contract awards and other non-8(a) revenue to SBA quarterly. Firm A elects to submit information to SBA quarterly in year 3 of the transitional stage (year 7 in the program). In order to be eligible for sole source 8(a) contracts after either its 3 month or 6 month review, Firm A must show that it has received non-8(a) revenue and/or been awarded new non-8(a) contracts totaling $1 million (the amount by which it missed its target in year 2 of the transitional stage).

Example 2 to paragraph (d)(2). Firm B had $10 million in total revenue during year 2 in the transitional stage (year 6 in the program), of which $8.5 million were 8(a) revenues and $1.5 million were non-8(a) revenues. At its first two quarterly reviews during year 3 of the transitional stage (year 7 in the program), Firm B could not demonstrate that it had received at least $1 million in non-8(a) revenue and new non-8(a) awards. In order to be eligible for sole source 8(a) contracts after its 9 month or 1 year review, Firm B must show that at least 35% (the non-8(a) business activity target for year 3 in the transitional stage) of all revenues received during year 3 in the transitional stage as of that point are from non-8(a) sources.

(3) In determining whether a Participant has achieved its required non-8(a) business activity target at the end of any program year in the transitional stage, or whether a Participant that failed to meet the target for the previous program year has achieved the required level of non-8(a) business at its nine-month review, SBA will measure 8(a) support by adding the base year value of all 8(a) contracts awarded during the applicable program year to the value of all options and modifications executed during that year.

(4) As a condition of eligibility for new 8(a) contracts, SBA may also impose other requirements on a Participant that fails to achieve the non-8(a) business activity targets. These include requiring the Participant to obtain management assistance, technical assistance, and/or counseling, and/or attend seminars relating to management assistance, business development, financing, marketing, accounting, or proposal preparation.

(5) SBA may initiate proceedings to terminate a Participant from the 8(a) BD program where the firm makes no good faith efforts to obtain non-8(a) revenues.

(e) Waiver of sole source prohibition. (1) The AA/BD, or his or her designee, may waive the requirement prohibiting a Participant from receiving further sole source 8(a) contracts when a Participant does not meet its non-8(a) business activity target where a denial of a sole source contract would cause severe economic hardship on the Participant so that the Participant’s survival may be jeopardized, or where extenuating circumstances beyond the Participant’s control caused the Participant not to meet its non-8(a) business activity target. A firm receiving a waiver will be able to self market its capabilities and receive one or more sole source 8(a) contracts during the next program year. At its next annual review, SBA will reevaluate the firm’s circumstances and determine whether the waiver should be extended an additional program year. The decision to grant or deny a request for a waiver is at SBA’s discretion, and no appeal may be taken with respect to that decision.

(2) The SBA Administrator on a non-delegable basis may waive the requirement prohibiting a Participant from receiving further sole source 8(a) contracts when the Participant does not meet its non-8(a) business activity target where the head of a procuring activity represents to the SBA Administrator that award of a sole source 8(a) contract to the Participant is needed to achieve significant interests of the Government.

Small Business Administration

§ 124.511 How is fair market price determined for an 8(a) contract?

(a) The procuring activity determines what constitutes a “fair market price” for an 8(a) contract.

(1) The procuring activity must derive the estimate of a current fair market price for a new requirement, or a requirement that does not have a satisfactory procurement history, from a price or cost analysis. This analysis may take into account prevailing market conditions, commercial prices for similar products or services, or data obtained from any other agency. The analysis must also consider any cost or pricing data that is timely submitted by SBA.

(2) The procuring activity must base the estimate of a current fair market price for a requirement that has a satisfactory procurement history on recent award prices adjusted to ensure comparability. Adjustments will take into account differences in quantities,