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date of service of a Notice of Suspension pursuant to paragraph (b) of this section. Concurrent with its filing with OHA, the concern shall also serve the AA/MSB&COD and SBA's Office of General Counsel with a copy of the petition, including attachments. Service on the Office of General Counsel shall be made by personal delivery or certified mail, return receipt requested, to SBA's Associate General Counsel for General Law.

(e) A request for a hearing on the suspension will be considered by an Administrative Law Judge in OHA, and granted as a matter of his/her discretion.

(f) Proceedings conducted under the authority of this section shall be conducted in accordance with the provisions of this section and part 134 of this title.

(g) For any oral hearing convened pursuant to § 134.222 of this title resulting from a request filed in accordance with this section, the Administrative Law Judge shall give due regard to the convenience and necessity of the parties or their authorized representatives in designating the place of the oral hearing.

(h) A hearing on the suspension will commence as soon as possible following the decision of the Administrative Law Judge to grant a request, but in no case more than 20 calendar days after the Administrative Law Judge's ruling if the request is granted.

(i) At the close of such suspension hearing, the Administrative Law Judge shall issue a decision upholding or lifting the suspension.The decision of the Administrative Law Judge shall be the final Agency decision.

(j) Any program suspension which occurs in accordance with these regulations will continue in effect until such time as the SBA lifts the suspension or the 8(a) concern's participation in the program is fully terminated. If all program assistance to an 8(a) concern has been suspended under these regulations and the concern's participation in the program is not terminated, the suspension will be lifted and the Program Term remaining as of the effective date of Program Suspension will be restored to the concern. However, nothing in this paragraph precludes SBA from initiating termination, graduation or suspension proceedings at any time during the concern's Program Term.

(k) SBA does not recognize the concept of *de facto* suspension. Reinstatement of the remaining portion of a Program Term will occur only where a concern's program participation has been formally suspended by SBA in accordance with the procedures set forth in this section.

[54 FR 34712, Aug. 21, 1989, as amended at 57 FR 28780, June 29, 1992; 61 FR 2691, Jan. 29, 1996]

§ 124.300 Business development.

The regulations at § 124.301 through § 124.321 address the provision of various forms of assistance to 8(a) Program Participants to promote the business development of such concerns. Such assistance includes financial, management and technical assistance, and contract support.

§ 124.301 Development of business plan.

(a) *General.* In order to assist the SBA in determining the business development needs of each 8(a) Program Participant, each such Participant shall develop a comprehensive business plan, setting forth the Participant's business targets, objectives, and goals. The business plan shall be submitted to the SBA servicing field office in final form promptly after the Participant's receipt of notice of certification to participate in the 8(a) program. The Participant will not be eligible for 8(a) Program benefits, including contracts until the SBA approves its business plan. The approved business plan will constitute the Participant's short and long term goals and the strategy for developmental growth to the point of economic viability independent of the 8(a) program.

(b) *Standard Industrial Classification (SIC) code designations.* The concern's primary industry classification as defined in § 124.100 and all related secondary Standard Industrial Classification (SIC) code designations shall be stated in an 8(a) concern's original business plan. Such SIC codes may be changed, and new SIC codes may be added to the

business plan, however, where the conditions of § 124.302(c) are met. Once admitted to the 8(a) program, a concern will only be permitted to perform 8(a) contracts which are classified under approved SIC codes which appear in its business plan. An 8(a) concern may receive a Federal contract classified under a SIC code not contained in its business plan where the contract is not awarded through the section 8(a) program.

(c) *Contents of business plan.* The initial business plan shall contain at least the following:

(1) An analysis of market potential, competitive environment, and other business analyses estimating the Program Participant's prospects for profitable operations during the term of program participation and after graduation;

(2) An analysis of the Program Participant's strengths and weaknesses, with particular attention paid to the means of correcting any financial, managerial, technical, or labor conditions which could impede the Participant from receiving contracts other than those awarded through the 8(a) Program;

(3) Specific targets, objectives, and goals for the business development of the Participant during the next two years, utilizing the results of the analyses conducted pursuant to paragraphs (c)(1) and (c)(2) of this section;

(4) Estimates of contract awards pursuant to section 8(a) and from other sources which would be needed by the Participant to meet the specific targets, objectives and goals for the years covered by the business plan; and

(5) Such other information as SBA may require.

[54 FR 34712, Aug. 21, 1989, as amended at 55 FR 34903, Aug. 27, 1990]

§ 124.302 Review and modification of business plan.

(a) *Annual review.* Each Participant shall annually review its currently approved business plan with the Business Opportunity Specialist (BOS) and shall modify such plan as may be appropriate. Any modified plan shall be submitted to the BOS for approval. A currently approved plan shall be considered the applicable plan for all program purposes until the SBA approves in writing a modified plan. SBA shall establish an anniversary date for review of the Participant's business plan and contract support forecasts. The annual review of a Participant's business plan will generally occur within 15 working days before or after the anniversary of the firm's certification of 8(a) eligibility.

(b) *Contract support forecast.* Each Participant shall annually forecast in writing its needs for contract awards for the next program year and the succeeding program year during the review of its business plan conducted under paragraph (a) of this section. Such forecast shall be included in the Participant's business plan. The forecast shall include:

(1) The aggregate dollar value of contract support to be sought under section 8(a) (sole source and competitive), reflecting compliance with the business mix requirements of § 124.312;

(2) The aggregate dollar value of non-8(a) contracts to be sought;

(3) The types of contract opportunities being sought, identified by the appropriate Standard Industrial Classification (SIC) code; and

(4) Such other information as may be requested by the SBA to aid in providing effective business development assistance to the Participant.

(c) *Changes in SIC code designations.* (1) Requests for changes in SIC code designations stated in a business plan shall be approved by SBA if it is determined that:

(i)(A) A sound business explanation exists for obtaining the requested SIC code, including, for example, the acquisition of the capability to perform contracts in an industry, even if unrelated to the 8(a) concern's primary SIC code;

(B) The 8(a) concern has demonstrated capacity and capability to perform in the requested SIC code; and

(C) Other applicable eligibility criteria (Walsh-Healey Act, the non-manufacturer rule, size rules, etc.) appear to be met; or

(ii) SBA erred in omitting a previously requested and supported SIC code, improperly classifying a business industry or making a typographical or other error in its letter of approval to the 8(a) concern.