

SMALL BUSINESS ADMINISTRATION

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MISSION STATEMENT

The U.S. Small Business Administration (SBA) supports U.S. entrepreneurship and small business growth by strengthening free enterprise through policy advocacy and facilitating programs that help entrepreneurs to launch and grow their businesses and compete effectively in the global marketplace.

OVERVIEW

Created almost 70 years ago, the SBA was launched under the Small Business Act with a mission to “aid, counsel, assist and protect, insofar as is possible, the interests of small business concerns.”¹ According to its current mission statement:

The U.S. Small Business Administration (SBA) helps Americans start, grow, and build resilient businesses.

SBA was created in 1953 as an independent agency of the federal government to aid, counsel, assist and protect the interests of small business concerns; preserve free competitive enterprise; and maintain and strengthen the overall economy of our nation.²

The SBA’s founding mission has evolved over time as programs have been expanded or implemented, subject to the philosophical grounding of each Administration as well as assorted economic challenges and the occurrence of natural disasters. Because of its distinct role in the federal government, the SBA became

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the default agency for providing disaster loans to small businesses, homeowners, renters, and organizations. As a result, hundreds of billions of taxpayer dollars have been funneled through the agency to businesses and individuals over the years.

Some SBA programs are effective; others are not. The largest program in SBA's history, the Paycheck Protection Program (PPP), has been credited with saving millions of jobs during the COVID-19 pandemic.³ A conservative Administration would rightly focus on saving small businesses during such a crisis. At the same time, however, various SBA programs have generated waste, fraud, and mismanagement of taxpayer dollars.

For example, and more recently, more than \$1 trillion in COVID-19 relief was distributed through the SBA.⁴ The SBA's EIDL (Economic Injury Disaster Loan) Advance program in particular shows the dangers that can come with direct government lending. EIDL Advance provided direct cash grants and loans to small businesses. The SBA Office of Inspector General "identified \$78.1 billion in potentially fraudulent EIDL loans and grants paid to ineligible entities,"⁵ which represented more than half of all funds spent through the program. Although PPP worked through private lenders and as a result experienced relatively less fraud than EIDL experienced, it is estimated "that at least 70,000 [PPP] loans were potentially fraudulent."⁶

ORIGIN, HISTORY, AND CORE FUNCTIONS

In 1954, the agency began to execute such core functions as "making and guaranteeing loans for small businesses," "ensuring that small businesses earn a 'fair proportion' of government contracts and sales of surplus property," and "provid[ing] business owners with management and business training."⁷

In 1970, President Richard Nixon's Executive Order 11518 enhanced the agency's advocacy role by providing for the "increased representation of the interests of small business concerns before departments and agencies of the United States Government."⁸ This advocacy role was strengthened with the adoption of the Small Business Amendments of 1974,⁹ which established the Chief Counsel for Advocacy, and was then reinforced and expanded in 1976 with the creation of the Office of Advocacy, providing additional resources to ensure that small businesses had a voice in the regulatory process.

In 1980, the Regulatory Flexibility Act (RFA)¹⁰ further strengthened the Office of Advocacy's role, providing accountability across federal agencies to ensure that they considered the impact of their rulemakings on small businesses. The RFA requires federal agencies "to consider the effects of their regulations on small businesses and other small entities,"¹¹ and the Office of Advocacy is charged with ensuring that federal agencies abide by the law and is required to provide an annual report to the President and the Senate and House Committees on Small Business.¹² In addition, the Trade Facilitation and Trade Enforcement Act (TFTEA) of 2016¹³

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established a new role for the Office of Advocacy: “to facilitate greater consideration of small business economic issues during international trade negotiations.”¹⁴

This small office has been relatively effective over the years—and more productive during periods when a strong Chief Counsel for Advocacy has been installed to utilize the Office of Advocacy’s authority aggressively to provide a check on regulatory overreach. The office is one of the bright spots within the SBA that a conservative Administration could supercharge to dismantle extreme regulatory policies and advance limited-government reforms that promote economic freedom and opportunity.

Currently, the SBA’s four core functions include:

- **Access to capital.** SBA maintains assorted financing and lending programs for small businesses, from microlending to debt and equity investment capital.
- **Entrepreneurial development programs.** SBA provides “free” or low-cost training at more than 1,800 locations and through online platforms and webinars.
- **Government contracting support programs.** Through goals established by the SBA for federal departments and agencies, the broader goal is to ensure that small businesses win 23 percent of prime contracts.
- **Advocacy.** This independent office within the SBA works to ensure that federal agencies consider small businesses’ concerns and impact in rulemakings. The office also conducts small-business research.

BUDGETARY FLUCTUATION

SBA’s budget and programs have expanded significantly under some Administrations and have been scaled back under others. President Ronald Reagan cut the SBA’s budget by more than 30 percent, and his annual budgets regularly proposed to eliminate the agency altogether.¹⁵ Under President George W. Bush, SBA Administrator Hector Barreto said that SBA’s goal was “to do more with less,”¹⁶ but this changed because of Hurricane Katrina and a surge in disaster funding. In 2016, President Barack Obama considered streamlining and combining SBA programs and other business-related agencies and programs under one entity at the U.S. Department of Commerce, but opposition within the small-business lobby in Washington scuttled the effort.¹⁷

In general, SBA budget fluctuations have been driven by several factors such as efforts by Administrations either to cut or to greatly expand programs, the need to boost disaster assistance because of economic or weather-related events, business

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loan credit subsidy costs, and miscellaneous program “enhancements” to support small businesses through economic challenges or circumstances. As noted by the Congressional Research Service:

Overall, the SBA’s appropriations have ranged from a high of over \$761.9 billion in FY2020 to a low of \$571.8 million in FY2007. Much of this volatility is due to significant variation in supplemental appropriations for disaster assistance to address economic damages caused by major hurricanes and for SBA lending program enhancements to help small businesses access capital during and immediately following recessions. For example, in FY2020, the SBA received over \$760.9 billion in supplemental appropriations to assist small businesses adversely affected by the novel coronavirus (COVID-19) pandemic.¹⁸

The CRS further notes that “[o]verall, since FY2000, appropriations for SBA’s other programs, *excluding supplemental appropriations*, have increased at a pace that exceeds inflation.”¹⁹

In terms of current loan volume, the SBA “reached nearly \$43 billion in funding to small businesses, providing more than 62,000 traditional loans through its 7(a), 504, and Microloan lending partners and over 1,200 investments through SBA licensed Small Business Investment Companies (SBICs) for Fiscal Year (FY) 2022.”²⁰ The agency’s total budgetary resources for FY 2022 amount to \$44.25 billion, which represents 0.4 percent of the FY 2022 U.S. federal budget.²¹

HISTORY OF MISMANAGEMENT

Throughout its history, various SBA programs and practices have generated negative news headlines and scathing Government Accountability Office (GAO) and Inspector General (IG) reports that have centered on mismanagement, lack of competent personnel and/or systems, and waste, fraud and abuse.²² From the 8a program²³ to Hurricane Katrina²⁴ to the more current COVID-19 (EIDL) program and PPP lending program,²⁵ the SBA has managed to maintain its lending role even when repeated system failures have affected its distribution of funds.

Congress has been somewhat responsive, pressuring the SBA to clean up fraud-related matters within its COVID-19 lending and grant programs.²⁶ Republicans in the U.S. House of Representatives have gone farther, specifying that the SBA needs to improve transparency and accountability and deal with mission creep, the expansion of unauthorized programs, and structural and reporting deficiencies that have allowed mismanagement and fraud to reoccur, largely through massive supplemental appropriations.²⁷

The SBA is led by an Administrator (currently a member of the President’s Cabinet) and a Deputy Administrator. Senate-confirmed appointees include

the Administrator, Deputy Administrator, Chief Counsel for Advocacy, and Inspector General.

Entrepreneurs and small businesses require limited-government policies that do not impede their risk-taking and growth. A future Administration can leverage and strengthen core SBA functions that have been fairly effective at reining in and calling attention to costly regulations and policies that are harmful to small businesses. This core advocacy function is aided both by statutory authority and by a network of small-business organizations and allies that support limited-government policies.²⁸

Moreover, an effective SBA Administrator and leadership team can work and advocate across the federal government to ensure that extreme regulatory policies—or anticompetitive rules and actions that may favor big businesses over small businesses or international competitors over American small businesses—are dismantled or do not progress when proposed.

MISSION CREEP AND ENLARGEMENT

As noted, Republicans in the U.S. House of Representatives have evidenced concern about SBA mission creep and the need to make a sprawling, unaccountable agency more focused and operationally sound. Moreover, there is unease that the agency has moved from being open to any eligible small business searching for support to being hyperfocused on “disproportionately impacted,” politically favored, or geographically situated small businesses and entrepreneurs.

Today, initiatives aimed at “inclusivity” are in fact creating exclusivity and stringent selectivity in deciding what types of small businesses and entities can use SBA programs. For example, even though the SBA under President Donald Trump proposed a rule to remove all of the unconstitutional religious exclusions from its regulations²⁹ to conform with Supreme Court decisions that have made their unconstitutionality clear, the SBA has not acted on the proposed rule and still uses religious exclusions in determining eligibility for business loans. Several other specific concerns include but are not limited to:

- The SBA’s request to become a “designated voter agency” in response to President Biden’s executive order on “Promoting Access to Voting.”³⁰
- The creation of duplicative channels and “pilot programs” for the delivery of business training rather than working through existing counseling partners. The programs are largely duplicative of private, state and local government, and educational system offerings.³¹
- A push to expand direct government lending.³²

THE SBA IN A CONSERVATIVE ADMINISTRATION

Reforming and restructuring the SBA under a conservative Administration would meet the needs of America's small-business owners and entrepreneurs, not special interests in Washington, D.C. Entrepreneurs believe the SBA is fairly archaic in its operations and programming and must be transformed to serve small businesses in the modern economy effectively.³³ Therefore, a restructured and reformed SBA would end the long-term deficiencies, practices, and problems that have prolonged the decades-long cycle of waste, fraud, and mismanagement. Moreover, the SBA Administrator and leadership can provide significant value to all small businesses by strongly advocating for their policy needs and fostering an agencywide culture that values all small-business owners and does not exclude certain groups. Under a conservative Administration, success would yield:

- A highly qualified SBA Administrator and leadership team that can competently run the agency and enthusiastically advocate for the policy issues and needs of small-business owners and entrepreneurs.
- A tighter, more focused SBA that concentrates on congressionally authorized programs.
- An accountable SBA Administrator and staff who report regularly to Congress, respond on a timely basis to requests from individual Members of Congress, and satisfactorily implement or respond to IG and GAO recommendations.
- A full accounting of and an end to waste, fraud, and abuse in all COVID-19 relief programs, including the PPP and EIDL programs, and action that follows the rule of law by ensuring that loan recipients who are not eligible for loan forgiveness or who falsified loan applications either pay back the funds or are referred to law enforcement.
- An end to SBA direct lending.
- An approach to small-business lending and capital programs that supports a resilient small-business supply chain (for example, by financing technological upgrades and capital expenditures).
- Outreach to *all* small businesses and those that are eligible for program support across sectors and geographic areas. Through congressionally authorized programs and collaboration with partners and business associations, the SBA could use the latest technology and platforms to

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implement relevant initiatives to reach small businesses. Programs would be nonduplicative and implemented on a first-come, first-served basis.

- A modern, revamped, and streamlined SBA that better utilizes current technology and platforms for operations, for reporting, and in its programs to reach, service, and engage small businesses.
- An Office of Advocacy that is strengthened by a renewed mandate and additional resources to protect against overregulation along with a research agenda that includes measuring the total cost that federal regulation imposes on small businesses.

Accountability and Managerial Practice. The SBA lacks accountability and managerial practices to measure the effectiveness, success, and integrity of its various programs. As a future Administration evaluates agency structure and the particulars of how the SBA is spending appropriated funds, it should immediately require actions and procedures to compel a culture of accountability and performance. Specifically:

- **Require performance metrics and internal procedures to safeguard taxpayer dollars and program integrity.** As noted in an October 2022 IG report, failure to adopt procedures that would reliably capture data and information for various programs, coupled with significant challenges and weaknesses regarding IT investments, systems development, and security controls, presents significant risks to program integrity and increased risk of waste, fraud, and abuse.³⁴ Addressing these shortcomings and risks should be a priority challenge and action item for the next Administration. As underscored by the Inspector General in his introduction to the report, “Pandemic response has, in many instances, magnified the challenging systemic issues in SBA’s mission-related work.”³⁵
- **Review all internal government watchdog recommendations and require that SBA management implement or address outstanding and ongoing OIG and GAO recommendations within a specified time frame (ideally within 90 days of a recommendation) and on an ongoing basis.**

Strengthening the Office of Advocacy. The SBA Office of Advocacy (Advocacy) is “an independent office” within the SBA.³⁶ It accounts for about one one-thousandth of SBA spending and 0.75 percent of SBA personnel. Under the Regulatory Flexibility Act, both under its current authority and with suggested

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reforms, the Office of Advocacy could be a powerful weapon against the administrative state's regulatory extremism.

- **Amend the RFA so that all agencies are required to provide a copy of any proposed rule (other than bona fide emergency rules) along with initial regulatory flexibility analysis to the Office of Advocacy at least 60 days before a notice of proposed rulemaking is submitted for publication in the *Federal Register*.** The Office of Advocacy would submit comments to agencies within 30 days, and each agency would have to consider these comments, make changes in the proposed rule based on those comments, or explain in a revised regulatory flexibility analysis why it chose not to change the proposed rule. The Office of Advocacy's pre-proposing comments would be published on the agencies' and its own websites.

RFA economic analysis should be expanded to include indirect costs along with direct costs. In addition, the next Administration should require other agencies to seek Advocacy's input. Currently, other agencies deny Advocacy the ability to enforce their duty to consider the effect of regulations on small entities by construing their regulations as not having significant economic impact, which would otherwise serve as a trigger for Advocacy's input. Congress should presumptively exempt small businesses from new agency rules to force agencies to seek Advocacy's input and permit new rules to apply to small businesses only with Advocacy signoff under specified criteria.

- **Increase the Office of Advocacy's budget by at least 50 percent (\$4.6 million).** This would allow Advocacy to hire approximately 25 attorneys, economists, and scientists and enhance its role in the regulatory process.
- **Explicitly direct federal agencies to comply with the RFA.** This would be similar to the approach adopted by President Trump in his January and February 2017 executive orders directing agencies to relieve the cost and burden of regulation on business.³⁷ Advocacy should organize regional roundtables, onsite small-business visits, and an online platform to hear directly from small businesses and entities as it did from June 2017 through September 2018.³⁸ This activity produced 26 letters to federal agencies and highlighted specific regulations that need reform and how Congress had addressed the most burdensome rules through the Congressional Review Act.³⁹

COVID-19 Lending Program Accountability and Cleanup. A major immediate priority for the next Administration should be a final accounting and accelerated cleanup of fraudulent COVID-19 loan and grant activity. As noted by the SBA IG, “managing COVID-19 stimulus lending is the greatest overall challenge facing SBA, and it may likely continue to be for many years as the agency grapples with fraud in the programs...”⁴⁰ The next Administration should:

- **Consider bringing in private-sector support and expertise to close out these programs.** Forgiveness and fraud must be dealt with as swiftly as possible, and law enforcement officials must pursue fraud vigorously. Entities receiving PPP loans that did not meet eligibility for forgiveness must be required to pay back the money.

For example, under the CARES Act,⁴¹ PPP loan applicants generally were eligible only if, together with all their affiliates, they had no more than 500 employees. Numerous Planned Parenthood affiliates self-certified eligibility for PPP loans during the initial wave of loans that were governed by the CARES Act’s size requirement. Many Senators and Representatives asserted that these Planned Parenthood organizations were ineligible because—considered together with their affiliates—they exceeded the maximum eligible size.⁴² The Trump Administration SBA notified several Planned Parenthood PPP recipients of its preliminary determination of their ineligibility and of SBA’s authority to take various actions against applicants that falsely certified their eligibility.⁴³

To date, despite continued oversight attempts by Members of Congress,⁴⁴ the SBA has taken no action on the Planned Parenthood loans other than to forgive them, and in 2021, it approved new PPP loans to Planned Parenthood affiliates.⁴⁵

- **Cooperate with ongoing congressional oversight efforts and determine whether SBA has authority to reverse the forgiveness decisions.** If it does have that authority, the SBA should reverse the forgiveness decisions for the subject loans, reiterate its preliminary determinations of ineligibility, investigate the matter more thoroughly, and take all appropriate action when its investigation concludes. Regardless of whether it reverses its forgiveness, if its investigation uncovers evidence that Planned Parenthood affiliates or any other loan recipients knowingly misrepresented their eligibility in their applications, the SBA should make appropriate referrals to the Department of Justice.

Disaster Loan Program and Direct Lending. The SBA's disaster loan program provides low-interest loans to personal, business, and nonprofit borrowers following a federally declared disaster. The program suffers from problems of coordination with Federal Emergency Management Administration (FEMA) disaster assistance. For example, disaster relief applicants have an incentive to avoid being approved for SBA disaster loans in order to increase the amount of FEMA assistance for which they are eligible. Moreover, the availability of disaster loans reduces individuals' incentives to purchase disaster-related insurance. More than 90 percent of SBA disaster loans are loans to individuals such as homeowners, not to small businesses.

In view of the challenges the SBA has experienced in its administration of this program, as well as the fraud and abuse in the EIDL COVID-19–related program and the IG's concern that the systemic problems within this lending program undermine the SBA's work, the next Administration should:

- **Work with Congress to assess the extent to which disaster loans should be offered by another agency rather than the SBA and explore private-sector channels for administering the loans.**
- **Specify clearly that no new direct lending programs will be developed at the SBA.**

Eligibility of Religious Entities for SBA Loans. Current SBA regulations⁴⁶ and SBA Form 1971⁴⁷ make certain religious entities ineligible to participate in several SBA loan programs. The Trump Administration proposed a rule that would remove the provisions on the ground that they violate the First Amendment.⁴⁸ Subsequent Supreme Court decisions have made their unconstitutionality clearer.⁴⁹

In an April 3, 2020, letter to Congress pursuant to 28 U.S. Code § 530D,⁵⁰ the Trump Administration SBA advised that two such provisions violate the Free Exercise Clause of the First Amendment and that it therefore would not enforce them. On January 19, 2021, the Trump Administration SBA proposed a rule to remove all of the unconstitutional religious exclusions from its regulations.⁵¹ The SBA has not acted on the proposed rule.

A similar religious exclusion once appeared in the regulation governing eligibility for SBA Business Loan Programs,⁵² but it was removed in a June 2022 final rule that noted tension with the First Amendment and Supreme Court precedent.⁵³ That final rule announced that the SBA would nonetheless continue to make religious eligibility determinations for business loan applicants to comply with putative Establishment Clause requirements,⁵⁴ but Supreme Court precedent and Office of Legal Counsel memoranda refute the notion that large government-backed loan programs raise any Establishment Clause concerns.⁵⁵

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The SBA uses the same “Religious Eligibility Worksheet,” SBA Form 1971, to make eligibility determinations for all affected programs, including the Business Loan Programs. Thus, the SBA continues to act as though the unconstitutional regulation were still in place, and there is no Establishment Clause basis for doing so. The next Administration should immediately:

- **Notify Congress under 28 U.S. Code § 530D that it will not enforce these unconstitutional regulations.**
- **Take down SBA Form 1971.**
- **Finalize the Trump Administration’s proposed rule or publish its own updated proposed rule to remove the unconstitutional regulations.**

Small Business Innovation Research and Small Business Technology Transfer Programs. The SBA “coordinates and monitors the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs for all federal agencies with extramural budgets for research or research and development (R/R&D) in excess of the expenditures established in sections 9(f) and 9(n) of the Small Business Act.”⁵⁶ The SBIR and STTR Extension Act of 2022 extended these programs from September 30, 2022, through September 30, 2025.⁵⁷

SBIR requires that 3.2 percent of spending by agencies with extramural R&D budgets of \$100 million or more must be directed to small businesses. STTR allocates 0.45 percent of federal research spending to small firms.⁵⁸ Research has shown that this small portion of federal R&D spending is disproportionately effective.⁵⁹ The SBIR program has consistently demonstrated its ability to fund advanced technologies through to private-market viability and invests more in America’s heartland than venture capital invests.⁶⁰

SBIR and STTR have overcome the tendency of federal contracting officers to deal only with large firms that are familiar to them and have the expertise and lobbying clout to navigate the federal procurement process. The next Administration should:

- **Continue the SBIR and SBTB programs as they successfully fund the next wave of technological innovation to compete with Big Tech.**
- **Urge Congress to expand the amount that other agencies are required to set aside from their general R&D budgets for the SBIR program.**
- **Ensure the enactment of stricter rules requiring that SBIR funds must be expended on capital investments in the United States.**

Domestic Manufacturing and Small Business. Small businesses in the manufacturing sector face shortfalls in access to capital.⁶¹ As manufacturing employment, domestic business investment, and non-information technology output have declined,⁶² expectations for market returns and the capital available to small manufacturing enterprises have diminished. This is especially true for capital-intensive sectors like transportation and energy that require large up-front investments and relatively lower-margin sectors like plastics, textiles, furniture, and agriculture. Yet these industries and others like them traditionally have been the backbone of American manufacturing employment. They also are sources of self-sufficiency and resilience at a time when global supply chains are increasingly uncertain.

The public policy problems that are caused by declining small manufacturing are especially acute when it comes to the production of advanced technologies. Other agencies and programs invest immense taxpayer resources in basic science and research. Over time, that research results in some breakthrough technologies, but when it is time to put these breakthroughs into practice by manufacturing goods and services, much of the necessary productive capacity is offshore.⁶³ For many technologies, the American economy lacks the capacity to “scale up” innovations that might not be immediately profitable. Instead, those technologies are put into practice abroad. In this way, foreign companies and foreign productive sites buy and implement taxpayer-funded American technologies.

The SBA's existing programs should be reformed to expand the private market for capital in small-manufacturer expansion. The next Administration should:

- **Ask Congress to make available a category of Section 7(a) loans with a larger available principal that is used to finance manufacturing facility construction and equipment upgrading.** The proposed SBA Reauthorization and Improvement Act of 2019, for example, would have increased the maximum loan principal to \$50 million for advanced manufacturing construction and upgrading.⁶⁴ The Section 7(a) loan program operates through private lenders and guarantees a portion of private-sector loans made to qualifying small businesses. The maximum principal available is \$5 million, but small businesses in capital-intensive sectors require significantly larger amounts of capital to finance up-front capital costs.
- **Reform the Small Business Investment Company (SBIC) program to refocus its support on small businesses rather than technology startups only.** The SBIC program operates through private venture capital and private equity funds by providing eligible funds with guaranteed debt financing to support investments in small businesses. However, the program

largely duplicates private-sector venture capital to the extent that the sector receiving much of its support is software and information technology, which already receive the lion's share of venture capital investment.⁶⁵

In addition, Congress should reform the SBIC program to make its financing more favorable to capital-intensive investments and small manufacturers. The Health, Economic Assistance, Liability Protection, and Schools (HEALS) Act, introduced in 2020,⁶⁶ and American Innovation and Manufacturing Act, introduced in 2021,⁶⁷ would allow SBIC to offer longer-term financing to manufacturers and make the program more fiscally sustainable.

Small-Business Size Standard Modernization. Many small-business programs both inside and outside the SBA use the SBA's definition of "small business." Under the Small Business Act, the SBA is tasked with defining what counts as a small business and ensuring that the definition varies from industry to industry to reflect differences in regular size by industry. However, the SBA's small-business size standards reflect a one-size-fits-all approach under which all businesses within its size standard are considered small businesses for all eligible purposes, from government contracting preferences to eligibility for SBA loans through private banks.

At the same time, the SBA is an outlier among competing economies in not considering medium-sized enterprises along with small businesses, often referred to collectively as small and medium-sized enterprises (SMEs). Medium-sized and regional businesses are increasingly critical to maintaining competition. The next Administration should:

- **Encourage Congress to create a "medium-sized business" classification with its eligibility for programs confined to access to capital programs from projects for which credit elsewhere does not exist.**

SBA POLICY PRIORITIES FOR 2025 AND BEYOND

Legislation. The new Administration can support SBA reform legislation proposed in Congress that aligns with key measures outlined in this chapter. It also can support legislative initiatives that would help SBA to focus on its core statutory activities such as capital access, federal contracting opportunities, and regulatory advocacy. For example:

- The IMPROVE the SBA Act⁶⁸ would strengthen accountability, transparency, and oversight of the SBA and aligns with many of the reforms outlined in this chapter.

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- The Small Business Regulatory Flexibility Improvements Act⁶⁹ would require federal agencies to perform more thorough RFA economic analysis and provide a rationale for proposed regulations. It also would waive fines for certain first-time paperwork violations.
- The Small Business Regulatory Enforcement Fairness Act⁷⁰ (SBREFA) panel process allows small businesses to provide input on agency rulemakings, gives participating small businesses greater procedural rights, and allows for judicial review of agency violations of the SBREFA panel process. SBREFA panel requirements should be extended to all federal agencies.
- The Fair and Open Competition Act⁷¹ would disallow the use of project labor agreements (PLAs) in federal contracting as required in President Biden's Executive Order 14063,⁷² which puts small businesses at a competitive disadvantage and works against the SBA's governmentwide contracting goal for small businesses.
- The JOBS Act 4.0⁷³ would advance regulatory improvements and modernization of various Securities and Exchange Commission (SEC) rules to enhance capital formation and access.

ORGANIZATIONAL ISSUES AND BUDGET

Administrator and Key Staff. The position of Administrator should not be considered a symbolic or messaging-related position as some past Administrations have viewed it. Rather, the Administrator should have the requisite experience, skills, and knowledge to ensure that the SBA fulfills its statutory authorities.

Because much of the SBA's statutory authority relates to financing and regulatory policy, and in order to make the SBA a more effective agency within the Administration, the Administrator and his or her key staff should have experience in small-business finance and investment and/or administrative law. For example, during the COVID-19 pandemic, the SBA was often forced to outsource key decisions and administrative follow-through to the Department of the Treasury. The SBA Administrator and leadership team must share the President's mission and vision and execute the Administration's policies effectively.

Budget

The next Administration should undertake a comprehensive review of the effectiveness of its various loan and grant programs and provide a report to Congress within six months. The report should rank programs by cost-effectiveness. In the interim, the roughly \$1 billion overall agency budget should be held constant until the report is considered, after which Congress should terminate

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ineffective programs, consolidate duplicative functions, and reallocate resources to more effective programs (such as the Office of Advocacy) or consider reducing the SBA budget.

Personnel Challenges

The SBA continues to expand programs and initiatives without first documenting the effectiveness of existing programs or whether they involve areas in which the agency lacks staff expertise. For example, the SBA wants to expand the number of licensed Small Business Lending Companies (SBLCs), implement a new “Mission-Based SBLC,” and remove a requirement for loan authorization within the 7(a) and 504 Loan programs and rely solely on a lender’s documents.

Various IG reports have noted that the lack of skilled employees within the SBA has fueled fraud and mismanagement in COVID-19 lending programs, and congressional leaders have expressed alarm about these “changes that haphazardly overextend the SBA’s responsibilities at a time when they are devastated by fraud and underperforming on their core mission of serving the nation’s 33 million small businesses.”⁷⁴ A conservative Administration should rein in these idealistic and impractical efforts, get current programs under control and properly staffed with people who can manage and perform competently, and outsource efforts where private-sector expertise is appropriate and more efficient.

AUTHOR’S NOTE: The preparation of this chapter was a collective enterprise of individuals involved in the 2025 Presidential Transition Project. All contributors to this chapter are listed at the front of this volume, but David Burton and Caleb Orr deserve special mention. The author alone assumes responsibility for the content of this chapter, and no views expressed herein should be attributed to any other individual.

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ENDNOTES

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