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**DEPARTMENT OF COMMERCE**

**Minority Business Development Agency**

**15 CFR Part 1400**

**Docket No.: 120517080-2080-01**

**Petition for Inclusion of the Arab-American Community in the Groups Eligible for MBDA Services.**

**AGENCY: Minority Business Development Agency, Commerce**

**ACTION: Notice of Proposed Rulemaking and Request for Comments**

**SUMMARY:** The Minority Business Development Agency (MBDA) publishes this notice regarding the petition received on January 11, 2012 from the American-Arab Anti-Discrimination Committee (ADC) requesting formal designation of Arab-Americans as a minority group that is socially or economically disadvantaged pursuant to 15 CFR Part 1400. The formal designation of the Arab-American community as a group that is socially or economically disadvantaged would allow the members of this community to receive assistance from MBDA funded programs, such as the MBDA Business Center program. The ADC filed a petition, pursuant to 15 CFR Part 1400.3, including information specifically related to social and economic discrimination against Arab-Americans. This Notice provides public notice that the United States Department of Commerce (Department) will consider the petition and requests public comment on the propriety of this designation. MBDA will make a decision on the application no later than June 27, 2012.

**DATES:** Comments must be received by MBDA no later than **[Insert date 30 days after date of publication in the Federal Register]**

**ADDRESSES:** You may submit comments, identified with Docket No. 120517080-2080-01, using any of the following methods:

- Mail, Hand/Delivery/Courier: Ms. Josephine Arnold, Chief Counsel, Minority Business Development Agency, Department of Commerce, 1401 Constitution Avenue NW, Room 5093, Washington, DC 20230.
- Electronic mail: Submit comments in Microsoft Word or .pdf format to [AAComments@mbda.gov](mailto:AAComments@mbda.gov).

All comments will be posted on the MBDA website at <http://www.mbda.gov>. If you wish to submit confidential business information, please submit the comments to the attention of Josephine Arnold and highlight the information that you consider to be CBI and explain why you believe this information should be held confidential. MBDA will make a final determination as to whether the comments will be published or not.

**FOR FURTHER INFORMATION CONTACT:** Robert Cobbs, Minority Business Development Agency, 1401 Constitution Avenue, NW, Room 5053, Washington, DC 20230. Mr. Cobbs may be reached by telephone at (202) 482-2332 and by e-mail at [rcobbs@mbda.gov](mailto:rcobbs@mbda.gov).

## **SUPPLEMENTARY INFORMATION**

### **I. Background**

The MBDA, pursuant to Executive Order 11625, funds business centers that provide business development services to business concerns owned and controlled by individuals who are members of groups determined by the Department to be socially or economically disadvantaged. Based on the current definitions, the groups considered “socially and

economically disadvantaged,” listed in Executive Order 11625, are “Black, Puerto-Ricans, Spanish-speaking Americans, American Indians, Eskimos, and Aleuts.”<sup>1</sup> In addition, Hasidic Jews, Asian Pacific Americans and Asian Indians have been included in the list of the groups who are socially or economically disadvantaged and thus eligible for assistance from the MBDA in 15 CFR Part 1400.1(c).

The Department is considering the petition of the ADC requesting the addition of Arab-Americans to the list of persons considered “socially and economically disadvantaged” pursuant to E.O. 11625 and 15 CFR Part 1400. An Arab-American may be defined as an American who traces his or her ethnic roots to one of the countries in the Arab World, including Algeria, Bahrain, Djoubti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Somalia, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen. According to the petition, Palestinians also fall under this category. The ADC petition describes the social and economic conditions that Arab-Americans have faced allegedly amounting to discrimination and prejudice in American society and resulting in conditions under which Arab-American individuals have been unable to compete in a business world.<sup>2</sup> The petition provides details of the social and economic discrimination faced by Arab-Americans. A summary of those details from the ADC petition are presented below in Section II.

## II. Social and Economic Discrimination against Arab-Americans

### A. Social Discrimination

According to the Petition, Arab-Americans are subject to many prejudices as a result of their distinct cultural and ethnic characteristics. While many of those who consider themselves

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<sup>1</sup> Exec. Order No. 11625, 3 CFR § 616 (1971-1975).

<sup>2</sup> American-Arab Anti-Discrimination Committee (ADC) Petition (filed, January 11, 2012) (ADC Petition or Pet.).

Arabs are Muslim, the Arab-American Institute states that most Arab-Americans are Christian.<sup>3</sup> Most Arab-Americans speak Arabic, a language that has become one of the defining characteristics of the group.<sup>4</sup> Further, Arab-Americans are known for their different food dishes (tabouli, kibbah, and kabshah) and their unique music tradition that includes the use of percussion instruments not normally found in American culture.<sup>5</sup> These are just a number of ways in which Arab-American culture differs from American culture and the distinctions that have resulted in the prejudices aimed towards the group.

The petition states that Arab-Americans have faced discrimination since the late 1800s, similar to most other minority groups.<sup>6</sup> They were treated the same way as many other minority groups in the United States and had specific derogatory names directed towards them.<sup>7</sup> While this discrimination initially did not hinder their ability to obtain American citizenship, the situation changed in 1910 when the U.S. Census Bureau classified Syrian and Palestinian Arabs as “Asiatics.”<sup>8</sup> The Bureau of Immigration and Naturalization, which initially considered Syrians and Palestinians as “Caucasians,” subsequently issued a nationwide directive ordering the rejection of citizenship petitions for persons who were not “free white persons” or of “African nativity.”<sup>9</sup> Some courts declared that Syrians could be considered “white” while other courts ruled that they were not “free white persons.”<sup>10</sup> For example, after World War I, the government passed the Quota Act that limited the annual quota of nationality to 3 percent of the foreign-born persons from that country.<sup>11</sup> According to the ADC petition, even though the

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<sup>3</sup> Pet. at 4.

<sup>4</sup> Pet. at 4.

<sup>5</sup> Pet. at 5.

<sup>6</sup> Pet. at 8.

<sup>7</sup> Pet. at 9.

<sup>8</sup> Pet. at 10.

<sup>9</sup> Pet. at 10.

<sup>10</sup> Pet. at 10 - 11.

<sup>11</sup> Pet. at 13.

policy was facially race neutral, the implications for Arab-Americans, was dire.<sup>12</sup> The ADC petition notes that Arab immigrants were denied citizenship, except 100 persons annually, under the Quota Act which is widely viewed as an attempt to limit immigration from Arab countries.<sup>13</sup> While the policy was negated by the Immigration Bill in 1965, the ADC petition asserts that Arab-Americans continue to face discrimination in public and private employment, housing, government contracts and government benefits.<sup>14</sup>

The ADC petition mentions a number of court cases that highlight discrimination against Arab Americans on the sole basis of their ethnic background, including a case where three elevator employees were awarded \$30,000 in damages as a result of the years of harassment they endured.<sup>15</sup> This level of discrimination increased drastically after the September 11 attacks.<sup>16</sup> According to the petition, while the attacks were carried out by a small group of extremists, the entire Arab-American community suffered from the prejudices other American citizens formed.<sup>17</sup>

The Petition notes that following September 11, 2001, the FBI and other institutions reported a substantial increase in reports of discrimination and harassment against Arab-Americans (the FBI reported a 1600 percent increase).<sup>18</sup> According to the ADC petition, these reports were exacerbated by government-implemented policies that inherently targeted Arab-Americans. The ADC petition asserts that, in the government's efforts to protect Americans, they essentially took away the rights of other Americans and provides the following as examples of such government-sponsored programs: the National Security Entry Exit Registration System

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<sup>12</sup> Pet. at 13.

<sup>13</sup> Pet. at 13.

<sup>14</sup> Pet. at 14-15.

<sup>15</sup> *Zaytoun v. Embassy Row Hotel, Inc.*, No. 6744-83 (D.C. Super. Ct. June 21, 1985).

<sup>16</sup> Pet. at 17.

<sup>17</sup> Pet. at 17.

<sup>18</sup> Pet. at 18.

NSEERS, which required non-immigrants to register at ports of entry and targeted males from Arab nations; stricter travel guidelines; and “no-fly” lists which predominantly contained the names of Arab-Americans. According to the Petition, these restrictions hindered the Arab-American community’s freedom and as a result, their ability to contribute to a healthy American economy.<sup>19</sup>

#### B. Economic Discrimination

According to the ADC Petition, Arab-Americans also face economic discrimination as employees and business owners. Citing instances where employees are continuously harassed because of their ethnicity and are subject to constant name-calling and racial profiling, the petition asserts that Arab-Americans either have to constantly deal with discrimination enforced by their employers, their fellow employees or customers that frequent their places of employment.<sup>20</sup> The petition also notes that Arab-Americans have fewer job opportunities, a situation that has been exacerbated by the September 11 attacks and asserts that this fact is supported by a number of studies that highlight employment discrimination against Arab Americans as well as the high number of complaints the ADC receives yearly despite the time that has passed since 9/11.<sup>21</sup>

According to the ADC Petition, the discrimination that Arab-American employees face has decreased their earnings.<sup>22</sup> One study showed that the earning potential of Arab American men dropped considerably between 2000 and 2002 as compared to US-born non-Hispanic white men.<sup>23</sup> Their ability to positively contribute to the economy has also been significantly altered as

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<sup>19</sup> Pet. at 18-21.

<sup>20</sup> Pet. at 21.

<sup>21</sup> Pet. at 21-25.

<sup>22</sup> Id. at 23, *citing* American-Arab Anti-Discrimination Committee (ADC), *2010 Legal Department: Legal and Policy Review*, p. 1.

<sup>23</sup> Pet. at 26, *citing* Alberto Davila and Marie Mora, *Changes in Earnings of Arab Men in the U.S.*, *Journal of Population Economics*, 2005, vol. 18, issue 4, p. 588.

a result of the increased instances of government-sponsored inspections of workplaces that may have hired individuals with suspected terrorist ties.<sup>24</sup>

Arab-American business owners and entrepreneurs also face economic discrimination. Individuals from the Arab-American community are unable to earn up to their potential as compared to their non-Hispanic white counterparts in similar industries. The Petition notes that while many Arab-Americans are educated and would contribute tremendously to the U.S. economy if they were able to enter into the market, they are held back because of their ethnic background. Also, many times Arab-Americans are confined solely to the small Arab-American communities in which they live because they face harassment if they attempt to expand their business. The Petition further asserts that Arab Americans receive few prime government contracts, as exemplified by a case study conducted in San Francisco between 1992 and 1995.<sup>25</sup> During that time period, Arab-Americans received no construction contracts despite representing a significant amount of the available professional service firms. This can be compared to Latino-Americans, a group already included in the definition of “minority business enterprise,” who only received 1 percent of professional service dollars despite representing 6 percent of the professional service firms.<sup>26</sup>

### III. Objectives and Scope

By categorizing Arab-Americans as “socially and economically disadvantaged business concerns” under 15 CFR Part 1400, the same the benefits granted to other socially and economically disadvantaged persons specified under Part 1400 will be available to Arab-American persons and businesses. Specifically, under 15 CFR Part 1400, Arab-Americans will

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<sup>24</sup> Pet. at 25-27.

<sup>25</sup> Pet. at 29.

<sup>26</sup> Pet. at 29-31.

be eligible to qualify for MBDA programs and opportunities that help minority businesses overcome discrimination and prejudice as business owners.<sup>27</sup>

The comments received will be reviewed for applicability to the issues to be addressed. MBDA will consider only those comments that address the relevance of including Arab-Americans in the definition of those who are “socially and economically disadvantaged.” Commenters should address the following issues in the context of the requirements of the applicable regulations.<sup>28</sup> If any comments received meet the criterion, they will be included in the final decision.

MBDA solicits general comments and comments on the Petition that address the following specific issues:

A. Societal Discrimination

1. Are there specific instances of social discrimination against Arab-Americans that occur over a sustained period of time, which results in significant social or economic disadvantage?
2. Are there any additional characteristics specific to the Arab-American community, other than those described in the ADC Petition, that invoke societal discrimination?
3. Is there evidence that demonstrates Arab-Americans have been subject to employment or educational discrimination? If so, please describe.
4. Is there evidence that demonstrates that Arab-Americans have been denied access to organizations, groups, professional societies or other types of business

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<sup>27</sup> Pursuant to 15 C.F.R. § 1400.1, the designation for eligibility under Executive Order 11625 will not establish eligibility for any other Federal or Federally-funded program.

<sup>28</sup> See 15 C.F.R. § 1400.4.



opportunities in comparison to individuals who are not considered socially or economically disadvantaged?

B. Economic Discrimination

1. What evidence exists that demonstrates Arab-Americans have faced economic discrimination over a sustained period of time resulting in social or economic disadvantage?
2. Please provide any specific information which demonstrates that Arab-Americans have experienced difficulty in obtaining access to capital, technical, or managerial resources as compared to individuals who are not considered socially or economically disadvantaged.
3. Is there any additional evidence of denied opportunities for Arab-Americans to access to those things which would enable them to participate more successfully in the American economic system that is readily available to individuals not considered to be socially or economically disadvantaged?

Minority Business Development Agency

Josephine Arnold

Chief Counsel

<FRDOC> [FR Doc. 2012&ndash;12968 Filed 5&ndash;29&ndash;12; 8:45 am]

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