THE COLORADO DISTRICT OFFICE'S SERVICING OF 8(A) BUSINESS DEVELOPMENT PROGRAM PARTICIPANTS

Report Number: 10-15
Date Issued: September 30, 2010

Prepared by the
Office of Inspector General
U.S. Small Business Administration

This October 19, 2010 revised version of the Report is the same as the one publicly released on October 5, 2010 except that we have included information that was unintentionally omitted from the Management Comments section.

U.S. Small Business Administration
Office of Inspector General

Memorandum

To: Jess Knox
Associate Administrator
Office of Field Operations

Date: September 30, 2010

Greg Lopez
District Director
Colorado District Office

/s/ Original Signed

From: Debra S. Ritt
Assistant Inspector General for Auditing

Subject: The Colorado District Office's Servicing of 8(a) Business Development Program Participants, Report Number 10-15

This report presents the results of our review of the Colorado District Office's servicing of 8(a) Business Development program participants. We conducted the review in response to a complaint the Office of Inspector General received on July 13, 2009, alleging that actions taken by the Colorado District Office hurt small businesses and wasted government resources. The complaint, which identified potential violations of 8(a) servicing rules between March 2007 and June 2009 involving 12 companies,[1] alleged that the Colorado District Office was not:

- Taking steps to graduate and terminate 8(a) program participants when their Business Development Specialists (BDS) determined that they were no longer qualified to be in the program;

- Applying servicing procedures consistently, in a timely manner, and ensuring that past personal histories with the participant's owners did not influence servicing decisions;

[1] The original complaint alleged potential 8(a) violations involving 14 companies. However, after discussions with the complainant, it was agreed that only issues associated with 12 of the companies involved potential violations of 8(a) business development rules and regulations. Therefore, our review focused on the 12 companies. We also did not review personnel and other issues raised in the complaint that were not related to potential violations of 8(a) servicing rules.

- Ensuring that BDSs were knowledgeable of 8(a) program requirements;
- Communicating with 8(a) participants in a professional manner; and
- Properly collecting and reporting 8(a) contract data.

To determine whether the Colorado District Office was appropriately graduating and terminating 8(a) firms, we reviewed actions taken by the district office relative to two firms identified in the complaint that allegedly should have been removed from the program based on criteria outlined in Agency regulations and Standard Operating Procedure (SOP) 80 05 3A, *8(a) Business Development*. We also judgmentally selected four additional firms after discussions with the complainants and our Investigations Divisions and a review of SBA's 8(a) data. To determine actions relative to these firms, we visited the Small Business Administration's (SBA) Colorado District Office where we reviewed the 8(a) files of the six companies and interviewed the Business Development Division staff and District Director.

To determine whether the district office was applying servicing procedures consistently, we reviewed the 8(a) files of eight firms identified as having servicing issues. We also solicited feedback from 205 participant firms serviced by the Colorado District Office between 2007 and 2009, including those identified in the complaint, to obtain their opinion about the quality and timeliness of service provided by the district office. We obtained feedback from 39 firms, which equated to a 19 percent response rate. Because of the low response rate, the results could not be projected to the universe of 8(a) participants serviced by the Colorado District Office. Each of the 39 firms was asked uniform questions regarding the district office's assistance in developing their business and identifying procurement opportunities, and whether the participant would recommend the 8(a) program to others in their community. Participant firms were also asked to rate the service they received on a scale from 1 to 5 (1 being poor and 5 being excellent). Because participants wanted to remain anonymous, we did not validate their statements with district officials. We also reviewed the 8(a) and mentor protégé agreement files that were maintained by the district office for the three companies identified in the complaint as having approved agreements. Further, we interviewed officials from SBA's Office of Business Development, Colorado District Office, and reviewed SBA Office of Hearing and Appeals case law related to similar situations outlined in the complaint.

To determine whether BDSs were properly trained, we reviewed employee training documentation at the district office. The 39 participant firms we contacted were also asked their opinion about the district office's professionalism and their BDS's knowledge of the 8(a) program. Further, we reviewed office staffing levels and determined the length of time that BDSs had served in their positions, and obtained feedback from 6 BDSs who had less than 2 years of experience with the 8(a) program regarding the level of training they were provided on program requirements.

While one of the complaints concerned whether the district office was properly collecting and reporting 8(a) procurement data, we did not address this issue as we determined that district offices are not required to report 8(a) data to headquarters. Instead, SBA relies on procurement data from the Federal Procurement Data System. We also did not determine validity of personnel and other issues identified in the complaint because they were not related to potential violations of the 8(a) servicing rules. We conducted our review between September 2009 and August 2010 in accordance with *Government Auditing Standards* for attestation engagements prescribed by the Comptroller General of the United States.

BACKGROUND

The 8(a) program is a business development program authorized by the Small Business Act to help small disadvantaged businesses compete in Federal and private procurement arenas. Firms participating in the program may receive several types of assistance, including: sole source and competitive 8(a) contract support; financial assistance; the transfer of technology or surplus government-owned property; training and technical assistance; and assistance in forming joint ventures and teaming arrangements with other business concerns for the purpose of obtaining contracting opportunities.

The 8(a) program is delivered collaboratively between two offices within SBA. The Office of Business Development, located in Washington, D.C., issues program policy; processes applications for program participation; renders decisions on program eligibility, changes of ownership, and mentor-protégé agreements; and releases participants from the program. The Office of Field Operations, through its district offices, services 8(a) participants to help them develop their businesses to the fullest extent possible to attain competitive viability. BDSs at each district office are responsible for providing ongoing management and technical assistance, identifying contract opportunities and accepting requirements, conducting annual reviews of participant accomplishments, determining whether participants are in compliance with program requirements, reviewing management and teaming agreements, rendering final determinations for joint ventures, and conducting site visits.

During the period of time discussed in the complaint the district office was responsible for servicing approximately 205 8(a) participants. As of July 2010, 167 participants were assigned to the district office.

RESULTS IN BRIEF

While many of the specific examples in the complaint were not substantiated by this audit, the Colorado District Office did not function as well as it should to provide consistent and worthwhile assistance to some of the companies in its 8(a) portfolio. Specifically, it did not apply servicing procedures consistently and timely for three of the eight firms reviewed. One firm should have been recommended for termination for non-compliance with the program's annual reporting requirements. Instead, the Colorado District Office accepted over $6.5 million dollars in 8(a) procurements since May 2009 on the company's behalf. Another firm waited 10 months to obtain SBA approval of its mentor protégé agreement. A third firm was allowed to receive a sole-source contract when it was ineligible to do so. Additionally, 23 of the 205 firms expressed general dissatisfaction with the district office because BDSs were not assigned or accessible, requests for assistance were not met timely or at all, and the quality of assistance was poor. Participants also complained that district officials would not return their phone calls or meet with them despite persistent requests, and that from August to October 2009 their access to the district office was restricted to only 2 days a week and by appointment only. During our visit to the office in January 2010, we noted that access to district office officials continued to be restricted.

These servicing issues were due to staffing shortages, the Agency placing a higher priority on mandatory annual reviews than on servicing participants, and a lack of training. In early 2008, the district office was operating with only two BDSs. Although six additional employees were added in 2008 to better manage the 8(a) program, according to the District Director, they were used primarily to complete annual reviews.

A summary of the allegations outlined in the complaint and our determination of their validity are outlined in Appendix I. A summary of 8(a) participant responses to our questions about the service provided by the district office is provided in Appendix II.

SBA has recently taken several steps to expand district office goaling requirements for servicing 8(a) participants and has created a centralized Customer Relationship Management (CRM) system to track and facilitate interactions between SBA and its clients. SBA plans to mandate its use in November 2010. Performance goals linked to district office handling of customer requests will also be established.

To address servicing issues noted in our review, we recommended that the Colorado District Office take steps to recommend for termination the firm identified as no longer being eligible for the 8(a) program, minimize or end restrictions on participant access to the district office, and ensure that all 8(a) firms are assigned a BDS. We also recommended that the Associate Administrator for Field Operations immediately require the Colorado District Office to use CRM to track customer requests and monitor CRM status reports to ensure that requests are addressed timely. Finally, we recommended that the Associate Administrator determine the adequacy of training provided BDSs, take steps to address training shortfalls, annually administer a nationwide customer satisfaction survey and tie the survey results to District Director performance ratings, and determine whether district offices are appropriately staffed to provide for adequate servicing of 8(a) firms.

Management commented that it views the report as an improvement opportunity, but noted that significant improvements have been made in the staffing, management, and control of the Colorado District Office since the review was completed. Therefore, management non-concurred with one recommendation, concurred with two others, partially concurred with one recommendation, and neither concurred nor non-concurred with four recommendations. Where management either non-concurred or did not express concurrence or non-concurrence, actions were generally underway or improvements had already been made to address the deficiencies noted in the audit. Therefore, we consider management's comments to be fully responsive to all, but three, of the recommendations.

RESULTS

The District Office Generally Graduated or Terminated Ineligible 8(a) Firms

Of the six firms reviewed, we determined that three were candidates for graduation or termination and the other three were eligible to continue 8(a) participation. The Colorado District Office generally took appropriate action in reviewing five of these six firms. One firm should have been recommended for termination for non-compliance with the program's financial reporting requirements, but the district office has allowed it to participate without adequate justification.

To remain eligible, participant firms must continue to be small and unconditionally owned and controlled during their 9-year tenure in the 8(a) program by one or more socially and economically disadvantaged individuals, who are of good character and citizens of the United States. Applicants must also annually submit data showing the financial condition of their firms and the personal net worth of the disadvantaged owners. Specifically, 13 CFR 124.602 requires firms with December 31st end-of-year reporting dates and gross annual receipts of $1 million to $5 million to provide reviewed financial statements by March 30th. Firms with more than $5 million in gross annual receipts must submit audited financial statements by April 30th. Further, according to 13 CFR 124.303(7), a pattern of failure to provide these statements may result in the firm's termination from the program. However, the participant may request a waiver to this requirement for good cause, including where it has experienced severe financial difficulties, which would make the cost of audited financial statements a particular burden or where it has had an unexpected sales increase at the end of the firm's fiscal year that creates an unforeseen requirement for audited financial statements.

The Colorado District Office took appropriate action on five of the six firms. For example, it took appropriate actions on the two firms named in the complaint, recommending one for early graduation 2 months early because the president of the company was making excessive withdrawals, and allowing the other to remain in the program as there were no identified issues with the company. It also took appropriate actions on three of the four judgmentally selected firms. For example, it recommended one of the firms for termination for not submitting its business plan update, personal financial statements, corporate and individual tax return, and certifications relating to its program eligibility. Headquarters agreed with the district office's recommendation and informed the firm it would be terminated unless it provided the required documentation. The district office also properly determined that the remaining two firms continued to be eligible for the 8(a) program.

The Colorado District Office did not recommend for termination one of the firms we judgmentally sampled, which was noncompliant with SBA's annual reporting requirements. The firm did not provide "reviewed" 2007 financial statements by the March 30, 2008 deadline or "audited" 2008 financial statements by the April 30, 2009 deadline. Audited financial statements contain vital information about business relationships and financial transactions that could affect the participant's continued eligibility for the 8(a) program and contract awards. Despite the firm's non-compliance with the program requirements for 2 consecutive years and repeated warnings from the BDS that it would be terminated for failure to adhere to the 8(a) reporting requirements, on September 24, 2009, the Colorado District Office found the firm to be in compliance and retained the firm in the program.

The BDS stated that instead of recommending termination of the non-compliant firm from the 8(a) program, she had stopped accepting 8(a) contracts on the company's behalf until it complied with program reporting requirements. For example, in May 2009, the firm was offered two contracts, but the BDS did not accept them due to the firm's continued non-compliance. The firm then requested a waiver from the financial statement reporting requirements, which was denied by the District Director. Subsequently, the firm's president and accountant negotiated an agreement with the lead BDS and District Director where the firm would provide its 2007 and 2008 financial statements within 3 weeks of the district office's acceptance of $735,000 in procurements on its behalf. Both the District Director and lead BDS believed that this was fair because SBA was in the business of helping small businesses.

On June 1, 2009, the District Director accepted the $735,000 in procurements on the firm's behalf, although the firm did not provide its 2007 financial statements until December 2009—nearly 7 months after the date promised—and had not provided its 2008 audited financial statements. Between June 2009 and May 2010, the district office accepted three additional procurements totaling over $5.8 million even though the firm had still not submitted its 2008 audited financial statements. In total, over $6.5 million in procurements were accepted on the firm's behalf. These acceptances were made because the firm was technically "in good standing" as no suspension or termination actions had been taken. However, due to the firm's continued refusal to provide the required financial statements in a timely manner, the firm was in violation of its participation agreement, and was a candidate for termination from the 8(a) program according to SBA regulations.

The Colorado District Office Did Not Always Provide Accurate or Timely Servicing of its 8(a) Firms

The complaint alleged that eight firms were not being consistently and timely serviced by the district office, and that a personal history with one participant's owner was allowed to influence servicing decisions. Our review substantiated servicing issues with three of the eight firms. As previously discussed, we found that one firm was allowed to remain in the program, even though it continuously refused to submit the required financial statements, and that the district office inappropriately accepted over $6.5 million in contracts on behalf of the firm. In contrast, we noted between September 2009 and January 2010, the district office recommended termination of five firms that did not comply with the financial statement reporting requirements.

The second firm was dissatisfied with the service it received because it took 10 months to have its mentor protégé agreement approved, which resulted in the firm missing the solicitation deadline for a $90 million procurement. The BDS told us that because she had recently transferred into the BDS position, she needed the Lead BDS, who was the only one with mentor protégé experience, to review the agreement. Because the Lead BDS was on extended leave, the mentor protégé agreement did not get reviewed until almost 3 months after it was submitted. When the lead BDS ultimately reviewed it, it was determined that additional information was needed, and the agreement was returned to the participant. After the applicant resubmitted its mentor protégé application, the district office held the application for 2 months for the lead BDS's review. Ultimately the application was forwarded to headquarters without the lead BDS's review about 3 weeks after the procurement's solicitation deadline. The application was subsequently rejected by headquarters and returned to the district office because it did not comply with the templates located on SBA's Business Development Share Portal. Two months later the agreement was re-submitted to headquarters for approval. The agreement was ultimately approved 5 months after the procurement solicitation deadline.

For the third firm, we determined that in February 2008, the Colorado District Office improperly accepted a $3,488,000 procurement on behalf of a business that did not meet its applicable competitive business mix target for the completed program year. In its July 9, 2007 annual review letter, the Colorado District Office found that the firm was ineligible for sole source 8(a) contracts in the current program year. However, on February 1, 2008 the district office accepted a contract on behalf of the firm even though the company had not brought itself into compliance.

The complaint also alleged that a mentor protégé agreement for a fourth firm was disapproved because the District Director stated he would never approve a mentor protégé agreement that would benefit the mentor because the mentor did not financially support his political campaign when he had run for mayor of a city. The District Director denied making the comment, while the individual he allegedly made the comment to confirmed it, but told us there were no other witnesses. Regardless of whether the comment was made, we determined that the disapproval was justified on the basis that the arrangement did not benefit the protégé, indicating that the District Director's actions were appropriate.

In addition to examining the specific complaints involving the 8 firms, we asked 205 participants to give us their opinions on the quality of the service provided by the Colorado District Office. We obtained feedback from 39 firms. Participant responses to our questions about the quality of service provided the district office is summarized in Appendix II. In summary, 24 of the 39 firms stated they were dissatisfied with the servicing provided by the Colorado District Office because BDSs were not assigned or accessible, requests for assistance were not met timely or at all, the quality of assistance was poor, and/or communication with the district office was limited to general e-mail distributions forwarding information. Specifically:

- 17 firms responded that district officials would not return their phone calls or meet with them despite urgent and persistent requests, even those made to the District Director. Nine of the 17 firms stated that because they were denied access to their BDSs, they had to seek assistance from SBA headquarters, consultants, lawyers, or their congressmen. Additionally, one of the nine firms named SBA as a defendant in a lawsuit, alleging that the Colorado District Office failed to properly service it as a participant in the 8(a) program. That case has since been dismissed. The firms also complained that the District Director limited their access to the Colorado District Office to 2 days a week and by appointment only with assigned BDSs. For example, one firm told us it was not permitted to submit a joint venture application in person because according to the Lead BDS, the firm did not have an appointment, and therefore, did not have permission to be in the district office.

- 10 firms reported that the district office was untimely in responding to their requests for service. Four firms stated they could not get timely approval of their joint venture or mentor protégé agreements, and reported that the delays resulted in harm to their businesses, including the loss of procurement opportunities and revenue. For example, as discussed previously, one firm reported it missed a $90 million contracting opportunity because the BDS did not complete her review of the mentor protégé agreement until 5 months past the solicitation deadline, even though the firm had submitted the agreement 5 months prior to the deadline. The other firm told us it is continuing to miss contracting opportunities because its BDS has not approved the mentor protégé agreement, which was submitted to the district office in November 2008. In three of the cases, the BDS took between 6 months to 18 months to process the requests, and in the fourth case the BDS never responded. According to the Office of Business Development, it normally takes 3 to 4 months to process a mentor protégé agreement request and obtain headquarters approval.

- 9 firms stated that communications with the district office were limited to e-mails that forwarded general information about the 8(a) program. Four of the nine firms stated that they also had not received site visits since joining the 8(a) program.

- 10 firms stated that the quality of assistance provided by district office representatives was poor. For example, one firm indicated that when it asked how its company could benefit from the 8(a) program, the district office representative replied, "I don't know what to tell you." Another firm reported that it requested assistance many times and the district office refused to help. It also requested, but never received, a list of the services that the district office provided.

- 6 firms stated that they had not been assigned BDSs for a period of time and had been told by the District Director that BDS assignments would not be made because resources were not available. Four of the firms waited 7 months, while one firm waited 9 months and one waited 1 year to be assigned a BDS. According to one firm, a BDS was ultimately assigned to every participant as a result of a meeting that the firm had with representatives from SBA's Office of Field Operations. Firms not assigned BDSs told us that when the District Director further limited access to the district office in August 2009, it was impossible to obtain any assistance.

The servicing issues reported above were due to a variety of factors. First, in 2008 the office was significantly understaffed and was operating with only two BDSs to service over 200 8(a) firms. The lead BDS had over 10 years of experience in the 8(a) program and the other had less than 1 year of experience. To improve the overall management of the 8(a) program, during 2008 the District Director augmented his existing business development staff with four employees that were working in the Marketing Outreach Division of the district office and two new hires. However, none of the six individuals had prior experience with the 8(a) program. In addition, the lead BDS, who was the most knowledgeable about the 8(a) program, was out of the office for extended periods of time, leaving the office to operate mostly with inexperienced staff.

According to the District Director, the increased staffing was intended to ensure that all required annual reviews were completed to meet the district office's annual performance goal. At the time, the district office's performance metrics focused on meeting the annual review requirements and did not measure the district office's performance in other aspects of servicing. This was in response to an Agency initiative, introduced by the former Administrator, making compliance with statutory requirements, such as annual reviews, a priority and ensuring that programs operated effectively and efficiently. As a result, in FY 2009 the Business Development Division had one goal related to the 8(a) program, namely to complete all of its 8(a) annual reviews in accordance with Federal law and statutes.[2] There were no other goals that addressed the other elements of 8(a) servicing.

To ensure that BDSs could focus on the annual reviews, in August 2009 the District Director restricted participant firms' access to the Colorado District Office to 2 days a week and by appointment only (see Appendix III). According to an August 12, 2009 letter to Colorado district 8(a) participants, the restriction was in

[2] Public Law 100-656, §209, 102 Stat. 3853, 3863 (1988), codified at 15 U.S.C. §637 (a)(6)(B), requires SBA to complete annual reviews of all 8(a) program participants. This requirement, along with other provisions in the law, were intended to prevent ineligible firms from participating in the program.

place between August 17, 2009 and October 5, 2009. While this occurred in 2009, during our site visit to the Colorado District Office in January 2010, we noted that access to the district office continued to be restricted. For example, during our visit one owner of an 8(a) firm was denied access to the district office. Although the BDS responsible for reviewing the firm's mentor protégé agreement was in the office that day, she refused to see him. The participant told us that he visited the office because district officials had not been responsive to his repeated inquiries about his mentor protégé application. We also heard the District Director suggest that egg timers be placed on each BDS' desk to limit counseling sessions with 8(a) firms to 5 minutes.

Since our audit work was initiated, SBA has taken several steps to improve the servicing of 8(a) firms nationwide. For example, the Office of Field Operations revised district office goaling requirements for FY 2010 to include metrics that are intended to: (1) improve small business participation in Federal government contracting; (2) support entrepreneurship development through training, counseling and technical assistance; and (3) strengthen stewardship and accountability over taxpayer dollars through prudent financial portfolio management and oversight. Additionally, in January 2010, SBA created the Customer Relationship Management (CRM) system to help track and facilitate interactions between SBA and its clients. CRM assists SBA store all client communications by type, as well as, manage active client requests by rating their importance, and setting up deadlines and reminders. District staff can also query CRM and run management reports to determine the types of requested services, the frequency of requests, and their status. While use of the system is currently voluntary, SBA plans to require that the district offices record and monitor all customer requests, starting in November 2010.

According to the Associate Administrator for Field Operations, CRM's tracking capabilities will generate data that will allow him to measure other aspects of district performance, thus establishing greater accountability in the district offices. He hopes to establish additional customer service performance goals for the district offices by FY 2011 that will be measured using data from CRM. The Associate Administrator also stated that the implementation of new servicing goals and CRM are only the beginning of his efforts to create accountability within the district offices. Currently, teams of Regional Administrators, District Directors, and BDSs are working together to develop measurable performance standards and uniform training curriculum for all district office employees.

While we believe that these efforts will significantly increase accountability and oversight of the district offices, neither the performance standards nor CRM will provide a basis for measuring the quality of service provided. Determining the quality of service is important because servicing issues can significantly impact the success of 8(a) companies. For this reason, we believe that the Associate Administrator of Field Operations should also administer a customer satisfaction survey that would solicit feedback from all 8(a) firms. The survey should be performed annually by an independent third party, such as the Office of Personnel Management, and the results should be tied to district directors' annual performance ratings. We also believe that the Colorado District Office should immediately be required to use CRM to manage communications with its 8(a) firms and that the Office of Field Operations should monitor CRM status reports for that office to ensure that requests for assistance are addressed timely. Finally, because staffing constraints impacted the level of service provided by the Colorado District Office, we believe that staffing levels of all the district offices should be reviewed to ensure that BDSs can devote the time they need to service their 8(a) participants.

Business Development Specialists Were Inexperienced with the 8(a) Program and Inadequately Trained

According to the complaint, the BDSs made unintentional errors and did not properly apply the 8(a) rules and regulations when servicing firms because Colorado district management was "grossly negligent" in training its Business Development Division staff. While we did not find widespread errors in the 8(a) files reviewed for the 12 firms named in the complaint, as previously discussed, we determined that in February 2008, the Colorado District Office improperly accepted a $3,488,000 procurement on behalf of one of the firms. The BDS advised us that she did not receive adequate training in contract acceptance and therefore did not ensure the business met the applicable competitive business mix target for the completed program year.

Additionally, 19 of the 39 participant firms who provided us feedback questioned the knowledge of their BDSs. Three firms also stated that their BDSs often misinterpreted concepts and definitions, and frequently contradicted information they previously provided, which caused delays and rework on the part of participant firms. Due to lost confidence in their BDSs, 9 firms told us they sought assistance including technical guidance and congressional and legal assistance.

Problems noted with BDSs were largely attributable to most of the BDSs being new to the 8(a) area and not being adequately trained. During 2008 and 2009, six of the BDSs had less than 1 year of experience, one BDS had only 2 years, and the other had been in her position 13 years. The training records as of January 1, 2010, showed that formal training of 7 BDSs with 2 years or less of experience was a 2-day course that covered a wide range of 8(a) topics, including annual reviews, mentor protégé and joint venture agreements, and business plans. The remaining BDS had significant experience and had taken several classes. When asked about the level of training provided, most of the 6 BDSs with less than 2 years of 8(a) experience stated that they were not given sufficient training to do their jobs effectively and that most of training was acquired on-the-job.

Officials from the Office of Business Development told us that they have no control over the amount of training provided BDSs because BDSs report to the Office of Field Operations. Therefore, the district offices are responsible for training and monitoring the performance of their BDSs. However, upon request, the Office of Business Development can provide 8(a) training to new BDSs. Officials from the Office of Business Development told us that had it been informed of the situation in Colorado, it would have provided the support needed. As mentioned previously, teams of Regional Administrators, District Directors, and BDSs are currently working together to develop uniform training curriculum for all district office employees, which should ensure that BDSs are properly trained in the future. However, we believe that the Office of Field Operations should review the training provided BDSs in the Colorado District Office and take steps to address any training shortfalls.

Some Participants Reported that District Officials Lacked Professionalism

The majority of the 39 firms contacted believed that district office officials presented themselves in a professional manner. However, 9 firms told us that the district office lacked professionalism in its communications. Five of these firms told us that they had been scolded, or threatened when meeting with the Lead BDS from the Colorado District Office. In these instances participants reported that they were:

- Threatened with debarment when the owner of the firm said it would seek legal assistance because the Lead BDS was questioning whether the firm performed the majority of the work on its contract.

- Accused of being a front for a large business and bribing the contracting officer in order to get the contract as a mentor protégé.

- Scolded for not working hard enough to market itself in response to the firm's request for assistance

- Treated rudely and with hostility by the Lead BDS and District Director. For example, one participant claimed it was treated in this manner when being persistent in seeking assistance on a joint venture application. Because the individual did not have an appointment, he was turned away from the district office. Another participant advised us it was treated with hostility after contacting his congressman to intervene, and accused of using political means to circumvent 8(a) requirements.

Additionally, one firm stated that another BDS contacted its client, a contracting officer with the Federal government, to inform her that the firm was no longer financially stable, and therefore, could not contract with the government. The firm became aware of this communication after the contracting officer contacted it to express concern. Ultimately, SBA, the firm, and the contracting agency were able to resolve the issue, but not before the firm's financial reputation was questioned.

RECOMMENDATIONS

We recommend that the District Director, Colorado District Office:

1. Immediately recommend for termination the firm identified in the report that continually refused to comply with the 8(a) financial reporting requirements in accordance with sections (2) and (7) of 13 CFR 124.303.

2. Minimize or eliminate restrictions on participants' access to the district office.

3. Ensure that all 8(a) firms are assigned to a Business Development Specialist.

We recommend that the Associate Administrator for Field Operations:

4. Immediately require that the Colorado District Office use CRM to track requests from 8(a) firms and monitor CRM status reports for that office to ensure that requests are addressed timely.

5. Determine the adequacy of training provided to BDSs in the Colorado District Office and work with the Office of Business Development to address any training shortfalls.

6. Require the District Director to submit a plan outlining steps that will be taken to address the servicing issues addressed in this report, including recommending one firm for termination, and ensuring that all 8(a) firms have access to the district office during regular business hours.

7. Annually administer a nationwide customer satisfaction survey for all 8(a) firms, using an independent third party and tie the results to all district directors' annual performance rating.

8. Review staffing levels of all the district offices to ensure that BDSs can devote the time needed to adequately service their 8(a) participants.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

On August 18, 2010, we provided a draft of the report to SBA's Office of Field Operations and Colorado District Office for comment. On September 23, 2010, the Deputy Associate Administrator for Field Operations provided written comments on the behalf of the Office of Field Operations and the Colorado District Office, which are contained in their entirety in Appendix IV.

While management concurred with some of our conclusions and non-concurred with others, it stated that it views the report as an improvement opportunity and intends to embrace the legitimate outcomes for purposes of continued improvement. However, management emphasized that the alleged violations addressed in the report occurred, in part, during the transition of new district office leadership and before increases were made to staffing levels. Since that time, significant improvements have been made in the staffing, management, and control of the district office. Further, the current district office staff has been trained, which along with strategic planning and increased communications, have enhanced their performance.

Management also believes that concerns related to restricting participant access to the district office, which were caused by miscommunications and misunderstanding, have been resolved. However, management is willing to conduct an analysis to identify further improvements needed.

Management specifically requested that the OIG reconsider its characterization of the district office's acceptance of over $6.5 million in procurements on behalf of a firm as "inappropriate." While management agrees that it may have been appropriate to recommend terminating the company from the 8(a) program, it was not done. Because the firm had not been suspended or terminated, management believes it was in good standing in the 8(a) program, and therefore, acceptance of the additional procurements was not necessarily inappropriate. We have revised the report language accordingly to address management's concern.

Finally, management non-concurred with recommendation 1, concurred with recommendations 2 and 3, partially concurred with recommendation 6, and neither concurred nor non-concurred with recommendations 4, 5, 7, and 8. Because some actions relating to the latter recommendations were either underway or implemented, we consider management's comments to be fully responsive to all, but three, of the recommendations. A summary of management's comments and our response follows.

Recommendation 1

Management Comments

Management did not agree with the recommendation because the firm in question has submitted the required documentation and audited financials for 2007 and 2008 and is up to date on its reporting requirements. As a result, the potential grounds for termination addressed in the report no longer exist. However, the district office will continue to monitor the firms in the 8(a) portfolio for compliance and take appropriate action (recommendation for termination and suspension) as required.

OIG Response

While the Colorado District Office did not agree with the recommendation, we find their response and alternative solution to continue to monitor the firm's compliance with 8(a) program requirements responsive to our recommendation. As a result, we believe final action has been taken on this recommendation and consider it to be closed.

Recommendation 2

Management Comments

Management agreed with the recommendation and stated that there were currently no restrictions on participants' access to the district office.

OIG Response

We believe that management's comments were responsive to the recommendation, and consider the recommendation to be closed.

Recommendation 3

Management Comments

Management agreed with the recommendation and stated that all current participants in the 8(a) BD program have been assigned to a BDS.

OIG Response

We believe that management's comments were responsive to the recommendation, and consider the recommendation to be closed.

Recommendation 4

Management Comments

Management stated that the CRM system is not fully operational, but that it intends to use CRM as a resource tool once the system is in place. In the meantime, the Office of Field Operations will ensure that current procedures for customer service are followed by the BDSs in all SBA district offices.

OIG Response

We agree that the district office cannot immediately track servicing requests in CRM if it is not yet fully operational, and consider management's plans to ensure that current procedures for customer service are followed to be responsive to the recommendation.

Recommendation 5

Management Comments

Management stated that continuous training sessions for BDSs have been conducted by subject matter experts within the Office of Business Development. Moreover, in July 2010, the Office of Field Operations hosted a lead BDS training session in which teams of subject matter experts were brought together to develop and implement training modules for new hires and for continued learning education. The Office of Field Operations is committed to rolling out the training program in FY 2011.

OIG Response

We do not consider management's comments to be fully responsive to the recommendation. While we applaud the actions taken by the Office of Field Operations in expanding the current BDS training program, we believe an assessment of the training provided to each BDS within the Colorado District Office will allow management to adjust its supervision of BDS activities where training has been lacking until the new training curriculum is available.

Recommendation 6

Management Comments

Management referred to its response to recommendations 1 and 2, where it disagreed that one firm should be recommended for termination as it was currently in compliance, and agreed that participant access to the district office should not be restricted.

OIG Response

We believe that management's comments are responsive to our recommendation that the District Director submit a plan for addressing the termination and access issues. As management previously responded, the formerly non-compliant firm is now in compliance, and therefore, should not be terminated. Further, the access restrictions are no longer in place. Also, significant improvements have occurred in the staffing and management of the Colorado District Office since our review was completed. Therefore, we believe recommendation 6 should be closed.

Recommendation 7

Management Comments

Management stated that customer satisfaction surveys are considered by OMB to be data collections and are, therefore, subject to the Paperwork Reduction Act. As a result, the Office of Field Operations defers to the Office of the Administrator in determining whether or not the Agency will develop a customer satisfaction survey, whether it is administered through a third party, and how the district directors are rated and what performance criteria is evaluated.

OIG Response

We do not consider management's comments to be fully responsive to the recommendation. While permission should be obtained from the appropriate parties prior to conducting a survey, we believe that the Office of Field Operations should take the lead in developing and implementing the survey instead of deferring responsibility to the Office of the Administrator.

Recommendation 8

Management Comments

Management stated that reviewing staffing levels of all the district offices to ensure that BDSs can devote the time needed to adequately service their 8(a) participants is ongoing.

OIG Response

We consider management's ongoing review of district office staffing levels to be responsive the recommendation.

ACTIONS REQUIRED

Please provide your management decision for each recommendation on the attached SBA Forms 1824, *Recommendation Action Sheet*, within 30 days from the date of this report. Your decision should identify the specific action(s) taken or planned for each recommendation and the target date(s) for completion.

We appreciate the courtesies and cooperation of the SBA during this audit. If you have any questions concerning this report, please call me at (202) 205-[FOIA ex. 2] or Riccardo R. Buglisi, Director, Business Development Programs Group at (202) 205- [FOIA ex. 2]

cc: Acting Director, Office of Business Development

APPENDIX I. SUMMARY OF ALLEGATIONS AND OIG FINDINGS

Company	Allegation	Graduating	Servicing	Training	Professionalism
Company A	Firm should have been graduated due to excessive withdrawals by firm's officers.	U			
Company B	Firm did not meet 8(a) ownership requirements.	U			
Company C	The district office accepted contracts, while the firm was non-compliant with 8(a) regulations.		S		
Company D	Mentor protégé agreement was not processed timely due to lack of staff knowledge.		S		
Company E	The district director stated that he would not approve a mentor protégé agreement because the protégé's owner did not support him in his political campaign.		U		
Company F	Reported as ineligible for 8(a) sole source acceptances yet the district office continued to accept procurements on its behalf.		U		
Company G	Change of ownership request was mishandled.		UDII		
Company H	District office's refusal to approve financial statement waiver was unjustified.		U		
	Lead BDS spoke to firm in a rude and demeaning manner.				UDII
Company I	District office inappropriately denied contracts on the behalf of the company.		U		
Company J	Reported as ineligible for 8(a) sole source acceptances yet the district office continued to accept procurements on its behalf.		S		
Company K and Company L	Mentor protégé agreements were not approved by headquarters because Lead BDS failed to communicate new requirements to staff.			U	

S = Substantiated
U = Unsubstantiated
UDII= Unable to Determine due to Insufficient Information

APPENDIX II. SUMMARY OF 39 PARTICIPANT RESPONSES ABOUT SERVICING PROVIDED BY THE COLORADO DISTRICT OFFICE

	Requests Performed Timely	Business Development Specialist Receptive	District Officials Acted Professionally	BDS Knowledgeable about the 8(a) Program	Believed the District Office is Providing Assistance	Recommend 8(a) Program to Your Community
No	9	13	9	19	26	12
Yes	17	17	22	8	5	18
Yes and No	5	7	5	3	6	5
Chose to not respond	8	2	3	9	2	4

Table 1. Firms responses by question (numeral value).

	Requests Performed Timely	Business Development Specialist Receptive	District Officials Acted Professionally	BDS Knowledge able about the 8(a) Program	Believed the District Office is Providing Assistance	Recommend 8(a) Program to Your Community
No	23%	33%	23%	49%	67%	31%
Yes	44%	44%	56%	21%	13%	46%
Yes and No	13%	18%	13%	8%	15%	13%
Chose to not respond	21%	5%	8%	23%	5%	10%

Table 2. Firms responses by question (percentages).

APPENDIX III. LETTER ISSUED TO PARTICIPANTS RESTRICTING ACCESS TO THE COLORADO DISTRICT OFFICE

SBA
U.S. Small Business Administration

U. S. SMALL BUSINESS ADMINISTRATION
Colorado District Office
721 19TH Street, Suite 426
Denver CO 80202-2517
(303) 844-2607 • FAX (303) 844-6490 • TDD (800) 877-8339

August 12, 2009

Subject: Business Development Specialists New Hours of Availability
Effective August 17, 2009 thru October 5, 2009

Dear: Colorado 8(a) participants,

As you all know the end of the Federal Fiscal Year, September 30, is fast approaching. Now is the time when the volume of contracting offers, annual review compliance and end-of-year report requests are at their highest levels. Most of you are aware that our office is currently understaffed and is in the process of recruiting some additional BDS personnel. In addition, Carolyn Terrell, Lead Business Development Specialist will be out on extended medical leave from approximately August 13-October 5, 2009.

Please limit your contact with your assigned Business Development Specialist (BDS) until October 1, 2009 according to the schedule below.

BDS Are Available on
Tuesdays & Thursdays ONLY!!!!

8:30 am – 3:30 pm

Although our BDS staff is more than happy to assist you and answer any questions you may have, the current workload to be completed by the end of the fiscal year is our top priority at this time. If you have an emergency or need immediate attention, please reach out to your assigned BDS at any time, and she will assist you in a timely manner.

I know that some of you have been able to visit with your assigned BDS and get answers to your questions by simply stopping unannounced in the office without a scheduled appointment. Due to the added workload placed on the entire staff of the Colorado District Office during this time of year, we will not be able to meet with you **without** a scheduled appointment.

Along with the entire staff of the Colorado District Office, I want to thank you in advance for your patience and understanding of these temporary changes and for respecting the additional activity that the Colorado District Office must complete by September 30, 2009.

It is only with the assistance of our 202 Colorado 8(a) portfolio companies that we will be able to complete the year-end requirements in a timely manner.

Sincerely,

Greg Lopez
District Director

APPENDIX IV. MANAGEMENT COMMENTS

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

MEMORANDUM

DATE: September 23, 2010

TO: Debra S. Ritt
Assistant Inspector General for Auditing
Office of Inspector General

FROM: Jess Knox

THROUGH: Eugene Cornelius [FOIA ex. 6]

SUBJECT: Response to Draft Audit Report on "The Colorado District Office's Servicing of 8(a) Business Development Program Participants"
Project No. 10003

The Office of Field Operations (OFO) and the Colorado District Office (DO) welcome the opportunity to comment on the findings reported in the Draft Audit Report on "The Colorado District Office's Servicing of 8(a) Business Development Program Participants" (Project No. 10003).

OFO reviewed the findings and recommendation of Project No. 10003 and concurs on some of the conclusions and non-concurs on others. First, it is important to emphasize that the period of time covered by this report is bifurcated by a change in leadership in the DO. The draft report contains the results of an OIG review of the DO based on a complaint received in July of 2009 alleging violations by the office in the administration of the 8(a) Business Development (BD) program made between March 2007 and June 2009. The leadership in the DO transitioned in 2008, when the agency hired District Director. Second, the Colorado District Office (DO) services a portfolio of over two hundred 8(a) companies and, while there were some concern with staffing and resource levels in March 2007, since that time the leadership and staffing levels have experience considerable and positive change.

Currently, the DO has added new staff. The current staff has received training and has been provided with numerous learning opportunities. The change in leadership has made a big difference in the management and control of the DO, and the BDS's skills have been enhanced through training opportunities, strategic planning, and increased communications. Additionally, the DO has engaged in process improvements and more improvements are planned.

Most notable is that the Office of Inspector General concluded many of the original complaints be unsubstantiated.

APPENDIX IV. MANAGEMENT COMMENTS

OFO believes the concerns related to access restrictions have been resolved, and in large part had been caused by miscommunication and misunderstandings. And while the tracking of actions and communications via CRM is worthy and ought to be pursued, OFO will conduct an analysis to determine whether or not the process will have the most beneficial result and not raise other issues or problems.

The Colorado District office views the report as an improvement opportunity and it intends to embrace the legitimate outcomes of this report for purposes of continued improvement.

Please note that SBA recommends a clarification of the last paragraph on page 6 which continues on to page 7, or striking out of the first full sentence on page 7, which states, "In total, over $6.5 million in procurements were accepted *inappropriately* on the firm's behalf." (emphasis not in original). If the firm had been suspended in conjunction with a termination action or if it had been offered sole source opportunities, but the firm had failed to submit the financial statements, then SBA had the authority to deny the award based on the suspension, pursuant to 13 CFR § 124.305; or ineligibility based on failure to submit financial statements pursuant to 13 CFR § 123.503(c)(1). It is not clear from the facts whether the contracts were competitive or sole source and whether or not the firm was suspended. Based on the facts present in the report regarding termination, it appears that the firm was not recommended for termination; so, arguably, it was not suspended. If the awards were the result of competition and the firm was not suspended then SBA acted *appropriately* with regard to the contract awards. SBA conceded that there may have been a lost opportunity to recommend the firm for termination, but describing SBA's actions as inappropriate is not consistent with the rules on contract eligibility and thus should not be described as such.

<u>OIG RECOMMENDATIONS</u>

We recommend that the District Director, Colorado District Office:

1. Immediately recommend for termination the firm identified in the report that has continued to refuse to comply with the 8(a) financial reporting requirements in accordance with sections (2) and (7) of 13 CFR 124.303.

2. Minimize or eliminate restrictions on participants' access to the district office.

3. Ensure that all 8(a) firms are assigned to a Business Development Specialist.

We recommend that the Associate Administrator for Field Operations:

4. Immediately require the Colorado District office use CRM to track requests from 8(a) firms and monitor CRM status repowers for the office to ensure that requests are addressed timely.

5. Determine the adequacy of training provided to BDSs in the Colorado District Office and work with the Office of Business Development to address any training shortfalls.

APPENDIX IV. MANAGEMENT COMMENTS

6. Require the District Director to submit a plan outlining steps that will be taken to address the servicing issues addressed in the report including the termination of the firm, and ensuring that all 8(a) firms have access to the district office during regular business hours.

7. Annually administer nationwide customer satisfaction survey for all 8(a) firms, using an independent third party and tie the results to district directors' annual performance rating.

8. Review staffing levels of all the district offices to ensure that BDSs can devote the time needed to adequately service their 8(a) participants.

SBA RESPONSE

1. Non-concur. The firm in question submitted the required documentation and audited financials for 2007 & 2008 and is up to date on the reporting requirements. The potential grounds for termination addressed in the report no longer exist. The DO will continue to monitor the firms in the 8(a) portfolio for compliance and take appropriate action (recommendation for termination and suspension) as required.

2. Concur and addressed. There are no restrictions on participants' access to the district office.

3. Concur and addressed. All participants in the 8(a) BD program are assigned a Business Development Specialist.

4. Ongoing. The CRM system is not fully operational, but the OFO intends to use CRM as a resource tool once the system is in place. In the meantime, OFO will ensure that the current procedures for customer service are followed by the BDSs in all SBA DOs.

5. Ongoing. OFO has conducted continuous training sessions for the BDSs through in person assistance and through quarterly Ready Talk sessions administered by subject matter experts through the Office of Business Development. In July 2010, the OFO hosted a lead BDS training in which teams of subject matter experts were brought together to develop and implement training modules for the use of new hires and continued learning education. The OFO is committed to rolling out the training program in fiscal year 2011.

6. Please see response to items 1 and 2.

7. Customer satisfaction surveys are considered by OMB to be data collections and are therefore subject to the Paperwork Reduction Act. OFO defers to the Office of the Administrator in determining whether or not the Agency will develop a customer satisfaction survey, whether it is administered through a third party, and how the district directors are rated and what performance criteria is evaluated.

8. Ongoing.