

TO: Russell Vought, Director, Office of Management and Budget

FROM: Wendell Davis, General Counsel, Small Business Administration

SUBJECT: Justification for Emergency Processing: Audit Request for Participants in the 8(a) Business Development Program

The Small Business Administration (“SBA”) requests emergency processing under 5 CFR 1320.13 for a new Information Collection Request (“ICR”). SBA seeks approval by **November 18, 2025**, to enable immediate collection of business data relating to participants in SBA’s business development program under 15 U.S.C. § 637 (the “8(a) program” and such participants “8(a) participants”). This data is essential to the mission of the SBA in order to examine participants in the 8(a) program in response to urgent concerns regarding small business federal contracting and subcontracting compliance by businesses participating in the program as well as other documented instances of waste, fraud and abuse within the same program. 5 CFR 1320.13(a)(1)(ii).

Recent government-wide investigations by the Department of Justice, the Small Business Administration Office of Inspector General, and the Government Accountability Office, coupled with recent public allegations of illegal conduct by an 8(a) participant, have exposed systemic risks within the 8(a) program that make the program particularly susceptible to waste, fraud, and abuse. For example, risks of improper pass-through contracting and noncompliance with FAR 52.219-14, Limitations on Subcontracting, improper control of 8(a) firms, eligibility fraud, improper disbursements, and improper transfers of contractual responsibilities across the federal acquisition landscape have been identified. The absence of standardized, data-driven reporting on prime versus subcontractor labor utilization, for example, has been identified as a vulnerability throughout government. SBA’s request will increase visibility into the 8(a) program, strengthen internal surveillance and oversight of 8(a) participants, and reinforce public trust through proactive corrective measures.

The public investigations and recent widespread reporting of the 8(a) program’s susceptibility to fraud mentioned above, together with the Department of Justice’s uncovering of a \$550 million scandal involving 8(a) contracting at USAID, could jeopardize SBA’s efforts to investigate and counter fraud, waste and abuse in its 8(a) program, as explained further below. In particular, the recent publicity given to both fraud within the program and SBA’s efforts to address it have created a new urgency in requesting potential data essential to SBA’s mission and the integrity of the 8(a) program.

The increased attention on the 8(a) program means that the use of normal clearance procedures is extremely likely to prevent or disrupt the collection of essential information that may be altered, destroyed or otherwise concealed by those seeking to evade enforcement. Because of these concerns and the identified systemic risks discussed above, the information must be collected prior to the expiration of the ordinary time periods for notice and comment. 5 CFR 1320.13(a)(1)(i).

Delaying implementation until completion of normal Paperwork Reduction Act clearance procedures would undermine these efforts and perpetuate risk, including evidentiary spoliation risks, during active oversight investigations. 5 CFR 1320.13(a)(2)(iii). SBA's ability to document 8(a) participant eligibility and compliance is essential to ensuring that small-business set-aside awards meet requirements and maintain program integrity. The requested emergency clearance will allow SBA to gather baseline data and support interagency coordination with OMB, Treasury and other federal agencies utilizing SBA's 8(a) participants to inform a permanent, government-wide solution.

The information collection involves minimal burden and privacy risk. These requests are standard month-end and year-end financial / accounting deliverables that are readily available from a participant's standard accounting system. This is SBA's curated list - a similar typical private sector request would include hundreds of items whereas this request is limited to 13 items. Compliant 8(a) participants will report data relying on information they should already maintain in existing HR systems or their own financial records for accounting purposes. No Social Security Numbers or dates of birth are requested, and any confidential information submitted shall be received through SBA's secure environment. All submissions will only be reviewed by properly authorized individuals. SBA respectfully requests OIRA's expedited six-month approval under 5 CFR 1320.13, with waiver of the Federal Register notice, to enable immediate implementation and support SBA's leadership in restoring accountability and transparency across the federal small business contracting community.