

Small Business Administration (SBA)
Donations to Small Disadvantaged Businesses (8a Organizations)
Frequently Asked Questions

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Regulations, Paperwork & Records

1. What laws and regulations allow for donations to small disadvantaged businesses?
 - a. The following laws are relevant:
 - i. [15 U.S.C. § 636\(j\)\(13\)\(F\) - Financial assistance for projects providing technical or management assistance...](#)
 - ii. [40 U.S.C §549\(f\)\(1\)\(D\) - Cooperative agreements with state agencies](#)
 - b. The following regulations are relevant:
 - i. [13 CFR § 124.404 - What business development assistance is available to Participants during the two stages of participation in the 8\(a\) BD program?](#)
 - ii. [13 CFR § 124.405 - How does a Participant obtain Federal Government surplus property?](#)
2. Is this a mandatory program?
 - a. No. SASP participation in the SBA 8(a) program is voluntary. SASPs will not be in violation of the law if they do not sign an MOU or participate in the program.
3. Does every state have to sign the MOU?
 - a. No. All SASPs are encouraged to sign, but since the program is not mandatory, SASPs are not required to sign the MOU.
4. When does the MOU expire?
 - a. The SBA and VOSB MOUs are indefinite - they have no expiration date.
5. What reporting requirements do SASPs have for SBA 8(a) Small Businesses?
 - a. Participating SASPs will report donations to SBA 8(a)s on their 3040 report submission each quarter as they normally do for all donations. An “SBA 8(a) Donations” field has been added to the 3040 report functions in the Personal Property Management System (PPMS).

- b. GSA or SBA may require additional reports from time to time (FMR §102-37.360).
6. Is there a specific file retention schedule or do we follow our current State Plan?
- a. The minimum retention period (FMR 102-37 Appendix B (p)) is the current year plus 3 additional years. If the SASP's State Plan guidance differs from the FMR, then the SASP should follow whichever guidance is more stringent (e.g., meets the minimum requirements and potentially additional retention requirements).
7. Does the Single Audit Act, also known as Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. §200, formerly found in OMB Circular A-133) apply to SBA 8(a)s?
- a. Per SBA, the Single Audit Act does not apply to small businesses. 2 C.F.R. §200.1 defines Non-Federal entity as "a State, local government, Indian tribe, Institution of Higher Education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient." As small businesses are for-profit entities, they fall outside of the regulatory definition of a Non-Federal entity that would be required to obtain an audit under this regulation.

SBA 8(a) Certification & Eligibility

8. Who is eligible to participate?
- a. The federal government fully defines who qualifies for the 8(a) program — including which businesses qualify as being socially and economically disadvantaged — in Title 13 Part 124 of the Code of Federal Regulations. For the purposes of the Federal Personal Property Surplus Donation Program, in accordance with the applicable regulations and terms of the MOA, SBA 8(a)s are eligible during participation in the 8(a) program and the period of restriction is up until one year after 8(a) graduation (potentially up to 10 years).
9. Are there any business types that are excluded from the program?
- a. [SBA] Yes. Generally, SBA's programs do not provide benefits to certain ineligible businesses. Ineligible businesses include those engaged in illegal activities, loan packaging, speculation, multi-sales distribution, gambling, investment or lending, or where the owner is on parole. However, as these businesses are not certified by SBA, additional verifications for ineligible business types by SASPs are not needed.
10. Does SBA 8(a) eligibility expire?
- a. [SBA] Yes. 8(a) certification lasts for a maximum of nine years. The first four years are considered a development stage and the last five years are considered a transitional stage. Continuation in the program is dependent on staying in compliance with program requirements.
11. Do SASPs have to renew or update their eligibility application?

- a. SBA 8(a)s have to renew their eligibility application with the SASP a minimum of every three years. Some SASPs may require more frequent renewals.
12. How often do SASPs need to update eligibility?
- a. Under the MOA, the SBA District Office provides confirmation of eligibility. Once the SASP receives the 8(a) Participant's certification of eligibility (in accordance with 13 CFR 124.405(d)), the SASP will submit it to the servicing SBA District Office for validation.
 - b. GSA has added language to the MOA to reiterate that donees must maintain eligibility during the Federal period of restriction for donated property.
13. What happens if the 8a org leaves the SBA program?
- a. If an 8(a) leaves the program, they will lose eligibility in the Surplus Donation Program. Any property still under the period of restriction must be returned to the SASP.
14. Can an SBA 8(a) apply for eligibility using a home address?
- a. An SBA 8(a) may only apply using a home address if that home address is listed on their SBA Certification.
15. Can SBA-verified VOSBs that are also SBA 8(a)s receive property under either program (MOA)?
- a. Yes, a business that is an SBA 8(a) and also a SBA-verified VOSB would be able to obtain property under either program (if the donating SASP has executed both MOAs with GSA and SBA).

Acquiring & Using Personal Property

16. Can SBA 8(a)s that are located in or operate in more than one state obtain property from any SASP where they are located in or operate in?
- a. Yes, if the following conditions are met:
 - i. Each state in question has executed both MOAs with GSA and SBA.
 - ii. SBA 8(a)s must have both a physical location and operate in the state to become eligible with that state's SASP.
 - iii. SBA 8(a)s must acquire property from the SASP in the state where the property will primarily be located and must obtain permission from the donating SASP before permanently removing the property from the state.
 - b. In some instances, a state that has not signed the agreement may create a cooperative MOU with an adjacent state (that has signed the MOU) allowing the state that has signed the MOU to donate property to SBA 8(a)s.
 - i. The states must execute a cooperative agreement
 - ii. The cooperative agreement must be agreed to by both states as well as GSA and SBA.
 - iii. The states entering into the cooperative agreement must be geographically adjacent to each other. (FMR §102-37.335)

17. Who determines if the proposed intended use is acceptable for the type of business or what is considered normal business activities?
- a. The SBA district offices approve requests for property ensuring it aligns with donee's business plan, and conducts compliance on the donated property.
18. Will SBA 8(a)s be permitted to acquire reimbursable items?
- a. No. SBA 8(a)s cannot purchase reimbursable items by negotiated sale at fixed price since they are not public bodies. (40 U.S.C. § 545 (b)(8))
19. Can SBA 8(a)s acquire aircraft and vessels?
- a. Donations of aircraft and vessels carry a 5 year period of restriction. SBA 8(a)s may acquire aircraft or vessels if approved by SBA and the period of restriction of the donation does not exceed the 8(a)s participation in the 8(a) program. This is because SBA compliance activities stop when the 8(a)s participation in the program ends.
20. Are electronic signatures permitted?
- a. Please see the *Use of Electronic Signatures by SASPs and Donees* memo, dated June 9, 2021, for more information on which forms of electronic signatures are acceptable.

Compliance

21. Who do SASPs send compliance issues to?
- a. Send to both GSA and SBA.
 - i. GSA POCs:
 1. GSA Mid-Atlantic Zone (Joe Hvorecky) for eastern states.
 2. GSA Southwest Central Zone (Tara Malone) for western states.
 - ii. SBA POCs:
 1. Pamela Beavers, Pamela.Beavers@sba.gov
 2. Nick Manalisay, Area Director, Area 6, 811 Wilshire Blvd., Suite 400, Los Angeles, CA 90017, Nicholas.Manalisay@sba.gov
22. If the 8a is suspended from the program, can they ever get back in?
- a. Yes, they can be reinstated with SBA.
 - b. Typically GSA and the SASPs "temporarily defer" donees with past infractions. Temporary deferral may be lifted when an approved letter of correction action is submitted to the SASP and GSA, and all corrective actions are completed.

Contacts & Additional Information

For more information about the program, please see:

- [SBA Press Release](#)