

June 23, 2023



The Honorable Benjamin Cardin  
United States Senate  
509 Hart Senate Office Building  
Washington, D.C. 20510

Dear Sen. Cardin,

**BOARD OF DIRECTORS**

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Ramiro A. Cavazos  
President & CEO

On behalf of the United States Hispanic Chamber of Commerce (USHCC) we write to express our strong support for the SBA's recent final rule of April 27, 2023, clarifying the bona fide place of business requirements for construction contracts under the 8(a) business development program found in 13 CFR sec. 124.501(k).

The USHCC is the nation's largest Latino business advocacy organization and works to actively promote the economic growth, development, and interests of more than five million Hispanic-owned businesses. The USHCC exists to support these businesses that contribute over \$800 billion to the American economy each year. We operate through a network of more than 260 local chambers and business associations throughout the nation.

As you know, the 8(a) business development program has been a pathway to training and contracting for businesses owned by socially and economically disadvantaged individuals since 1978. PL 95-507 stipulates that it is the policy of the Government to provide maximum practicable opportunities in its acquisitions to small businesses, small disadvantaged businesses, and women-owned businesses. This stipulation also extends to having the maximum practicable opportunity to participate as subcontractors in contracts awarded by any executive agency. The objective of the 8(a) program is to assist eligible small firms to become independently competitive.

Under 1971 Alaska Native Claims Settlements Act (ANCSA), Native corporations were established to manage native land and resources and promote economic development. In 1986, Congress passed the Federal Acquisition Streamlining Act (FASA), which created the 8(a) program to provide contracting opportunities to small disadvantaged businesses, including Alaska Native Corporations (ANCs). Since then, ANCs have been eligible to participate in the 8(a) program, which has helped them secure a significant amount of federal contracts and grow their businesses.

However, the structure of the ANCs allows them a significant advantage due to their ability to be owned by many "shareholders" instead of an individual like all other 8(a) companies. These shareholder-owned 8(a) companies have distinct statutory and regulatory advantages that allow them to present themselves as small minority owned businesses while having the revenue and capacity of large corporations.

This disparity in the ability to compete for contracts is having a significant effect on this nation's Hispanic owned businesses, resulting in a growing gap between the "shareholder-owned" versus "individual-owned" firms. This disparity became even more pronounced in 2020, when Section 823 of the National Defense Authorization Act (NDAA) increased their sole-source contracting authority to \$23M for non-Defense agencies and \$100M for the Department of Defense.

In 2021, we made great progress when the Biden Administration disaggregated the federal procurement data for the first time, revealing that Hispanic/Latino "individual owned" firms only received 1.78% of all Federal contracts.

The SBAs' clarifying language on the bona fide place of business requirements limiting contracting opportunities to those businesses in the geographical SBA district and those in geographically contiguous districts where the work resides would allow more individually owned 8(a) firms an opportunity to win contracts and promote economic

growth in their local communities. The SBA rule is narrowly focused on construction contracts within the 8(a) program and would help promote more competition, increase the utilization of available diverse firms, and drive significant economic growth in our historically underserved communities.

We fully support implementation of this rule and believe that it will result in a greater representation of small minority-owned businesses in the Federal procurement ecosystem.

Thank you for your service and partnership in supporting our Hispanic and minority-owned businesses across the country. If you have any questions, please do not hesitate to reach out to Anthony Hinojosa, Vice President of Government and International Affairs of the USHCC at AHinojosa@USHCC.com. We commend you for your leadership and look forward to a positive outcome on this important matter.

Respectfully,

A handwritten signature in blue ink that reads "Ramiro Cavazos". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ramiro A. Cavazos  
President and CEO  
U.S. Hispanic Chamber of Commerce