



Legislative Update

MSFC SBELT 1 August 2023



Topics for Conversation

- 2022 Small Business Procurement Scorecard**
- Federal Court Prohibits SBA's Use of Rebuttable Presumption for 8(a)**
- New Health and Welfare Rates on SCA Government Contracts**
- GSA OASIS+ Update**
- SBA Proposed Rule for Justice Impacted Individuals**
- Recent Retirements**

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\$163B in Federal Opportunities to Small Businesses

WASHINGTON, July 18, 2023 (GLOBE NEWSWIRE) -- Today, **Administrator Isabella Casillas Guzman** announced that the Biden-Harris Administration exceeded its small business contracting goal of 23% in fiscal year (FY) 2022, awarding an all-time high 26.5% of federal contract dollars to small businesses. This historic level amounts to a \$162.9 billion investment in the small business economy – an \$8.7 billion increase from the previous fiscal year. Ten federal agencies earned an “A+” for their agencies’ achievements in small business contracting, and an additional ten agencies received an “A” grade. The federal government, overall, earned an “A” on this year’s government-wide scorecard.

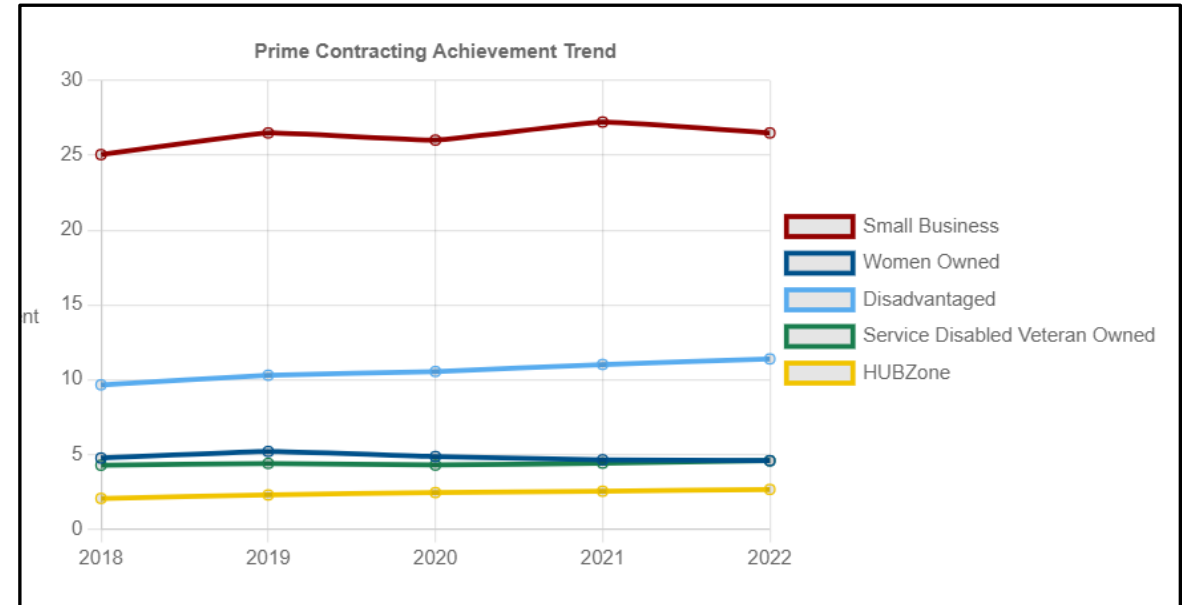
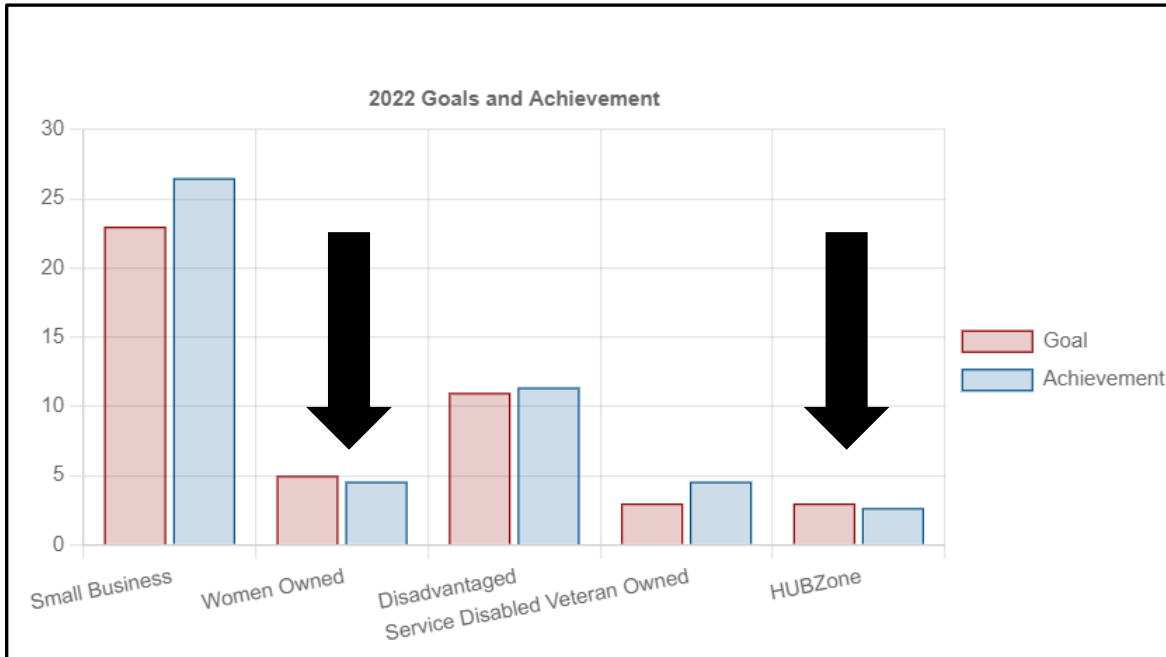
SBA Scorecards



Government-Wide Performance

FY2022 Small Business Procurement Scorecard

A
104.05%



Number of SBs receiving prime awards continued a multi-year reduction trend, spanning a decade.

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SBA's Use of Rebuttable Presumption for 8(a)

Case: Ultima v. U.S. Department of Agriculture

Date: 19 July 2023

Where: U.S. District Court for the Eastern District of Tennessee

SBA applies a rebuttable presumption of social disadvantage to individuals of certain minority groups: Black, Hispanic, Native, Asian Pacific, and Subcontinent Asian Americans, as well as members of other groups designated from time to time by SBA*.

This rebuttable presumption is not established by statute, but by SBA regulation. Others who are not members of these groups must affirmatively establish by a preponderance of the evidence that they are socially disadvantaged.

SBA's Use of Rebuttable Presumption for 8(a)

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“Individuals who do not receive the presumption must show both economic disadvantage and discrimination that have negatively impacted their advancement in the business world and caused them to suffer chronic and substantial social disadvantage. Individuals who do not receive the presumption must put forth double the effort to qualify for the 8(a) program.”

Violated the equal protection rights.

**SBA has not added a group to the list of those entitled to the rebuttable presumption since 1999. SBA has never removed a group from that list for no longer being adversely affected by the present effects of discrimination. SBA does not have criteria to evaluate whether a group should be removed from the list.*

SBA's Use of Rebuttable Presumption for 8(a)

Tony Franco and Patrick Rothwell with PilieroMazza wrote a recent article on the case and believe, “*The decision will likely have an immediate impact on businesses that have pending applications or are intending to apply for admission into the 8(a) program and may have further impacts upon the 8(a) program down the road.*”

Takeaways

The immediate impact of this decision means that—if it is not stayed pending appeal—for current and future applications for admission into the 8(a) program, members of groups that were identified by SBA as having a rebuttable presumption of social disadvantage will now need to affirmatively establish the existence of social disadvantage, such as race, under the elements set forth above. They will likely need to provide a detailed narrative showing that they are, indeed, socially disadvantaged. This may not be an easy task.

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New Health and Welfare Rates on SCA Government Contracts

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- Prevailing Health & Welfare (H&W) fringe benefits from \$4.80 per hour to \$4.98 per hour.
- Executive Order (EO) 13706 sick leave obligations, rates have increased from \$4.41 per hour to \$4.57 per hour.

PilieroMazza Client Alert

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GSA OASIS+ Update

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Solicitation Released:	15 June
Types:	Unrestricted, Total Small Business, 8(a), WOSB, SDVOSB, HubZone
Domains:	Management & Advisory, Technical & Engineering, Research and Development, Intelligence Services, Environmental Services, Facilities, Logistics
Due:	13 September

GSA OASIS+ Update

One Acquisition Solution for Integrated Services Plus

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OASIS+ RFPs Q&As and OASIS+ Submission Portal Updates

By Esther Kidenda-Ombura

07/24/2023 9:28 AM



On July 14, 2023, GSA officially closed the question and answer (Q&A) period for all six OASIS+ RFPs. The agency received more than 4,500 questions. GSA plans to release Q&A responses in batches in the coming weeks and will notify industry via SAM.gov and the [OASIS+ Interact Community](#) forum.

Reminder: The OASIS+ Submission Portal (OSP) Pricing Submission Application functionality for uploading and populating pricing files is currently under development. All other functions are available for offerors to begin to prepare their proposals; however, the system will not allow submission of an offer until the pricing module is operational. We encourage offerors to continue building proposal submissions and viewing live scoring on OSP and to monitor this forum for updates.

This program update has been posted within each of the OASIS+ RFPs on SAM.gov. Join the [OASIS+ Interact Community](#) to stay updated on this contract program and access related resources. We also share updates via our social media channels [Twitter](#) and [LinkedIn](#). Follow us!

- **Received questions until 14 July.**
- **4500+ questions.**
- **Answers released in batches in coming weeks.**

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RegInfo.gov – A SBA Proposed Rule

View Rule

[View EO 12866 Meetings](#) [Printer-Friendly Version](#) [Download RIN Data in XML](#)

SBA **RIN:** 3245-AI03 **Publication ID:** Spring 2023

Title: •Program Changes for Justice Impacted Individuals

Abstract:

SBA will publish a notice of proposed rulemaking in order to receive comments from the public and the lending industry regarding a proposal to amend the rule regarding the ineligibility of an Applicant where an associate has a criminal record. SBA will propose these changes in alignment with EO 14074 on Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety. SBA envisions that the changes to the proposed rule will increase access to capital for justice impacted individuals, while providing a reasonable balance for oversight of taxpayer dollars through appropriate controls and processes to mitigate potential fraud, waste and abuse. The proposed rule will apply to the 7(a), 504, Microloan, Intermediary Lending Pilot and Disaster loan programs, and the Surety Bond program.

Agency: Small Business Administration(SBA) **Priority:** Other Significant

RIN Status: First time published in the Unified Agenda **Agenda Stage of Rulemaking:** Proposed Rule Stage

Major: Yes **Unfunded Mandates:** No

CFR Citation: [13 CFR 109](#) [13 CFR 115](#) [13 CFR 120](#) [13 CFR 123](#)

Legal Authority: [15 USC 632 7\(a\)](#)

Legal Deadline: None

Timetable:

Action	Date	FR Cite
NPRM	08/00/2023	

Regulatory Flexibility Analysis Required: No **Government Levels Affected:** None

Small Entities Affected: Businesses, Organizations **Federalism:** No

Included in the Regulatory Plan: No

RIN Data Printed in the FR: No

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SBA Proposed Rule for Justice Impacted Individuals

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