the procuring agency. Subsequent payment to the 8(a) contractor will be made by the procuring agency in accordance with delivery and payment provisions of the prime contract.

### 60. REPORTING AND CONTROL OF BUSINESS DEVELOPMENT EXPENSE

(a) *BDE Ledger*

The regional offices, upon receipt of their quarterly BDE funds allotment from Budget Division, shall have the regional budget office established and maintain a credit and debit ledger (log) to record the total dollar business development expense per contract, maintaining a current balance to zero as expended.

(b) *Checklist of Business Development Expense Documentation*

Upon completion of the contract negotiations and preparation of the negotiation memorandum, the negotiator shall complete SBA Form 1014, "Checklist of Business Development Expense Documentation," (Appendix 20) prior to submitting a request for approval of BDE funds to the regional director.

(c) *Request for Regional Approval of BDE*

The negotiator shall prepare and execute SBA Form 1014A, "Request for Approval of Business Development Expense" (Appendix 21) in quadruplicate, and obtain the signatures of the contracting officer and along with the Checklist of Business Development Expense Documentation, submit to the regional director for his approval.

In those cases where the regional director has not delegated contracting authority, it will be required for him to sign Form 1014 in the dual role of regional director and contracting officer.

(*d*) *Order Form for BDE Authorization*

Concurrently with the preparation of SBA Form 1014A, the negotiator will also prepare in quadruplicate SBA Form 1014B, "Business Development Expense 8(a) Program—BDE Order No. —" (Appendix 22) and forward for the signature of the contracting officer.

(*e*) *Approval of SBA Form 1014A and the BDE Order, SBA Form 1014B*

(1) After approval of SBA Form 1014A and preparation of SBA Form 1014B, four sets of forms will be prepared, each set consisting of one Form 1014A and one Form 1014B. All four sets shall then be forwarded to the Regional Budget Officer for certification as to the availability of funds. Upon certification, two sets will be forwarded to AOD, and two sets (one of which is the certified original set) will be forwarded to the regional director or his designee.

(2) Copies of the prime contract, subcontract, and contract modification documents will be provided to AOD in all cases wherein BDE is to be used.

(*f*) *Letter with Original Order to Procuring Agency*

Upon receipt of the signed orders from AOD, the regional director or his designee shall sign a letter transmitting the original Business Development Expense Order and negotiated amount of BDE to the procuring agency, if appropriate. (Appendix 23). However, when BDE funds are to be disbursed by the regional office directly to the subcontractor rather than by the procuring agency, the Order shall be retained by the regional office and placed in the contract file. Appropriate clauses shall also be inserted in the subcontract indicating that disbursement is to be made by SBA rather than by the procuring agency.

In such instances where it is necessary for both the procuring agency and the SBA to make BDE disbursements, the appropriate clauses shall be interted in the contract and the subcontract.

In cases where disbursement of BDE funds is to be authorized, and authenticated copy of both the prime and the subcontract and modifications thereto shall be submitted to AOD.

(*g*) *Recording and Reporting*

Each region shall maintain a log, using SBA Form 1015, "Summary of Business Development Expense 8(a) Program" (RCN 357), to record the total dollar business development expense per contract by fiscal year, maintaining a current balance to zero as expended. On the fifth day of each succeeding month, the ARD/PA shall transmit a copy of SBA Form 1015 (as illustrated in appendix 24) to the AOD.

(*h*) *Deobligation of BDE Funds*

BDE funds shall be deobligated under the following conditions:

(1) After the complete execution and distribution of the BDE Order, the prime and/or the subcontract are not awarded.

(2) Any BDE funds remaining on the contract(s) after completion of contract performance and final payment.

The SBA contracting officer or his designee shall notify AOD in writing to deobligate the funds. A copy of the Order shall be enclosed with the notice of deobligation.

(*i*) *Filing Documents*

All documents or copies thereon relating to the processing of BDE requests shall be placed in the official 8(a) contract file.

SINGLETON CONSTRUCTION CO., INC.,
*Jacksonville, Fla., July 22, 1977.*

Senator LAWTON CHILES,
*Room 2107, Dirksen Office Building,*
*Washington, D.C.*

DEAR SENATOR CHILES: We feel we would be negligent in our duties if we did not personally express to you our appreciation to you and your committee's for having taken an interest in the irregularities of the SBA program, called section 8(a) designed to help minorities.

After three years of trying to get a source that would help us solve our problems, it was only through our request to you, that our allegations began to receive any importance.

Because you and your committee have brought the allegations to National Attention, we believe that the program will be improved to the extent that minorities will be able to benefit from the program, as it was designed to do, by you, and our other U.S. government officials.

The investigations by the full committee, I am sure, will cause the newly appointed SBA administrators of Washington, D.C., to take a closer look at how the program is being administered, and use every means at their disposal to do as they have committed themselves to do.

You can be assured that I am prayerfully looking forward to what ever aid everyone involved may consider for me.

My only objectives are to try to get the officials involved in the process, of expediting the program, to see the hardships as experienced by me, in completing my projects, and that I may be helped out of my financial dilemma.

I sincerely hope that the investigations will not cause any of the men and their families to encounter the many hardships that my wife and I have endured. She has just returned home from the hospital of a thirteen days stay, and is having a slow recovery from a severe heart condition.

However, we are still hopeful that our U.S. Government will have enough men of your calibre and integrity that will give every man of all races, colors, creeds, and religions, the opportunities offered them, in the most progressive, and most powerful nation in the world.

Respectfully,

ROBERT L. SINGLETON.

---

HENDERSONVILLE, N.C., *July 14, 1977.*

Hon. LAWTON CHILES,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR: Our esteemed newspaper, the Asheville Citizen, in an editorial on the 12th described the mess you have discovered in SBA.

As I have written our senators repeatedly, I think SBA should have been liquidated years ago. It has proven nothing but a convenient vehicle for granting of favors by politicians. For years there has been scandal, and the program has cost the taxpayers perhaps a billion dollars. I have checked and am advised that 5500 loans are currently in default; loans averaging $50,000 each. The editorial mentioned one so-called "under privileged" character who was granted a 19 million dollar loan. He became a privileged person in a hurry. I don't know with whom he had to split, but this loan would bear close investigation. After all, the program is for *small* business. Even our friend Humphrey went to bat for two crooks in Duluth who contributed $5,000 to his campaign funds in return for which he jammed thru a two million dollar loan on the supposition that they had a factory which would employ some people, and for whom he vouched as sterling honest folk. Shows how easy it is to get the taxpayer's money. Where there's easy money there is the gathering of the vultures. I think most members of congress know all about the scandals and corruption of SBA but are unwilling to act for fear of stepping on the toes of some of their colleagues. I do want to say thanks to you for your making known the facts your committee developed. We need more men like you and Bill Proxmire in the Senate.

Sincerely,

R. L. NISSEN.

---

JACKSON, MISS., *July 18, 1977.*

Hon. LAWTON M. CHILES, Jr.,
*Chairman, Subcommittee on Federal Spending and Open Government, Capitol Hill Apartment Annex, 128 C Street NE., Washington, D.C.*

DEAR SENATOR CHILES: As a member of the National Association of Minority Certified Public Accounting Firms, I strongly support the Small Business Administration's 8(a) program. This program has been of vital importance to a number of minority CPA's in that it has allowed them entrance into a market previously closed to minority firms. It can be a viable program if given full and adequate support by the various governmental agencies by providing sufficient contract requirements and other resources necessary to enable them to graduate from the program.

I am soliciting your assistance and support for the continuation of this program. Any assistance you can provide concerning this matter will be greatly appreciated.

Sincerely yours,

MACK FINLEY, Jr.

---

THE HOLBROOK CO.,
*Fort Lauderdale, Fla., July 13, 1977.*

Re SBA Fraud Investigation.

HON. LAWTON CHILES,
*Federal Building*
*Lakeland, Fla.*

DEAR SENATOR CHILES: I have been listening with interest and have seen you on television several times in the past few days in regards the investigation into the fraud where black businessmen are used as "fronts" to set up businesses and to secure favorable SBA loans.

While your intent and that of the other Congressmen appears on the surface to be a creditable thing to make government guaranteed loans available to minority businessmen, I think history has proven that whether you are in the majority or minority if you have the ability to succeed in business you are going to do it with or without a government loan. In fact, most of the statistics I have seen indicate that businesses which have been helped by the SBA have wound up as failures. We have found that it is experience and brains that make a business successful and not money.

As a result of your investigation I would like to see legislation sponsored that would have penalties, firing or some other type of punishment for the improper policing of these transactions by members of the federal bureaucracy. Had these loans been carefully monitored and checked out by the proper federal employees, this type of fraud would never have occurred.

If the employees approving the loans and monitoring them had their jobs on the line for making mistakes as we do in private industry, I think we would see a lot less of this type of transaction taking place.

When we in private enterprise make such a mistake we usually are out of business and what is more under the laws that *you* have passed, if we make similar type mistakes we are penalized, put in jail or receive some other type of punishment. I would appreciate some type of positive action in this area such as having a bill passed that would put the same degree of fiduciary responsibility on you as a Congressman and on our federal employees as we have in the private sector.

Thank you for your help and attention to this matter.

Cordially,

EUGENE E. HOLBROOK.

---

[Telegram]

JACKSONVILLE, FLA., *July 7,1977.*

Senator LAWTON CHILES,
*Chairman, Senate Committee Federal Spending,*
*Senate Office Building,*
*Washington, D.C.*

SIR: Mr. Robert Singleton's claim to the loss of several thousand dollars on MCAP-related projects is indeed quite real. I personally witnessed a $14,000. bilking . . . in the presence of an SBA coordinator. I will gladly testify on Mr. Singleton's behalf. Suggest you extend your investigation.

Very truly yours,

LEONARD SIMCOCK,

---

[From the Tampa Tribune, July 12, 1977]

## TOO EASY FOR RATS TO GET THIS CHEESE

The rats will find the cheese.

In this case the cheese was a $300-million-a-year program for awarding Federal contracts without competitive bidding to small businessmen run by blacks or other minorities.

Along came the rats—white ones. They organized a "minority" enterprise, induced a black or Hispanic to sign up as president and, perhaps with political assistance, walked away with a contract. The minority "owners" might wind up with 10 percent of the profits, the white manpulators with 90 percent.

* * * * * * *

The story of how a well-intentioned program has been corrupted was told in recent hearings before a Senate subcommittee headed by Florida Senator Lawton Chiles.

Because of the revelations of abuse, the new chief of the Small Business Administration has suspended further contracts under the minority business program.

The suspension is justified. If the program can be cleaned up and reorganized so that it gives honest minority-run businesses a chance to prove their ability to handle government contracts, then it will be worth renewing. But the element of competition shouldn't be entirely removed. As one black business man suggested to the Chiles committee, minority businesses should be required to compete among themselves for the Federal work.

Under the present minority assistance program, regional offices of the SBA make loans to the small businesses and arrange for them to get such contracts as handling food or janitorial services at military bases.

"In almost every one of these offices", said Senator Chiles, "the program is a sham, with one front firm after another operating under the guise of giving minority citizens a break in business. Groups of successful businessmen literally buy a minority citizen so they can qualify as a minority firm".

Four of these "front" firms were identified as operating in Florida.

Testimony during the hearings showed that political connections could be as important as skin color in gaining the benefits of the program for the "disadvantaged". Two former White House aides in the Nixon Administration obtained minority contracts just before leaving their jobs, a departing SBA official wangled a $500,000 contract which he farmed out in California while continuing to live in Washington; another recipient classified as disadvantaged was making $43,000 a year and living in a luxury apartment—he chanced to be a former District of Columbia official.

* * * * * * *

Federal money by itself has an enticing scent; combine it with non-competitive bidding and restricted application and the smell will draw rats from miles around.

The Chiles committee has sprung a few traps. It's up to the Carter Administration to see that if this kind of minority aid program is worth continuing, it's worth protecting against vermin of all colors.

---

[From St. Petersburg, Fla. Times]

## U.S. Senate May Investigate South Florida Organized Crime

(By Charles Stafford)

WASHINGTON.—The U.S. Senate Permanent Subcommittee on Investigations has begun a preliminary study to determine whether it should undertake a full-scale investigation of organized crime and drug trafficking in South Florida, Sen. Lawton Chiles, D-Fla., said Friday.

He said he requested the investigation after receiving an in-depth briefing from federal law-enforcement officials on the crime problem.

Sen. Sam Nunn, D-Ga., subcommittee vice chairman, notified Chiles of the preliminary study.

Chiles said he found the briefing disturbing, particularly reports of criminal figures moving into legitimate business in South Florida.

"The criminal activity is massive and I'm not satisfied we're anywhere close to being able to cope with it," he said. "It's time to find out what it's going to take to gain control and to start getting the necessary resources together to do it."

Chiles began looking into the matter at the request of Broward County officials.

[From classified advertising column]

Leading Fl. mfg. of custom draperies looking for salesperson to sell complete line of custom drapes, shades, and wall paper. Complete training program. Draw against most dynamic comm. program in the industry. Income of $20,000 possible. Protected territory. For info call Dick Roberts at 904–683–2205 or 683–1326.

(Flamingo Draperies, Spring Hill Shopping Plaza, Spring Hill, Fla. 33512. Joseph Pepenella.)

He has threatened every employee he has ever had.

---

FORT LAUDERDALE, FLA., *July 12, 1977.*

Senator LAWTON CHILES,
*New Senate Office Building, Washington, D.C.*

DEAR SENATOR CHILES: Writing as an always interested citizen, I'm sending my thanks for a job well done.

Your work against crime in Broward County is admirable. As a resident of Broward County for the last twenty-five years I for one appreciate it.

I'm now in the process of setting up a place in Polk County (three years ago I purchased the airport tract, which now is known as West Lakeland). This being your home county, I feel confident the same good work prevails.

Best regards,

MARTIN FRIDOVICH.

DEPARTMENT OF DEFENSE

# CONTRACT PRICING PROPOSAL

Form Approved
Budget Bureau No. 22-R100

This form is for use when submission of cost or pricing data (see ASPR 3-807.3) is required

PAGE NO. | NO. OF PAGES

NAME OF OFFEROR: NATIONAL SERVICES

HOME OFFICE ADDRESS (Include ZIP Code): PO Box 4181, Columbus, Ga 31904

DIVISION(S) AND LOCATION(S) WHERE WORK IS TO BE PERFORMED: Fort Rucker, Alabama

SUPPLIES AND/OR SERVICES TO BE FURNISHED: Custodial Services, Ft. Rucker.

QUANTITY

TOTAL AMOUNT OF PROPOSAL: $ 432,360.00

GOVERNMENT SOLICITATION NO.: DABT01-77-R-0113

| COST ELEMENTS | PROPOSED CONTRACT ESTIMATE: TOTAL COST[1] 12 Months | UNIT COST[2] | REFERENCE[3] |
|---|---|---|---|
| 1. DIRECT MATERIAL: a. PURCHASED PARTS[5] (Supplies) | $ 51,054.91 | $ 4,254.57 | Schedule IV |
| b. SUBCONTRACTED ITEMS[6] (Equipment, Repair and Maintenance) | 4,667.04 | 388.92 | Schedule IV |
| c. OTHER MATERIAL: (1) RAW MATERIAL[7] | | | |
| (2) STANDARD COMMERCIAL ITEMS[8] | | | |
| (3) INTERDIVISIONAL TRANSFERS (at other than cost)[9] | | | |
| 2. MATERIAL OVERHEAD[10] (Incl Supervision) | $ 19,920.09 | 1,660.00 | Schedule III |
| 3. INTERDIVISIONAL TRANSFERS AT COST[11] | | | |
| 4. DIRECT ~~ENGINEERING~~ LABOR[12] | $ 246,154.74 | 20,512.89 | Schedule IX |
| 5. ENGINEERING OVERHEAD[10] | | | |
| 6. DIRECT MANUFACTURING LABOR[12] | | | |
| 7. MANUFACTURING OVERHEAD[10] | | | |
| 8. OTHER COSTS[13] (Type), (Entitlement, Limousine & Uniform Service, Vandalism) | $ 61,852.17 | $ 5,654.34 | Schedule V |
| 9. SUBTOTALS | $ 389,648.95 | $ 32,470.72 | |
| 10. GENERAL AND G&A ADMINISTRATIVE EXPENSES[10] | 3,405.60 | 283.80 | Schedule VI. |
| 11. ROYALTIES[14] | | | |
| 12. FEDERAL EXCISE TAX[15] | | | |
| 13. SUBTOTALS | $ 393,054.55 | $ 32,754.52 | Schedule VII |
| 14. PROFIT ~~OR FEE~~ | $ 39,305.45 | 3,275.45 | |
| 15. TOTAL PRICE (Amount) | $ 432,260.00 | $ 36,029.97 per month | |

1. HAVE THE DEPARTMENT OF DEFENSE, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, OR THE ATOMIC ENERGY COMMISSION PERFORMED ANY REVIEW OF YOUR ACCOUNTS OR RECORDS IN CONNECTION WITH ANY OTHER GOVERNMENT PRIME CONTRACT OR SUBCONTRACT WITHIN THE PAST TWELVE MONTHS?

☑ YES ☐ NO IF YES, IDENTIFY BELOW.

NAME AND ADDRESS OF REVIEWING OFFICE (Include ZIP Code): NATIONAL DEFENSE AGENCY, Atlanta, Ga

TELEPHONE NUMBER:

II. WILL YOU REQUIRE THE USE OF ANY GOVERNMENT PROPERTY IN THE PERFORMANCE OF THIS PROPOSED CONTRACT?

☐ YES ☑ NO IF YES, IDENTIFY ON A SEPARATE PAGE.

III. DO YOU REQUIRE GOVERNMENT CONTRACT FINANCING TO PERFORM THIS PROPOSED CONTRACT?

☐ YES ☑ NO IF YES, IDENTIFY: ☐ ADVANCE PAYMENTS ☐ PROGRESS PAYMENTS OR ☐ GUARANTEED LOANS

IV. HAVE YOU BEEN AWARDED ANY CONTRACTS OR SUBCONTRACTS FOR SIMILAR ITEMS WITHIN THE PAST THREE YEARS?

☑ YES ☐ NO IF YES, SHOW CUSTOMER(S) AND CONTRACT NUMBERS BELOW OR ON A SEPARATE PAGE.

V. DOES THIS COST SUMMARY CONFORM WITH THE COST PRINCIPLES SET FORTH IN ASPR, SECTION XV (see 3-807.2(c)(2))?

☑ YES ☐ NO IF NO, EXPLAIN ON A SEPARATE PAGE

This proposal is submitted for use in connection with and in response to Solicitation DABT01-77-R-0113 Hd 20 May 1977, Ft Rucker, ALA * and reflects our best estimates as of this date, in accordance with the instructions to offerors and the footnotes which follow:

*DESCRIBE RFP, ETC.

TYPED NAME AND TITLE: CHARLES J. HENRY

SIGNATURE: Charles J. Henry

NAME OF FIRM: NATIONAL SERVICES

DATE OF SUBMISSION: 6 JUNE 1977

DD FORM 1 APR 68 633 PREVIOUS EDITIONS ARE OBSOLETE.

SCHEDULE I

| | Per month | 12 months |
|---|---|---|
| AVERAGE MONTHLY Supplie costs (CHEMICALS, WAX, PAPER PRODUCTS) NOTE: ATTACHMENT "A" | $ 3,408.72 | $ 40,904.64 |
| GASOLINE AND OIL | $ 136.76 | $ 1,641.12 |
| | $ 3,545.48 | 42,545.76 |
| 20% INCREASE FOR 77-78 | 4,254.57 | 51,054.91 |

SCHEDULE II.

| | | |
|---|---|---|
| EQUIPMENT Replacement | $ 189.16 | 2,269.92 |
| EQUIPMENT REPAIR - VEHICLES, ELECTRIC POWER EQUI | $ 101.89 | $ 1,213.89 |
| MOP WASHING | 33.05 | 396.60 |
| | $ 324.10 | $ 3,880.41 |
| 20% INCREASE | 388.92 | 4,667.04 |

SCHEDULE III

| | | |
|---|---|---|
| SUPERVISORS and Asst Supervisor: ($16,600.08) | | |
| (1) Supervisor | 800.00 | 9600.00 |
| (2) Ass Supervisor | 583.34 | 7000.08 |
| | $ 1383.34 | $ 16,600.08 |
| 20% INCREASE | $ 19,920.09 | |

OWEA 76-77 Contract

Schedule IV.

DIRECT LABOR (OLD SCALE, 1976-1977)

AVERAGE HOURS PER WEEK 1,583.19

x 52 WKS.

82,326 @ $2.83 PER HR = $232,982.58

PER MONTH $ 19,415.21

DIRECT LABOR (NEW SCALE 1977-1978)

HOURS PER WEEK 1,583.19

x 52 WKS

82,326 @ $2.99 PER HR = $246,154.74

PER MONTH $ 20,512.89

SCHEDULE V

| | | | | |
|---|---|---|---|---|
| FICA MATCH — $ | 246,154.74 | x 5.85% | = | $ 14,400.05 |
| FEDERAL UNEMPLOYMENT TAX | 246,154.74 | x 3.2% | = | 7,876.95 |
| ALABAMA UNEMPLOYMENT TAX | 246,154.74 | x 2.7% | = | 6,646.17 |

SUBTOTAL. → ANUAL TOTAL $ 28,923.17

PER MONTH ($2,410.26)

VEHICLE INSURANCE (47 WORKS) $ 2400.00 PER YEAR 600.00 PER VEH.

GENERAL LIABILITY $

BODILY INJURY 1.656 PER $ 100.00

PROPERTY DAMAGE $ .967 PER 100.00

Bodily Injury.

$ 246,154.74 ÷ $ 100.00 = 2461.54 x 1.656 = $ 4,076.31

PROPERTY DAMAGE

$ 246,154.74 ÷ $ 100.00 = 2461.54 x $ .967 = 2,380.30

. Workmans Compensation $ 1.36 per $ 100.00 payroll

$ 246,154.74 ÷ $ 100.00 = 2461.54 HRS x $ 1.36 = $ 3,347.69

TAXES & INSURANCE Annual Total $ 41,127.47

per month $ 3427.28

HEALTH & WELFARE

.82,326 x $ .21 per HR = $ 17,288.46

Holiday pay

70 employees @ average of 5 HR per day. = 350 HRS

350 Hours x 7 paid Holidays = 2,450 Hrs.

2,450 HR @ $ 2.99 per HR = $ 7,325.50

9.32% FICA match, Employ. Taxes (FED + ALA) of $ 7,325.50 = $ 682.73

Total Holiday pay $ 8,308.23

VACATION Pay

70 Employees @ average of 35 HR per wk = 2,450 HR

2,450 HR x 2 wks = 4,900 vacation Hrs.

4,900 HRS x $ 2.99 PER HR = $ 14,651.00

9.32% FICA MATCH, EMPLOY TAXES (FED + A/A) of $ 14,651.00 = 1365,47

TOTAL VACATION PAY $ 16,016,47

## SCHEDULE VI

TRAVEL -

HOME OFFICE (COLUMBUS) TO FT. RUCKER

1 TRIP PER MONTH FOR 2 DAY

$ 100.00 PER TRIP X 12 MONTHS = $ 1,200.00

SECRETARY HOME OFFICE (COLUMBUS)

TO HANDLE PAYROLL - 5 DAYS PER MONTH

$ 160.00 FOR 40 HR PER MONTH X 12 MONTH $ 1,920.00

TELEPHONE SERVICE FT. RUCKER

$ 23.80 PER MONTH X 12 MONTH $ 285.60

TOTAL GAA $ 3405,60

PER MONTH GAA 283.80

## SCHEDULE VII

Profit.

Subtotal #12 ($ 393,054.55) X 10% = $ 39,305.45

PER MONTH PROFIT. $ 3,275.45

STANDARD FORM 36, JULY 1966, GENERAL SERVICES ADMINISTRATION FED. PROC. REG. (41 CFR) 1-16.101—CONTINUATION SHEET

[Ref. No. of Doc. being cont'd.: DABT01-77-Q-0113]

| Item No. | Supplies/services | Estimated annual quantity | Unit price per square foot | Estimated amount |
|---|---|---|---|---|
| | SECTION E | | | |
| 0001 | Perform all routine daily custodial services required on the 2-day-per-week schedule by this request for quotation. (See par. 3, pt. II, sec. F) | 57,332,288 | $0.0019 | $108,931.34 |
| 0002 | Perform all routine daily custodial services required on the 5-, 6-, and 7-day-per-week schedule by this request for quotation. (See par. 4, pt. II, sec. F) | 216,814,204 | .001 | 216,814.20 |
| 0003 | Perform all extra weekly custodial services required by this request for quotation. (See par. 5, pt. II, sec. F) | 20,549,680 | .002 | 41,099.36 |
| 0004 | Perform all routine monthly custodial services required by this request for quotation. (See par. 6, pt. II, sec. F) | 16,117,188 | .004 | 64,468.75 |
| 0005 | Perform all stripping as required by this request for quotation. (See par. 7a, pt. II, sec. F) | 389,028 | .10 | 38,902.80 |
| 0006 | Perform all window washing as required by this request for quotation. (See par. 7b, pt. II, sec. F) | 25,628 | .13 | 3,331.64 |
| 0007 | Perform all rug shampooing as required by this request for quotation. (See par. 7c, pt. II, sec. F) | 103,580 | .075 | 7,768.50 |
| | Total, items 1 through 7 | | | 481,316.59 |

[Telegram]

WASHINGTON, D.C., *July 7, 1977.*

Hon. LAWTON CHILES,
*443 Russell Building,*
*Washington, D.C.*

I attended your subcommittee hearing on the 8(a) program this date, July 7, 1977, and was shocked to find my company, Unified Services, Inc., depicted on the National Association of Service Contractors chart as a front or under the umbrella of Worldwide Services—Mr. Rice's group. This is totally inaccurate. I am not now or ever have been associated with Mr. Rice's organization. I had meetings with Mr. Rice during which we discussed the possibility of his sponsorship, but it was never consummated because I did not think that it would be in my best interest to be associated with Mr. Rice. The fact that my company and my name were publicly displayed in such a manner is embarrassing to me, my company and my associates. It is requested that some how this inaccuracy be publicly corrected even if it requires my sworn testimony before your subcommittee.

JERRY DAVIS, JR.,
*President, Unified Services, Inc., Washington, D.C.*

---

NATIONAL ASSOCIATION OF SERVICE CONTRACTORS,
WASHINGTON, D.C., *July 8, 1977.*

Hon. LAWTON CHILES,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR CHILES: For the record we should like to make clear that the National Association of Service Contractors was founded as a business league to promote the common interests of Federal support services contracting.

In the testimony of several witnesses appearing before your committee and in comments by the committee, it has been implied that this Association was organized for the purpose of manipulating the 8(a) program. This is patently false.

The Association was chartered in January, 1973, under applicable corporate laws of the District of Columbia. Its membership has included a variety of service

contractors, including food/KP, custodial, refuse collection, base maintenance, refueling and other service activities in support of Federal agencies and the military.

Our membership from the start has included majority and minority entrepreneurs. Roughly a third of our members have been certified 8(a) minority enterprise companies, some with sponsors and some completely independent.

We have several member companies whose principals are firmly opposed to the concept of set-aside government contracts for 8(a) participants.

Because of this dichotomy of views pro and con 8(a), the Association has never taken an official position one way or another regarding the 8(a) program.

It would not be accurate to portray Association policy as favoring or opposing the 8(a) program. And the inference that the Association manipulates that program in any way is false.

The organizational chart displayed during the hearing and purporting to show the early membership of the Association is substantially erroneous. The following companies which appear on the chart have never been members of this organization: Service Operations, Inc.; Islander Services, Inc.; Services Unlimited; United Services; B&C Associates; Maintenance, Inc.; Sentinel Protective Services; General Services, Inc.; Maintenance Management, Inc.; Royal Services, Inc.; Paramount Services, Inc.; Trinity Services, Inc.; Beta-Tek; John H. Christmas; H. L. Douglas & Associates; and Military Services, Inc.

Approximately a third of the companies shown on the chart, therefore, have never been on our membership rolls. Since we informed you in writing several weeks ago that we would make available our membership records and certain other documents for perusal by your investigators, and since your investigators have not made a careful study of those records, we find it difficult to understand why the committee did not make clear that the chart was not a completely factual portrayal of Association membership.

We hope the record of your hearings will reflect these corrections.

Sincerely,

EVERETT O. POST,
*Executive Director.*

---

MIAMI, FLA., *July 8, 1977.*

Senator LAWTON CHILES,
*Senate Office Building,*
*Washington, D.C.*

HONORABLE SENATOR: Your investigation into the SBA and subsequent minority loans is a minute light penetrating an extremely complex situation. After having written letters, visited Congressmens' offices (to no avail), and been in contact with the Office of Advocacy, it seems a hopeless cause unless there is some strenuous Congressional investigation into these minority businessmen who lost everything because of the manner in which these loans were processed. An officer of NEDA declared my package was flagrantly illegal and yet *no one* seems to have the authority to delve into this monstrosity.

Enclosed is *one* of the many letters sent to various public officials. I do feel something will eventually be brought to light and those responsible singled out; however, I wonder if any renumeration will be dispensed to those who have been swindled by this gross injustice?

Sincerely,

ARTHUR L. HARRIS.

---

MIAMI, FLA., *June 22, 1976.*

DEAR SIR: Your article, "How SBA Minority Plan Helped 2 Firms Go Broke" by Andy Rosenblatt in the June 20th edition of the Miami Herald merely addresses itself to the tip of the iceberg in this exposé. Because your total investigation in this area would lead to many influential citizens and to the officers in many banks, this will probably be the end of this probe.

The essence of your inquiry seems to indicate that these minority businesses which operated proficiently to the satisfaction of their obligations prior to their introduction to the SBA, were rendered insufficient as larger operators even with the broader opportunities offered by the government plus financial help.

A tracking of the most interesting ingredient in question (money) would reveal the startling inside facts that caused the end results that are so broadly

accepted simply because it is so easy to look upon a failure as mismanagement or whatever it is convenient to be called. Consider the route of the money from Washington through the various agencies who had opportunities to use this money before it was dispensed to the businesses for which it was intended! Also consider the guarantee to the dispensers of these monies and who stood to lose in case of failure.

In an experience of the deterioration of my business that left me with an open-end contract with the government and no business operation to fulfill my obligations; consumed $250,000 in real estate and a $350,000 annual cash flow. I also tried to no avail to get investigative help from offices as high as the United States Senate and was told in writing that the Federal Government had no jurisdiction over the matter, even though the Government had underwritten the programs!

The most obstructive agency in my case emerged as a Development Corporation. It was evident that the properties used to compose the corporation were those confiscated out of defaulted contracts, OK'd by the SBA and the funding delayed by the lenders purposely to cause defaults that would be paid by the Federal Government or in case of death by the insurance companies.

A report prepared by myself will point out clarifying clues worthy of investigation that would expose some of the hierarchy that made the profit from these programs.

Sincerely,

ARTHUR L. HARRIS.

---

[Mailgram]

WASHINGTON, D.C., *August 17, 1977.*

BOB HARRIS AND PETER ROMAN,
*U.S. Senate, Subcommittee on Federal Spending Practices, Capital Hill Annex, Washington, D.C.*

(Reference: Solicitation N00612–77–B–0076.)

CTI protests the cancellation of referenced solicitation covering mess attendant services at Naval Training Center, Orlando, Fla.

This requirement was committed by you to the competitive market place when it was synopsized in the commerce business daily during early July and the solicitation was mailed to prospective bidders July 27, 1977. Shifting the requirement to 8–A at this time is uncautionable. This violates SBA's rules and procedures that prohibit placing the requirement under 8–A after release of the IFB to industry.

The recent series of actions by your office to withdraw several non-personal service programs from competitive procurement impacts the small business community. The continued movement of these programs to selected 8–A sources place us in other small business companies in an economically disadvantaged position. It places you in violation of your own procurement policies that state all procurements shall be made on a competitive basis to the maximum practicable extent to obtain the most advantageous contract for the government.

Request you seriously reexamine commitment of the naval training center to the 8(a) program, there is cause for concern when a significant requirement within your department such as naval training center mess attendant services program is shifted to 8(a), this million dollar program is part of a select group of large complex DOD mess attendant contracts that require the expertise and capability of an experienced contractor to perform. Your policy within DOD to assist the establishment in growth of small concerns under 8(a) should be followed using programs of a similar magnitude relating to the 8(a) contractor capabilities thereby allowing them to learn and become self sustaining. When SBA certifies an 8(a) company to perform a large complex contract for mess attendant services at the naval training center, we believe you in effect conclude the company is a competitive entity and not qualified for special help from the government.

Request immediate action by your office to re-issue referenced solicitation using competitive procedures, at the same time we request you suspend and cancel other 8(a) actions on significant mess attendant RAMS such as Roosevelt Roads, Puerto Rico.

WILLIAM L. DEVRIES,
*President, Chemical Technology, Inc., Washington, D.C.*

[From Construction, August 1977]

ASSOCIATED GENERAL CONTRACTORS OF AMERICA—THE PRESIDENT'S MESSAGE

THE SENATE LISTENS

We told them!

I am referring to the recent, and well publicized, hearings of Senator Lawton Chiles' Federal Spending Practices Subcommittee which turned up numerous abuses in the Small Business Administration 8(a) Program. As a result of those hearings, the 8(a) Program, which allows the SBA to act as a prime contractor and then subcontract 100 percent of a federal construction contract to a socially or economically disadvantaged firm on a "sole source" negotiated basis, has been temporarily halted. The program is undergoing a thorough overhaul, according to SBA Administrator Vernon Weaver.

We told them as far back as 1961, in 1962, 1966, 1969, and again, and again and again. In June 1976, in letters to SBA and members of Congress, we warned that the contract or possess the required experience, knowledge, skills, equipment and from programs which allow bids on public works to be restricted rather than open. We warned that contract awards should not be restricted to certain bidders nor be made when the awarding agency believes that the prospective awardee does not have the ability to meet the quality, quantity and time requirements of the contract or possess the required experience, knowledge, skills, equipment and finances to complete the contract.

We told them! Senator Chiles listened, and we thank him for listening and acting.

We now hope that others will listen too—all those who continue to use the federal construction contract system as a vehicle for implementing socio-economic goals which, laudable as they may be, frustrate or circumvent awards to the lowest responsible bidders, adding to construction costs and feeding the fires of inflation.

Low and responsible—price and quality—or, in governmental terms—cost and benefit—these are the tenets of our industry and the federal construction contract system. Sacrificing these tenets destroys the system. An economical quality construction product must not be allowed to merely become a pleasing by-product of the federal construction contract system. It must be the sole reason for the system.

Unfortunately, new and diverse social and economic programs are regularly grafted on the federal construction contract system. In 1972, a government study identified 39 social and economic programs which are implemented through the federal contract system and 15 of them were regularly incorporated in the general conditions of federal construction contracts. I shudder to think how many new non-construction objectives have been added to the federal construction contract system since that report. The magnitude of their cumulative thrust to overshadow the price and quality principles of construction is almost mindboggling.

When "low and responsible" becomes servant rather than master, the federal construction contract system is badly abused.

We are glad that Senator Lawton Chiles (D-Fla.) listened.

S. PETER VOLPE,
*President, Associated General Contractors of America.*

---

INFORMATION SERVICES, INC.,
*Bethesda, Md., August 29, 1977.*

Hon. LAWTON CHILES,
*U.S. Senate, Washington, D.C.*
(Attention of Mr. Robert Harris).

DEAR SENATOR CHILES: I have followed with great interest your investigation of 8(a) contractors because of our experience, which I would like to tell you about. Information Services is not an 8(a) contractor.

On March 17, 1975, I sent an unsoliciated proposal that suggested a feasibility study for using Health Hazard Appraisals in a cancer information program to the Director of Educational Resources in the Division of Cancer Control and Rehabilitation of the National Cancer Institute (see attachment). He liked the proposal but felt it belonged in the activities of the Office of Cancer Communications, so he turned it over to that office.

The next thing I knew I received a telephone call from a Miss Randy Thompson who wanted to know what I knew about using Health Hazard Appraisals, and she asked me the same questions I had proposed to answer in the feasibility study. When I asked her whom she was doing this for, she said for the Office of Cancer Communication. When I asked if she were on the staff, she said, "No, I

work for Porter Novelli and Associates, a public relations firm, and we are subcontractors to Buffington Associates which has the NCI account." Buffington Mingo Associates is an 8(a) firm, owned by black people, which subcontracts to Porter Novelli, a white firm.

I do not know the extent of this subcontract or whether Buffington does most of the work themselves, subcontracting only when needed, but I thought you might want to check it out. When questioned about the propriety of referring an element of our unsolicited proposal to another company, we were told by the Office of Cancer Communications that "they weren't going to do the project anyway."

We happen to be an all-woman firm and had thought of applying for 8(a), but found that we did not meet all the requirements. Now it seems most unfair to have to compete against other firms that are not disadvantaged, but climb under the 8(a) umbrella.

Sincerely yours,

(Ms.) DALLAS JOHNSON.

Enclosure.

MARCH 3, 1975.

To: Director, Educational Resources, Division of Cancer Control.
From: Dallas Johnson, Information Services, Inc.
Re A feasibility study on reaching target populations with cancer information.

Information Services, Inc. proposes to undertake a feasibility study to research and recommend an effective approach for reaching national organizations at their annual and semi-annual meetings with information on cancer control.

The study would include:

1. The preparation of lists of such organizations with a national membership suited to such an approach;
2. The development and projections of a program designed to reach such audiences effectively;
3. Recommendation as to how such a program could be projected through exhibits that could be easily transported and set up;
4. Exploration of the feasibility of using involvement techniques at the exhibits based on the use of Health Hazard Appraisals.
5. A preliminary cost estimate for mounting such a program over a three year time period.

The Cancer Control Program within the National Cancer Institute provides relevant and meaningful information to anyone who requests it. The American Cancer Society mounts an effective mass media campaign that reaches into millions of American households. But, public ignorance concerning cancer still abounds, even among the well-educated and literate population. Is cancer hereditary? Are all cancers the same? Are some people and groups more susceptible to it than others? What is the cure? And, is cancer always fatal? These are some of the conceptions and misconceptions that still exist among a large part of the general public.

People need to be personally involved in this process of education, and the exhibit at a meeting where they have time to stop and look, accompanied by a self-assessment survey projecting their own risks relative to age, susceptibility, etc. could be a way of reaching them effectively.

Most national conventions reach leadership levels from the States and localities represented. Such leaders are for the most part the older members who are at the cancer susceptible ages. The American predilection for joining automatically provides in groups the audiences that cancer control should be reaching.

It is still true as Alexis de Tocqueville commented a hundred years ago that "Americans of all ages, all conditions and all dispositions constantly form associations. They have not only commercial and manufacturing companies in which all take part but associations of a thousand other kinds, religious, moral, serious, futile, restricted, enormous, or dimunitive. The Americans make associations to give entertainments, to found establishments for education, to send missionaries to the Antipodes. Wherever at the head of some new undertaking you see the government of France or a man of rank in England, in the United States you will be sure to find an association."

It is from this large assortment of professional, business, religious, social, community and fraternal organizations that Information Services will explore the interest of the appropriate leaders in involving themselves and their membership in such a cancer information program, while keyed to an information exhibit to be set up at the organization's yearly membership meetings. Information Services believes that for the exhibit to be effective it should involve

its audience, and to accomplish this it needs to be more than just visually appealing. Too often the information conveyed at the exhibit booth is forgotten or discarded once the individual moves away.

The Health Hazard Appraisal questionnaire developed by the Society for Prospective Medicine, which is largely directly at cancer, is geared to directly involving the individual in his or her own health maintenance. Prevention of disease, disability and death is statistically tied to specific precursors that increased the risk factors for certain diseases. This assessment of probable cause of death and disability is given by age, sex and race and specifies which causes can potentially harm an individual based on tables developed by Harvey Geller of the U.S. Public Health Service. For example, the women over age 25 who neglects to have a yearly gynecological examination with Pap smear and breast palpation increases her risk factor significantly for death by cervical or breast cancer. The person over age 40 who does not have an annual proctosigmoscopy increases his or her risk for cancer of the rectum and colon. The two pack per day cigarette smoker has a 1.4% greater risk for lung cancer than the non-smoker. The Health Hazard Appraisal has already been used most effectively at several national meetings, the American Medical Association and the Society for Prospective Medicine being two.

In this feasibility study, Information Services would explore the possibility of combining these elements into an effective national cancer information program—to be channeled through national meetings of a number of social, business, fraternal, community, religious and professional organizations.

Dallas Johnson and Eileen Lavine of the staff of Information Services are the professionals who would be assigned to this project. As background, Ms. Johnson originally served as a club and organizations editor for the San Francisco Examiner, and since then has developed numerous programs utilizing programs utilizing exhibits and printed material at the national meetings of professional organizations, civic groups, trade associations, etc. She has projected numerous programs by use of visual techniques, and was Associate Editor of "Prospective Medicine and Health Hazard Appraisal."

Ms. Johnson and Ms. Lavine were instrumental in the development and administration of a national exhibit program for the Cancer Control Program several years ago under the aegis of the National Center for Chronic Disease Control of the U.S. Public Health Service, which involved the use of standing as well as of table-top exhibits, along with the publication of accompanying materials.

---

PATCHOGUE, N.Y., *December 6, 1977.*

DEAR SENATOR CHILES AND MR. ROBERT HARRIS: In the recent telephone call discussion, I explained all the problems I have been having with the SBA minority programs.

From as early as 1976, I have gone to the SBA work shop and finished, yet, when I follow everything they advise to obtain the money, it is a "joke".

Each time that I went to the bank to give them my package, I was turned down. These programs are only to make the minorities think that the government is trying to give them a fair chance in the business world.

It is true when Mr. Small said, "the only successful one to go through there have been the blacks who front and those who have part ownership."

If one is 100 percent black owned, they are out to destroy him. This was printed in Newsday.

I live on Long Island, where most of the people are middle class or higher. Most of the black owned businesses here are Barber Shops and Black women Salons. The banks will not loan money to blacks, because the pressure of the white business to keep the black from competing is very powerful. The truth lay in the banks, just investigate, and see how many black owned businesses are registered in these banks.

All the minority people whom I am acquainted with, feel the SBA is one of the biggest "rip off" since, it only benefits the white's who handle the money. Anytime there is a program for minority people, the whites have their fingers in the take.

If your office can and will guide me to the SBA program that is for the minority please direct me there.

I will appreciate it if you will contact me by mail and answer my letter. If you would like to talk to me in person, my telephone number is (516) 878–2410.

Very truly yours,

DAVID A. ANTONIO.

[Telegram]

BALTIMORE, MD., *July 8, 1977.*

LAWTON M. CHILDS, Jr.,
*Russell Senate Office Building,*
*Capitol Hill, D.C.*

DEAR SENATOR CHILDS: As a member of the National Association of Minority Certified Public Accounting Firm, I strongly support the Small Business Administration's 8(a) program. This program has been of vital importance to a number of minority CPAs in that it has allowed them entrance into a market previously closed to minority firms. It can be a viable program if given full and adequate support by the various govermental agencies by providing sufficient contract requirements and other resources necessary to enable them to graduate from the program.

TAYLOR AND HENDERSON,
*Certified Public Accountants.*

---

[Telegram]

WASHINGTON, D.C., *July 6, 1977.*

Senator LAWTON M. CHILES,
*Russell Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR CHILES: As an 8(a) contractor and a member of the National Association of Black Manufacturers, I strongly support the Small Business Administration 8(a) program. Realizing that there has been some abuses of the program, however, for many minority entrepreneurs 8(a) is the only vehicle in obtaining entry into the economic mainstream of America's free enterprise system. The 8(a) program can be a viable program if given full and adequate support by the various government agencies and the Congress.

MARION O. GREENE, Jr.,
*President, International Business Services, Inc.*

---

WINDOVER FARMS,
*Titusville, Fla., July 25, 1977.*

Hon. LAWTON CHILES,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR CHILES: It has come to my attention that you are involved in the investigation of the practices of the Small Business Administration. I would like to relate another incident, of which I am sure you have found hundreds, that I have run into.

In 1976, I hired a minority contractor to do some road work for me. The company's name was St. Johns Engineering Co. out of Titusville, Florida. Near the end of the project the Company went out of business for all practical purposes and I had to finish the job.

The part that concerned me was that during the course of their work it came to my attention that the president of the Company, a black man, had absolutely nothing to say about how the company was run and, in fact, was merely a front-man so that they could qualify for SBA guarantees on their bonds and to qualify for minority status doing government work. It further came to my attention that the president of the Company has had to sign a note back to the behind-the-scenes men for $500,000.00 which in effect meant the president had no chance of ever getting the equity out of his ownership. We reported this to the SBA. They could have cared less. It was legal and whether it was in good faith with the law or not made no difference. Further, the bonding company, Balboa Insurance Co., has refused to honor their bond because there was a wrong date on the bond even though the two principals of the contractor readily admit that they bought the bond for this job.

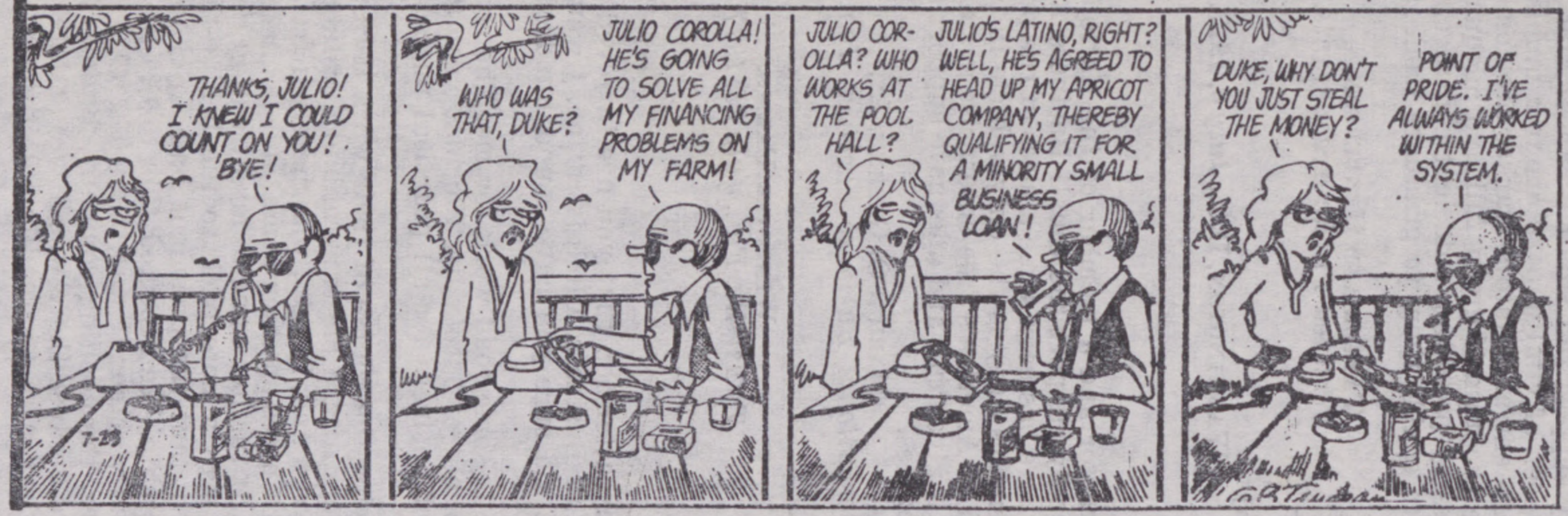
I, of course, only allowed a minority contractor on the job because I felt I had a good bond backed by the Small Business Administration. As I understand it, nothing that transpired is illegal and as the man that is responsible for writing the laws, I don't think that is how you intended our laws to work.

Respectfully,

JIM SWANN,
*President.*

DOONESBURY

By Garry Trudeau




DOONESBURY

By Garry Trudeau

