

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

IN THE MATTER OF:

M Patterson Services, LLC,

Petitioner

SBA No. BDPE-597

Decided: January 10, 2022

APPEARANCES

G. Howell, Esq., Howell & Bertman, Hammonton, New Jersey, for M Patterson Services, LLC

Lara Hudson, Esq., Agency Representative, Washington, District of Columbia, for U.S. Small Business Administration.

DECISION

I. Introduction and Jurisdiction

On September 10, 2021,<sup>1</sup> M Patterson Services, LLC (Petitioner), appealed a determination issued by the Small Business Administration (SBA/Agency) denying Petitioner's admission to the 8(a) Business Development (BD) program. *See* 13 C.F.R. parts 124 and 134. The Determination letter was dated August 5, 2021. Therefore, the appeal is timely. 13 C.F.R. § 134.404. SBA found Petitioner did not establish that its owner is socially disadvantaged by a preponderance of the evidence. For the reasons discussed *infra*, I find that SBA's determination was reasonable and not arbitrary, capricious, or contrary to law. *See* 15 U.S.C. § 637(a)(9)(C); 13 C.F.R. § 134.406(b). Therefore, the appeal is denied as SBA's determination is found to be reasonable.

OHA has jurisdiction to decide this appeal. *See* 15 U.S.C. § 637(a)(9)(A), (B)(ii); 13 C.F.R. Parts 124 and 134.

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<sup>1</sup> Petitioner's Appeal was filed after the close of business on September 9, 2021. Therefore, it is counted as filed on the next business day. 13 C.F.R. § 134.204(b)(2).

## II. Background

### A. 8(a) Application

According to SBA, in January 2018, Petitioner submitted an application for entry into the 8(a) program. (Agency's Response, at 5.) Petitioner based its claim of eligibility on the assertion that its owner, Michele T. Patterson, was socially disadvantaged. (*Id.*) In a social narrative, Petitioner indicated that there had been no specific claims, incidents of bias, or discriminatory conduct towards Ms. Patterson. (Administrative Record (AR), Ex. 4.)

In her Personal Eligibility Statement (PES), Ms. Patterson first stated that she began her career in nursing, where she did not face discrimination. (AR, Ex. 10, at 1.) This was also true of a business she operated, supplying fruit and gift baskets. (*Id.*)

Ms. Patterson later started Petitioner, a General Contractor and supplier of material and equipment to the construction industry. (*Id.*, at 2.) Petitioner entered the SBA's Women Owned Small Business program and New York state's Women's Business Enterprise program and has been awarded 8 Federal Government contracts and 48 non-government contracts. (*Id.*)

Ms. Patterson further stated:

Since 2017, I have been able to grow MPS to over 8.9 million dollars in contract awards, but the process has not always been easy. Essentially, I am a woman owned business competing in a man's industry. Although not always explicitly stated, I believe that men sometimes feel that women in general do not possess the knowledge to specify a part that will meet contractors' specifications. Others want to manage the entire project and hand out purchase contracts at the end. And then there's that machismo that compels men to feel superior to women. I have had to deal with a little of each of these. The following examples describe some of the difficulties I have encountered.

(*Id.*, at 3.)

Her examples included losing a boiler installation contract by one dollar, because the contract was awarded solely on price. (*Id.*, at 3.) She lost a contract where Petitioner's and another firm's bids were tied, and a coin toss decided the winner, and another contract for piping when she could not respond to communications as quickly as the buyer would have liked. (*Id.*) This contract went to another woman-owned business. (*Id.*) She had difficulty getting sheet metal accessory quotes from a certain company because its president viewed her as a competitor. (*Id.*) A previously good relationship with another company became hostile when a new manager took over. Ms. Patterson alleges this manager did not believe women and minority owned businesses should be involved in a project until the final stages and be handed out projects at that time at his discretion. (*Id.*, at 4.) Ms. Patterson offered another example, a pipe vendor she requested a quote from on a contract she had been awarded went directly to the prime contractor who was using information she had developed and won the contract away from her. (*Id.*) There have been several occasions where she has lost contracts because she was underbid by a small

amount. (*Id.*) With these examples, Ms. Patterson believes this shows that Petitioner is not getting the best pricing for materials and supplies and prompting Petitioner to look for alternative suppliers to regain pricing advantage. (*Id.*)

As for the socially disadvantaged woman owned business status, Ms. Patterson offered her DNA as evidence that she is of Iberian ancestry. (*Id.*, at 5.)

Ms. Patterson submitted a supplement to her essay, titled “Additional Discrimination to Clarify My Preponderance of Evidence.” (AR, Ex. 9.) She reported that when she was recently awarded a contract from the site contractor, one vendor would not deal with her because he did not know her from “Adam.” (*Id.*, at 1.) The vendor insisted on dealing directly with the prime contractor. Ms. Patterson believed this happened because she is a woman and she felt she was discriminated against. (*Id.*) Another vendor used profanity in speaking to her while she had her phone on speaker and her children were present. (*Id.*) She believed he was trying to bully her because she is a woman. (*Id.*)

In another version of her PES, dated November 15, 2019, Ms. Patterson offered more instances, which she asserts are instances of discrimination. (AR, Ex. 7.) In addition to the first PES examples, Ms. Patterson mentions being outbid by firms from New York and California on contracts, that she felt she did not receive competitive pricing up front because she was a woman. (*Id.*, at 3-4.) In another example, Petitioner lost another contract for computer room air conditioning to a competitor who bid less than the price quoted to her for the air conditioning unit. (*Id.*, at 4.) Ms. Patterson was convinced that the equipment vendors were not giving her the best price available because she was a woman. (*Id.*) Further, Petitioner bid on a project at the University of Pennsylvania, but the work went to woman owned business, which Ms. Patterson believed is ran by a man and that company did not initially bid on the work. (*Id.*) Ms. Patterson felt the contractor did not want to deal with a female owned company. Ms. Patterson further points to a contract in New York City, where a general contractor contacted her for pricing for woman-owned business participation. After she submitted pricing, she was told the contractor needed to show on paper that they were getting pricing from a woman-owned company, but they would move ahead without her. (*Id.*) She believes she was contacted for pricing just to show on paper a woman owned business was considered, but not to hire Petitioner. (*Id.*)

Ms. Patterson concluded that “[b]eing a woman isn't a barrier for me, it is the reality though that I have to work a little bit harder at what I do to be competitive in the construction industry which is essentially a man's world!” (*Id.*, at 5.)

Subsequently, Petitioner submitted a renewed PES dated November 6, 2020, indicating that Ms. Patterson initially applied for the 8(a) program under the disadvantaged status based on her ethnic background, and then, switched to the Women Owned status. (AR, Ex. 6, at 1.) Ms. Patterson explains that she is more discriminated against as “a woman vs. as an ethnic group.” (*Id.*) In addition to the prior statements and examples of discrimination, Ms. Patterson indicated:

I feel like and believe that because I am a woman I am discriminated against in all aspects of this business! A lot of projects that [Petitioner] bids on have EEO requirements. The minority MBE breakdown % ranges from 20-25%. There are

certain projects that require 50% minority MBE participation. The WOMEN WBE participation range is 10-15%. Why is this percentage different for a woman versus a minority???? To me, this is discrimination against women, and I am losing projects and money due to this. I believe this is unfair. We are all jumping on the band wagon about #BLM!!!! What about women and OUR rights to succeed no matter what they are undertaking. Why should men and minorities always supersede the women! This is unfair and discriminatory as far as I am concerned and I feel that I am not being treated fairly and have given a fair chance to win projects with the same amount of percentage that others get!!!!

(*Id.*, at 2.)

In this PES, Ms. Patterson states that she is socially disadvantaged, because of her African and Iberian ancestry. (*Id.*, at 5.) Petitioner offers Ms. Patterson's ancestry report from a commercial DNA tracking service, showing that she has 1% African ancestry and 4% Iberian ancestry. (*Id.*, at 6.)

#### B. Determination

On August 5, 2021, the Associate Administrator of SBA's Office of Business Development (AA/BD) declined Petitioner's application for admission into the 8(a) program. The AA/BD determined that Ms. Patterson, the individual upon whom Petitioner's claim of eligibility was based, was not socially disadvantaged. (Determination, at 1.) The AA/BD reviewed Ms. Patterson's alleged instances of discrimination and provided the following reasoning.

The first example of a lost contract, involving the boiler contract lost by one dollar, was not due to gender bias, but rather based on not being the lowest bidder. (*Id.*, at 6.) The second contract was lost on a coin toss, and it did not describe an instance of gender bias against Ms. Patterson because she is a woman. (*Id.*) The contract which she lost because she did not respond quickly enough to telephone calls went to another women-owned business, and therefore, it did not describe gender bias. (*Id.*) When Ms. Patterson described having difficulty getting timely quotes, she did not mention that it was due to gender bias. (*Id.*, at 7.) In the example where Ms. Patterson said the owner thought woman and minority businesses should not be involved until the end of a project, Ms. Patterson did not provide sufficient details as to how she knew he would not provide pricing because of her gender. (*Id.*) For the contract she lost because the contractor went directly to her supplier, Ms. Patterson did not state or provide details that establish this was due to gender bias. (*Id.*) On other contracts where Petitioner lost due to being outbid, Ms. Patterson did not show that the lost contract was due to gender bias and did not provide any indication as to why the pricing that she was given was based on gender bias. (*Id.*, at 7-8.) Further, in one example referring to the University of Pennsylvania project, the contract went to another woman-owned business, and it could not be concluded that it was due to gender bias. (*Id.*, at 8.)

In the supplemental examples that Petitioner offered, while the contractors did not wish to work with Petitioner, Ms. Patterson offered no details to show this was due to gender bias. (*Id.*, at 9.)

The AA/BD noted that Petitioner's narrative described examples of not obtaining the best pricing available, claiming discrimination, without providing any details as to why gender was the source of Petitioner's pricing issues. (*Id.*) Additionally, Petitioner's examples lacked specificity as to what the gender discrimination was, lacked detail, such as company names, individuals, dates, and specific comments or actions related to Ms. Patterson's gender to support a conclusion that the examples were instances of gender bias and not due to the vendors wanting to work directly with the primes. (*Id.*)

Further, the AA/BD noted that Ms. Patterson submitted a DNA test, which showed she may have a marginal amount of Iberian/African ancestry. However, she did not provide sufficient evidence to demonstrate how she held herself out and whether others identified her as a member of the designated groups. (*Id.*, at 10.) Without that specific information, SBA could not find that Ms. Patterson is a member of a group presumed to be socially disadvantaged (*Id.*)

To conclude, the AA/BD stated that Petitioner presented claims of gender bias in Ms. Patterson's employment and business history, but they did not contain sufficient details, did not indicate gender bias, or did not identify the negative impact on her entry into and/or advancement in the business world. (*Id.*) From the information provided, there was no indication that Ms. Patterson experienced bias due to her gender. Based on the totality of the information presented, Ms. Patterson did not establish a case of chronic and substantial social disadvantage based on a preponderance of the evidence. (*Id.*)

### C. Appeal

On September 10, 2021, Petitioner filed the instant appeal. Petitioner argues that Ms. Patterson is a woman in the construction industry dominated by the male population, and she is being treated unfairly, dismissed, and thought of as lacking credibility because of being a woman. (Appeal, at 1.) Petitioner states that she has read studies showing that 72% of women in construction have experienced gender discrimination. (*Id.*) Petitioner continues to offer general statements of how women, including Ms. Patterson, are being discriminated against in a male dominated field. (*Id.*)

Petitioner states that Ms. Patterson had jobs and purchase orders taken away because companies realized that they did not need women's participation and Petitioner lost a contract equaling \$200,000.00, because it was rescinded and given to a male contractor. Petitioner explains that it was thought to be not good enough for this project as a women owned business and the prime contractor wanted to work with a male owned company instead. (*Id.*) As for the examples that Petitioner had offered to SBA, Petitioner states, it shows that it did not receive the best pricing for materials and supplies, as it should have. Petitioner further states that it does not get a fair chance on bids it has worked hard to prepare, and the jobs go to other firms, which have not even bid for the projects. Petitioner asserts this is because Ms. Patterson is a woman. (*Id.*) Petitioner argues being a female in her industry makes it very difficult and

frustrating for her to obtain work. Petitioner alleges it is not quoted the same prices for equipment as for male-owned firms, and it was quoted a price for certain equipment \$1 million dollars than other firms had to pay. Petitioner gives no other specifics other than these statements for this incident. (*Id.*)

Petitioner gives the same examples of what it alleges were discriminatory treatment as Ms. Patterson submitted with the application. (*Id.*, at 2-4.) However, in a number of cases, Petitioner adds new information to elaborate the accounts of the incidents to support the claim that Ms. Patterson was the victim of gender discrimination. (*Id.*)

Lastly, Ms. Patterson indicates that she identifies as a woman having a marginal amount of Iberian/African ancestry and the hardest obstacle in the construction industry is being a woman in all the examples she provided. (*Id.*, at 4.)

#### D. Agency Response

On November 1, 2021, SBA filed an Agency Response, a Motion to Dismiss, and an Objection to the Submission of New Information. SBA points out that Petitioner does not make an argument that the AA/BD's decision to decline its application was based on any error. Petitioner does not assert SBA relied on information outside of the application file or unsupported by the record. SBA asserts Petitioner appears to be seeking a *de novo* review of the social disadvantage claims made in the application. (Agency Response, at 7.)

Accordingly, SBA moves to dismiss Petitioner's appeal. OHA's jurisdiction includes appeals of 8(a) program determinations to deny admission based solely on a negative finding as to social disadvantage, economic disadvantage, and ownership or control. (*Id.*, citing 13 C.F.R. § 102(j).) The standard of review is limited to facts that were before SBA at the time of the decision and whether the SBA decision was arbitrary, capricious, or contrary to law. (*Id.*, citing 13 C.F.R. § 134.406(a) & (b).) SBA maintains OHA must uphold SBA's determination, as long as it is reasonable. (*Id.*, citing 13 C.F.R. § 134.406(b).) SBA further maintains OHA cannot reverse SBA's determination if SBA examined the relevant evidence and there is a rational connection between the facts and SBA's determination. (*Id.*, citing *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1961).) OHA is not a forum for a second chance at certification. (*Id.*, citing *Matter of Aero CNC, Inc.*, SBA No. SDBA-106, at 6 (1999).) Further, OHA must uphold a decision of less than ideal clarity, as long as SBA's path of reasoning may reasonably be discerned. (*Id.*, citing *Matter of Alloy Specialties, Inc.*, SBA No. SDBA-108, at 6 (1999).)

SBA maintains that the AA/BD made the decline determination based on information Petitioner submitted. SBA argues the AA/BD reviewed that information consistent with the regulatory requirements for 8(a) certification, provided a satisfactory explanation for the determination, and there is a rational connection between the facts and the determination, while Petitioner does not argue that the AA/BD's decision was arbitrary, capricious or contrary to law, but merely requests a review of new information. (Appeal, at 8.) Because OHA's review is based upon whether the decision was reasonable as evidenced by the record, SBA maintains OHA must uphold the decline decision. (*Id.*)

Here, SBA objects to the submission of new information. OHA 8(a) appeals are to be decided solely by a review of the written administrative record. (*Id.*, at 9, citing 13 C.F.R. § 134.406(a).) The judge may not admit evidence beyond the written record nor permit discovery unless he or she determines that the petitioner, upon written submission, has made a substantial showing, based upon credible evidence, and not mere allegation, that the Agency determination may have resulted from bad faith or improper behavior. (*Id.*, citing 13 C.F.R. § 134.407(a).) Petitioner has made no such claim.

Further, SBA reasserts that it made its determination based upon all the information Petitioner provided. The process is evidenced by the administrative record. The AA/BD reviewed the information submitted and concluded Petitioner was ineligible. Additional information is not relevant to the analysis. SBA, therefore, objects to Petitioner's submission of any new information. (*Id.*, at 8-9.)

SBA concludes that the AA/BD's determination is reasonable and must be upheld.

#### E. Additional Pleadings

On November 9, 2021, Petitioner submitted two more pieces of documentation and responded to the Agency's Motion to Dismiss, stating the following:

Please see attached revised Preponderance of Evidence dated 11/8//21. This one is the newest and should be considered. The paperwork that was sent back to me in your email dated 11/1/21 did not include the most current POE from 9/9 also attached. Was that ever looked at? I went back to add more detail and to be more descriptive to my newest POE to provide a more detailed, factual account of my discrimination along with percentages to back up some of my issues.

(E-mail from M. Patterson (Nov. 9, 2021).)

On November 10, 2021, SBA responded to Petitioner's apparent objection to the Administrative Record. SBA notes the two documents attached to Petitioner's November 9, 2021 email were documents not previously submitted to SBA. (SBA's Response to Petitioner's Objection.) SBA again objects to the submission of new evidence and reiterates that Petitioner appears to be seeking a *de novo* review of her application, which is not permitted by the regulation.

On November 12, 2021, Petitioner, through counsel, withdrew its prior request to expand the record to include post-hearing submissions. Instead, Petitioner indicated the following:

On the merits, we believe the decision below ignores approximately one dozen examples of gender-based discrimination which has resulted in a denial of Petitioner's ability to compete in the marketplace. The conclusions reached below that these examples did not provide sufficient evidence of discrimination meets the arbitrary/capricious standard and thus warrants reversal.

### III. Analysis

Petitioner seeks to submit new information with its appeal. Specifically, Petitioner seeks to submit additional information beyond that already submitted as to the various instances of discrimination discussed in its original application and raise other claims of having experienced discrimination. However, 8(a) eligibility appeals are decided based solely upon the written administrative record before the AA/BD. 13 C.F.R. § 134.406(a). Here, Petitioner seeks to admit evidence beyond the written administrative record that was before the AA/BD when she made her decision. I may not admit such evidence into the record, absent a substantial showing, based on credible evidence, that the Agency determination resulted from bad faith or improper behavior. 13 C.F.R. § 134.407(a)(1). Petitioner has made no such showing. Accordingly, I hereby EXCLUDE all the information Petitioner seeks to admit into the record which was not before the AA/BD at the time she made her decision, which includes part of Petitioner's appeal and Petitioner's subsequent filings on November 9, 2021.

In reviewing 8(a) eligibility appeals, OHA's review is limited to determining whether the Agency's determination is arbitrary, capricious, or contrary to law. OHA must consider whether the decision was based on consideration of the relevant factors and whether there has been a clear error of judgment. If the AA/BD's path of reasoning may reasonably be discerned, OHA will uphold a decision of less than ideal clarity. 13 C.F.R. § 134.406(b); *Matter of Alloy Specialties, Inc.*, SBA No. SDBA-108, at 6 (1999). The scope of review under the arbitrary and capricious standard is narrow, and OHA cannot substitute its judgment for that of the Agency. In reviewing SBA's determination, OHA must consider whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment. *Matter of Aero CNC, Inc.*, SBA No. SDBA-106, at 4 (1999). OHA must dismiss an appeal which, on its face, does not allege facts which, if proven to be true, would warrant reversal or modification of the decision. 13 C.F.R. § 134.406(a)(1).

An applicant concern seeking entry into the 8(a) BD program bears the burden of proof to demonstrate its eligibility. 13 C.F.R. § 124.204(c). The applicant must meet that burden by a preponderance of the evidence. *Matter of Raintree Advanced Management Corp.*, SBA No. BDP-407 at 19 (2011). This means that an applicant “must produce evidence of greater weight or more convincing effect than the evidence in opposition to it, that is, evidence which as a whole show that the fact sought to be proved is more probable than not.” *Matter of Unicon, Inc.*, SBA No. BDP-428, at 19 (2012) (internal citations omitted).

An applicant seeking entry into the 8(a) BD program must be unconditionally owned and controlled by one or more socially and economically disadvantaged individuals who are of good character, are citizens of the United States, and who can demonstrate the potential for business success. 13 C.F.R. § 124.101. A socially disadvantaged individual is someone who has been the subject of racial or ethnic prejudice, or cultural bias “within American society.” 13 C.F.R. § 124.103(a). Members of specific racial and ethnic groups are presumed socially disadvantaged unless otherwise rebutted. *See* 13 C.F.R. § 123.103(b). Those who are not members of any presumptively disadvantaged group must establish individual social disadvantage by a preponderance of the evidence. 13 C.F.R. § 124.103(c)(1).



Those who are not members of any presumptively disadvantaged group must submit a PES recounting specific, bias-motivated events in the owner's education, employment history, and/or as owner of the applicant business demonstrating that (1) they have at least one objective distinguishing feature that has contributed to their social disadvantage; (2) they have personally experienced substantial and chronic social disadvantage in the United States because of that distinguishing feature; (3) the social disadvantage must be chronic and substantial, not fleeting or insignificant; and (4) the social disadvantage has negatively impacted their entry into or advancement in the business world. 13 C.F.R. § 124.103(c)(2).

Here, the AA/BD reviewed the information Petitioner submitted and concluded it did not establish that Ms. Patterson had experienced substantial and chronic social disadvantage which negatively impacted her entry into or advancement in the business world, because she is a woman. I conclude that the AA/BD was correct. Ms. Patterson's examples, as carefully discussed in the AA/BD's letter, *supra*, do not establish that she suffered gender discrimination in her business career. The examples, Ms. Patterson gave in the documents submitted to the AA/BD, recounted instances where Petitioner was outbid, where Petitioner lost contracts on a coin toss, and where businessmen she had to deal with were rude to her, and other instances where Ms. Patterson felt she did not receive a fair price on material she was purchasing. None of her instances demonstrated Ms. Patterson's advancement in the business world being impeded because of bias against or because of her gender. Indeed, Petitioner ended its initial application with the statement that “[b]eing a woman isn't a barrier for me.” Section I.A, *supra*.

After the decline, and in her filings before OHA, Petitioner attempted to amend the statements “to add more detail and to be more descriptive.” Now, Ms. Patterson includes additional information attempting to establish discrimination on the basis of her being a woman. But this information has been and must be excluded, because it was not in the administrative record before the AA/BD. Sections I.C and I.E, *supra*. The information Petitioner presented to the AA/BD in its application does not establish in any way that Ms. Patterson suffered chronic and substantial disadvantage on account of her being a woman.

Further, Petitioner does not identify any error of fact or law in the AA/BD's determination. It alleges no facts which, if proven to be true, would warrant reversal or modification of the AA/BD's decision. Petitioner, merely, seems to be seeking a *de novo* review of its application, which is not available in an appeal to OHA. Rather, I must determine whether the AA/BD's decision was arbitrary, capricious, or contrary to law. I conclude that it was not. The AA/BD clearly considered the relevant factors here, by reviewing Ms. Patterson's statement and finding no evidence of discrimination against her on account of her gender. Petitioner could not establish that Ms. Patterson had personally experienced substantial and chronic social disadvantage in the United States because she was a woman. Therefore, Petitioner failed to meet the regulatory test for establishing that Ms. Patterson was socially disadvantaged. Further, on appeal, Petitioner fails to identify any error by the AA/BD in analyzing its application.

I conclude that SBA (1) considered all of Petitioner's evidence, (2) its conclusion was based solely on the facts presented in the administrative record, and (3) the conclusion provides a clear rationale based on those facts. *Southern Aire Contracting, Inc.*, SBA No. BDP-453 (2012). The AA/BD outlined each of the allegations of social disadvantage provided in Ms. Patterson's

statement and explained its rationale in not finding evidence of social disadvantage as its ultimate determination. It did not insert its own facts into its explanations of what Petitioner experienced and focused on what was contained in the administrative record. Therefore, SBA made its determination based solely on the complete administrative record. I found no occurrence of SBA failing to properly apply the law to the facts presented, no failure to consider an important point contained in the record, and no explanation that was implausible or counter to the evidence.

I conclude that SBA conducted a thorough review of all the evidence, considered all of the evidence presented, based its conclusion on that evidence, and provided a clear rationale for its conclusion. Accordingly, Petitioner has failed to establish SBA's decision was arbitrary, capricious, or contrary to law.<sup>2</sup>

#### IV. Conclusion

For the foregoing reasons, I conclude SBA's determination denying Petitioner's admission to the 8(a) BD program was not arbitrary, capricious, or contrary to law. *See* 15 U.S.C. § 637(a)(9)(C); 13 C.F.R. § 134.406(b). I must therefore AFFIRM SBA's determination and DENY this appeal. 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).

CHRISTOPHER HOLLEMAN  
Administrative Judge

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<sup>2</sup> Because Petitioner does raise on appeal that she was a member of the groups which are presumptively socially disadvantaged, but merely states that she identifies as a woman “having a marginal amount of Iberian/African ancestry” and “[t]he hardest obstacle in this industry is being a woman in all the examples” she provided, Section I.C, *supra*, I need not consider it here. *Size Appeal of Apex Group, Inc.*, SBA No. SIZ-4300 (1998).