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Jennifer J. Johnson,

Secretary of the Board.

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## **SMALL BUSINESS ADMINISTRATION**

### **13 CFR Part 119**

**RIN 3245-AE52**

#### **PRIME Act Grants**

**AGENCY:** Small Business Administration.

**ACTION:** Final rule.

**SUMMARY:** This final rule adds new regulations to set up the Program for Investment in Microentrepreneurs Act ("PRIME" or "the Act"), created by Title VII of the Gramm-Leach-Bliley Act, enacted November 12, 1999. This rule sets forth the Act's grant requirements for qualified Microenterprise Development Organizations ("MDOs") to: train and provide technical assistance to disadvantaged microentrepreneurs; build MDO's capacity to give disadvantaged microentrepreneurs such training and technical assistance; research and develop best practices for training and technical assistance programs for disadvantaged microentrepreneurs, and perform such other activities as the Administrator or designee determines are consistent with the Act.

PRIME grants will enable MDOs to reach more disadvantaged microentrepreneurs with training and technical assistance, which will make a difference in their ability to start, grow, and sustain microenterprises in economically distressed, high unemployment areas. SBA will award a minimum of 75 percent of available funds to MDOs to use for training and technical assistance to disadvantaged microentrepreneurs. At a minimum, another 15 percent will be used to build MDOs' capacity to give more training and technical assistance. SBA will use the remaining funds to make grants for research and development on best practices or other purposes to improve MDOs' services to PRIME's ultimate beneficiaries—disadvantaged microentrepreneurs.

**DATES:** This rule is effective on June 28, 2001.

**FOR FURTHER INFORMATION CONTACT:** Jody Raskind, Chief, Microenterprise Development Branch, 202-205-6497.

**SUPPLEMENTARY INFORMATION:**

#### **Introduction**

Congress recognized that many disadvantaged microentrepreneurs lack sufficient training and education to gain access to capital and to conduct other activities necessary to establish, maintain, and expand their businesses. It enacted the Program for Investment in Microentrepreneurs Act ("PRIME" or "the Act") to augment training and technical assistance under the Small Business Act and other legislation. PRIME grants to qualified Microenterprise Development Organizations ("MDOs") will help meet training and technical assistance needs for disadvantaged microentrepreneurs, thereby encouraging entrepreneurship and capital formation at the community level.

The congressional mandate to provide cognitive support to the target market through the Act is recognition that many low income and very low-income entrepreneurs need training and technical assistance to start, operate, strengthen, or expand their businesses. In order to achieve measurable success, technical assistance providers must be accessible, consistent and committed to the entrepreneur's progress over extended periods of time. The competency and capacity of these providers must also be measured. Research into the outcomes of support, its long-term effect, and how best to continue assistance is essential in determining the value of support over the long run.

The U.S. Department of Commerce's Characteristics of Business Ownership shows that in 1987, approximately 17 percent (2.3 million) of businesses in the United States were operated by low-income and very low-income microentrepreneurs. Since then a variety of economic developments, including corporate downsizing, declining availability of lower skilled manufacturing jobs and expanded opportunities in the technology field, have combined to make microenterprise an increasingly more viable option in the U.S. economy.

The Aspen Institute estimated that during 1997 microlenders nationwide provided business assistance to 172,000 microentrepreneurs, a mere fraction of low- and very-low income individuals involved in microenterprise. The Institute further estimated that of that number, about 57,000 actively pursued and benefited from sustained business-based training and technical assistance. Of those, approximately 6,000 received loans.

One of the major constraints is the cost of providing this training and

technical assistance. Current private sector sources simply are not meeting the need. The Act, therefore, focuses on expanding the cultivation, support and motivation of these low- and very-low income microentrepreneurs. It will also help build the capacity of the microenterprise industry in order to deliver vital services to a much greater segment of the 2.3 million or more low income and very low income microentrepreneurs. One of the goals of the PRIME program is to be a resource for MDOs as they grow and develop and ultimately become self-sustaining.

The Act authorizes the U.S. Small Business Administration ("SBA") to make grants to "qualified organizations" to fund training and technical assistance for disadvantaged microentrepreneurs. It also authorizes SBA to make grants to increase the training and technical assistance capacities of MDOs. Further, it authorizes funding for grants for research and development, and other undertakings deemed by the Administrator or designee to be consistent with the purposes of the Act. The PRIME program requires that grants made by SBA be matched by grantees from non-Federal sources. These regulations set up four categories of Technical Assistance Grants targeted to these purposes.

Grants made either for the purpose of providing technical assistance to disadvantaged microentrepreneurs or for capacity building purposes initially will be awarded, on a competitive basis, in amounts not less than \$50,000. Such grants may be renewable, annually, for up to four additional years. Renewal of an existing grant will take place at the discretion of the SBA and will be based on the availability of funds and the individual grantee's performance in terms of goals met, milestones achieved, and demonstrated results.

Grants for research and development will also be awarded on a competitive basis, though not subject to a minimum award. These grants may also be renewed based on the appropriateness of extended funding periods, availability of funds, and appropriation and performance.

PRIME will be implemented with a clear focus on the applicants' abilities to meet the purposes of the Act.

Accountability and outcomes will be an ongoing consideration during the grant period. Applicants for funding for technical assistance to disadvantaged microentrepreneurs will be evaluated based on such items as technical capabilities; market penetration potential; ability to meet stated goals; historical performance; key personnel; resource management; community

partnering and collaboration with state and local entities; accountability for outcomes; program sustainability; and replicability of program design. Applicants for funding as capacity builders will be similarly evaluated. Continued performance of these two groups will be measured in terms of such items as number of clients served; range and quality of service; number of businesses started, stabilized, expanded, and/or funded; number of jobs created; business survival rates; capital formation; and non-business outcomes such as wage employment.

On October 10, 2000, SBA published the proposed rule for the PRIME program in the **Federal Register** (65 FR 60256). SBA received 13 timely comments in response to the proposed rule. What follows is a summary of the comments received and the actions taken in response to those comments.

### Review of Comments

SBA received 3 comments on § 119.2, which sets forth definitions found in the Act and further defines terms not included in the Act. Two of the commenters expressed an interest in having the definition of “training and technical assistance” clarified to convey that the examples of training and technical assistance which SBA included in the proposed rule are not conclusive. SBA adopted this comment by adding the language, “such as, but not limited to,” before the specific examples. One of the above mentioned commenters also requested that the definition of training and technical assistance include, “services which may address additional barriers to success that low and very low income entrepreneurs may face.” Although SBA can appreciate what this commenter is trying to accomplish with the recommended language, SBA has decided not to include such language until we can more clearly identify existing barriers. The PRIME program is a new initiative and the legislation enacting the program specifically defines “training and technical assistance.” As the program develops, and as we are able to more clearly identify barriers, SBA will consider expanding the definition of training and technical assistance in line with the statutory purpose of the PRIME program.

The third commenter on § 119.2 asked that the definition of “capacity building” be expanded to include purposes beyond an MDO’s ability to provide training and technical assistance to disadvantaged microentrepreneurs. As with the definition of training and technical

assistance, the definition of capacity building is clearly set forth in the Act enacting the PRIME program. SBA believes that the definition of capacity building, as it appears in the Act, accurately portrays the intent of Congress and the purposes of the PRIME program. Therefore, SBA does not feel that it would be appropriate to expand the purposes beyond those articulated by Congress. In addition, SBA deleted the definition of the term “emerging microenterprise development organization or program” based upon comments received on § 119.12, which are discussed in that part of this Supplementary Information.

SBA received 3 comments in response to proposed § 119.3, which lists organizations eligible to apply for PRIME grants. One commenter asked us to specify that Internal Revenue Service (IRS) classified organizations such as 501(c)(3)s are eligible to apply for PRIME grants. SBA does not feel this change is necessary. When addressing eligible organization within the rule for the PRIME program, SBA has not specified any IRS paragraph citations (e.g., 501, 509); rather, SBA simply articulates the statutory requirement that the eligible organizations be non-profits. Organizations such as 501(c)(3)s would satisfy the non-profit language used in the rule.

A second commenter on § 119.3 asked SBA to include specific language listing the local governments or agencies of local governments eligible for PRIME grants. SBA did not adopt this change because the Act authorizing PRIME specifically states that only non-profit entities are eligible organizations. The Act does allow for non-profit agencies to work, “in conjunction with” local governments or agencies of local governments however, eligible organizations themselves consist only of non-profits.

The final comment on § 119.3 asked for clarification that faith based organizations are eligible to apply for grant programs. SBA did not include any explicit language to that effect because there is no explicit statutory language disqualifying faith based organizations from participating in the program. SBA will need to review each faith based organization application to determine, on a case-by-case basis, whether there are any constitutional First Amendment issues presented.

SBA received four comments on § 119.4, which lists the uses for PRIME grants permitted by the Act. One commenter suggested that we revise the rule text to allow capacity building grants to go directly to MDOs for building their *own* capacity. SBA did

not adopt this change because it is unnecessary. The PRIME program already allows for grants for the purposes recommended by the commenter under the heading of “Technical Assistance Grants.” “Capacity Building Grants,” on the other hand, by statute, are awarded to MDOs for the benefit of building the capacity of *other* MDOs.

The remaining commenters on this section also asked SBA to make the definition of “training and technical assistance” more flexible. SBA fulfilled this request by amending the definition of training and technical assistance in § 119.2 to include the language, “such as, but not limited to” before the list of examples.

SBA received nine comments on § 119.5, which lays out the Act’s parameters for allocating and apportioning PRIME grant awards. All of the commenters expressed concern that this section appears to require that at least 50 percent of each grantee’s total award amount must serve “very low income” persons. SBA has amended the language of this section to clarify that because the PRIME program seeks to reach as many disadvantaged entrepreneurs as possible, the focus of § 119.5 is on the number and the quality of the grants reaching the disadvantaged entrepreneurs, not the amount of the grants. The section conveys that at least 50 percent of the total number of grants awarded under the PRIME program, as a whole, must serve “very low income” persons.

SBA did not receive any comments in response to proposed § 119.6, which stated that awards for training and technical assistance will not be less than \$50,000. However, SBA amended this section to conform with the change made to § 119.7 (How long and in what amounts will grant funding be available to a single grantee?)(See below). In this final rule, the minimum award for training and technical assistance and capacity building grants will be not less than \$50,000 during the initial year of the grant.

SBA received a total of 9 comments on § 119.7, which explains for how long and in what amounts grant funding will be available to a single grantee. All of the commenters were opposed to declining award amounts in the option years. SBA understands the commenters concerns however, we have maintained a “step down” approach to the award amounts for the option years. SBA believes that this step down approach will allow SBA to accommodate new grantees every year while providing existing grantees with enough funding to pursue their plans. Therefore, the

section provides that for Technical Assistance and Capacity Building Grants, after the initial grant, grant awards for following option years will be in amounts not to exceed 67 percent of the initial grant amount. SBA did not treat Research and Development Grants and Discretionary Grants similarly. SBA believes that these grants, by their very nature, require more flexibility. Often projects, such as research projects, are more unpredictable in terms of when milestones will be achieved and what direction the research will take upon attainment of each milestone. Therefore, for these types of grants, after making the initial grant, option year grant awards will be approved at SBA's discretion.

In addition, to address the concerns raised by these comments, SBA made two other changes to § 119.7. First, SBA modified the language of subsection (a) to clarify the discussion of option year funding. Secondly, SBA added a new subsection (d) to clarify that grantees in the final year of a project may request a one-time extension for up to 12 months under OMB Circular A-110, paragraph .25(e)(2). The purpose of this revision is to place grantees on notice that extensions may be requested under the PRIME Program.

SBA also made one other amendment to § 119.7 in an effort to clarify the language of the section. We have amended the heading to read, "How long and in what amounts will grant funding be available to a single grantee?" (Emphasis added). This heading more accurately describes the content of the text, which follows the heading.

SBA received only one comment on § 119.8, which sets forth the matching requirements for grantees. The commenter was concerned that a request for a waiver from the matching requirements would count against them. In an effort to confirm that this is not the case, SBA amended some of the language within paragraph (c) and (d) and added new paragraphs (e) and (f). SBA's intent within this section is to convey that a request for a waiver should be made sincerely and only when absolutely necessary. Obviously, SBA wants to avoid issuing unnecessary waivers in order to ensure that program funds will be utilized in the most far-reaching manner possible. SBA will first evaluate applications based on merit alone and will rank order these applications accordingly. Once SBA completes this ranking, we will review the applications for waiver requests and will grant waiver requests in the same rank order until waiver request authority has been expended. If, when

following the rank order, SBA comes to an application that requests a waiver but all waiver authority has already been granted, SBA has no option but to deny the waiver request and will therefore be forced to similarly deny the otherwise meritorious grant proposal. If such a situation occurs, such an applicant will not be able to suddenly turn around, come back to SBA stating that they have the required match amount and hope to receive a grant award. Accordingly, as we have stated, waiver requests should be made only when necessary.

SBA received two comments in response to § 119.10, which restates the Act's requirement that SBA not prefer SBA Microloan Program participants under § 7(m) of the Small Business Act over non-participants or former participants in that program. Both comments supported this position therefore, the section remains as it was proposed.

SBA received three comments in response to § 119.11, which sets forth the information that will be requested in an application for funding under PRIME. All three comments suggested that the application is too long. These comments do not affect the regulation text of this section however, SBA wants to remind potential applicants that the application contains both instructions and requests for information. Not every page of the application contains a request for information. Of course, as the PRIME program progresses, SBA will look for opportunities to streamline the application itself.

SBA received six comments on § 119.12, which sets forth the criteria that SBA will use to evaluate grant applications. All six commenters indicated that SBA did not give enough weight to the past experience of the qualified organizations delivering technical assistance to disadvantaged entrepreneurs. After receiving these comments (which came from almost 50 percent of the total number of commenters), SBA decided to increase the weight given to past experience. Since issuing the proposed rule, and upon review of comments, SBA more firmly believes that an organization's ability to accomplish the objectives of the PRIME program may best be demonstrated by its prior experience and success in serving disadvantaged entrepreneurs. Also, based on these comments, SBA decided to eliminate the provision in proposed § 119.12(a)(1). The proposed provision would require two separate competitions for Technical Assistance Grants. One competition for microenterprise development organizations that had been in operation for four years or less and one

competition for microenterprise development organizations that had been in operation for more than four years. SBA believes that the adjustments to the past experience weighting makes two competitions unnecessary.

SBA received a total of 5 comments on §§ 119.16, 119.17, both of which address the reporting, record keeping, and related requirements of the PRIME program. All of the commenters were opposed to the quarterly reporting requirement and two of the commenters felt that the information being requested was unrealistic or excessive. In drafting these sections, SBA had to take into account the requirements found within § 115 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act) (12 U.S.C. 4714) as required by the Act authorizing PRIME and the applicable circulars issued by the Office and Management and Budget (OMB). These directives, along with SBA's experience and the commenters' concerns, lead us to amend this section to allow for, in the case of Technical Assistance and Capacity Building Grants, quarterly reporting during the first two years. Thereafter, the grantees may request that SBA reduce the frequency of reports. For recipients of Research and Development Grants, reports will be required in accordance with agreed upon milestones. For Discretionary Grants, reports will be required as appropriate for the project, or on a schedule similar to that provided for Technical Assistance and Capacity Building Grant recipients.

**Compliance With Executive Order 12866, 12988 and 13132, the Regulatory Flexibility Act, 5 U.S.C. 601-12, and the Paperwork Reduction Act, 44 U.S.C. Ch. 35**

The Office of Management and Budget ("OMB") reviewed this rule as a "significant" regulatory action under Executive Order 12866.

SBA has determined that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612. Congress has limited the funding level for this program therefore, it can only affect a limited number of small businesses through making grants to specifically defined organizations.

The Office of Management and Budget (OMB) has approved the information collection requirements contained in part 119 under the provisions of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, and has assigned OMB control number 3245-0329. Information

collected includes application information submitted by applicants in response to the Program Announcements, as provided in §§ 119.9 and 119.11, and reporting, recordkeeping and related requirements related to a grant award, as provided in § 119.16. The required information will be used to evaluate applicants for PRIME grant awards and to monitor the financial and performance aspects of the awards once they are made. SBA estimates that it will take 80 hours to respond to the program announcements and to perform quarterly reporting and recordkeeping requirements. SBA estimates 500 applicants, resulting in an annual hour burden of 40,000 hours for the PRIME Program. SBA received only two comments on the proposed application packages suggesting that the applications were too long. SBA responded to these comments earlier in the preamble to this rule when addressing the comments made on § 119.11. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number associated with this collection information is 3245-0329.

For purposes of Executive Order 13132, SBA has determined that this final rule has no federalism implications because the legislation authorizing it provides grants to private, non-profit organizations working directly with disadvantaged entrepreneurs.

For purposes of Executive Order 12988, SBA certifies that this final rule is drafted, to the extent practicable, in accordance with the standards set forth in section 3 of that Order.

#### List of Subjects in 13 CFR Part 119

Grant programs—Business, Small business.

For the reasons stated in the preamble, SBA adds 13 CFR part 119, as follows:

#### PART 119—PROGRAM FOR INVESTMENT IN MICROENTREPRENEURS (“PRIME” OR “THE ACT”)

##### Sec.

- 119.1 What is the Program for Investment in Microentrepreneurs (“PRIME” or “the Act”)?
- 119.2 Definitions.
- 119.3 What types of organizations are eligible for PRIME grants?
- 119.4 What services or activities must PRIME grant funds be used for?
- 119.5 How are PRIME grant awards allocated?
- 119.6 What are the minimum and maximum amounts for an award?

- 119.7 How long and for what amounts will grant funding be available to a single grantee?
- 119.8 Are there matching requirements for grantees?
- 119.9 How will a qualified organization apply for PRIME grant awards?
- 119.10 Will SBA give preferential consideration to other SBA program participants?
- 119.11 What information will be requested in an application under the PRIME program?
- 119.12 What criteria will SBA use to evaluate applications for funding under the PRIME program?
- 119.13 How will an applicant make a subgrant?
- 119.14 Are there limitations regarding the use of program income?
- 119.15 If a grantee is unable to spend the entire amount allotted for a single fiscal year, can the funds be carried over to the next year?
- 119.16 What are the reporting, record keeping, and related requirements for grantees?
- 119.17 What types of oversight will SBA provide to grantees?
- 119.18 What are the restrictions against lobbying?
- 119.19 Is fundraising an allowable expense under the PRIME program?
- 119.20 Should grantees and subgrantees raise conflict of interest matters with SBA?

**Authority:** 15 U.S.C. 634(b)(6) and Pub. L. 106-102.

#### § 119.1 What is the Program for Investment in Microentrepreneurs (“PRIME” or “the Act”)?

PRIME authorizes SBA to make grants to “qualified organizations” to fund training and technical assistance for disadvantaged entrepreneurs, build these organizations’ own capacity to give training and technical assistance, fund research and development of “best practices” in microenterprise development and technical assistance programs for disadvantaged microentrepreneurs, and to fund other undertakings the Administrator or designee deems consistent with these purposes.

#### § 119.2 Definitions.

For the purposes of this part, the following definitions apply:

*Capacity Building Grant* means a grant made under the Act identified under § 119.4(b).

*Capacity building services* means services provided to an organization or program that is currently, or is developing as, a microenterprise development organization or program, for the purpose of enhancing its ability to provide training and technical assistance to disadvantaged microentrepreneurs.

*Collaborative* means two or more nonprofit entities that agree to act jointly as a qualified organization under this part.

*Developer* means a person interested in starting or acquiring a microenterprise.

*Disadvantaged entrepreneur*, or *disadvantaged microentrepreneur*, means the owner, majority owner, or developer, of a microenterprise who is also—

- (1) A low-income person;
- (2) A very low-income person; or
- (3) An entrepreneur who lacks adequate access to capital or other resources essential for business success, or is economically disadvantaged, as defined in this part.

*Discretionary Grant* means a grant made under the Act identified under § 119.4(d).

*Economically disadvantaged entrepreneur*, or *economically disadvantaged microentrepreneur*, means an owner, majority owner, or developer of a microenterprise whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the industry such that his or her ownership of a small business would help to qualify the small business for assistance under section 7(j) or section 8(a) programs of the Small Business Act.

*Grantee* means a recipient of a grant under the Act.

*Group* has the same meaning as “collaborative” as defined in this section.

*Indian tribe* means any Indian tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services the United States provides to Indians because of their status as Indians.

*Indian tribe jurisdiction* means Indian country, as defined in 18 U.S.C. 1151, and any other lands, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any tribe or individual subject to a restriction by the United States against alienation, and any land held by Alaska Native groups, regional corporations, and village corporations, as defined in or established under the Alaska Native Claims Settlement Act, public domain Indian allotments, and former Indian reservations in the State of Oklahoma.

*Intermediary* means a private, nonprofit entity serving or seeking to

serve microenterprise development organizations or programs identified under § 119.3.

*Large microenterprise development organization or program* means a microenterprise development organization or program with 10 or more full time employees or equivalents, including its executive director, as of the date it files its application with SBA for a PRIME grant.

*Local community* means an identifiable area and population constituting a political subdivision of a state.

*Low-income person* means a person having an income, adjusted for family size, of not more than—

(1) For metropolitan areas, 80 percent of the median income; and

(2) For non-metropolitan areas, the greater of—

(i) 80 percent of the area median income; or

(ii) 80 percent of the statewide non-metropolitan area median income.

*Microenterprise* means a sole proprietorship, partnership or corporation that—

(1) Has fewer than 5 employees, including the owner; and

(2) Generally lacks access to conventional loans, equity, or other banking services.

*Microenterprise development organization or program* means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged microentrepreneurs.

*Qualified organization* means an organization eligible for a PRIME grant identified under § 119.3.

*Research and Development Grant* means a grant made under the Act identified under § 119.4(c).

*Severe constraints on available sources of matching funds* means the documented inability of a qualified organization applying for a PRIME grant to raise matching funds or in-kind resources from non-Federal sources during the 2 years immediately prior to the date of its application because of a lack of or increased scarcity of monetary or in-kind resources from potential non-Federal sources.

*Small microenterprise development organization or program* means a microenterprise development organization or program with less than 10 full time employees or equivalents, including its executive director, as of the date it files its application with SBA for a PRIME grant.

*Technical Assistance Grant* means a grant made under the Act identified under § 119.4(a).

*Training and technical assistance* means services and support provided to disadvantaged entrepreneurs, such as, but not limited to, assistance intended to enhance business planning, marketing, management, financial management skills, business operations, or assistance for the purpose of increasing access to loans and other financial services.

*Very low-income person* means having an income adjusted for family size of not more than 150 percent of the poverty line, as defined in section 673(2) of the Community Services Block Grant Act, 42 U.S.C. 9902(2), including any revision required by that section.

#### **§ 119.3 What types of organizations are eligible for PRIME grants?**

An organization eligible for a PRIME grant ("qualified organization") is one that is:

(a) A microenterprise development organization or program as defined in § 119.2(q) (or a group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged microentrepreneurs;

(b) An intermediary, as defined in § 119.2(l);

(c) A microenterprise development organization or program as defined in § 119.2(q) that is accountable to a local community, working with a State or local government or Indian tribe; or

(d) An Indian tribe acting on its own, if the Indian tribe can certify that no private organization or program referred to in paragraphs (a), (b) and (c) of this section exists within its jurisdiction.

#### **§ 119.4 What services or activities must PRIME grant funds be used for?**

A recipient of a PRIME grant ("grantee") must use PRIME grants to—

(a) Provide training and technical assistance to disadvantaged microentrepreneurs ("Technical Assistance Grant");

(b) Provide training and capacity building services to microenterprise development organizations and programs to assist them to develop microenterprise training and services ("Capacity Building Grant");

(c) Aid in researching and developing the best practices in the field of microenterprise development and technical assistance programs for disadvantaged microentrepreneurs ("Research and Development Grant"); or

(d) Conduct such other activities as the Administrator or designee determines to be consistent with the purposes of the Act ("Discretionary Grant").

#### **§ 119.5 How are PRIME grant awards allocated?**

(a) At least 50 percent of the number of grant awards made under this part will be awarded to qualified organizations that benefit very low-income persons, including those residing on Indian reservations. In general, SBA will make grant award decisions to serve diverse populations by including as recipients both large and small microenterprise development organizations, and organizations serving urban, rural, and Indian tribal communities.

(b) SBA will allocate the funding available for awards as follows:

(1) A minimum of 75 percent for Technical Assistance Grants;

(2) A minimum of 15 percent for Capacity Building Grants; and

(3) The remaining 10 percent or less may be allocated by SBA, in its sole discretion to be used for:

(i) Research and Development Grants; or

(ii) Discretionary Grants.

#### **§ 119.6 What are the minimum and maximum amounts for an award?**

(a) The minimum grant award for Technical Assistance and Capacity Building Grants will be \$50,000 during the first year of the award, subject to the availability of funds.

(b) There is no minimum grant award for Research and Development or Discretionary Grants.

(c) The maximum amount that an individual grant recipient may receive in any fiscal year from a single award or multiple awards, under any of the purposes of the program, may not exceed \$250,000 or 10 percent of the total grant funds available for award in that fiscal year, whichever is less.

#### **§ 119.7 How long and in what amounts will grant funding be available to a single grantee?**

(a) Generally, the funding period for a PRIME grant will be one year. Subject to availability of funds and continuing authorization, funding may be available on an annual basis allowing for the initial grant plus up to four option years, for a project period of up to five years. Decisions regarding option year awards and the funding levels of these awards will depend upon availability of funding and the grantee's performance as measured against project objectives and milestones. A grantee that enters into a cooperative agreement must submit a separate application to have the support continued for each subsequent year. In all cases, continuation awards require a determination by SBA that continued

funding is in the best interest of the Federal government. Neither the approval of any application nor the entering into of any cooperative agreement commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any grantee.

(b) For Technical Assistance and Capacity Building Grants, after a grantee receives an initial grant, funding for any option year(s) must be no more than 67 percent of the initial grant amount.

(c) For Research and Development and Discretionary Grants, after a grantee receives an initial grant, funding for any option year(s) will be approved at the discretion of the SBA.

(d) In the final year of a project, grantees may apply to extend the expiration date of a grant if additional time beyond the established expiration date is required to assure adequate completion of the original scope of work within the funds already made available. For this purpose, the grantee may make an extension request for a one-time, no-cost extension, not to exceed 12 months, prior to the established expiration date. Written notification of such an extension, with the supporting reasons, must be received by the SBA Grant Officer at least 60 days prior to the expiration of the award. SBA reserves the right to disapprove the extension if the requirements set forth in OMB Circular A-110, paragraph .25(e)(2) are not met or if the extension is not in the best interests of SBA.

#### **§ 119.8 Are there matching requirements for grantees?**

Applicants and grantees must match SBA funding as follows:

(a) Except as provided in paragraph (c) of this section, applicants and grantees must match Federal assistance with funds from sources other than the Federal Government in an amount not less than 50 percent of the grant amount awarded each year. Sources such as fees, grants, gifts, income from loan sources, and in-kind resources of a grant recipient from non-Federal public or private sources may be used to comply with the matching funds requirement;

(b) Grantees receiving funds in option years as described in § 119.7(b) through (c) are subject to the matching requirements of this section.

(c) Applicants or grantees with severe constraints on available sources of matching funds may request that the Administrator or designee reduce or eliminate the matching requirements. Any reductions or eliminations must not exceed 10 percent of the aggregate

of all PRIME grant funds made available by SBA in any fiscal year. By requesting a waiver, the applicant is implying that, but for the waiver, the proposed programming will not be possible at the levels requested.

(d) An applicant may request a waiver of the matching fund requirement by submitting a written request with its application for funding. The request must justify, and evidence, the need for a waiver. As evidence, the request must include, but is not limited to:

(1) The cause and extent of the constraints on the historical and projected ability to raise matching funds as demonstrated by financial statements and letters of rejection from previous funders and potential new funding sources;

(2) Evidence of efforts to raise match specific to the subject application, including negative responses, and

(3) Based on those efforts, a list of any matching funds expected for the PRIME grant.

(e) Subject to § 119.12 (a) through (d), applications will be evaluated on merit before being matched with cost proposals. Any organization requesting a waiver of matching funds, therefore, will not be rejected solely on the basis of such a request.

(f) Applications will be ranked, within their respective categories, from the most to least qualified. The best qualified applicants in each category will be selected whether or not a waiver is requested until the availability of waivers is exhausted.

#### **§ 119.9 How will a qualified organization apply for PRIME grant awards?**

(a) SBA will issue Program Announcements specifying the terms, conditions, and evaluation criteria for each potential set of awards. Program Announcements will summarize the purpose of the available funds; will advise potential applicants regarding how to obtain an application packet; and will provide summary information regarding deadlines and other requirements. Program Announcements may specify any limitations, special rules, procedures, and restrictions for available funding.

(b) Applicants may submit applications in response to the Program Announcements. Each applicant shall submit an application for a grant in accordance with this part and the applicable Program Announcement.

(c) SBA reserves the right to consider at the same time multiple applications from a single applicant when appropriate.

#### **§ 119.10 Will SBA give preferential consideration to other SBA program participants?**

In making grants under this part, SBA will not give preferential consideration to an applicant that is a participant in programs established under section 7(m) of the Small Business Act.

#### **§ 119.11 What information will be requested in an application under the PRIME program?**

Each application must contain the information and documentation specified in the applicable Program Announcement including, but not limited to, the following items.

(a) For applications seeking Technical Assistance Grants:

(1) Identifying information and core documentation for the applicant including such items as the applicant's articles of incorporation, by-laws, proof of IRS tax-exempt status, financial statements, and reference contacts.

(2) A description of past and present activities and technical qualifications of the applicant, including workshops, programs and other technical assistance services, with specific descriptions of the extent to which such services have reached low and very low-income individuals, and the success rates of clients.

(3) A list of applicant's community partnerships and collaborations with state and local entities, and a description of how such partnerships and collaborations are serving microentrepreneurs.

(4) A description of the proposed activity for which the applicant will use PRIME grant funds, including training programming plans; a plan for outreach and delivery; applicant's capacity to provide thorough and detailed reports; and a description of the applicant's current data collection and management system, such as computer hardware, software and internet capabilities.

(5) In the event the applicant is a collaborative, a plan for maintaining internal controls, accountability, and program quality control among the participants of the collaborative.

(6) Resumes of the personnel that will be administering and managing the proposed activities under the PRIME grant, showing knowledge in such areas as business development, business structures, financial management, and business training and counseling.

(7) A list of grants received, and/or contracts entered into, that are similar in scope to the subject grant, including name of Federal or other agency providing funding, grant or contract number, and a summary of services provided.

(b) For applicants seeking Capacity Building Grants:

(1) See paragraphs (a)(1), (5), (6) and (7) of this section.

(2) A description of past and present activities and technical qualifications of the applicant, including workshops, programs, operational services, and other technical assistance services, or program development services with specific descriptions of the extent to which such services have improved the operations of client MDOs, assisted client MDOs with operational issues, and assisted client MDOs in reaching low and very low-income individuals.

(3) A description of the proposed activity for which the applicant will use PRIME grant funds, including training programming plans, a plan for outreach and delivery, applicant's capacity to provide thorough and detailed reports; a description of the applicant's current data collection and management system, such as computer hardware, software, and internet capabilities and a description of how these capabilities will or will not be integrated into the training of MDOs.

(c) For applicants seeking Research and Development Grants:

(1) See paragraphs (a)(1), (6), and (7) of this section.

(2) A research proposal indicating the thesis, method(s), scope, duration, and implementation plans (if any).

(3) A description of the expected effect of the research on services to disadvantaged microentrepreneurs.

(d) For applicants seeking

Discretionary Grants:

(1) See paragraph (a)(1) of this section.

(2) A description of the proposed activity for which the applicant will use PRIME grant funds, including applicant's capacity to provide thorough and detailed reports, and a description of the applicant's current data collection and management system, such as computer hardware, software and internet capabilities.

**§ 119.12 What criteria will SBA use to evaluate applications for funding under the PRIME program?**

During the first year for which funding is available for the PRIME program, SBA will give special consideration to organizations located in and serving areas of, or with a history of successful outreach to, low-income and very low-income persons, to enable the PRIME program to assist those with the greatest need first. SBA will evaluate applications for funding in accordance with the specific goals of the Act, and as more fully described in the Program Announcements. Evaluation criteria include, but are not limited to, the following:

(a) Applications for Technical Assistance Grants:

(1) Applicants will compete based on expertise and ability to fulfill the purposes of the Act.

(2) SBA will evaluate organizational structure, financial stability, financial management systems, personnel capacity, and electronic communication capabilities (or potential for same). SBA will also evaluate data collection capabilities, reporting capacities, and ability to account for performance and outcome.

(3) SBA will evaluate the applicant's history of providing technical assistance to low-income and very low-income microentrepreneurs. This factor includes patterns of program growth, client success, outcomes of training, success in establishing new businesses, and success in arranging micro-level financing when the client indicates financing as a goal.

(4) SBA will evaluate the applicant's ability to use community partnerships and collaborations with state and local entities to better serve low-income and very low-income microentrepreneurs.

(b) Applications for Capacity Building Grants:

(1) SBA will evaluate the criteria set forth in paragraph (a)(2) of this section.

(2) SBA will evaluate the applicant's history of providing capacity building services to MDOs, as an indication of the organization's understanding of the goals and purposes of capacity building, its historical effectiveness with the microenterprise development industry, and its ability to provide quality programming to the targeted market. SBA will evaluate patterns of program growth, outcomes of training, types of services provided, delivery systems used, the number and types of clients served, and the successes realized within the client's organizational goals.

(3) SBA will evaluate expected impact on client MDOs; expected impact on services to low-and very-low income microentrepreneurs; and a plan for service and delivery.

(c) Applications for Research and Development Grants:

(1) SBA will evaluate the criteria set forth in paragraph (a)(2) of this section.

(2) SBA will evaluate how the research potentially will enhance microenterprise-oriented technical assistance services to disadvantaged entrepreneurs. Applicants must show the method(s), scope, duration, and implementation plans of the proposed research.

(3) SBA will evaluate applicant's plan of action incorporating original and secondary research. Applicants must show impact on improved access to

microenterprise development services for disadvantaged microentrepreneurs, and the expected replicability/transferability of the finished product to the field.

(d) Applications for Discretionary Grants will be evaluated based on the goals and the viability of the project.

**§ 119.13 How will an applicant make a subgrant?**

(a) An applicant that wants to make subgrants using PRIME grant funds must receive written approval from SBA prior to making subgrants. The applicant must identify the subgrantee(s) and describe in detail what the subgrantee(s) will do to help the grantee implement its proposal. An applicant must submit information to SBA demonstrating that, through the subgrantee(s), the grantee's program will:

(1) Provide expanded services to the community,

(2) Provide a method by which one or more previously unserved communities will gain access to the program, or

(3) Provide other specific benefits to the clients, such as specialized training, expanded schedules of operation, or other benefits.

(b) If an applicant has identified potential subgrantee(s) at the time it submits an application for a PRIME grant, the applicant must include the information requested in paragraph (a) of this section in the application. Otherwise, the applicant or grantee may submit the requested information at such time that approvals for subgrantee(s) are requested.

(c) A grantee may not use more than 7.5 percent of the assistance received under its PRIME grant for administrative expenses in connection with the making of subgrants.

**§ 119.14 Are there limitations regarding the use of program income?**

Program income, as defined in OMB Circular A-110, may only be used to further PRIME program objectives. As such, fees collected from clients, and other program income as defined, may be used to help fund the matching requirement. All program income, as defined, shall be reported on financial reports submitted to SBA and added to funds committed to the project by SBA and the recipient organization. However, any interest earned in excess of the maximum allowable amount as specified in the OMB circular incorporated into the grant must be returned to the Federal Government by the grantee.

**§ 119.15 If a grantee is unable to spend the entire amount allotted for a single fiscal year, can the funds be carried over to the next year?**

(a) The grantee may request approval to use unexpended funds in the next budget period. This is permissible if funds are to be used for a non-severable, non-recurring project or activity within the scope of the PRIME program. Non-severable means a project in its entirety that cannot be subdivided. The request for using unexpended funds in the next budget period must include the following:

- (1) SF 424, budget pages, and justification;
- (2) Explanation of why the funds were not expended during the period in which they were awarded; and
- (3) Evidence of match. The match requirement for funds carried over to the next budget period can be met by using any excess of matching funds from the current budget period, new matching funds, or a combination of both.

(b) The request must be made no later than 60 days before the end of the budget/project period or the de-obligation process will begin. Approved requests will require the issuance of a revised Notice of Award. Expenditures for funds carried over to the next budget period must be tracked separately.

**§ 119.16 What are the reporting, record keeping, and related requirements for grantees?**

A grantee must keep records and meet the other requirements of section 115 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act), as if it were a community development financial institution. (See 12 U.S.C. 4714). In addition to meeting requirements of the Riegle Act, a grantee must also maintain data allowing it to measure the impact of services provided by it and any subgrantees, and, if specifically required by the terms of the PRIME grant, measure the success rate of individual clients whom the grantees assist. SBA will detail such requirements in its Program Announcements.

**§ 119.17 What types of oversight will SBA provide to grantees?**

(a) In addition to reports required under the Riegle Act, SBA will require reports in accordance with applicable OMB circulars. Such reports will include the following information:

- (1) For recipients of Technical Assistance and Capacity Building Grants, for the first two years of receiving grant funding, narrative performance reports and financial status reports will be required quarterly within

15 calendar days of the end of each quarter. Thereafter, grantees may request that SBA reduce the frequency of reports from quarterly to semi-annually. The frequency of reporting then will be determined at the discretion of SBA. In addition, details of expenditures will be required with each request for payment. Grantees will be required to submit audited financial statements on an annual basis, if available, or annual financial statements prepared by a licensed, independent public accountant, within 120 calendar days of the end of the grantee's fiscal year.

(2) For recipients of Research and Development Grants, reports will be required in accordance with agreed upon milestones and as part of the disbursement process.

(3) For recipients of Discretionary Grants, reports will be required as appropriate for the project, or on a schedule as described in paragraph(a)(1) of this section, whichever is more frequent.

(b) In addition, SBA may, from time to time, make site visits to the grantee, and review all applicable books and records.

**§ 119.18 What are the restrictions against lobbying?**

No assistance made available under the PRIME program may be expended by a grantee or subgrantee to pay any person to influence, or attempt to influence, any agency, elected official, officer, or employee of a Federal, State, or local government in connection with its participation in the program.

**§ 119.19 Is fundraising an allowable expense under the PRIME program?**

Expenditures of grant funds for fundraising activities are not allowable costs under this program. Applicants must be able to raise matching funds without the assistance of grant funds. Unless the full requirement for matching funds is waived, the applicant must demonstrate that it has adequate fundraising resources to obtain the required non-Federal matching funds to perform the project.

**§ 119.20 Should grantees and subgrantees raise conflict of interest matters with SBA?**

Each grantee or subgrantee must provide SBA with a copy of its conflicts of interest policies prior to receipt of funding under the program. Such policies must clearly describe the grantee's or subgrantee's protections from conflicts of interest or the appearance thereof in the handling of grant funding and program provision under this program.

Dated: May 21, 2001.

**John Whitmore,**

*Acting Administrator.*

[FR Doc. 01-13230 Filed 5-25-01; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

**[Airspace Docket No. 2001-ASW-05]**

**Revision of Class E Airspace, Bay City, TX**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This document confirms the effective date of a direct final rule which revises the Class E Airspace, Bay City, TX.

**EFFECTIVE DATE:** The direct final rule published at 66 FR 16118 is effective 0901 UTC, July 12, 2001.

**FOR FURTHER INFORMATION CONTACT:** Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193-0520, telephone: 817-222-5593.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the **Federal Register** on March 23, 2001, (66 FR 16118). The FAA uses the direct final rulemaking procedure for a noncontroversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 12, 2001. No adverse comments were received, and, thus, this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX on May 17, 2001.

**Robert N. Stevens,**

*Acting Manager, Air Traffic Division, Southwest Region.*

[FR Doc. 01-13308 Filed 5-25-01; 8:45 am]

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