

AGENCY SPOTLIGHT



Small Business Administration (SBA)

Natalie Oudar and Bryant Le - Argy, Wiltse & Robinson, P.C.

The Small Business Administration (SBA) was established in 1953 through the Small Business Act. The Act bestows on the SBA functions of aiding, counseling, assisting and protecting, the interests of small business concerns. In addition, the SBA holds responsibility for "ensuring a fair proportion" of Federal contracts are given to small businesses. Recently, Congress has also tasked the agency with the responsibility of overseeing the Government-wide small business goal setting program. The agency leads and administers various initiatives that include financial and procurement assistance, women outreach, management support, minorities and veterans programs.

The SBA's current mission is to "promote small business development and entrepreneurship through business financing, government contracting, and management and technical assistance." The current administrator is Karen G. Mills who was appointed by President Barack Obama and unanimously sworn in by the Senate in 2009.

The SBA's budget in 2009 was roughly \$12.3 billion of which \$7.4 billion was restricted for loan financing purposes. Currently, the SBA has a portfolio of various loans including direct, guaranteed business, and disaster loans valued at \$90.5 billion.

Small Business Jobs Act 2010

Recently, Congress passed the Small Business Jobs Act (signed by the President on 9/27/2010) which directly expands the lending practices of the SBA to small businesses and thereby widens the breadth of available credit for small businesses. Further, the agency will recognize \$505 million to support \$14 billion in lending and the SBA's 7(a) and 504 recovery act programs will observe an increase in loan caps from \$2 million to \$5 million. The act also includes provisions requiring the SBA to make available an online listing of lenders who facilitate SBA-backed loans with their corresponding interest rates. This provision provides an online information center for small businesses to gather pertinent lending information.

This initiative is tailored towards encouraging more small businesses to bid for federal contracts by lessening requirements with respect to government contracting standards. With the passing of this bill, the SBA will observe increased authority, responsibility, and aid in pursuing their objectives.

WOSB Program

On February 4, 2011, the SBA will effectively launch the Women-Owned Small Businesses Program (WOSB Program). This program teams with the Government's current statutory goal of awarding 5% of federal contract dollars to further aid WOSBs. The regulations pertaining to this program are expressed in 13 C.F.R Part 127. The program also reaches out to Economically Disadvantaged Women-owned Small Businesses (EDWOSBs).

The distinction between a WOSB and an EDWOSB is that both entities are at least 51% "directly and unconditionally" owned by women, however for EDWOSBs, the owner(s) would be considered economically disabled where all of the following are met:

- Personal Net Worth is less than \$750,000
- Average annual, gross income over the past 3 years preceding the WOSB status was less than or equal to \$350,000 and
- The fair market values of all assets do not exceed \$6 million.

The WOSB Program facilitated by the SBA should fortify the Government's efforts in providing federal opportunities for WOSBs and EDWOSBs. This program serves as a viable foundation in fostering the development of WOSB representation in underrepresented areas.

Disaster Loan Program

In addition to its efforts aimed towards small businesses, the SBA provides "disaster" loans to entities of various sizes through their Disaster Loan Program headed by their Office of Disaster Assistance. The agency's mission with respect to the Disaster Loan Program is "to help people recover from disasters and rebuild their lives by providing affordable, timely, and accessible financial assistance to homeowners, renters, and businesses." Such disasters include earthquakes, hurricanes, floods, and terrorist attacks.

Since its inception, the Office of Disaster Assistance has provided more than 1 million loans totaling more than \$47 billion (as of 2009). Through this program, the SBA intends to continue to provide loans to the aforementioned entities for circumstances where insurance companies do not offer coverage. The SBA constantly builds on the current program's successful foundation and the program itself continues to ensure that SBA departments, field offices, and governmental partners act in concert to efficiently respond to disasters.

There are essentially 3 types of loans available under this program and they are as follows:

- Home Disaster Loans: This loan is available to homeowners and renters who intend to repair or replace their damaged property or real estate.
- Business Physical Disaster Loans: This loan is available to various types of entities (i.e. businesses, not for profits, etc.) to restore or replace disaster-damaged property for which the entity owns.
- Economic Injury Disaster Loans: Should an entity not be able to meet its "ordinary and necessary" financial obligations as a direct result of a disaster, it may apply for this loan to support its working capital during the recovery period.

This program is the sole form of federal assistance within the SBA that is not limited to small businesses.

Support for Small Business Contracting

When a small business submits a proposal to a Government Agency, the SBA is responsible to assure the small business receives adequate consideration. If a Government Agency during the proposal process should issue an adverse opinion about the small business's ability to perform a government contract, the contracting officer is supposed to appeal the process to the SBA. The SBA is able to provide a Certificate of Competency that basically overrides any adverse opinion issues and allow the small business to receive the award.

If there is a question about a business meeting the small business size criteria, the SBA is to make that decision based upon the data at the time of the proposal submission. The SBA also enforces the set aside monitoring of contracts. Where the small business is not performing to the requirement of its set aside contract, the SBA may debar the contractor from getting additional Government funding.