

**United States Small Business Administration
Office of Hearings and Appeals**

IN THE MATTER OF:

Unicon, Inc.

Petitioner

SBA No. BDP-428

Decided: March 12, 2012

APPEARANCES

Akbat Olia, President, Unicon, Inc, Pro Se

Meagan K. Gueizon, Esq., Office of General Counsel, Office of Procurement Law,
United States Small Business Administration

FINAL DECISION

I. Introduction and Jurisdiction

This proceeding arises under the authority of Section 8(a) of the Small Business Act, 15 USC § 63 7(a), and is governed by the Rules of Procedure Governing Cases Before the Office of Hearings and Appeals (“OHA”), 13 C.F.R. Part 134. Unicon, Inc (“Petitioner”) applied for certification as a participant in the 8(a) Business Development (“8(a) BD”) program on July 17, 2010, claiming eligibility based on social disadvantage of its president, Mr. Akbar Olia, due to his Iranian ethnicity. Further documentation was requested from and submitted by Petitioner in support of the application. Subsequently, on September 13, 2011, the United States Small Business Administration (“SBA”) issued a determination denying Petitioner admission into the 8(a) BD program on the basis that Petitioner did not establish by a preponderance of evidence that its president was socially disadvantaged due to his ethnicity.

In that determination, Petitioner was invited to apply for reconsideration by submitting additional information, but Petitioner did not exercise its right to apply for reconsideration. Instead, on October 26, 2011, Petitioner filed a Petition for 8(a) Business Development Eligibility Appeal (“Petition”), appealing the determination of Respondent. The OHA has authority to conduct proceedings on appeals from “[d]enial of a program admission based solely on a negative finding as to social disadvantage, economic disadvantage, ownership of control.” 13 C.F.R. § 134.1020X1). The appeal was filed timely under 13 C.F.R. § 134.404.

SBA filed an Answer to the Appeal Petition, together with a certified copy of the Administrative Record (“AR”), on December 19, 2011. Petitioner did not file any objection with

regard to the Administrative Record By Order dated February 2, 2012, the undersigned was designated to preside over this proceeding. The undersigned has jurisdiction to conduct a hearing on the record and decide this appeal, pursuant to the Small Business Act § 8(a)(9)(A), (B)(i), 15 U.S.C. § 637(a)(9)(A), (B)(i) and 13 C.F.R. §§ 134.102(j)(1), 134.405.

After reviewing the Administrative Record (“AR”), I find that SBA's determination was reasonable. Therefore, the determination is affirmed and the appeal is dismissed.

II. Standards

To qualify for entry into the 8(a) BD program, a small business must be “unconditionally owned and controlled by one or more socially and economically disadvantaged individuals who are of good character and which demonstrates potential for success.” 13 C.F.R. § 124.101. A “socially disadvantaged individual” is someone who has been subjected to racial or ethnic prejudice or cultural bias within American society because of the individual's identity as a member of a group, “and without regard to [his or her] individual qualities.” 13 C.F.R. § 124.103(a). The social disadvantage must stem from circumstances beyond their control. *Id.*

An individual claiming disadvantage on the basis of his ethnicity must establish by a preponderance of the evidence that he personally experienced “substantial and chronic social disadvantage” and that there has been a “[n]egative impact on [his] entry into or advancement in the business world because of the disadvantage” 13 C.F.R. § 124.103(c). In assessing the negative impact, SBA considers any relevant evidence, including the individual's education, employment and business history to see if the totality of circumstances shows such disadvantage. *Id.*

“Evidence of chronic and substantial disadvantage means there must be more than one or two specific, significant incidents.” *Matter of Med-Choice, Inc.*, SBA No. SDBA-179, at 8 (2008). However, “only one incident is sufficient if it is so substantial and far-reaching that there can be no doubt that the applicant suffered social disadvantage,” such as “job discrimination that lasted over the course of a few years.” *Matter of Ace Technical, LLC*, SBA No. 3BDA-178, at 4 (2008).

Evidence to support a claim of social disadvantage includes the complete application, including the personal eligibility statement (“PES”) of the individual claiming to be disadvantaged, “and other evidence that supports the applicant's statement, including evidence in a request for reconsideration.” *Id.* at 5. “Other evidence can include statements from witnesses to the incident and written documents that prove or lend credibility to the applicant's statement, such as letters, diplomas, transcripts, financial statements, court documents, certifications, loan applications, checks, tax returns, [and] credit reports newspaper articles, statistics, and studies that establish discrimination, bias or prejudice in a particular industry or . . . group. . . .” *Id.*

The PES may be the only available evidence of social disadvantage, and the applicant is not required to corroborate the PES with independent evidence to meet the burden of proof. *Id.*; *Matter of Bitstreams, Inc.*, SBA No. BDP-122, at 10-11 (1999). Indeed, the statements in the PES “are made under penalty of criminal sanctions for false statements and thus carry the

additional weight of a sworn statement “*Ace Technical*. SBA No, SDBA-178 at 5; *Seacoast Asphalt Services, Inc.*, SBA No. SBDA-151 at 5 (2001). Unsworn witness statements deserve less weight. *Ace Technical*. SBA No. SDBA-178 at 5. A decision-maker must recognize that certain types of incidents of discrimination are “rarely witnessed and one cannot expect an applicant to obtain a statement admitting discrimination.” *Matter of Woroco International*, SBA No. BDP-174 at 7 (2002); *Bitstreams*, SBA No BDP-122, at 10. Direct proof of prejudice or bias is not required to establish social disadvantage; circumstantial or inferential evidence will suffice. *Woroco Int’l*, at 8.

However, SBA “may consider lack of corroboration in weighing the evidence.” *Bitstreams*, SBA No. BDP-122, at 11. “Even when the PES is the only evidence provided, the SBA may reasonably conclude the applicant has not established eligibility for entry into the 8(a) program” under the following conditions:

- (1) if the applicant's PES is inherently improbable,
- (2) is inconsistent,
- (3) is lacking in sufficient detail, or
- (4) is merely conclusory; or
- (5) if the applicant fails, without explanation, to present apparently available evidence to support the claim.

Id. As to the first criterion, “[i]f a claim is implausible, the proponent must present more persuasive evidence than otherwise necessary to support the claim.” *Id.* (citing *Matsushita Elec. Indus' Co v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986)).

As to the second criterion, SBA may disbelieve an inconsistent account, such as where a statement about an incident is inconsistent with other credible evidence in the record, showing, for instance, a particular incident complained of is attributable to a nondiscriminatory cause.” *Ace Technical*, SBA No SBDA-178, at 5.

SBA may deny entry into the program under the third criterion if omissions from an account of particular incident discredit the applicant's statement. *Bitstreams*, SBA No BDP-122, at 12. The PES must present the alleged incidents of disadvantage “in sufficient detail to be evaluated.” *Seacoast*, SBA No. SDBA-151, at 6. A statement is sufficiently detailed if it describes “(1) when and where the incident occurred, (2) who discriminated, (3) how the discrimination took place, and (4) how the applicant was adversely affected by the discrimination.” *Id.*

As an example of the fourth criterion, “[s]tatements merely characterizing conduct as abusive, derogatory, disparaging or discriminatory” are conclusory as they “do not provide sufficient information about the underlying acts.” *Bitstreams*, SBA No. BDP-122, at 12.

Regarding the fifth criterion, “SBA may draw an adverse inference from the absence of other, apparently available evidence, when the applicant declines without explanation to present it.” For example, such an inference may be drawn “when only one party to an alleged oral agreement testified, and the logical person to corroborate that testimony” was not requested to

submit a statement. *Id.*

Appellate review is narrow and does not permit the Administrative Law Judge to substitute his or her judgment for that of the SBA, or to review the administrative record de novo to decide whether the SBA's ultimate conclusions are correct. Appellate review is conducted “solely on a review of the written administrative record” and “is limited to determining whether [SBA's] determination is arbitrary, capricious, or contrary to law.” 13 C.F.R. § 134.406(a), (b) The administrative record consists of “all documents that, are relevant to the determination on appeal . . . and upon which the SBA decision-maker ... relied.” 13 C.F.R. § 134.406(c)(1).

The Administrative Law Judge must first consider whether there is “an absence in the written administrative record of the reasons upon which the [SBA's] determination was based” such that the administrative record is not sufficiently complete to decide whether SBA's determination is arbitrary, capricious or contrary to law. 13 C.F.R. § 134.406(e). The judge assesses whether the SBA's determination “(1) adequately addressed the significant evidence submitted by the applicant; (2) informed the applicant of the facts relied upon in reaching the conclusions, and (3) clearly stated the rationale for the conclusions.” *Ace Technical*, SBA No. SDBA-178 at 3; *Med-Choice, Inc.*, SBA No. SDBA-179, at 4 The determination must give the applicant “adequate notice of the facts and reasons for denying” the application so that the applicant may understand the basis for the denial and meaningfully address SBA's conclusions on request for reconsideration or appeal *Ace Technical*, at 6. If SBA's determination is incomplete and fails to articulate a sufficient explanation for its action, the judge is prevented from reviewing the reasonableness of the SBA's determination, and the case should be remanded to SBA for a new initial determination *Med-Choice, Inc.*, SBA No. SDBA-179, at 4. A case may also be remanded “where it is clearly apparent from the record that SBA made an erroneous factual finding ... or a mistake of law” 13 C.F.R. § 134.406(e)(2)

If the administrative record is complete, then the judge determines whether SBA made a “clear error of judgment” in its decision before the judge can find that the SBA's decision is “arbitrary, capricious, or contrary to law.” *Tony Vacca Construction, Inc.*, SBA No. BDP-321, at 5 (2009); *Matter of Fairfield Trucking Co.*, SBA No. BDP-223, at 3 (2005) (citing *Motor Vehicle Mfgs. Ass'n of the United States, Inc. v. State Farm Mut. Auto Ins Co.*, 463 US 29, 43 (1983)). The SBA makes “a clear error of judgment” if it “(1) fails to properly apply the law and regulations to the facts of the case, (2) fails to consider an important aspect of the problem, (3) offers an explanation for its determination that runs contrary to the evidence, or (4) provides an implausible explanation that is more than a difference between” the judge's views and those of the SBA. *Id.*; *Matter of Timely Engineering Soil Tests LLC*, SBA No. BDP-297, at 6 (2008) As long as SBA's determination was ““reasonable,” it must be upheld on appeal. 13 C.F.R. § 134.406(b).

III. Summary of the Arguments

Petitioner submitted a “Narrative Statement of Social and Economic Disadvantage” with its 8(a) BD Application (Personal Eligibility Statement or “PES”), dated July 17, 2010. AR Exhibit (“Ex”) 16, at 9 20. In the PES, Mr. Olia recounted fifteen numbered incidents to

demonstrate that he experienced substantial and chronic social disadvantage that negatively impacted his entry into or advancement in the business world.¹ *See* 13 C.F.R. § 124.103(c)(2)(elements required to show social disadvantage). Mr. Olia attached to the PES several letters in support of his assertions of bias due to his ethnicity, AR 16, at 21-32.

In its letter of determination denying Petitioner admission into the 8(a) BD program, dated September 13, 2011 (“Denial Letter”), SBA stated that the submissions do not establish that Mr. Olia “personally suffered chronic and substantial social and economic disadvantage because of cultural bias,” and “do not establish a pattern of biased treatment that was directly experienced in education, employment and business history.” Further, SBA stated that the narrative “did not provide sufficient specific details demonstrating how discriminatory practices [he] claimed to have experienced caused a negative impact on [his] entry or advancement in the business world,” and “did not demonstrate how [his] ability to compete in the market place has been impaired due to chronic discriminatory treatment” AR Ex. 1, at, 3-4. SBA also stated that “[e]ach of [his] claims lacked specific details, which would have provided additional insight as to whether the incidents were the result of ethnic bias or due to another plausible explanation.” AR Ex. 1 at 2.

Petitioner argues in its Petition that SBA acted arbitrarily, capriciously and contrary to law in reviewing Petitioner's evidence,, Petitioner asserts that SBA did not adequately review the information in Mr. Olia's PES, and that SBA made findings that are contrary to the evidence,, Petitioner also argues that SBA erred in repeatedly determining that Mr. Olia failed to provide “the quality and quantity of information” necessary “to demonstrate chronic and substantial bias.” Petitioner contends that SBA deviated from established case law and improperly raised the burden of persuasion by requiring a certain unspecified “quantity” of evidence. Finally, Petitioner contends that Mr. Olia's PES was sufficiently detailed to meet the preponderance standard, and that SBA appears to elevate the burden of proof to “clear and convincing evidence.”

SBA responds that its determination, based on Mr. Olia's failure to provide sufficient, specific evidence of social and economic disadvantage, was reasonable and in keeping with the law. SBA also objects to Petitioner's attempt to introduce new evidence on appeal Petitioner included factual details not present in Mr. Olia's PES when addressing two alleged incidents of disadvantage in its Petition (Incidents # 15 and # 16)

The specific arguments of the parties are presented in the discussion below.

IV. Discussion

A. New Evidence

This Tribunal's task is to determine whether SBA's determination was arbitrary,

¹ The last incident in the PES is identified as “Incident # 16,” but the PES lacks an “Incident # 4.” AR Ex. 16 at 12-13, 19-20. Rather, “Incident # 3” is followed immediately by “Incident # 5.” *Id.* at 12-13.

capricious, or contrary to law based on the documents before the Agency at the time the determination was made. *See* 13 C.F.R § 134.406(a)-(c). Evidence beyond the written administrative record may only be admitted if a “petitioner, upon written submission, has made a substantial showing, based on credible evidence and not mere allegation, that the Agency determination in question may have resulted from bad faith or improper behavior” 13 C.F.R. § 134.407(a). Petitioner has not made a written submission alleging bad faith or improper behavior, so my review is limited to the written administrative record, and any new facts alleged in Petitioner's appeal petition or Mr. Olia's revised PES will not be considered.

B. Incidents 1 and 2

1. Facts and Positions of the Parties

The first two incidents described in the PES concern experiences Mr. Olia had while attending Mira Mesa High School in San Diego, California, in 1977 and 1978. AR Ex. 16, at 9-12. Incident # 1 includes the following assertions When Mr. Olia first started school, people did not know how to pronounce his name and only one teacher could locate Iran on a map *Id.* at 9. This changed following the outbreak of the Iranian Revolution in 1978 and the start of the Hostage Crisis in 1979. *Id.* at 9-10. His high school hung banners reading “Iranians go Home,” He was verbally abused, with insulting remarks that were directed at him with foul language and anti-Iranian sentiments. *Id.* at 10. His ethnicity interfered with his ability to socialize, he felt isolated from other students, and he “felt unwelcomed and ostracized.” *Id.* This caused him to learn English more slowly since he could not talk to others regularly, and “undoubtedly had a direct effect on” his ability to assimilate into the American way of life the first several years in this country. *Id.* His experiences at Mira Mesa High School caused him to move to Boston, Massachusetts, where his brother resided, but his experiences there turned out to be very similar. *Id.* Mr. Olia would have been more immersed and “potentially could have more quickly settled in, and prospered” if not for these “early scars,” and compares Petitioner's status of “barely surviving,” having only three employees and only sporadic smaller projects, to that of one of his American college classmates, who is the principle of a large architectural firm with a very large staff and several major local projects. *Id.*

In Incident # 2, Mr. Olia described a number of social experiences he had while young, as follows. In 1978, when he was 17 years old, Mr. Olia took a young woman to a movie and later met her parents. *Id.* at 11. Her parents began to ask him about the events in Iran and why Iranians used certain anti-American slogans. *Id.* Afterward, he “was unable to go out with their daughter again, and she stopped talking to” him at school. *Id.* In the 1970s a man stopped him on the street in San Diego and asked him, using foul language, if he was an Iranian, which frightened Mr. Olia. *Id.* Afterward, Mr. Olia began telling people that he was Italian to avoid being accosted. *Id.* When he was twenty years old, he began dating a woman, but when he met her parents, they attempted to speak to him in Italian. *Id.* This forced him to explain that he was actually Iranian, after which the woman would not see or speak to him. *Id.* Mr Olia had friends who were beaten after being identified as Iranians, and it was “common to hear people yell, ‘Go back home’ to Iranians on the street” *Id.* Mr. Olia asserted in his PES that these incidents illustrate his social isolation during that time. *Id.*

In its determination, SBA wrote that Mr. Olia's experiences in Incidents # 1 and # 2 were “general in nature and do not provide specific dates or details such as individual's names,” and were “not related to higher education.” AR Ex. 1, at 2. SBA also found that the PES did “not address how these incidences negatively impacted [Mr. Olia's] advancement educationally or professionally,” and that he had “not provided the quality and quantity of information to demonstrate chronic and substantial bias.” *Id.*

On appeal, Petitioner contends that, contrary to SBA's assessment, Mr Olia did provide names, dates, and other details., Petition at 5 Petitioner further argues that the PES shows how Mr. Olia was demotivated in his education, felt compelled to hide his nationality, and chose to move across the United States to escape bias and hostility Petition at 5 Petitioner argues that these are “tremendous social impacts” that SBA should have considered. *Id.* Petitioner questions how SBA could make a determination regarding “chronic” bias based only on Mr. Olia's high school experiences, when he also had narrated examples in other settings. *Id.*

Petitioner also takes issue with SBA's reference to the “quantity of information” provided in Mr. Olia's PES. *Id.*; see AR Ex 1, at 2 In the *Matter of Woroco International*, SBA No. BDP-174 (2002), OHA wrote that when determining whether an applicant has satisfied the preponderance burden, “it is not necessarily the quantity of evidence in number of witnesses or facts but the quality or believability and greater weight of important facts proved” that matters. *Woroco Int'l*, SBA No BDP-174, at 6. Petitioner cites this language, and similar language from the *Matter of Bitstreams, Inc.*, SBA No BDP-122, at 7 (1999),² to argue that SBA incorrectly elevated the burden of proof above the preponderance standard when it evaluated its “application based on a two-fold standard of quantity and quality lather than on quality alone. . . .” Petition at 5-6. Petitioner further objects to SBA's failure to specify precisely what quantity of evidence or information is required. *Id.* at 6.

2. Analysis

To meet its burden of proof, Petitioner must produce “evidence of greater weight or more convincing effect than the evidence in opposition to it, that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.” *Woroco Int'l*, SBA No BDP-174, at 6 (citing *Greenwich Collieries v Director, Office of Workers' Comp Programs*, 990 F.2d 730, 736 (3d Cir 1993), *aff'd*, 512 U.S. 267 (1994)). SBA's reference in its determination to the “quantity” of information does not appear to be a judgment based on a fixed quantitative standard. Rather, it appears to be SBA's conclusion that the information recounted under Incidents # 1 and # 2 in Mr. Olia's PES did not demonstrate that the facts stated were more probable than not. It is a separate question whether this conclusion was reasonable and not arbitrary, capricious, or contrary to law.

SBA's assessment of the level of detail in Incidents # 1 and # 2 is overbroad. While some

² The quoted language is: “It refers to the quality and persuasiveness of the evidence, not to the number of witnesses or documents.” Petition at 5 (quoting *Bitstreams, Inc.*, SBA No. BDP-122, at 7 (quoting 4 L. Sand, et al, Modern Federal Jury Instructions Paragraph 73.01 (1998) (Form Instruction 73-2))).

of the experiences recounted in Incidents # 1 and # 2 are vague and general in nature, others do include names, dates, and other specific details. The conclusory statement regarding the “quality and quantity” of the information adds nothing to cure SBA's overbroad assessment.

However, SBA otherwise provides a reasonable rationale for concluding that Incidents # 1 and # 2 did not demonstrate substantial bias. Petitioner's description of the success of one classmate who is now the principle of a large architectural firm does not adequately demonstrate how Incidents # 1 and # 2 negatively impacted Mr. Olia's advancement professionally; the fact that one classmate was more successful professionally than Mr. Olia does not suggest any difference based on ethnicity. Furthermore, Mr. Olia did not demonstrate any negative impact on his education except that he stated vaguely he did “much better” with his grades in high school before the Iranian revolution and hostage crisis. He did not specify what his grades were, and did not indicate that he failed to graduate, failed courses or got rejected from admission into a college. SBA also indicated that it gave Mr. Olia's high school experiences less weight by stating that it was not related to higher education. The applicable regulations provide that in determining whether negative impact on entry into or advancement in the business world is shown, SBA considers factors such as “denial of equal access to institutions of higher education, exclusion from social and professional association with students or teachers and social patterns or pressures which discouraged the individual from pursuing a professional or business education.” 13 C.F.R § 124 103(c)(2)(iii)(A). While Mr. Olia described isolation from students and social patterns and pressures, he did not demonstrate an effect on his higher education or business.

The undersigned does not doubt that the impact of Mr. Olia's experiences on his personal life were indeed “tremendous” as he claims. Nevertheless, the SBA did reasonably determine that Incidents # 1 and # 2, as recounted in the PES, do not show how the negative impact on Mr. Olia personally went on to have a negative impact on his entry into or advancement in the business world.

C. Incident 3

1. Facts and Positions of the Parties

In the PES, Mr. Olia described three separate events in Incident # 3 as follows First, when Mr. Olia was attending high school in San Diego in 1978, the construction crew working at the apartment complex he lived in insulted him once they knew he was Iranian, and slashed the tires on his car. AR Ex 16, at 12. This caused Mr. Olia to feel unsafe, and that year he moved to Boston, Massachusetts *Id.* The discrimination and bias “affected [his] education greatly” and he believed that moving across the country was his “only option and hope of a more conventional lifestyle” and that the “constant fear and distraction” made it “nearly impossible to do well in much” *Id.* Because of his high school experiences, he rarely spoke with his classmates or engaged with his professors during his first three years of college. *Id.*

Second, when Mr. Olia once worked on a land-surveying crew for one of his classes,³ on a particularly cold day when Mr. Olia mentioned the temperature, one of the other members of the crew stated: “I know you come from desert, its [sic] always hot there, ‘If its [sic] too cold for you here, you should go back home You should not live here in Boston.’ ” *Id.*

Third, Mr., Olia took a job in Northeastern University's student center in 1979. *Id.* Mr. Olia worked as an assistant chef in the cafeteria with an Italian-American chef who would ask Mr. Olia about Iran, make fun of his accent, and call him an Arab. *Id.* The chef would ask questions such as: “‘does your father own an oil well?’ or ‘did your dad wear a turban?’ or ‘do people drive cars in Iran?’” and other questions with a “condescending attitude and tone.” *Id.* Mr. Olia would be assigned hours that other employees did not want, such as on holidays and Sundays. *Id.* Mr. Olia eventually asked for a lower-paying job bussing tables to escape the chef's questions. *Id.*

In its determination, SBA found that Mr. Olia had not provided “specific information such as student names and dates,” and SBA could therefore not “determine the veracity” of his experiences on the surveying crew and in the student center. AR Ex. 1, at 2. Addressing Incident # 3 and Incident # 5 together, SBA wrote that Mr. Olia had “not demonstrated that these experiences had a negative impact which affected [Mr. Olia's] entry into or advancement in the business world.” *Id.*

On appeal, Petitioner argues that Mr. Olia did provide several names, dates, and locations in his PES, and that the level of detail was reasonable given the amount of time that has passed since the incidents took place. Petition at 7. Petitioner also repeats its citation to the *Matter of Woroco International*, SBA No. BDP-174. *Id.* The undersigned interprets this as an argument that Mr. Olia's PES was sufficient to meet Petitioner's burden of persuasion.

2. Analysis

SBA did not mention Mr. Olia's experience with the construction crew in San Diego in SBA's determination Furthermore, Mr. Olia did provide names and dates regarding his experience working in Northeastern University's student center, contrary to SBA's finding. Again, SBA's assessment that Petitioner provided insufficient details is overbroad.

However, SBA did not fail to consider or appropriately assess these experiences. Its rationale that Mr. Olia did not demonstrate how the alleged expressions of bias recounted in Incident # 3 negatively impacted his entry or advancement in the business world applies to ail of the evidence as to Incident # 3. Mr. Olia did not explain how his sacrifice of his job as assistant chef and taking a lower paying job working part time while attending the university affected his future in the business world. He did not explain any effect on his experience in business, or discouragement “from pursuing a professional or business education” (13 C.F.R. § 124 103(c)(2)(iii)(A)), from the insulting comments in high school and college years, the slashed tires, the reduced 01 absent communication with peers and professors in college, and moving

³ Mr. Olia does not specify whether this experience occurred in high school or in college. *Id.*

across the country, The incidents did not explain “how the applicant was adversely affected by the discrimination.” *Seacoast*, SBA No. SDBA-151, at 6. His vague assertions that it “affected [his] education greatly” and that the “constant fear and distraction” made it “nearly impossible to do well in much” do not include any details, objective facts or basis upon which SBA could find that Mr. Olia's entry or advancement in the business world was affected by these experiences.

D. Incident 5⁴

In Incident # 5, Mr. Olia recounted as follows the negative experiences he had with two professors as a student at the Wentworth Institute of Technology. AR Ex. 16, at 13. In 1979, in a course titled “Construction Practices,” the professor would critique him “excessively,” make comments about his lack of subject matter comprehension, and only provide short answers to his questions. *Id.* Mr. Olia's difficulty in this course prompted him to abandon a degree in architecture and instead pursue civil engineering. *Id.* Mr. Olia later took a structural steel design course, in which his professor criticized his work more than the work of other students, and once directly challenged Mr., Olia about political events in Iran, querying why the school does not send Iranian students back to Iran. *Id.* The professor would not answer Mr. Olia's questions, and Mr. Olia failed the structural steel design course *Id.* In the PES, Mr. Olia stated that he believes his grades were impacted by a lack of confidence stemming from his experiences in California and Boston, and that his teachers did not encourage him to excel, *Id.*

SBA determined that Mr. Olia had “not provided the quality and quantity of information” necessary AR Ex. 1, at 2. By way of example, SBA noted that a college transcript reflecting that Mr. Olia did in fact fail one course was presumably available to support his account, but was not provided., *Id.* Furthermore, SBA noted that Mr. Olia had not shown how the alleged bias of his professors negatively impacted his entry into or advancement in the business world. *Id.*

Petitioner does not challenge this portion of SBA's determination on appeal. After reviewing the Administrative Record, the undersigned finds that SBA's determination regarding Incident # 5 was reasonable, Mr. Olia did not specify any of his grades in school other than the one failed class, did not provide documentation of his grades, and did not describe any lost opportunities in receiving a degree in civil engineering rather than architecture.

E. Incidents 6 and 7, 10 through 14

1. Facts and Positions of the Parties

SBA treated Incidents # 6, # 7, and # 10 through # 14 together. In Incident # 6 of the PES, Mr. Olia provided a detailed account of how Mr. Olia tried to purchase a used car in 1984. AR Ex. 16, at 1.3, The individual selling the car asked his nationality, treated him with suspicion and ultimately refused to sell him the car even for a price much higher than the asking price, rudely telling him to leave. *Id.* at 13-14 In Incident # 7, Mr. Olia described how in 1980 a group of young Caucasian students carrying hockey equipment verbally abused him with words reflecting his ethnicity, leading to a physical confrontation in which Mr. Olia was forced to flee,

⁴ Mr. Olia's PES does not include an Incident # 4.

and lost his notebooks and homework while doing so. *Id.* at 14. He asserted that this incident prevented him from meeting and befriending American classmates *Id.*

In Incident # 10, Mr. Olia described working for the Aberthaw Construction Company as part of a surveying crew in the summer of either 1982 or 1983. *Id.* at 15. Mr. Olia states that the union workers on the surveying crew would pick on him, the surveying chief would tell him that he “was irrelevant,” and Mr. Olia states he “never performed any real task” or “got any good training” to prepare him for a career in civil engineering. *Id.*

In Incident # 10a, Mr. Olia described how his children's schoolmates refused to watch the Iranian soccer team play against the United States in the 1998 World Cup *Id.* at 16 In Incident # 10b, Mr. Olia expressed frustration that he and his family are regularly asked whether or not they celebrate Independence Day in July. *Id.* In Incident # 11, Mr. Olia recounted how two of his neighbors' children approached his son on the school bus to ask whether his family made bombs. *Id.* In Incident # 12, Mr. Olia stated that in November of 2007, a group of neighborhood children used slingshots to shoot stones at his home. *Id.*

In Incident # 13, Mr. Olia described how in 1995 he encountered difficulties excavating a house lot he purchased, and hired a contractor to bring in fill material to raise the site, but the contractor attempted to illegally remove good soil material from the site and replace it with unsuitable waste material. *Id.* at 17 Neighbors reported the illegal activity, and they and the town suspected Mr. Olia had known of the contractor's actions. *Id.* Mr. Olia asserted in the PES that he could have fixed the problem in two or three weeks, but that town officials and legal delays caused the work to take over one year. *Id.* at 17-18. Mr. Olia asserted further that the contractor believed he could take advantage of Mr. Olia because Mr. Olia was “a foreigner,” and that bias against his ethnicity caused the project to take so long to complete. *Id.* at 18.

In Incident # 14, Mr. Olia described a recent incident while going through customs to enter the United States, in which he answered his mobile telephone to tell his wife that he could not speak because telephone conversations were forbidden in that portion of the airport. *Id.* Immediately after answering his mobile telephone, a customs officer approached him to tell him that telephone conversations were forbidden. *Id.* Mr. Olia apologized and put the phone away, but that the officer continued to berate him in a sarcastic manner *Id.* While returning from a subsequent trip abroad, a Caucasian man was speaking on his mobile telephone while going through customs, and the customs officer did not intervene *Id.* Mr. Olia asserted in the PES that he has learned to understand that he is held to a higher and double standard. *Id.*

SBA determined that all of these incidents occurred outside the realm of higher education, employment, or business, and that none of these incidents showed what negative impact resulted from the incident and how the biased treatment negatively impacted Mr Olia's ability to compete in the market place. AR Ex. I at 2 SBA also determined that Mr. Olia's account lacked specific information that would enable SBA to make “a reasonable determination that [he] experienced bias as alleged.” *Id.* Furthermore, SBA determined that the experiences were not shown to be chronic 01 substantial. *Id.*

On appeal, Petitioner argues that Mr. Olia's account was as specific as possible., Petition

at 8 Petitioner also argues that Incident # 10 was specifically a work related incident, and that he provided names and dates to illustrate the event, and that SBA did not make a thorough and detailed review of the application. *Id.*

2. Analysis

SBA did err in determining that Incident # 10 was outside higher education or employment. The PES shows that Mr. Olia worked for the Aberthaw Construction Company as part of a college internship, which is arguably within the realms of both employment and higher education. However, his assertions that he was picked on, and “never performed any real task” or “got any good training” from the internship to prepare him for a career in civil engineering are vague, do not state what tasks he did, and do not indicate any connection with his ethnicity. Instead, they reflect that as a student intern, he was not experienced or skilled as the union workers were. Therefore, SBA reasonably determined that there was no specific information indicating ethnic bias.

Incidents # 6, # 7, and # 10a through # 14 may indeed have had enormous impact on Mr. Olia's personal and family life, but Mr. Olia does not state or suggest any connection with his business life. Therefore, SBA reasonably determined that the evidence concerning these incidents does not show negative impact on his entry into or advancement in the business world.

F. Incident 8

In Incident # 8, Mr. Olia stated that in 1981 he secured a summer job “with a small construction crew that did carpentry” AR Ex 16, at 14. Mr. Olia worked for the company for approximately three days. *Id.* On a Friday afternoon, his coworkers learned that he was from Iran, and on Monday morning, he was told that he was not needed. *Id.* He concluded that he was terminated because of his ethnicity, and that this discouraged him from getting any new jobs. *Id.*

SBA determined that Mr. Olia failed to provide “the quality and quantity of specifics” concerning Incident # 8 to allow SBA “to determine fact and find chronic bias” AR Ex. 1, at 3. SBA faulted Mr. Olia for not providing “the names of the individuals involved, dates or the name of the construction firm.” *Id.*

Petitioner argues that Mr. Olia provided a reasonable amount of detail under the circumstances, and again cites to *Woroco International*, SBA No. BDP-174, to object to SBA's reference to the “quantity” of information. Petitioner at 9-10., Petitioner also argues that Mr. Olia only had the job for a week over 30 years ago and he does not recall the details, but he wanted to include every relevant incident in his narrative. *Id.*

Upon review of the Administrative Record, it is concluded that SBA's determination was reasonable. Mr. Olia was told that he was being terminated because “[t]hey did not need him.” AR Ex. 16, at 14. This reason is neutral on its face, and is inconsistent with Mr. Olia's conclusion that he “was simply terminated because [he] was from Iran.” AR Ex. 16, at 14. Nothing in Mr. Olia's PES suggests that the reason given by the construction crew was a pretext, and that Mr. Olia was actually terminated because of his ethnicity. Furthermore, the PES did not present the

alleged incident of disadvantage “in sufficient detail to be evaluated” as it did not describe “where the incident occurred,” “who discriminated,” and “how the discrimination took place,” and only vaguely described “how the applicant was adversely affected by the discrimination.” *Seacoast*, SBA No. SDBA-151, at 6; *cf. Woroco Int’l*, SBA No. BDR-174, at 8 (SBA’s determination not reasonable where examples were very specific in describing how petitioner’s owner was denied employment, despite absence of direct proof of discrimination) Because Mr. Olia’s account does not include any factual details which indicate the presence of bias or prejudice, SBA’s determination that Petitioner had not provided a quantity of evidence proving bias or prejudice in Incident # 8 was reasonable.

G. Incident 9

1. Facts and Positions of the Parties

Petitioner includes the following assertions in Incident # 9. In 1980 Mr Olia secured an internship working for Morse Diesel International on a large hotel construction project in Boston. AR Ex., 16, at 15. Mr. Olia stated that he would visit the office of the contractor’s general superintendent twice a week to see if there were job openings, and finally after one or two months, he told Mr. Olia that there were no open positions, but that if Mr. Olia came to work the next Monday, the supervisor would see what he can come up with for Mr. Olia to do *Id.* When Mr. Olia appeared that Monday the general superintendent was unable to speak with him, but he was assigned to assist in mailing drawings to the subcontractor’s on the project. *Id.* Mr. Olia stated that he did the work but did not need to be an engineering student to perform it, and he witnessed other Caucasian interns “enjoying better positions that were more related to their course of study” *Id.* Mr. Olia concluded that if he was not Iranian, he “would have been much more ahead in [his] early on trainings and studies.” *Id.*

SBA determined that Mr. Olia’s account did not provide any specific details as to how his Iranian ethnicity resulted in him obtaining a lower position, or how he knew that the other interns received better jobs than him solely due to bias. AR Ex 1, at 3, Noting that Mr. Olia had obtained an internship despite being told that there were no jobs available, SBA stated that it could not find that Incident # 9 demonstrated negative impact due to chronic and substantial bias *Id.*

On appeal, Petitioner again cites the *Matter of Woroco International*, SBA No, BDP-174, for the proposition that “in the absence of evidence that would cast doubt on the credibility of the examples in the applicant’s submission or some other cogent reason not to accept an applicant’s evidence, the SBA must accept it as true” Petition at 11 (quoting *Woroco Int’l* SBA No, BDP-174, at 7). Petitioner argues that Mr. Olia “was there and these events happened to me; it was very evident” that the duties Mr. Olia was given compared to others was due to his ethnicity *Id.*

2. Analysis

A description of what he saw, heard or read that made it “very evident” to Mr. Olia should have been, but was not, expressed in the PES. He did not explain how he knew the other interns had better positions; that is, he did not describe their duties, their courses of study, how many interns worked there, when they were hired, information about pay, or any other specific

details about the interns. *Cf. Woroco Int'l*, SBA No BDP-174, at 8 (SBA's determination not reasonable where examples were very specific in describing how petitioner's owner was denied employment, albeit without direct proof of discrimination) SBA provided a "cogent reason," namely a lack of certain details, and described the details that were lacking, as to Petitioner's failure to demonstrate substantial bias regarding Incident # 9. "Statements merely characterizing conduct as . . . discriminatory" are conclusory as they "do not provide sufficient information about the underlying acts. . . ." *Bitstreams*, SBA No. BDP-122, at 12. SBA is not required to accept assertions in a PES that are speculative or conclusory. *Timely Eng'g Soil Tests, LLC*, SBA No BDP-297, at 9.

Nor is SBA required to accept assertions that are contradicted by other evidence in the administrative record. *Id.* Mr. Olia states that he was originally told there were no open positions on the project. Mr. Olia persevered and did eventually obtain an internship. It was reasonable for SBA to conclude that this fact weighed against Mr. Olia's belief that he was negatively impacted by prejudice or bias. This fact also provides a non-discriminatory explanation for the type of duties Mr. Olia was given, as it appears the company was accommodating him rather than filling an internal need. It is concluded that SBA's determination was reasonable as to Incident # 9.

H. Incident 15

1. Facts and Positions of the Parties

In Incident # 15, Mr. Olia stated that while working for Bond Brothers construction company, his supervisor refused to give him two weeks off from work, which Mr. Olia requested so that he could travel to Iran and tend to his ill parents. AR Ex. 16, at 19. Mr. Olia's supervisor knew the purpose of Mr. Olia's request, and "[o]thers in the company did in fact get two weeks off" *Id.* In addition, Mr., Olia stated, he worked very hard but was "only a project manager with a lot of responsibility and a flat income" and "never saw the possibility of making the higher positions." *Id.* He concluded that he was treated differently due to his Iranian heritage. *Id.* He asserted that he started his own business in 2003 as a result of such unequal treatment and lack of advancement opportunities; that with his own company he could advance on his own terms, make more money and have more freedom, considering most of his relatives and parents live in Iran, although he knew that he would have to work harder. *Id.*

SBA determined that Mr. Olia had "not provided any details of the quality to demonstrate how this was discriminatory" to him AR Ex 1 at 3. Based on Mr. Olia's account, SBA stated that it "must presume that [he was] not entitled to time off had already used all of [his] vacation, or that [he was] not with the company long enough to accrue sufficient vacation." *Id.*

In its appeal, Petitioner cites again *Woroco Int'l*, SBA No. BDP-174. Petitioner asserts in its appeal that Mr. Olia was the only Iranian or foreigner working at the company, that "it became clear to [him] that [he] was held to a higher standard than the others, [he] was expected to deliver more, and be more flexible," that "[t]here was zero tolerance if [he] didn't catch on immediately or made a mistake," and that he "never got the help [he] needed" to complete tasks" and "was put in a difficult situation compared to others." Petition at 12. Petitioner concludes that "[d]isparity and bias was evident." *Id.*

2. Analysis

Petitioner included new assertions in the appeal, and as discussed above, new facts not in the Administrative Record will not be considered. *See* 13 C.F.R § 134.406(a) (appellate review to be conducted solely on written administrative record).

SBA did not address in the Denial Letter Mr. Olia's assertion that he worked hard but was “only a project manager with a lot of responsibility and a flat income” and never saw the possibility of getting a higher position, which contributed to his decision to start his own business. AR 16, at 19. SBA's failure to address this assertion is harmless, however, because it is not “significant evidence” that must be addressed by SBA. *Ace Technical*, SBA No. SDBA-178 at 3; *Med-Choice, Inc.*, SBA No SDBA-179, at 4., Instead, it is vague and subjective, and does not include sufficient details such as his income, duties, length of employment, and potential promotions, and such details of comparable non-Iranian employees, at Bond Brothers. *Cf. Woroco Int'l* SBA No. BDP-174, at 7 (SBA's determination not reasonable where examples identified details such as names of individuals involved, positions sought, progress of job interviews, person's qualifications for positions, and contacts to enable hiring)

As to the facts that SBA did address, the mere fact that Mr. Olia was not allowed to take a two-week leave from work while unidentified “others” were able to do so does not provide a basis to infer that he was being treated differently due to bias against his Iranian ethnicity In his PES, Mr. Olia simply concluded that his employer denied his request because he was Iranian, but he did not provide any facts which could suggest, or from which an inference could be drawn, that it was due to bias Although direct proof is not required, circumstantial or inferential evidence must be shown to establish social disadvantage. *Woroco Int'l*, SBA No. BDP-174, at 8. SBA illustrated the inferences that reasonably could be drawn from the facts stated in the PES These alternative, non-discriminatory grounds are not inconsistent with the evidence.

It is concluded that SBA's determination that Incident # 15 failed to demonstrate bias was not arbitrary, capricious, or contrary to law

I. Incident 16

1. Facts and Positions of the Parties

Incident # 16 states that Mr. Olia “feels as if [he] has lost work in business due to being Iranian. AR Ex, 16, at 19. It states further that Petitioner just bid on a job for the city of Boston for renovation of a fire station,” and Petitioner had the low bid, but was disqualified because it “did not have sponsor verification for [an] apprenticeship training program” as required by an ordinance. *Id.* Mr. Olia argued that the Petitioner was exempt from the ordinance because it did not directly employ any carpenters or laborers, and because all of its subcontractors would have the required form *Id.* Despite this argument, the city disqualified Petitioner's bid., *Id.* The PES states that Mr. Olia strongly feels that Petitioner's bid was disqualified because Mr. Olia is not Caucasian, and notes that Boston is pro-union and pro-Irish. *Id.*

SBA determined that Incident # 16 did not demonstrate bias because Mr. Olia's PES indicated that any firm that did not meet the local ordinance would have been disqualified from the contract, whether or not it was owned by an Iranian. AR Ex. 1, at 3. SBA found that Petitioner had “not provided the quantity and quality of specific information necessary to alter this fact.” *Id.* SBA concluded that Petitioner had therefore not shown that it did not receive the contract solely due to Mr. Olia's identification as an Iranian American. *Id.*

On appeal, Petitioner argues that SBA's reference to the “quality” of the evidence indicates that it held Petitioner to an improper burden of proof. Petitioner at 13, Petitioner also reiterates the argument that the ordinance referenced in the PES did not actually apply to Petitioner, and argues that the city's reference to the ordinance was a pretext to mask the operation of bias. *Id.* Petitioner alleges numerous factual details that are not present in the written Administrative Record. Finally, Petitioner again cites *Woroco International*, SBA No. BDP-174 in support of its position.

2. Analysis

The additional facts Petitioner asserted in the appeal that were not in the Administrative Record will not be considered. 13 C.F.R. § 134.406(a).

The PES refers to a local ordinance, asserts that Petitioner's bid was disqualified because it did not have sponsor verification under a local ordinance, and states that Petitioner has argued that it should be exempt from the provision because it does not have any carpenters or laborers on its payroll. Petitioner did not cite to or quote the ordinance, and did not provide any details such as who the argument was presented to and who rejected the bid, and the response to its argument. SBA was not required to credit Petitioner's argument as to the legal interpretation of the ordinance. Mr. Olia's “strong feeling” that Petitioner's bid was denied because of his “non-Caucasian status” is not supported by the objective facts alleged. *See* AR Ex., 16, at 39. Petitioner did not include any facts which suggest or from which an inference can be drawn that the city's motive for disqualifying the bid was ethnic bias. Such omissions are a reasonable basis for SBA to discredit Petitioner's allegations. *Bitstreams*, SBA No. BDP-122, at 12; *Seacomt*, SBA No. SDBA-151, at 6. SBA reasonably determined that Incident # 16 did not demonstrate substantial bias.

J. Letters in Support of PES

In addition to Mr. Olia's PES, Petitioner submitted nine letters from third parties to support Mr. Olia's claim of social disadvantage. AR Ex 16, at 21-32; AR Ex 12, 49-54. The letters are authored by Mr. Cortez, Ms. Kiabi, Mr. Alcon, Mr. Olia's son Keeyon, Ms. Tahara, Ms. Edder, Mr. Gibely, Mr. Ocasio, and Mr. Shaw.

SBA determined that six of these letters are general in nature and did not include specific support for any incidences witnessed by the authors, and the letter from Mr. Olia's son (mistakenly identified by SBA as Mr. Olia's daughter) was not from a disinterested party. AR Ex. 1, at 3. SBA determined that the other three letters, from Mr. Gibely, Mr. Ocasio, and Mr. Shaw, were conclusory, referring to assertions in the letters, and noted that two of those letters

were also unsigned. Petitioner does not challenge SBA's determinations regarding the letters on appeal

Ms. Edder's letter refers to Mr. Olia proposing marriage to a Jewish woman whose parents strongly disapproved of their daughter's relationship with an Iranian Muslim man, after which she ended the relationship. AR Ex 16, at 28 - 29. Mr. Edder wrote that she could see how Mr. Olia was racially profiled in the neighborhood in Massachusetts, and referred to their landlord warning her to watch out for the "foreigners/strangers next door." *Id.* Ms. Tahara's letter refers to anti-Iranian discrimination Mr. Olia has encountered and that he moved to Massachusetts because of it, AR Ex 16, at 27. She asserts that she "believe[s] that, many times he did not land jobs simply because of his background." *Id.* Mr. Olia's son's letter describes events of Incident # 11 AR Ex 16, at 26. Mr. Alcon describes harassment of Iranian students and Mr. Olia being ignored and mistreated and not having American friends at Wentworth Institute, and the fact that Mr. Olia consequently lived off campus. AR Ex 16, at 24-25. He also wrote that teachers did not want to deal with Iranian students and that Mr. Olia was not getting full credit on graded projects. *Id.* Ms. Kiabi wrote that she is aware of occasions where Mr. Olia faced hostile remarks during the Iran hostage crisis. AR Ex 16, at 2, 3. Mr. Cortez's letter describes Mr. Olia's experiences in high school and difficulty learning English in support of Mr. Olia's assertions of Incident # 1, attests to Mr. Olia's good qualities, and refers to discrimination "mak[ing] it difficult for him to thrive" after he moved to Boston. AR Ex. 16, at 21-22.

The six letters mentioned above relate experiences in Mr. Olia's personal life, in his high school, and at Wentworth Institute. For the reasons stated above in regard to Incidents # 1, # 2, # 3, # 5, # 11, these six letters do not demonstrate how the negative impact on Mr. Olia personally and in school had any negative impact on his entry into or advancement in the business world. Some of the letters also include very general remarks about discrimination in regard to Mr. Olia's employment, but lack any specific facts.

As to the two unsigned letters, there is a handwritten note thereon that the author had passed away. As to the substance of the letters, Mr. Shaw wrote that three architectural firms had declined to work with Petitioner, that the author expressed his confidence in Mr. Olia's capabilities but the firms told the author that they do not believe Mr. Olia has the right credentials for partnering with them. Mr. Shaw wrote further that the author knew Mr. Olia was "being racially picked on. . . ." and that the construction industry in that part of the country "is not friendly toward middle easterners. . . ." AR Ex 16, at 32. Mr. Gibely's letter indicates the author looked at a contracting job together with Mr. Olia but it was awarded to another contractor. Mr. Gibely wrote that Mr. Olia was the "perfect person" to do the job given his work ethic, dedication and understanding of the technical difficulties involved but the job was awarded to another contractor with which the person offering the job "felt more comfortable and at ease." AR Ex, 16, at 30. Mr. Gibely wrote further that the person "is not a type of guy to deal with a Muslim man." *Id.*

Mr. Ocasio's letter states that an interview with property owners of a building project "went rather strangely," as one of the owners sat quietly without asking questions or commenting. Mr. Ocasio wrote that it was his impression that Petitioner was not awarded the job because the author, Mr. Olia and another man were "two Iranians and one Hispanic making a pitch to get

hired to build their new facility,” although they had been recommended to the owner by the project's architect and Unicon was well experienced with the type of building for that project. AR Ex 16, at 31

Although these three letters of Mr. Shaw, Mr. Gibely and Mr. Ocasio - each refer to a lost business opportunity, they express only the authors' subjective impressions of ethnic bias toward Mr. Olia, and do not provide factual information as to how they knew that the persons involved were biased. They do not state any objective facts which support their impressions, except Mr. Ocasio's observations that one owner did not comment or ask questions and that the owners were members of the Jewish faith. Those facts do not suggest bias in the absence of other factual details, however Mr. Shaw's assertion that the local construction industry is associated with certain ethnic communities and ““not friendly” to middle easterners is also conclusory and not supported with fact. Petitioner did not provide any facts elsewhere in the record to support the assertions in the letters. “Statements merely characterizing conduct as abusive, derogatory, disparaging or discriminatory” are conclusory as they “do not provide sufficient information about the underlying acts ...” *Bitstreams*, SBA No BDP-122, at 12. It is concluded that SBA's determinations regarding the letters were reasonable. Therefore, SBA reasonably discredited the evidence in the letters as being conclusory.

V. Failure of Proof

Accordingly, after examining the evidence in the Administrative Record, the undersigned concludes that SBA properly applied the law and regulation to the evidence in the Administrative Record, and made a reasonable determination consistent with the evidence. SBA reasonably concluded that Petitioner has not shown by a preponderance of the evidence that that there has been a “[n]egative impact on [Mr. Olia's] entity into or advancement in the business world” because of disadvantage suffered by Mr. Olia 13 C.F.R § 124.103(c)(2). Therefore, SBA made no clear error of judgment in concluding that Petitioner failed to meet its evidentiary burden of establishing that Mr. Olia is socially disadvantaged within the meaning of the 8(a) BD program.

VI. Conclusion

Respondent Small Business Administration's determination denying Petitioner Unicon, Inc., admission to the 8(a) BD program is NOT ARBITRARY, CAPRICIOUS, OR CONTRARY TO LAW. *See* 15 U.S. C. § 637(a)(9)(C); 13 C.F.R § 134.406(b), The determination is upheld, and Unicon, Inc.'s appeal is dismissed.

Subject to 13 C.F.R. § 134.409(c), this is the final decision of the Small Business Administration, *See* 15 U S C. § 637(a)(9)(D); 13 C.F.R § 134.409(a)

M. LISA BUSCHMANN
Administrative Law Judge