

# 19.810 SBA appeals.

(a) The SBA Administrator *may* submit the following matters for determination to the *agency head* if the SBA and the *contracting officer* fail to agree on them:

- (1) The decision not to make a particular *acquisition* available for award under the 8(a) Program.
- (2) A *contracting officer's* decision to reject a specific 8(a) participant for award of an 8(a) contract after SBA's acceptance of the requirement for the 8(a) program.
- (3) The terms and conditions of a proposed 8(a) contract, including the *contracting officer's* NAICS code designation and estimate of the *fair market price*.
- (4) A *contracting officer's* decision that an *acquisition* previously procured under the 8(a) program is a new requirement not subject to the release requirements at 13 CFR 124.504(d)(1) (see [19.815\(a\)](#) and (d)(1)).

(b)

(1) Notification by SBA of an intent to appeal to the *agency head*-

(i) *Must* be received by the *contracting officer* within 5 working days after SBA is formally notified of the *contracting officer's* decision; and

(ii) *Must* be provided to the *contracting agency* Director for the Office of Small and Disadvantaged Business Utilization or, for the Department of Defense, the Director of the Office of Small Business Programs.

(2) SBA *must* send the written appeal to the *agency head* within 15 working days of SBA's notification of intent to appeal or the appeal *may* be considered withdrawn. Pending issuance of a decision by the *agency head*, the *contracting officer shall* suspend action on the *acquisition*. The *contracting officer* need not suspend action on the *acquisition* if the *contracting officer* makes a written determination that urgent and compelling circumstances that significantly affect the interests of the *United States* will not permit waiting for a decision.

(c) If the SBA appeal is denied, the decision of the *agency head shall* specify the reasons for the denial, including the reasons why the selected participant was determined incapable of performance, if appropriate. The decision *shall* be made a part of the contract file.

**Parent topic:** [Subpart 19.8 - Contracting with the Small Business Administration \(The 8\(a\) Program\)](#)