

CLIENT ALERT

SBA Shakes Up 8(a) Program Regulations

Mar.02.2011

On March 14, 2011, sweeping changes to the SBA's 8(a) Business Development Program go into effect, and among the most significant changes are those to the joint venture requirements, including (1) revising the requirement that the 8(a) participant receive 51% of the profits to a requirement that the 8(a) firm receive profits from the joint venture commensurate with the work the 8(a) firm performed; (2) requiring that the 8(a) firm perform at least 40% of the work done by the joint venture; (3) approving both "formal" and "informal" and populated and unpopulated joint ventures; and (4) requiring 8(a) firms to report how the requirements were satisfied. Other notable changes are to the Mentor/Protégé Program to (1) require that protégé assistance be tied to the protégé's SBA-approved business plan; (2) increase the number of relationships that are permitted; (3) prohibit an 8(a) company from being both a mentor and protégé simultaneously; (4) allow a mentor-protégé joint venture to be deemed small for Federal subcontracts; (5) clarify that a mentor-protégé agreement needs to be approved by the SBA before the two firms can submit an offer as a joint venture to take advantage of the special exception to the size requirements for that procurement; and (6) provide the SBA with discretionary authority to recommend the issuance of a stop work order for contracts with a mentor-protégé joint venture if the mentor fails to provide the protégé with the agreed-upon assistance.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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