

## § 106.101

## 13 CFR Ch. I (1–1–10 Edition)

this part also apply to SBA's solicitation and acceptance of Gifts under certain sections (sections 4(g), 8(b)(1)(G), 5(b)(9) and 7(k)(2) of the Small Business Act (15 U.S.C. 631 *et seq.*), including Gifts of cash, property, services and subsistence. Under section 4(g) of the Small Business Act, Gifts may be solicited and accepted for marketing and outreach purposes including the cost of promotional items and wearing apparel.

### § 106.101 Definitions.

The following definitions apply to this part. Defined terms are capitalized wherever they appear.

(a) *Cosponsor* means an entity or individual designated in §106.201 that has signed a written Cosponsorship Agreement with SBA and who actively and substantially participates in planning and conducting an agreed upon Cosponsored Activity.

(b) *Cosponsored Activity* means an activity, event, project or initiative, designed to provide assistance for the benefit of small business as authorized by section 4(h) of the Small Business Act, which has been set forth in an approved written Cosponsorship Agreement. The Cosponsored Activity must be planned and conducted by SBA and one or more Cosponsors. Assistance for purposes of Cosponsored Activity does not include grant or any other form of financial assistance. A Participant Fee may be charged by SBA or another Cosponsor at any Cosponsored Activity.

(c) *Cosponsorship Agreement* means an approved written document (as outlined in §§106.203 and 106.204 which has been duly executed by SBA and one or more Cosponsors. The Cosponsorship Agreement shall contain the parties' respective rights, duties and responsibilities regarding implementation of the Cosponsored Activity.

(d) *Donor* means an individual or entity that provides a Gift, bequest or device (in cash or in-kind) to SBA.

(e) An *Eligible Entity* is a potential Cosponsor. An Eligible Entity must be a for-profit or not-for-profit entity, or a Federal, State or local government official or entity.

(f) *Fee Based SBA-Sponsored Activity Record* (Fee Based Record) means a written document, as outlined in

§106.302, describing a Fee Based SBA-Sponsored Activity and approved in writing pursuant to §106.303.

(g) *Fee Based SBA-Sponsored Activity* means an activity, event, project or initiative designed to provide assistance for the benefit of small business, as authorized by section 4(h) of the Small Business Act, at which SBA may charge a Participant Fee. Assistance for purposes of Fee Based SBA-Sponsored Activity does not include grant or any other form of financial assistance. A Fee Based SBA-Sponsored Activity must be planned, conducted, controlled and sponsored solely by SBA.

(h) *Gift* (including a bequest or a device) is the voluntary transfer to SBA of something of value without the Donor receiving legal consideration.

(i) *Non-Fee Based SBA-Sponsored Activity Record* (Non-Fee Based Record) means a written document describing a Non-Fee Based SBA-Sponsored Activity which has been approved pursuant to §106.403.

(j) *Non-Fee Based SBA-Sponsored Activity* means an activity, event, project or initiative designed to provide assistance directly to small business concerns as authorized by section 8(b)(1)(A) of the Small Business Act. Assistance for purposes of a Non-Fee Based SBA-Sponsored Activity does not include grant or any other form of financial assistance. A Non-Fee Based SBA-Sponsored Activity must be planned, conducted, controlled and sponsored solely by SBA. No fees including Participant Fees may be charged for a Non-Fee Based SBA-Sponsored Activity.

(k) *Participant Fee* means a minimal fee assessed against a person or entity that participates in a Cosponsored Activity or Fee Based SBA-Sponsored Activity and is used to cover the direct costs of such activity.

(l) *Responsible Program Official* is an SBA senior management official from the originating office who is accountable for the solicitation and/or acceptance of a Gift to the SBA; a Cosponsored Activity; a Fee Based SBA-Sponsored Activity; or a Non-Fee Based SBA-Sponsored Activity. If the originating office is a district or branch office, the Responsible Program Official is the district director or their deputy.

In headquarters, the Responsible Program Official is the management board member or their deputy with responsibility for the relevant program area.

### Subpart B—Cosponsored Activities

#### § 106.200 Cosponsored Activity.

The Administrator (or designee), after consultation with the General Counsel (or designee), may provide assistance for the benefit of small business through Cosponsored Activities pursuant to section 4(h) of the Small Business Act.

#### § 106.201 Who may be a Cosponsor?

(a) Except as specified in paragraph (b) of this section, SBA may enter into a Cosponsorship Agreement with an Eligible Entity as defined in § 106.101(e).

(b) SBA may not enter into a Cosponsorship Agreement with an Eligible Entity if the Administrator (or designee), after consultation with the General Counsel (or designee), determines that such agreement would create a conflict of interest.

#### § 106.202 What are the minimum requirements applicable to Cosponsored Activities?

While SBA may subject a Cosponsored Activity to additional requirements through internal policy, procedure and the Cosponsorship Agreement, the following requirements apply to all Cosponsored Activities:

(a) Cosponsored Activities must be set forth in a written Cosponsorship Agreement signed by the Administrator (or designee) and each Cosponsor;

(b) Appropriate recognition must be given to SBA and each Cosponsor but shall not constitute or imply an endorsement by SBA of any Cosponsor or any Cosponsor's products or services;

(c) Any printed or electronically generated material used to publicize or conduct the Cosponsored Activity, including any material which has been developed, prepared or acquired by a Cosponsor, must be approved in advance by the Responsible Program Official and must include a prominent disclaimer stating that the Cosponsored Activity does not constitute or imply an endorsement by SBA of any Cospon-

sor or the Cosponsor's products or services;

(d) No Cosponsor shall make a profit on any Cosponsored Activity. SBA grantees who earn program income on Cosponsored Activities must use that program income for the Cosponsored Activity;

(e) Participant Fee(s) charged for a Cosponsored Activity may not exceed the minimal amount needed to cover the anticipated direct costs of the Cosponsored Activity and must be liquidated prior to other sources of funding for the Cosponsored Activity. If SBA charges a Participant Fee, the collection of the Participant Fees is subject to internal SBA policies and procedures as well as applicable U.S. Treasury rules and guidelines;

(f) SBA may not provide a Cosponsor with lists of names and addresses of small business concerns compiled by SBA which are otherwise protected by law or policy from disclosure; and

(g) Written approval must be obtained as outlined in § 106.204.

#### § 106.203 What provisions must be set forth in a Cosponsorship Agreement?

While SBA may require additional provisions in the Cosponsorship Agreement through internal policy and procedure, the following provisions must be in all Cosponsorship Agreements:

(a) A written statement agreed to by each Cosponsor that they will abide by all of the provisions of the Cosponsorship Agreement, the requirements of this subpart as well as the applicable definitions in § 106.100;

(b) A narrative description of the Cosponsored Activity;

(c) A listing of SBA's and each Cosponsor's rights, duties and responsibilities with regard to the Cosponsored Activity;

(d) A proposed budget demonstrating:

(1) The type and source of financial contribution(s) (including but not limited to cash, in-kind, Gifts, and Participant Fees) that the SBA and each Cosponsor will make to the Cosponsored Activity; and

(2) A reasonable estimation of all anticipated expenses;

(e) A written statement that each Cosponsor agrees that they will not make