

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

IN THE MATTER OF:

GeologyReview, LLC,

Petitioner

SBA No. BDPE-586

Decided: November 10, 2020

ORDER GRANTING SBA's MOTION TO DISMISS¹

On January 26, 2020, GeologyReview, LLC (Petitioner) was denied admission into the U.S. Small Business Administration (SBA) 8(a) Business Development (BD) Program. The Associate Administrator for the Office of Business Development (AA/BD) denied the Petitioner's application because the AA/BD: (1) determined that the individual upon whom Petitioner's eligibility is based did not manage Petitioner on a full-time basis under 13 C.F.R. § 124.106; and (2) determined Petitioner did not have the potential for successfully meeting the business development objectives of the 8(a) program under 13 C.F.R. § 124.107. (AA/BD Initial Decision, 1-4.) Petitioner subsequently filed for reconsideration of the AA/BD's determination.

On July 18, 2020, SBA AA/BD notified Petitioner that the evidence provided was sufficient to overcome the initial reasons for declining the application. Nevertheless, SBA would decline the application on the basis that SBA had independently obtained information calling into question the veracity of information submitted by Mr. Guy Mazaiwana, the individual upon whom Petitioner's eligibility is based, regarding his employment history. As such, SBA concluded that Petitioner failed to establish good character necessary for participation in the 8(a) BD program pursuant to 13 C.F.R. § 124.108(a). (AA/BD First Reconsideration Letter, 1-4.) Petitioner again sought reconsideration pursuant to 13 C.F.R. § 124.205(c).

On September 27, 2020, SBA notified Petitioner that upon reconsideration SBA concluded that Petitioner did not provide sufficient evidence to overcome the reason for denial. Again, SBA explained that Petitioner failed to establish Mr. Mazaiwana's good character as required by 13 C.F.R. § 124.108(a).

On October 21, 2020, Petitioner appealed the September 27, 2020 Letter of Reconsideration issued by the SBA, denying Petitioner admission into the 8(a) BD program. *See* 13 C.F.R. parts 124 and 134.

¹ This appeal is decided under the Small Business Act of 1958, 15 U.S.C. § 631 *et seq.*, and 13 C.F.R. parts 124 and 134.

On October 22, 2020, SBA filed a Motion to Dismiss for lack of jurisdiction pursuant to 13 C.F.R. § 134.405(a)(1). More specifically, SBA requests that the Office of Hearing and Appeals (OHA) dismiss the matter as the appeal of denial of admittance to the 8(a) BD program based on grounds other than a negative finding of social disadvantage, economic disadvantage, ownership or control.

On November 6, 2020, Petitioner filed a response to the SBA's Motion to Dismiss. Petitioner first argues that it consulted the SBA National Ombudsman's Office and was not assisted with the appeal process. As a result, Petitioner claims that it should receive a hearing to prove its case to OHA. Secondly, Petitioner argues that the SBA made administrative errors that were supposed to be corrected and that SBA did not interpret the Petitioner's documents correctly. Petitioner alleges that SBA officials are biased and are approving the applications of companies for the 8(a) BD program that are known to be colleagues and associates of the SBA officials with less credentials and merit than Petitioner. Petitioner avers that the reasons for the SBA's denial are arbitrary and contradictory, which proves bias in the adjudication process.

Furthermore, Petitioner requests time to hire counsel to assist in the appeal process and requests time from the court.

While I take note of the arguments raised by the Petitioner, the Petitioner seeks to appeal non-appealable issues. An 8a BD program applicant may appeal a denial of its application only if the denial is based solely upon a negative finding of social disadvantage, economic disadvantage, ownership or control or any combination of these four criteria. 13 C.F.R. § 124.206(a). “Determinations made based in whole or in part on grounds *other than* a negative finding of social disadvantage, economic disadvantage, ownership or control” are not within OHA's jurisdiction. *In the Matter of Neo-Tech Solutions, Inc.*, SBA No. BDPE-560 (2017) (emphasis added); *see also In the Matter of Fantom Corporation*, SBA No. BDPE-575 (2019). The regulations require me to decline to accept jurisdiction over this matter. 13 C.F.R. § 134.405(a)(1).

I cannot grant Petitioner additional time to find an attorney nor can I provide an oral hearing because OHA does not have jurisdiction over this matter. Even Petitioner's unsubstantiated allegations that SBA acted in bad faith do not grant OHA jurisdiction over an SBA determination that is not appealable under the controlling statutes and regulations. 15 U.S.C. § 637(a)(9)(e); 13 C.F.R. § 124.206(a); 13 C.F.R. § 134.405(a)(1); *see also In the Matter of Best Technology Services, Inc.*, SBA No. BDP-435 (2012). Furthermore, it is not the SBA National Ombudsman's Office duty to assist petitioners in navigating appeals.

For the above reasons, I GRANT SBA's Motion to Dismiss and DISMISS the instant appeal for lack of jurisdiction. This is a final decision of the U.S. Small Business Administration. 13 C.F.R. § 134.316(d).

CHRISTOPHER HOLLEMAN
Administrative Judge