

(iv) *Untimely protests.* A protest received after the time limits set forth in this paragraph (c)(1) will be dismissed by SBA.

(2) *Section 8(d) protests.* In connection with an 8(d) subcontract, the contracting officer or SBA must submit a protest to the DC/SDBCE prior to the completion of performance by the intended 8(d) subcontractor.

(3) *Premature protests.* A protest in connection with any procurement which is submitted by any person, including the contracting officer, before bid opening or notification of intended award, whichever applies, will be considered premature, and will be returned to the protestor without action. A contracting officer that receives a premature protest must return it to the protestor without submitting it to the SBA.

(d) *Referral to SBA.* (1) Any contracting officer who receives a protest that is not premature must promptly forward it to the SBA's DC/SDBCE, 409 3rd Street, SW, Washington, DC 20416.

(2) A contracting officer's referral of a protest to SBA must contain the following:

- (i) The written protest and any accompanying materials;
- (ii) The date on which the protest was received by the contracting officer;
- (iii) A copy of the protested concern's selfrepresentation as an SDB, and the date of such self-representation; and
- (iv) The date of bid opening or the date on which notification of the apparent successful offeror was sent to all unsuccessful offerors, as applicable.

[63 FR 35772, June 30, 1998. Redesignated at 73 FR 57495, Oct. 3, 2008]

**§ 124.1011 What format, degree of specificity, and basis does SBA require to consider an SDB protest?**

(a) *Format.* An SDB protest need not be in any specific format in order for SBA to consider it.

(b) *Specificity.* A protest must be sufficiently specific to provide reasonable notice as to all grounds upon which the protested concern's disadvantaged status is challenged.

(1) SBA will dismiss a protest that merely asserts that the protested concern is not disadvantaged, without setting forth specific facts or allegations.

(2) The contracting officer must forward to SBA any non-premature protest received, notwithstanding whether he or she believes it is sufficiently specific or timely.

(c) *Basis.* SBA will consider a protest challenging whether the apparent successful offeror is owned and controlled by one or more socially and economically disadvantaged individuals, including whether one or more of the individuals claiming disadvantaged status is in fact socially or economically disadvantaged, only if the protest presents credible evidence that the firm's circumstances have materially changed since SBA certified it as an SDB, or that the firm's SDB application contained false or misleading information.

[63 FR 35772, June 30, 1998. Redesignated at 73 FR 57495, Oct. 3, 2008]

**§ 124.1012 What will SBA do when it receives an SDB protest?**

(a) Upon receipt of a protest challenging the disadvantaged status of a concern, the DC/SDBCE, or designee, will immediately notify the protestor and the contracting officer of the date the protest was received and whether it will be processed or dismissed for lack of timeliness or specificity.

(b) In cases where the protest is timely and sufficiently specific, the DC/SDBCE, or designee, will also immediately advise the protested concern of the protest and forward a copy of it to the protested concern.

(1) The DC/SDBCE, or designee, is authorized to ask the protested concern to provide any or all of the following information and documentation, completed so as to show the circumstances existing on the date of self-representation: SBA Form 1010A, "Statement of Personal Eligibility" for each individual claiming disadvantaged status; SBA Form 1010B, "Statement of Business Eligibility;" SBA Form 413, "Personal Financial Statement," for each individual claiming disadvantaged status; information as to whether the protested concern, or any of its owners, officers or directors, have applied for admission to or participated in the SBA's 8(a) BD program and if so, the name of the company which applied or participated and the date of the application or