

small business concerns. The property which may be transferred to the territory SASP or the Puerto Rico SASP for further transfer to eligible small business concerns includes all personal property which has become available for donation pursuant to 41 CFR 102-37.30.

(b) *Eligibility to receive Federal surplus personal property.* To be eligible to receive Federal surplus personal property, on the date of transfer a concern must:

- (1) Be a covered territory business or be located in Puerto Rico;
- (2) Qualify as small under the size standard corresponding to its primary NAICS code and certify its size in SAM.gov, or a successor system, prior to seeking access to surplus property. SASPs and GSA may rely on concern's certification as small for purposes of this program;
- (3) Not be debarred, suspended, or declared ineligible under Title 2 or Title 48 of the Code of Federal Regulations; and
- (4) Be engaged or expect to be engaged in business activities making the item useful to it.

(c) *Use of acquired surplus personal property.* (1) Eligible concerns may acquire surplus Federal personal property from their territory SASP or, for a Puerto Rico concern, the Puerto Rico SASP, provided the concern represents and agrees in writing:

- (i) As to what the intended use of the surplus personal property is to be;
- (ii) That it will use the property to be acquired in the normal conduct of its business activities or be liable for the fair rental value from the date of its receipt;
- (iii) That it will not sell or transfer the property to be acquired to any party other than the Federal Government as required by GSA and SASP requirements and guidelines;
- (iv) That, at its own expense, it will return the property to the SASP if directed to do so by SBA, including where the concern has not used the property as intended within one year of receipt;
- (v) That, should it breach its agreement not to sell or transfer the property, it will be liable to the Federal Government for the established fair

market value or the sale price, whichever is greater, of the property sold or transferred; and

(vi) That it will give GSA and SASPs access to inspect the property and all records pertaining to it.

(2) A concern receiving surplus personal property pursuant to this section assumes all liability associated with or stemming from the use of the property.

(d) *Costs.* Concerns acquiring surplus personal property from a SASP must pay a service fee to the SASP in accordance with 41 CFR 102-37.280. In no instance will any SASP charge a concern more for any service than their established fees charged to other transferees.

(e) *Title.* Upon execution of the SASP distribution document, the firm receiving the surplus personal property has only conditional title to the surplus personal property during the applicable period of restriction. Full title to the surplus personal property will vest in the donee only after the donee has met all of the requirements of this part.

[85 FR 69125, Nov. 2, 2020, as amended at 87 FR 50927, Aug. 19, 2022]

PART 130—SMALL BUSINESS DEVELOPMENT CENTERS

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AUTHORITY: 15 U.S.C. 634(b)(6), 648, and 648 note.

SOURCE: 60 FR 31056, June 13, 1995, unless otherwise noted.

§ 130.100 Introduction.

(a) *Objective.* The Small Business Development Centers (SBDC) Program creates a broad-based system of assistance for the small business community by linking the resources of Federal, state, tribal, and local governments with the resources of the educational community and the private sector. The Program provides small businesses and aspiring entrepreneurs with a wide array of technical assistance and support to strengthen performance and sustainability of existing small businesses, and to enable the creation of new business entities. The Small Business Administration (SBA or the Agency) articulates its responsibilities for the general management and oversight of the SBDC Program by means of a cooperative agreement with the recipient organization.

(b) *Adoption of amended references.* All references in this part to Standard Operating Procedures, SBA official policies and procedures, and award documents adopt all ensuing changes or amendments to such sources.

[88 FR 76639, Nov. 7, 2023]

§ 130.110 Definitions.

Accreditation process. An evaluation process to assist an SBDC with assessing its processes and outlining areas needing improvement by providing recommendations to strengthen delivery of services and assistance.

Applicant organization. A qualified eligible entity that applies for Federal financial assistance to establish, administer, and operate an SBDC network

under a new or renewed cooperative agreement.

Application. Also referred to as the proposal or the renewal application, the written submission by a new applicant organization or an existing recipient organization describing its projected SBDC activities for the upcoming budget period and requesting SBA funding for use in its operations.

Area of service. As designated in the cooperative agreement, the state or region in which an applicant organization proposes to provide services, or in which a recipient organization currently provides services.

Associate Administrator/Entrepreneurial Development (AA/ED). The individual who is appointed by the SBA Administrator to oversee the Office of Entrepreneurial Development (OED), where the SBDC Program is located.

Associate Administrator/Small Business Development Centers (AA/SBDC). The individual who is statutorily mandated to administer the SBDC Program.

Budget period. The 12-month period in which expenditure obligations are incurred by an SBDC network, coinciding with either the calendar year or the Federal fiscal year.

Cash match. Non-Federal funds budgeted and expended by the recipient organization and/or sponsoring SBDC organization for direct costs of the project. Cash match excludes indirect costs, overhead costs, in-kind contributions, and program income. See 2 CFR 200.306.

Clearinghouse. A source of market and industry information made available to all SBDC networks to assist clients and supports the exchange of information between SBDCs.

Client. A nascent entrepreneur or existing small business seeking services provided by the SBDC.

Cognizant agency. The Federal awarding agency that provides the predominant amount of direct funding to a recipient. See 29 CFR 99.105.

Cooperative agreement. A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302–6305:

(1) Is used to enter into a relationship the principal purpose of which is

to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal Government or pass-through entity's direct benefit or use.

(2) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

(3) The term does not include:

(i) A cooperative research and development agreement as defined in 15 U.S.C. 3710a; or

(ii) An agreement that provides only:

(A) Direct United States Government cash assistance to an individual;

(B) A subsidy;

(C) A loan;

(D) A loan guarantee; or

(E) Insurance.

(4) Is a negotiated legal agreement between SBA and a recipient organization containing the terms and conditions under which SBA provides Federal funds for the performance of SBDC activities.

Cosponsorship. A "Cosponsorship" as defined in and governed by §8(b)(1)(A) of the Act and SBA's Standard Operating Procedures.

Counseling. Qualifying technical or management assistance, as defined in the cooperative agreement, provided through the SBDC Program to clients on an individual basis, as established by policy.

Counseling record. A record that provides individual client contact information, demographics about the client/business and data on the counseling provided.

Direct costs. Expenditures that can be identified specifically with a final cost objective and are further defined in 2 CFR part 200.

Dispute. A programmatic or financial disagreement that the recipient organization requests be handled in accordance with the dispute resolution procedures set forth at §130.630.

District Office. The local SBA office, in collaboration with the OSBDC, is

charged with: ensuring that small business market needs are met by the SBDC; conducting the regularly scheduled compliance reviews; monitoring statements as required; and collaborating with the SBDC to perform joint events and trainings.

Grants and Cooperative Agreement Appeals Committee. The SBA committee, appointed by the SBA Administrator, which resolves appeals arising from financial Disputes between a recipient organization and SBA.

Grants Management Specialist. An SBA employee within the Office of SBDC, designated by the AA/SBDC, who meets the Office of Management and Budget (OMB) standards and certifications and is responsible for the budgetary review, award, and administration of one or more SBDC cooperative agreements.

In-kind contributions. Property, facilities, services, or other nonmonetary contributions from non-Federal sources. See 2 CFR part 215 (OMB Circular A-110) and part 143 of this chapter, as applicable.

Indirect costs. Costs generally incurred for a common or joint purpose. See 2 CFR part 220 (OMB Circular A-21), 225 (OMB Circular A-87), and/or 230 (OMB Circular A-122).

Insular areas. Territories include the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands. See 48 U.S.C. 1469a.

Key personnel. Principal staff of the Lead Center and SBDC service centers, including SBDC Lead Center Directors, SBDC Service Center Directors, or managers of International Trade Centers, Technology Program Centers, and directors of other SBDC specialty programs and any other leadership positions identified by the SBDC network.

Lead Center. The administrative office of the recipient organization that operates and manages an SBDC network.

Lobbying. "Lobbying" as described in 2 CFR parts 220 (OMB Circular A-21), 225 (OMB Circular A-87), and 230 (OMB Circular A-122) and Public Law 101-121, section 319, which discuss the limitations on use of appropriated funds to influence decisions of certain of Federal officials, including Members of

Congress, Federal contracting, and financial transactions.

Matching funds. The combined amounts of non-Federal cash and noncash resources proposed for the cooperative agreement or claimed to fulfill statutory match requirements.

Notice of funding opportunity. The annual solicitation that an applicant organization or recipient organization must respond to in its initial or renewal application.

Notice of non-renewal. A notice provided to an SBDC stating that the SBA will not renew the cooperative agreement with the current recipient organization.

Notice of suspension. A notice provided to an SBDC stating that the SBDC is under suspension.

Notice of termination. A notice provided to an SBDC stating that the SBDC is terminated.

Office of Small Business Development Centers (OSBDC). The SBA program office providing leadership and program oversight, managing the funding formula, program budget, and the establishment and maintenance of all program policy over the national SBDC network.

Overmatched amount. Contributions of non-Federal cash and of non-cash resources for authorized SBDC activities in excess of the statutorily required match.

Prior approval. The written concurrence from the appropriate SBA AA/SBDC, Deputy Associate Administrator for the Office of Small Business Development Centers, Grants Management Officer, Grants Management Specialist, or Program Manager for a proposed action or amendment to the SBDC cooperative agreement.

Program Announcement. SBA's annual publication of requirements which an applicant or recipient organization must address in its initial or renewal application.

Program funds. Also referred to as project funds and defined as all funds authorized under the cooperative agreement including, but not limited to, Federal funds, cash match, non-cash match from indirect costs, in-kind contributions, and program income revenues.

Program income. Gross income earned as a result of the Federal award during the period of performance, including funds received under a sponsorship agreement, as defined in 2 CFR 200.80.

Program Manager. An SBA employee designated by the AA/SBDC who oversees and monitors the SBDC network operations, including meeting the statutorily required programmatic reviews.

Program performance data. Any anonymous data or information that captures the outputs of the SBDC service center and outcomes of services provided to clients.

Project Officer. The individual who serves as the primary local contact for the SBDC, conducts regular compliance oversight as required by AA/SBDC, and works in conjunction with the Program Manager.

Project period. The total annual period of performance for an award made under the notice of funding opportunity.

Proposal. Also known as the application, the written submission by a new applicant organization or an existing recipient organization describing its projected SBDC activities for the upcoming budget period and requesting Federal funding for use in its operations.

Recipient organization. The selected applicant organization receiving Federal funding to deliver SBDC services under a cooperative agreement.

Recognized Organization. The organization whose members include a majority of SBDCs and which is recognized as an SBDC representative by SBA in accordance with §21(a)(3)(A) of the Small Business Act, 15 U.S.C. 648(a)(3)(A).

SBDC Director. The full-time senior manager designated by each recipient organization and approved by SBA.

SBDC Lead Center Director. Also referred to as the State/Region Director, an individual or position whose time is allocated to the SBDC grant program or other related small business grant programs that provide comparable management and technical assistance to the small business community in accordance with the cooperative agreement. For the purposes of meeting the Program requirements, no less than 75

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percent of the SBDC Lead Center Director's time and effort must be devoted specifically to the SBDC grant. The SBDC Lead Center Director has clear and complete control of all SBDC Program funds.

SBDC network. The Lead Center, SBDC service centers, and SBDC satellite locations funded and affiliated by sub-agreements and comprising a single service delivery network administered by a recipient organization.

SBDC satellite location. A geographic point of service delivery that operates on a full- or part-time basis under direct management of an SBDC Lead Center Director or SBDC Service Center Director.

SBDC service center. An entity operating full-time authorized by the Lead Center to perform SBDC counseling and training services. Any applicant commencing after January 1, 1992, establishing service centers within its area of service, to the extent practicable, should be primarily housed within institutions of higher education or a Women's Business Center (WBC) operating pursuant to section 29 of the Small Business Act (15 U.S.C. 656) as stated in section 21(a)(1) of the Small Business Act (15 U.S.C. 648(a)(1)).

SBDC Service Center Director. The individual responsible for SBDC Program implementation and management at an SBDC service center within an SBDC network.

SBDC service providers. SBDC network participants, including the Lead Center, subcenters (at times referred to as regional centers), satellite locations, and any other entity authorized by the recipient organization to perform SBDC services.

Specialized services. SBDC services other than counseling or training, *e.g.*, extensive research, hiring outside consultants for a client, translation services, etc.

Sponsoring SBDC organizations. Organizations or entities which establish one or more SBDC service providers as part of the SBDC network under a contract or agreement with the recipient organization.

Training. An educational activity or event presented by an SBDC that delivers a structured program of knowledge on an entrepreneurial or business-re-

lated subject, as established in the cooperative agreement.

Training record. A record that provides aggregate data about a training event to include training topic and program format.

[60 FR 31056, June 13, 1995, as amended at 88 FR 76639, Nov. 7, 2023]

§ 130.200 Eligible entities.

The following entities are eligible to operate an SBDC network:

(a) A public or private institution of higher education;

(b) A land-grant college or university;

(c) A college or school of business, engineering, commerce or agriculture;

(d) A community or junior college;

(e) A Women's Business Center operating pursuant to section 29 of the Small Business Act (15 U.S.C. 656);

(f) The Commonwealth of the Northern Mariana Islands SBDC must have its principal office located in the Commonwealth of the Northern Mariana Islands (CNMI) and must:

(1) Be a CNMI government or agency;

(2) Be a regional entity;

(3) Be a CNMI-chartered development, credit, or finance corporation;

(4) Be an institution of higher education (including but not limited to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community college or junior college);

(5) Be a current SBA Women's Business Center (WBC); or

(6) Be any entity formed by two or more of the entities in paragraphs (f)(1) through (5) of this section;

(g) Any entity which was operating as a recipient organization as of December 31, 1990; or

(h) Any entity operating continually as a recipient organization on or before December 31, 1990.

[60 FR 31056, June 13, 1995, as amended at 88 FR 76642, Nov. 7, 2023]

§ 130.300 Small Business Development Centers (SBDCs).

The Small Business Development Center Program is established under the statutory authority of the Small

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Business Act (15 U.S.C. 648) and administered through cooperative agreements issued to recipient organizations.

[88 FR 76642, Nov. 7, 2023]

§ 130.310 Area of service.

(a) The AA/SBDC will designate, in the cooperative agreement, the geographic area of service of each recipient organization. Generally, no more than one recipient organization may be located in a state.

(1) The AA/SBDC may determine that making awards to multiple recipient organizations in a state is necessary to more effectively implement the Program and provide services to all interested small businesses.

(2) Once the Administration has entered into a cooperative agreement, a subsequent decision to change the recipient organization's area of service will be considered a non-renewal or termination. This decision will be subject to the procedures outlined in § 130.700.

(b) The recipient organization must locate its Lead Center and SBDC service centers in the designated area of service to ensure that services are readily accessible to all small businesses within the designated area of service.

(c) Any applicant commencing after January 1, 1992, must ensure that any new SBDC service centers established within its area of service, to the extent practicable, are primarily housed within institutions of higher education or a WBC operating pursuant to section 29 of the Small Business Act (15 U.S.C. 656) as stated in section 21(a)(1) of the Small Business Act (15 U.S.C. 648(a)(1)).

(d) The allocation of resources, including site locations of the Lead Center and the SBDC service centers, will be reviewed for adequacy of coverage by SBA as part of the application review process for each budget period.

[88 FR 76642, Nov. 7, 2023]

§ 130.320 Operating requirements.

(a) The recipient organization has the contractual responsibility for performing the duties of the Lead Center in accordance with the cooperative agreement. The Lead Center must be an independent department within the

recipient organization, having its own staff, including a full-time SBDC Director.

(b) A Lead Center must provide administrative services and coordination for the SBDC network, including program development, program management, financial management, reports management, promotion and public relations, program assessment and evaluation, and internal quality control. The Lead Center must conduct and document annual financial and programmatic reviews and evaluations of its SBDC service centers consistent with § 130.820(a).

(c) The Lead Center's and SBDC service center's services will be available to the public throughout the year during the normal hours of the business community. In addition, every effort should be made to provide assistance, including during nonbusiness hours, both in-person and virtually, as appropriate, to meet local community business demands and needs. Variations from these schedules or other anticipated closures will be included in the new or annual renewal application. Emergency closures will be reported to the SBA District Office as soon as is feasible.

(d) The specific identification "Small Business Development Center" must be a part of the official name of every SBDC Lead Center and SBDC service center within the SBDC network, unless waived by the AA/SBDC.

(e) Any entity that is using the term "Small Business Development Center" and under contract with the Lead Center and receiving program funds, whether receiving Federal funding or not, is considered a part of the recipient organization's network and as such the recipient organization is required to report to the OSBDC each SBDC service center's performance as well as any funds or program income generated by the activities of that Service Center.

(f) Each SBDC must maintain a minimum number of export and trade certified counselors to assist clients develop export and international trade opportunities. The standard for establishing the number of counselors required to have this certification is based on the total number of full-time

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equivalent (FTE) counseling employees in an SBDC's network. The minimum number of certified counselors for an SBDC network is the *lesser* of:

(1) Five counselors; or

(2) Ten percent of the total number of FTE counselors in the network.

(g) The Lead Center and all its SBDC service centers must implement and have in effect at all times, a uniform and enforceable conflict of interest policy applicable to all SBDC employees, contractors, consultants, and volunteers and must be signed annually. At a minimum, this policy must be consistent with the conflict of interest principles set forth in 2 CFR 2701.112.

(h) The SBDC network will comply with 13 CFR parts 112, 113, 117, and 136 requiring that no person, on the grounds of race, color, handicap, marital status, national origin, race, religion, or gender, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the SBDC network.

[60 FR 31056, June 13, 1995. Redesignated and amended at 88 FR 76642, Nov. 7, 2023]

§ 130.330 SBDC services and restrictions on service.

(a) *Services.* The SBDC network, to the extent practicable, must provide prospective entrepreneurs and existing small businesses, known as clients, with counseling, access to training, and specialized services. The SBDC must create counseling records for clients when required by the cooperative agreement. The services provided must relate to the formation, financing, management, and operation of small business enterprises. The network must provide services that meet local needs as determined through periodic needs assessments, which are continually improved to keep pace with changing local small business needs. It is the responsibility of the recipient organization to change local SBDC service centers, as necessary, to meet the needs of the communities it serves in accordance with §§ 130.310 and 130.620. See section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(36)) for the full list of compulsory services. To the extent possible, SBDCs will work in collaboration with other Federal,

state, tribal, and local government programs that assist small businesses and will coordinate and cooperate, to the extent practicable, with other local public and private providers of small business assistance. An SBDC Lead Center should use and compensate qualified small business vendors as one of its resources.

(b) *Access to Capital.* (1) SBDCs must provide counseling services that increase a small business concern's access to capital, such as business plan development, financial statement preparation and analysis, and cash flow preparation and analysis.

(2) SBDCs may provide assistance and guidance with the necessary documentation required for applications for capital assistance; including assistance for SBA loan products and services, including small dollar loans, free of charge as stated in § 130.470.

(3) SBDCs should prepare their clients to represent themselves to lending institutions. SBDCs may attend meetings with lenders to assist clients in preparing financial packages; however, SBDCs may not attest to a client's readiness or creditworthiness to the lending institution either verbally or in writing.

(4) SBDCs may participate on boards and panels of financial institutions and with outside organizations but may not be involved in any final credit decisions involving SBDC clients or in making or servicing loans.

(5) With respect to SBA loan guaranty programs, SBDCs may accompany an applicant organization appearing before SBA or a lender but may not advocate for, promote, recommend approval or otherwise attempt in any manner to influence SBA or a lender to provide financial assistance to any of its clients.

(c) *Special emphasis initiatives.* Periodically, SBA may identify, and include in the cooperative agreement, portions of the general population to be targeted for assistance by SBDCs and specific focus areas including, but not limited to: base closure assistance; cybersecurity and preparedness; employee ownership program; and intellectual property protections. (Refer to current cooperative agreement.)

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(d) *Portable assistance.* The current cooperative agreement is a startup and sustainability non-matching program to be conducted by eligible SBDCs in communities that are economically challenged as a result of a business or government facility downsizing or closing, which has resulted in the loss of jobs or small business instability. The funds will be used for small business development center personnel expenses and related small business programs and services.

[60 FR 31056, June 13, 1995. Redesignated and amended at 88 FR 76642, 76643, Nov. 7, 2023]

§ 130.340 Specific program responsibilities.

(a) *Policy development.* The AA/SBDC will establish program policies and procedures to improve the delivery of services by SBDCs to the small business community, and to enhance compliance with applicable laws, regulations, OMB guidelines, and Executive orders. The AA/SBDC will, to the extent practicable, consult with the recognized association.

(b) *Program administration.* The AA/SBDC or designee will recommend the annual program budget, establish appropriate funding levels in compliance with the statute, and review the annual budgets submitted by each applicant. The AA/SBDC will also select applicants to participate in the Program, to maintain a clearinghouse to provide for the dissemination and exchange of information between SBDCs, and to conduct audits of recipients of SBDC grants.

(c) *Responsibilities of SBDC Lead Center Directors.* (1) The SBDC Lead Center Director must be an individual dedicating not less than 75 percent of their time to the supervision and control of the SBDC on behalf of the recipient organization. The position may not be held by a company or contractor.

(2) The SBDC Lead Center Director position must have direct reporting authority, at a minimum, equivalent to that of a college dean in a university setting or the third level of management or administration within a state agency.

(3) The Lead Center Director will direct and monitor program activities and financial affairs of the SBDC net-

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work to ensure effective delivery of services to the small business community, and compliance with applicable laws, regulations, 2 CFR part 200, and the terms and conditions of the cooperative agreement.

(4) The SBDC Lead Center Director must have the authority necessary to control all personnel, budgets, and expenditures under the cooperative agreement.

(5) The SBDC Lead Center Director will serve as the SBA's principal contact for all matters involving the SBDC network including, but not limited to, ensuring that state and local needs are addressed; financial and programmatic reporting are submitted; service centers are providing access to training; employees have experience necessary to conduct meaningful counseling; etc.

[88 FR 76643, Nov. 7, 2023]

§ 130.350 SBDC advisory boards.

(a) *State/Regional Advisory Boards.* (1) The Lead Center will establish an advisory board to advise, counsel, and confer with the SBDC Director on matters pertaining to the operation of the SBDC network.

(2) This advisory board will be referred to as a State SBDC Advisory Board in a state/territory having only one recipient organization, and a Regional SBDC Advisory Board in a state having more than one recipient organization.

(3) These advisory boards must include small business owners and other representatives from the entire area of service.

(4) New Lead Centers must establish a State or Regional SBDC Advisory Board by the beginning of the second project period.

(5) A State or Regional SBDC Advisory Board member may also be a member of the National SBDC Advisory Board.

(6) The reasonable cost of travel of any Board member for official Board activities may be paid out of the SBDC's budgeted funds. Federal and program funds are not to be used to compensate advisory board members for non-travel related expenses such as time and effort.

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(b) *National SBDC Advisory Board.* (1) The SBA will establish a National SBDC Advisory Board, appointed by the SBA Administrator, and comprised of members who are not Federal employees. The Board will elect a chairperson. Three members of the Board will be from universities, or their affiliates and the remainder will be from small businesses or associations representing small businesses. Board members will serve staggered three-year terms. The SBA Administrator may appoint successors to fill unexpired terms.

(2) The National SBDC Advisory Board shall advise and confer with SBA's AA/SBDCs on policy matters pertaining to the operation of the SBDC program. The Board shall meet with the AA/SBDCs at least semiannually.

(3) The reasonable cost of travel of any National SBDC Advisory Board member for official Board activities will be paid by SBA out of SBDC line-item program funds.

(4) Each member of the Board will be entitled to be reimbursed for expenses as a member of the Board.

(5) The Board will meet at least semiannually and at the call of the Chairman of the Board.

[60 FR 31056, June 13, 1995. Redesignated and amended at 88 FR 76642, 76643, Nov. 7, 2023]

§ 130.360 Selection of the SBDC Lead Center Director.

(a) *Selection.* Selection of an SBDC Lead Center Director must be accomplished in accordance with the guidelines set forth in the notice of funding opportunity and cooperative agreement.

(b) *Vacancy.* (1) The recipient organization must notify the appropriate SBA District Director (DD), Regional Administrator, and AA/SBDC within ten business days of either:

(i) Being notified by the incumbent SBDC Lead Center Director of their intent to vacate the position; or

(ii) Its formal decision to remove the incumbent SBDC Lead Center Director.

(2) If the position will be vacated prior to the selection of a replacement, the recipient organization must appoint an interim SBDC Lead Center Director, prior to the vacancy, who will

serve in that capacity until a permanent SBDC Lead Center Director is in position.

(3) The recipient organization must inform the SBA District Director, Regional Administrator, and the AA/SBDC within ten business days of the appointment of the interim SBDC Lead Center Director and provide that individual's contact information.

(4) An interim Lead Center Director must allocate at least 75 percent of their time and effort to the SBDC Program until a permanent SBDC Lead Center Director is in position. This must be documented in accordance with the policies of the recipient organization. An interim SBDC Lead Center Director must be knowledgeable about sponsored programs. The appointment period for such interim SBDC Lead Center Director will not exceed 120 days. Should more time be needed the recipient organization must obtain prior approval from the AA/SBDC for an extension.

[88 FR 76644, Nov. 7, 2023]

§ 130.370 Contracts with other Federal agencies.

(a) An SBDC Lead Center or SBDC service center organization may enter into a contract or grant with a Federal department or agency to provide specific assistance to small business concerns in accordance with paragraphs (b) and (c) of this section.

(b) Prior to bidding on a non-SBA Federal award or contract, the SBDC Lead Center or service center must obtain written consent from the AA/SBDC or designee regarding the subject and general scope of the award or contract to ensure that performance under the award or contract does not represent a conflict with the SBA's cooperative agreement. The AA/SBDC or designee shall respond to any written request within five business days.

(c) Federal funds from other Federal programs (except for certain Community Development Block Grant program funds) may not be counted as match for purposes of the SBDC Program. In addition, match expenditures

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reported to the SBA under the cooperative agreement may not be used or reported as match for another Federal program.

[88 FR 76644, Nov. 7, 2023]

§ 130.380 Client privacy.

(a) SBDCs, including their contractors and other agents, are not permitted to disclose the Client's name, address, email address, or telephone number, hereafter referred to as "client contact data," of individuals or small businesses that obtain any type of assistance from the Program to any person or entity other than the SBDC, without the consent of the client, except in instances where:

(1) Court orders require the SBA Administrator to do so in any civil or criminal enforcement action initiated by a Federal or state agency; or

(2) The Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a center, not including those required under §130.830, as determined on a case-by-case basis when formal requests are made by a Federal or state agency. Such formal requests must justify and document the need for individual client contact and/or program activity data to the satisfaction of the Administrator; or

(3) SBA requires client contact data to directly survey SBDC clients.

(b) SBDCs must provide an opportunity for a client to opt-in to allow the SBA to obtain client contact data. The SBA may use the permitted client contact data only to conduct surveys or studies that help stakeholders better understand how the services the client received affect their business outcomes over time. These surveys or studies would include, but not be limited to:

(1) Studying evaluation and performance management;

(2) Measuring the effect and economic or other impact of Agency programs;

(3) Assessing public and SBDC partner needs;

(4) Measuring customer satisfaction;

(5) Guiding program policy development;

(6) Improving grant-making processes; and

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(7) Other areas SBA determines would be valuable to strengthen the SBDC Programs and/or enhance support for SBDC clients.

(c) SBDCs may not deny access to services to clients solely based on their refusal to provide consent as referenced in this section.

(d) Any reports or studies on program activity produced by SBDC and/or the Administrator, including their contractors and other agents, may not disseminate client contact data and must only report data in the aggregate. Individual client contact data will not be disclosed in any way that could individually identify a client.

(e) SBDCs and the Administrator, including their contractors and other agents, must obtain consent from the client prior to publishing media or reports that identify an individual client.

(f) This section does not restrict the Agency in any way from access and use of program performance data.

[88 FR 76644, Nov. 7, 2023]

§ 130.400 Application procedures.

All SBDC applicants must comply with the annual notice of funding opportunity, including format, conditions, submission requirements, and due dates, for their new or renewal application to receive consideration.

[88 FR 76645, Nov. 7, 2023]

§ 130.410 New applications.

(a) *New applicants.* New applicants must comply with the requirements set forth in the applicable notice of funding opportunity, including format, conditions, and due dates for their applications to receive consideration.

(b) *Consideration.* Except in cases involving insular areas, only those applicants operating under §130.200 and incorporated solely within the state where the new SBDC is to be located will receive consideration.

(c) *Recruiting and selecting new recipient organizations.* (1) SBA will use a fair, open and competitive procurement process to solicit proposals for new SBDC Program awards.

(2) After completion of an objective review process, the AA/SBDC will make the final selection and notify the successful applicant.

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(3) The newly selected recipient organization may, with prior written approval from the SBA, incur qualified pre-award matching expenditures for the establishment of the Lead Center office, to recruit Lead Center staff, and to cover other related start-up expenditures to the extent permitted under 2 CFR 215.25(e)(1).

[88 FR 76645, Nov. 7, 2023]

§ 130.420 Renewal applications.

(a) The recipient organization will submit the renewal application to the OSBDC using the submission process outlined in the annual notice of funding opportunity.

(b) If the OSBDC chooses to not renew the award of an existing recipient organization or the recipient organization elects not to reapply, the OSBDC will award a cooperative agreement for the conduct of an SBDC project to a new recipient organization in the same area of service using a competitive process. If the OSBDC has initiated a non-renewal or termination action, the Agency will not issue the new award until all administrative remedies have been exhausted. For further information regarding the termination and non-renewal procedures, see § 130.700.

(c) Significant factors considered in the renewal application review will include:

(1) The applicant's ability to obtain matching funds;

(2) The quality of prior performance under the cooperative agreement as measured by client satisfaction rate;

(3) The results of any examination conducted pursuant to § 130.810(b);

(4) Corrective measures implemented as a result of examinations conducted; and

(5) The accreditation provisions of § 130.810(c) including any conditions, the most current accreditation report, and corrective measures implemented, affecting the recipient organization and the SBDC network.

(d) The OSBDC will review the renewal application for conformity with the notice of funding opportunity. The AA/SBDC may request additional infor-

mation and documentation prior to issuing the cooperative agreement.

[88 FR 76645, Nov. 7, 2023]

§ 130.430 Application decisions.

(a) New applications will either be accepted or rejected in accordance with the evaluation criteria set forth in the applicable notice of funding opportunity. The AA/SBDC may approve, or conditionally approve, or deny any new application. The AA/SBDC may approve or conditionally approve or deny a renewal application. The AA/SBDC may also reject a renewal application after following due process in accordance with the procedures set forth in § 130.700. If a renewal application is conditionally approved, the requirements that the recipient organization must meet in order to obtain full and unconditional approval, will be specified as special terms and conditions in the cooperative agreement.

(b) In the event of a conditional approval, the SBA may fund a recipient organization for one or more specified periods of time up to a maximum of one budget period. If the recipient organization fails to comply with the special terms and conditions of the award to the satisfaction of the AA/SBDC within the allotted time period, the AA/SBDC may suspend, non-renew, or terminate the cooperative agreement with the SBDC, in accordance with the procedures set forth in § 130.700.

[88 FR 76645, Nov. 7, 2023]

§ 130.440 Maximum grant.

(a) No recipient organization will receive an SBDC grant, in any fiscal year under a cooperative agreement, exceeding the greater of the minimum statutory amount, or its pro rata share of all SBDC grants as determined by the statutory formula set forth in section 21(a)(4)(C) of the Small Business Act (15 U.S.C. 648(a)(4)(C)). This limit does not apply to the distribution of supplemental funds, or to grants provided pursuant to sections 21(a)(4)(C)(viii) and 21(a)(6) of the Small Business Act (15 U.S.C. 648(a)(6)).

(b) Additional grants are subject to the limitations set forth in section

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21(a)(6) of the Small Business Act unless the statute providing for the additional grant states otherwise.

[88 FR 76645, Nov. 7, 2023]

§ 130.450 Matching funds.

(a) The recipient organization must provide total Matching Funds equal to the total amount of SBA funding. Cash match must be equal to or greater than 50 percent of the SBA funds used by the SBDC. The remaining match required to equal the one-to-one match requirement may be provided through any allowable combination of additional cash, in-kind contributions or indirect costs.

(b) All sources of Matching Funds must be identified as specifically as possible in the budget proposal. Cash sources shall be identified by name and account. Any additional SBA requirements, specifications, or deliverables must be clearly identified in the budget narrative. If a political entity is providing such cash and the funds have not been appropriated prior to issuance of the cooperative agreement, the recipient organization must certify that sufficient funds will be available from the political entity prior to the use of Federal dollars.

(c) Under the authority of 48 U.S.C. 1469a(d), the AA/SBDC may, at his/her discretion, waive any requirement of matching funds for an insular territory otherwise required by law to be provided. Notwithstanding any other provision of law, in the case of American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, any department or agency shall waive any requirements for local matching funds under \$200,000, including in-kind contributions, required by law to be provided by American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(d) All applicants must submit a certification of cash match and program income. This certification must be executed by an authorized official of the recipient organization and must identify any SBDC service center organization(s) providing cash match under a subcontract or other agreement.

(e) In addition to the Federal and program income funds, all matching

funds must be under the direct management of either the SBDC Lead Center Director or an SBDC Service Center Director, when budgeted under an SBDC service center organization. If in-kind contributions are utilized by the SBDC, the State Director or an SBDC Service Center Director is then considered to be in control of those contributions.

(f) The Grants Management Specialist will determine whether matching funds and cash match set forth in the budget proposal are sufficient to issue the cooperative agreement.

(g) Recipient organizations are not required but encouraged to identify overmatched amounts as part of the cooperative agreement. Overmatching expenditures are those which are derived from eligible matching sources; are reasonable, allowable, and allocable to the SBDC program; are over and above the minimum match required to the Federal expenditures; and are included on the required SBDC financial reporting to SBA for the project period.

(1) Recipient organizations are encouraged to identify overmatched amounts as part of the cooperative agreement. The recipient organization must fully identify the amount and sources of claimed overmatched amounts. If overmatched amounts are reported, they are subject to the provisions of the cooperative agreement and SBA biennial programmatic and financial examinations.

(2) An overmatched amount can be applied as matching funds for any funding increase (*i.e.*, supplemental funds) received by the SBDC during the budget period, as long as the total cash match contributed by the SBDC is 50 percent or more of the total SBA funds tendered during the budget period and provided that the total match is still 100 percent.

(3) Allowable overmatched amounts which have not been used in the manner described in this section may, with the approval of the AA/SBDC, be used as a credit to offset any confirmed audit disallowances applicable only to the budget period in which the overmatched amount exists and the two

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previous budget periods. Such offsetting funds will be considered matching funds.

(h) The following sources cannot be used as matching funds for the SBDC network:

- (1) Uncompensated student labor;
- (2) SCORE, SBA, Women's Business Centers, or other SBA resource partners;
- (3) Program income or fees collected from individuals or small businesses receiving assistance;
- (4) Federal funds other than Community Development Block Grant (CDBG) funds;
- (5) In-kind contributions, or indirect costs not solely dedicated to the SBDC Program, or under its control;
- (6) Any resource allocated and claimed as a matching cost to another federally funded program; or
- (7) Funds or other resources provided for an agreed upon scope of work inconsistent with the authorized activities of the SBDC Program.

[60 FR 31056, June 13, 1995, as amended at 88 FR 76645, Nov. 7, 2023]

§ 130.460 Budget justification.

(a) *General.* The SBDC Lead Center Director, as a part of the annual renewal proposal, or the applicant organization's authorized representative, in the case of a new SBDC application, shall prepare and submit to the SBA Project Officer the budget justification for the upcoming budget period. The budget will be reviewed annually upon submission of a renewal application.

(b) *Direct costs.* At least 80 percent of SBA funding must be allocated to the direct cost of program delivery.

(c) *Indirect costs.* If the applicant organization or recipient organization waives all indirect costs, then 100 percent of SBA funding must be allocated to program delivery. If the reimbursements of some, but not all, indirect costs are waived to meet the matching funds requirement, the lesser of the following may be allocated as reimbursed indirect costs of the Program and charged against the Federal contribution:

- (1) Twenty percent of Federal contribution; or
- (2) The amount remaining after the waived portion of indirect costs is de-

ducted from the total indirect costs allowed by the SBA.

(d) *Separate SBDC service provider budgets.* The applicant organization shall include separate budgets for all SBDC service providers in conformity with 2 CFR part 220, appendix A. Applicable direct cost categories and indirect cost base/rate agreements will be included for the Lead Center and all SBDC service providers, using a rate equal to or less than the negotiated predetermined rate. If no such rate exists, the sponsoring SBDC organization or SBDC service provider will negotiate a rate with its cognizant agency. In the event the sponsoring SBDC organization or SBDC service provider does not have a cognizant agency, the rate shall be, in accordance with OMB guidelines:

- (1) Negotiated with the SBA Project Officer; or
- (2) Apply the OMB de minimis rate.

(e) *Cost principles.* Principles for determining allowable costs are contained in 2 CFR part 200, subpart E.

(f) *Salaries.* (1) Where the recipient organization is an educational institution, the salaries of the SBDC Lead Center Director and the SBDC Service Center Director at a minimum must approximate the average annualized salary of a full professor and an assistant professor, respectively, in the school or department in which the SBDC is located. If a recipient organization is not an educational institution, the salaries of the SBDC Lead Center Director and the subcenter Directors must approximate the average salaries of parallel positions within the recipient organization. In both cases, the recipient organization should consider the Director's longevity in the Program, the number of subcenters, the size of the SBDC budget, the number of service centers, and the individual's experience and background when determining the salary.

(2) Salaries for Lead Center Directors should be comparable to salaries paid Lead Center Directors in other states or regions with comparably sized programs, responsibilities, and authority.

(3) Salaries for all other positions within the SBDC should be based upon

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level of responsibility and be comparable to salaries for similar positions in the area served by the SBDC.

(g) *Equipment.* In accordance with 2 CFR part 200, capital expenditures for equipment must have the prior approval of the Program Manager of the OSBDC, either through a specific disclosure in an annual cost proposal or through an approved amendment to an existing cooperative agreement.

(h) *Travel.* (1) All travel must be separately identified in the proposed budget under the categories of: planned in-state/region, planned out-of-state/region, unanticipated in-state/region, or unanticipated out-of-state/region. Unplanned travel estimates may be based on the SBDC's experience.

(2) Transportation costs must be justified in writing, including the estimated cost, number of persons traveling, and the benefit to be derived by the small business community from the proposed travel.

(3) Any proposed unplanned out-of-state/region travel exceeding the approved amount budgeted for this category must be submitted to the SBA for approval on a case-by-case basis prior to traveling.

(4) All foreign travel requests must be submitted to the appropriate District Director and the SBDC Program Manager for review and provided to the AA/SBDC for final approval in accordance with the notice of funding opportunity. Foreign travel charged to the SBDC cooperative agreement or performed by SBDC staff, while on duty for the recipient organization, must be approved in advance.

(i) Planned foreign travel costs allocable to the SBDC cooperative agreement for SBDC network staff may be approved by AA/SBDC through the annual proposal process, but such planned costs must be fully disclosed and justified in the budget narrative for Agency review. Prior approval should be obtained from the AA/SBDC prior to travel in accordance with 2 CFR part 200.

(ii) Unanticipated foreign travel must be approved using the process set forth in this paragraph (h).

[88 FR 76646, Nov. 7, 2023]

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§ 130.465 Restricted and prohibited costs.

(a) SBA prohibitions are consistent with those outlined in 2 CFR part 200.

(b) An SBDC must not use project funds as collateral for a loan or other such monetary purpose.

(c) An SBDC must not use project funds for memorabilia, gifts, prizes, souvenirs, entertainment, alcoholic beverages, amusement, social activities, or any other such costs.

(d) Prior written approval from the AA/SBDC is need for SBDC project funds to be used for the purpose of fundraising activities and costs. SBDCs may include in initial applications and renewal applications proposed fundraising activities. After issuance of an approved cooperative agreement, an SBDC wishing to seek prior approval for new fundraising activities not already approved should follow the prior approval guidance in the cooperative agreement. Prohibited fundraising activities include, but are not limited to:

(1) Costs of organized fundraising, endowment drives;

(2) Financial or capital campaigns; or

(3) Solicitation of gifts and bequests.

(e) Project funds found to be used in violation of the restrictions in this section may be cause for termination, suspension, or non-renewal of the cooperative agreement.

[88 FR 76647, Nov. 7, 2023]

§ 130.470 Fees.

(a) An SBDC may charge clients a reasonable fee to cover the costs of training (sponsored or cosponsored) by the SBDC, the sale of books, the rental of equipment or space, research work, hiring outside consultants for a particular client, or other specialized services.

(b) SBDC network entities, staff, consultants, or volunteers must not solicit or accept fees or other compensation for counseling services, including, but not limited to, business or marketing plan development, loan packaging or credit application assistance, or other advisory services described in section 21 of the Small Business Act.

[88 FR 76647, Nov. 7, 2023]

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§ 130.480 Program income.

(a) Program income and interest earned on program income, may only be used for authorized purposes, in accordance with 2 CFR 200.307 and the cooperative agreement, such as to expand the quantity or quality of services, resources or outreach provided by the SBDC network.

(b) Program income may not be reported or used as a matching resource. Unused program income must be carried over to the subsequent budget period by the SBDC network; however, the aggregate amount of network program income cannot exceed 25 percent of the total SBDC budget (Federal and matching expenditures).

(c) Program income exceeding 25 percent of the total approved SBDC budget must be expended by the SBDC network prior to the end of the budget/project period in which the excess occurs.

(d) The Lead Center must report the consolidated program income sources and uses as an attachment to the financial status report for the SBDC network during the budget period. The SBDC must provide a narrative describing how program income was used to further program objectives.

[88 FR 76647, Nov. 7, 2023]

§ 130.490 Property standard.

See 2 CFR part 200, subpart D.

[88 FR 76647, Nov. 7, 2023]

§ 130.500 Funding.

See 2 CFR 200.305.

[88 FR 76647, Nov. 7, 2023]

§ 130.600 Cooperative agreement.

(a) *Cooperative agreement provisions.* A recipient organization will incorporate into its SBDC sub-agreements and contracts the provisions of the cooperative agreement.

(b) *Sub-agreements.* SBA reserves the right to disapprove any sub-agreement entered into by recipient organizations with SBDC service center organizations, vendors, or contractors.

(c) *Goals and milestones.* (1) The AA/SBDC or designee will develop performance measurements for SBDC networks and include provisions for their

achievement in the cooperative agreement.

(2) The AA/SBDC or designee will negotiate with the designated association and Lead Center to establish the annual goals, milestones, and activities for the cooperative agreement.

(3) Failure to meet the goals and milestones of the cooperative agreement may be considered in part of the determination for suspension, termination, or non-renewal in accordance with the dispute resolution procedures set forth in § 130.630.

(4) Agency loan goals may not be negotiated or incorporated into the cooperative agreement without the prior written approval of the AA/SBDC.

(d) *Procurement policies and procedures.* (1) Contracts and sub-agreements supported with funds provided under the cooperative agreement must comply with the procurement procedures of the recipient organization.

(2) Contracting procedures must encourage open competition among qualified vendors and promote the effective, efficient, and responsible use of program resources and OMB guidance.

(3) Contracting procedures should provide for domestic sourcing preferences to the greatest extent practicable, showing preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States.

[88 FR 76647, Nov. 7, 2023]

§ 130.610 General terms.

Upon approval of the initial or renewal application, SBA will enter into a cooperative agreement with the recipient organization, setting forth the programmatic and fiscal responsibilities of the recipient organization and SBA, the scope of the project to be funded, and the budget of the program year covered by the cooperative agreement.

[60 FR 31056, June 13, 1995, as amended at 88 FR 76647, Nov. 7, 2023]

§ 130.620 Revisions and amendments to cooperative agreements.

(a) *Requests for revisions.* The cooperative agreement may not be unilaterally amended, modified, or revised by the

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recipient organization. Rather, a recipient organization must submit a written request to AA/SBDC along with a copy to the appropriate District Office when it wants to make one or more revisions to the cooperative agreement. Written approval from the AA/SBDC is required prior to the implementation of a proposed revision. Revisions that require amendment of the cooperative agreement include:

(1) Any change in project scope or objectives that will substantially change outcomes described in the cooperative agreement;

(2) Budget revisions exceeding the limit established in the cooperative agreement; and

(3) Any proposed sole-source or one-bid contracts exceeding the limits established by applicable administrative regulations or OMB.

(b) *Emergency authorizations.* (1) In consultation with the Recognized Organization, the AA/SBDC may amend one or more cooperative agreements to authorize unanticipated out-of-state travel by SBDC personnel responding to a need for services in a presidentially or SBA Administrator declared major disaster area. Notification of this type of authorization will be accomplished through the publication of an SBA Notice in the FEDERAL REGISTER.

(2) Proposed and actual travel costs incurred under an emergency authorization must comply with the requirements of §130.460(h), as well as the relevant notice of funding opportunity and OMB guidelines.

(c) *Supplemental funding.* If supplemental funds are available for distribution, SBA will publish a notice of funding opportunity in consultation with the Recognized Organization.

[88 FR 76647, Nov. 7, 2023]

§ 130.630 Dispute resolution procedures.

(a) *Financial disputes.* (1) A recipient organization wishing to resolve a financial dispute must submit a written statement to the appropriate Grants Management Officer with copies to the Project Officer describing the subject of the dispute, along with any relevant documentation. The Grants Management Officer will respond in writing to the recipient organization within 30

calendar days of receipt of the descriptive statement.

(2) If the recipient organization receives an unfavorable decision from the SBA, it may file an appeal with the AA/SBDC within 30 calendar days of the date of receipt of the unfavorable decision.

(3) The AA/SBDC may request additional information or documentation from the recipient organization at any stage of the proceedings. The response to the request for additional information must be provided in writing to the AA/SBDC within 15 calendar days of receipt of the request. The AA/SBDC will transmit a written decision to the recipient organization within 15 calendar days of receipt of the appeal or within 15 calendar days of receipt of additional information requested.

(4) If the recipient organization receives an unfavorable decision from the AA/SBDC, it may make a final appeal to the SBA Grants and cooperative agreements Appeals Committee (the “Committee”). The final appeal to the Committee must be filed within 30 calendar days of the date of receipt of the AA/SBDC’s written decision. Copies of the appeal must also be sent to the Grants Management Specialist and the Program Manager. If the recipient organization elects not to file an appeal with the Committee, the decision of the AA/SBDC becomes the final Agency decision on the matter.

(5) A recipient organization may request a hearing before the Committee, but such requests will not be granted, unless material facts are substantially in dispute. Legal briefs and other technical forms of pleading are not required. However, appeals to the Committee must be in writing and contain at least the following information and supporting documentation:

(i) Name and address of the recipient organization;

(ii) Name and address of the appropriate SBA District Office(s);

(iii) A copy of the underlying cooperative agreement, including all amendments;

(iv) A statement of the grounds for appeal, with reasons why the appeal should be sustained;

(v) A statement of the specific relief desired on appeal; and

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(vi) If a hearing is requested, a statement of the material facts the recipient organization believes are substantially in dispute. In the event a recipient organization fails to provide any of the information specified in paragraphs (a)(5)(i) through (v) of this section, the Committee may dismiss the appeal.

(6) The Committee may request additional information or documentation from the recipient organization at any stage in the proceedings. The recipient organization's response to the Committee must be submitted, in writing, within 15 calendar days of receipt of the request.

(7) If a request for a hearing is granted, the Committee will provide the recipient organization with written instructions and will afford the parties the opportunity to present their respective positions to the Committee.

(8) The Chairperson of the Committee, with the advice of the SBA's Office of General Counsel (OGC), will issue a final written decision within 30 calendar days of receipt of all information or within 30 calendar days of the completion of the hearing. Copies of the decision will be provided to the recipient organization, the AA/SBDC, the Grants Management Specialist, and the SBA Project Officer.

(9) Where a recipient organization's appeal to the Committee commences or is pending within 120 days of the end of the current budget period, the recipient organization has the right to request, in writing, that the matter be handled under an expedited appeal process. In such circumstances, the Committee, by an affirmative vote of its membership, may expedite the appeals process to attain final resolution of a dispute before the anticipated issuance date of a new cooperative agreement.

(b) *Programmatic (non-financial) disputes.* (1) The SBDC Lead Center and the SBA District Office must make every effort to resolve any disputes that arise between the SBDC network and SBA involving non-financial, programmatic issues. If the recipient organization is not satisfied with the resolution, it may, by written request to the AA/SBDC, seek reconsideration of the programmatic dispute within 30 calendar days. When a recipient organi-

zation requests reconsideration of a programmatic dispute, the appropriate Program Manager will forward a written summary of the dispute, including comments from the SBDC Lead Center Director, the SBA District Office, and all other pertinent background information to the AA/SBDC within 15 calendar days of SBA's receipt of the request.

(2) The AA/SBDC will transmit a final, written decision to the recipient organization, the Lead Center Director, the SBA Project Officer, and the SBA District Office within 30 calendar days of the receipt of such documentation, unless the recipient organization agrees to an extension of time.

[88 FR 76648, Nov. 7, 2023]

§ 130.700 Suspension, termination, and non-renewal.

(a) *General.* After entering into a cooperative agreement with a recipient organization, the SBA may take, as it determines appropriate, any of the following actions based upon one or more of the circumstances listed in paragraph (b) of this section.

(1) *Non-renewal.* The AA/SBDC may elect not to renew a cooperative agreement with a recipient organization at any point. In undertaking a non-renewal action, the AA/SBDC may either choose not to accept or consider any application for renewal from the recipient organization or the Agency may choose not to exercise option years remaining under the cooperative agreement. When a cooperative agreement is not renewed, the recipient organization may continue to conduct project activities and incur allowable expenses until the end of the current budget period. If a recipient organization decides to not seek to renew its grant, it must notify the District Office and send a letter of intent to withdraw to the AA/SBDC as soon as it is feasible.

(2) *Suspension.* (i) The AA/SBDC may suspend a cooperative agreement with a recipient organization at any point. A decision to suspend a cooperative agreement is effective immediately. The suspension of a recipient organization begins on the date the notice of suspension is issued, and the period of suspension will last no longer than six

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months. At the end of the period of suspension or at any point during that period, the AA/SBDC will either reinstate the cooperative agreement or commence an action for termination or non-renewal.

(ii) The notice of suspension will recommend that the recipient organization cease work on the project immediately. The SBA is under no obligation to reimburse any expenses incurred by a recipient organization while its cooperative agreement is under suspension. Where AA/SBDC decides to lift a suspension and reinstate a recipient organization's cooperative agreement, the Agency may, at its discretion, choose to reimburse a recipient organization for some or all of the expenses it incurred in furtherance of project objectives during the period of suspension. However, there is no guarantee that the Agency will elect to accept such expenses, and recipient organizations incurring expenses while under suspension do so at their own risk.

(b) *Cause.* The AA/SBDC may terminate, elect not to renew, or suspend a cooperative agreement with a recipient organization for cause. The cause may include, but is not limited to the following:

- (1) Non-performance;
- (2) Poor performance;
- (3) Unwillingness or inability to implement changes to improve performance;
- (4) Disregard or material violation of regulations;
- (5) Willful or material failure to comply with the terms of the cooperative agreement, including relevant OMB Circulars;
- (6) Conduct of the SBDC Lead Center Director or other key personnel, reflecting a lack of business integrity or honesty, which is not properly addressed on the part of the recipient organization or sponsoring SBDC organizations;
- (7) A conflict of interest on the part of the recipient organization, the SBDC service centers, the SBDC Lead Center Director, other key personnel, contractors or volunteers that causes a real or perceived detriment to a small business concern, a contractor, the SBDC

network, including but not limited to, SBDC service centers, or SBA;

- (8) Improper use of Federal funds;
 - (9) Failure of a Lead Center or its service centers to consent to audits, examinations, certification reviews, or to maintain required documents or records;
 - (10) Failure to implement recommendations from the audits or examinations within one year of notification of deficiencies;
 - (11) Failure to implement conditions from accreditation reviews within the time frame recommended by the accreditation committee and established by the AA/SBDC;
 - (12) Failure of the SBDC Lead Center Director to work at the SBDC Lead Center on a full-time basis;
 - (13) Failure to promptly suspend or terminate the employment of an SBDC Lead Center Director, Service Center Director, or other key personnel, contractors, or volunteers upon receipt of knowledge or written information by the recipient organization and/or SBA indicating that such individual has engaged in conduct which may result or has resulted in a criminal conviction or civil judgment that would cause the public to question the SBDC's integrity. The SBDC Lead Center Director (or other appropriate official in the SBDC network), when making the decision to suspend or terminate such an employee, must consider the magnitude of the behavior, the repetitiveness of the conduct, and the remoteness in time of the behavior underlying any conviction or judgment;
 - (14) Failure to maintain adequate client service facilities or service hours; and
 - (15) Any other action that materially and adversely affects the operation or integrity of an SBDC or the SBDC Program.
- (c) *Administrative procedure for suspension, termination, and nonrenewal.* These procedures apply to termination, non-renewal, and suspension of cooperative agreements with recipient organizations.
- (1) *Taking action.* When the Program Manager has reason to believe that there is cause to suspend, terminate, or non-renew a cooperative agreement with a recipient organization, either

based on their own knowledge or upon information provided by other parties, the AA/SBDC may undertake an enforcement action by issuing a written notice of suspension, termination, or non-renewal to the recipient organization. The effects of such notice are addressed in paragraph (a) of this section.

(2) *Notice requirements.* Each notice of suspension, termination, or non-renewal will set forth the specific facts and reasons for the AA/SBDC's decision and will include reference to the appropriate legal authority. The notice will also advise the recipient organization that it has the right to request an administrative review of the decision to suspend, terminate, or non-renew its cooperative agreement in accordance with the procedures set forth in paragraph (d) of this section. The notice will be transmitted electronically, via email, to the recipient organization on the same date it is issued by mail.

(3) *Relationship to Government-wide suspension and debarment.* A decision by the AA/SBDC to suspend, terminate, or not renew an SBDC cooperative agreement does not constitute a non-procurement suspension or debarment of a recipient organization under Executive Order 12549, *Debarment and Suspension*, and SBA's implementation of OMB regulations at 2 CFR part 2700. However, a decision by the AA/SBDC to undertake a suspension, termination, or non-renewal enforcement action with regard to a particular SBDC cooperative agreement does not preclude or preempt the Agency from also taking action to suspend or debar a recipient organization for purposes of all Federal procurement and/or non-procurement opportunities.

(d) *Administrative review of suspension, termination and nonrenewal actions.* When the AA/SBDC has suspended, terminated, or elected not to renew a cooperative agreement, the recipient organization has the right to request an administrative review of the enforcement action. Administrative review of the AA/SBDC's enforcement actions will be conducted by the Associate Administrator for Entrepreneurial Development (AA/ED).

(1) *Format.* There is no prescribed format for a request for an administrative review of an SBA enforcement action.

While a recipient organization has the right to retain legal counsel to represent its interests in connection with an administrative review, it is under no obligation to do so. Formal briefs and other technical forms of pleading are not required. However, a request for an administrative review of an SBA enforcement action must be in writing, should be concise and logically arranged, and must at a minimum include the following information:

(i) Name and address of the recipient organization;

(ii) Identification of the relevant SBA office/program (*i.e.*, Office of Small Business Development Centers/ Small Business Development Center Program);

(iii) Cooperative agreement number;

(iv) Copy of the notice of suspension, termination, or non-renewal;

(v) Statement discussing why the recipient organization believes the SBA's actions were arbitrary, capricious, an abuse of discretion, and/or otherwise not in accordance with the law or governing regulations;

(vi) Identification of the specific relief being sought (*e.g.*, lifting of the suspension);

(vii) Statement as to whether the recipient organization is requesting a hearing, and if so, the reasons why it believes a hearing is necessary; and

(viii) Copies of any documents or other evidence the recipient organization believes support its position.

(2) *Service.* Any recipient organization requesting an administrative review of an SBA enforcement action must submit copies of its request (including any attachments) to:

(i) AA/SBDC; and

(ii) the Associate General Counsel for Procurement Law.

(3) *Timeliness.* To be considered timely, the AA/ED must receive a request for an administrative review from the recipient organization within 30 days of the date of the notice of termination, non-renewal, or suspension. Any request for administrative review received by the AA/ED more than 30 days after the date of the notice of suspension, termination, or non-renewal will be considered untimely and will be rejected without being considered.

(i) In addition, if the AA/ED does not receive a request for an administrative review within the 30-day deadline, then the decision by the AA/SBDC to suspend, terminate, or non-renew a recipient organization's cooperative agreement will become the final Agency decision on the matter.

(ii) [Reserved]

(4) *Standard of review.* In order to have the suspension, termination, or non-renewal of a cooperative agreement reversed on an administrative review, a recipient organization must successfully demonstrate that the SBA enforcement action was arbitrary, capricious, an abuse of discretion, and/or otherwise not in accordance with the law or governing regulations.

(5) *Conduct of the proceeding.* Each party must serve the opposing party with copies of all requests, arguments, evidence, and any other filings it submits pursuant to the administrative review. Within 30 days of the AA/ED receiving a request for an administrative review, the AA/ED must also receive the SBA's arguments and evidence in defense of its decision to suspend, terminate, or non-renew a recipient organization's cooperative agreement. If the SBA fails to provide its arguments and evidence in a timely manner, the administrative review will be conducted solely on the basis of the information provided by the recipient organization. After receiving the SBA's response to the request for an administrative review or after the passage of the 30-day deadline for filing such a response, the AA/ED will take one or more of the following actions, as applicable:

(i) Notify the parties whether the AA/ED has decided to grant a request for a hearing.

(ii) Direct the parties to submit further arguments and/or evidence on any issues, that she/he believes require clarification.

(iii) Notify the parties that the AA/ED has declared the record to be closed and therefore will refuse to admit any further evidence or argument.

(iv) Within ten calendar days of declaring the record to be closed, provide all parties with a copy of the AA/ED's written decision on the merits of the administrative review.

(6) *Request for hearing.* The AA/ED will only grant a request for a hearing if she/he concludes that there is a genuine dispute as to a material fact that cannot be resolved except by the taking of testimony and the confrontation of witnesses. If the AA/ED grants a request for a hearing, they will set the time and place for the hearing, determine whether the hearing will be conducted in person, via telephone or virtually, and identify which witnesses will be permitted to give testimony.

(7) *Evidence.* The recipient organization and SBA each have the right to submit whatever evidence they believe is relevant to the matter in dispute. No form of evidence will be permitted unless a party has made a substantial showing, based upon credible evidence and not mere allegation, that the other party has acted in bad faith or engaged in improper behavior.

(8) *Decision.* The decision of the AA/ED will be effective immediately as of the date it is issued. The decision of the AA/ED will represent the final Agency decision on all matters in dispute on administrative review. No further relief may be sought from or granted by the Agency. If the AA/ED determines that the SBA's decision to suspend, terminate, or non-renew a cooperative agreement was arbitrary, capricious, an abuse of discretion, and/or otherwise not in accordance with the law, she/he will reverse the Agency's enforcement action and direct the SBA to reinstate the recipient organization's cooperative agreement.

(i) Where an enforcement action has been reversed on administrative review, the SBA will have no more than ten calendar days to implement the AA/ED's decision. However, to the extent permitted under the applicable OMB Circulars, the SBA reserves the right to impose such special conditions in the recipient organization's cooperative agreement as it deems necessary to protect the Government's interests.

(ii) [Reserved]

[88 FR 76648, Nov. 7, 2023]

§ 130.800 Oversight of the SBDC Program.

(a) The AA/SBDC and designees will monitor the SBDC's performance and

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its ongoing operations under the cooperative agreement to determine if the SBDC is making effective and efficient use of program funds for the benefit of the small business community.

(b) The District Office is the primary contact for the coordination of the delivery of services to the small businesses in each area of service.

(c) The AA/SBDC may change the primary contact for coordination at any time and will notify the recipient organization of such a change in a timely manner.

[88 FR 76650, Nov. 7, 2023]

§ 130.810 SBA review authority.

(a) *Site visits.* The AA/SBDC and designees will coordinate with, and provide written advance notice to, the SBDC Lead Center Director when conducting periodic programmatic visits to the recipient organization, Lead Center, SBDC service center organizations, and other service locations.

(1) The programmatic reviews will incorporate District Office oversight which will include conducting yearly reviews.

(2) Site visits may be incorporated into oversight and monitoring activities of the SBA program office or the SBA District Office.

(b) *SBA examinations.* The SBA designees shall perform a biennial programmatic and financial examination of each SBDC network. The purpose of these visits is to verify compliance with the cooperative agreement, analyze, assess, and evaluate performance management regarding its SBDC activities, and if necessary, make recommendations for improved service delivery. See 15 U.S.C. 648(k)(1).

(c) *Accreditation program.* (1) When extending or renewing a cooperative agreement of an SBDC, SBA shall consider the results of the examinations and accreditation reviews. See 15 U.S.C. 648(k)(3)(A).

(i) The Small Business Act provides that the Administration may provide financial support, by contract or otherwise, to the association for the purpose of developing a SBDCs accreditation program. See 15 U.S.C. 648(k)(2).

(ii) SBDC networks must be reviewed for accreditation purposes and receive accreditation periodically, as nego-

tiated between the AA/SBDC and the accreditation committee of the recognized association.

(iii) If an SBDC does not receive accreditation, the SBA may initiate the non-renewal or termination procedure pursuant to §130.700.

(iv) The statute at 15 U.S.C. 648(k)(3)(B) states the SBA may not renew or extend any cooperative agreement with a SBDC unless the center has been approved under the accreditation program conducted pursuant to this section, except that the AA/SBDC may waive such accreditation requirement, at their discretion, upon a showing that the center is making a good faith effort to obtain accreditation.

(2) The AA/SBDC and/or designee will participate in the deliberations of the accreditation committee.

(d) *Audits.* The examinations by the SBA will not serve as a substitute for audits required of Federal recipients under the Single Audit Act of 1984 (31 U.S.C. 7501) or applicable OMB guidelines (see 2 CFR part 200, subpart F) nor will such internal review substitute for investigations conducted by the SBA Office of Inspector General under the authority of the Inspector General Act of 1978 (Pub. L. 95-452, 92 Stat. 1101) as amended (see §130.830).

[88 FR 76650, Nov. 7, 2023]

§ 130.820 Records and recordkeeping.

(a) *Records.* (1) The recipient organization will ensure that all financial and programmatic records, whether prepared by itself or another entity, are adequately maintained in accordance with Federal regulations in order to corroborate its performance and financial reports to the SBA, as well as to support SBA examinations or other audits. These records must include adequate documentation to support the expenditures claimed and activities performed under the cooperative agreement. The documentation should provide the means to verify proper separation of costs among various Federal awards and non-Federal spending. See also 2 CFR 200.333 through 200.337.

(2) The recipient organization will ensure complete and accurate detailed financial and programmatic documentation by all SBDC service center organizations and service centers. The

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recipient organization will monitor and oversee its SBDC service center organizations and SBDC service centers each budget period to ensure compliance with the OMB guidelines and regulations. See 2 CFR part 200, subpart D.

(i) The recipient organization and Lead Center will ensure that:

(A) All funds received throughout the SBDC network, both Federal and non-Federal, including program income, are properly accounted for, adequately safeguarded, accurately reported, and properly used to further program objectives.

(B) Each SBDC service center organization has reviewed all charges made to its SBDC accounts, including program income, to ensure that they are allowable.

(ii) The recipient organization's Lead Center monitoring and oversight activities must include annual on-site or virtual visits to all its SBDC service center organizations.

(A) These review procedures must ensure that SBDCs are in compliance with the terms and conditions of the cooperative agreement.

(B) The Lead Center will document the results of annual reviews of the financial and program records of its SBDC service center organizations.

(C) An in-person monitoring review must be conducted the same year that there is a change in leadership or a record of problems in that year and must be conducted not less than every 4 years.

(3) The recipient organization must keep records on the amount, source, and purpose of all funding under the overall management of the SBDC network, including Federal programs.

(b) *Availability of records.* (1) All SBDC network records must be made available to the SBA for review upon request.

(2) All SBDC network records, financial and programmatic, must be maintained for a period of three years following the date SBA accepted the annual performance report and final financial status report from the recipient organization.

(3) The recipient organization will maintain sufficiently detailed program and financial documentation to facilitate transition and provide continuous

SBDC services when changes occur in SBDC service center organizations, as well as to support reviews and audits authorized by the SBA.

[88 FR 76651, Nov. 7, 2023]

§ 130.825 Reports.

(a) *General.* The recipient organization will submit consolidated performance and financial reports for the SBDC network to the SBA for review. These reports will reflect actual SBDC network activity and accomplishments pertinent to the funding periods. Report formats will be specified in the annual notice of funding opportunity. See also 2 CFR 200.327 through 200.329.

(b) *Frequency.* (1) Recipient organizations that have been in the Program for more than three years must submit financial and programmatic performance reports 30 calendar days after completion of six months of operation each budget year.

(2) Recipient organizations that have been in the Program for fewer than three years must submit financial and programmatic performance reports 30 calendar days after completion of each quarter for the first three years.

(3) The final report from recipient organizations must be submitted in accordance with the notice of funding opportunity and terms and conditions.

(c) *Electronic data reports.* Lead Centers are responsible for reporting their consolidated network performance data quarterly to the SBA. The format of the reports will be designated in the notice of funding opportunity. Lead Centers must ensure that the data is submitted to the SBA within the time-frame stipulated and that the data is accurate and complete.

(d) *Performance reports.* Performance reports must include the data specified in paragraphs (d)(1) and (2) of this section, along with any other information the SBDC feels may be relevant to a full appraisal of its performance.

(1) The quarterly and semiannual performance reports will address, in a brief narrative, the SBDC's major activities and objectives. The reports should include a discussion on the progress toward achieving those objectives.

(2) Final performance reports should include an overall summary of effort

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expended to deliver the core services described in the cooperative agreement for the full budget period. A discussion of performance measurements achieved and an explanation of those objectives or measurements not met should be included. Performance reports should be a summary of the activities, events or achievements by reportable category with an accompanying management analysis.

[88 FR 76651, Nov. 7, 2023]

§ 130.830 Audits and investigations.

See 2 CFR part 200, subpart F.

[88 FR 76652, Nov. 7, 2023]

§ 130.840 Closeout procedures.

(a) *General.* The purpose of closeout procedures is to ensure that the program funds and property acquired or developed under the SBDC cooperative agreement are fully reconciled and transferred seamlessly between recipient organizations, SBDC service center organizations, or other Federal programs. The responsibility of conducting closeout procedures is vested with the recipient organization whose cooperative agreement is not being renewed. The procedures should be documented and accomplished in accordance with the applicable property standards and the provisions of this part.

(b) *Supplies and equipment.* Supplies and equipment acquired with funds under the cooperative agreement must be accounted for at closeout.

(c) *Intellectual property.* (1) In accordance with 2 CFR part 200, subpart D, intangible property and items subject to copyright that are purchased or developed under the cooperative agreement must be accounted for at closeout.

(2) Inventory and documentation of intellectual property must be collected by the Lead Center for close out. In circumstances where SBA is not renewing the cooperative agreement, the recipient organization must provide an intellectual property inventory and the support documentation to the SBDC clearinghouse and to the District Office for disposition instructions.

(d) *Responsibilities*—(1) *Recipient organizations.* When an SBDC cooperative agreement is not being renewed, re-

gardless of cause, the recipient organization will ensure the following steps are taken in their closeout process and perform the necessary inventories and reconciliations prior to submitting the final annual financial report.

(i) An inventory of the SBDC property must be compiled and evaluated. An asset evaluation final report accounting for the property, equipment, and the aggregate of usable supplies and materials must be provided to the Program Manager.

(ii) Program income balances must be reconciled, and unused program income transferred to the Lead Center from SBDC service center organization accounts.

(iii) Client counseling and training records, paper and electronic, must be compiled to facilitate an SBA program closeout review.

(iv) Financial records will be compiled to facilitate an SBA closeout financial examination.

(2) *Close out actions.* Recipient organizations that terminate SBDC service center organization agreements will perform the close out actions in paragraphs (d)(1)(i) through (iv) of this section to ensure the safeguard of program resources under the cooperative agreement.

(3) *SBA.* Upon receipt of the final financial report from a non-renewing recipient organization, the AA/SBDC will issue disposition instructions to the former recipient organization as described in paragraph (e) of this section.

(e) *Final disposition.* (1) The final financial status report from the recipient organization must include the information identified in the inventory process and identify any program income collected from the SBDC network.

(2) The AA/SBDC will issue written disposition instructions to the recipient organization providing:

(i) The name and address of the entity or agency to which property and program income must be transferred;

(ii) A date by which the transfer must be completed;

(iii) Actions to be taken regarding property and program income;

(iv) Actions to be taken regarding program records such as client and training files; and

(v) Authorization to incur costs for accomplishing the transfer. Such costs may, when authorized, be applied to residual program income or Federal or matching funds.

[88 FR 76652, Nov. 7, 2023]

PART 131—WOMEN'S BUSINESS CENTER PROGRAM

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AUTHORITY: 15 U.S.C. 656.

SOURCE: 84 FR 64713, Nov. 25, 2019, unless otherwise noted.

§ 131.100 Introduction.

(a) The Women's Business Centers (WBC) program has grown and evolved to provide a variety of services to many entrepreneurs ranging from those interested in starting businesses to those looking to expand an existing business.

(b) The U.S. Small Business Administration (SBA), through the Office of Women's Business Ownership (OWBO), is responsible for the general management and oversight of the WBC pro-

gram. The SBA issues an annual cooperative agreement to recipient organizations for the delivery of assistance to individuals and small businesses. The WBC program acts as a catalyst for providing in-depth, substantive, outcome-oriented business services, including training, counseling, and technical assistance, to women entrepreneurs and both nascent and established businesses, a representative number of whom are socially and economically disadvantaged. By providing training and counseling on a wide variety of topics through WBCs, the SBA meets the needs of the individual client in the local marketplace.

(c) Unless otherwise indicated, all deadlines referred to in this Part are measured in terms of calendar days.

§ 131.110 Definitions.

Advisory board. A group established to confer with and provide recommendations to the WBC Program Director on matters pertaining to the operation of the WBC. The advisory board will also act as a catalyst to raise funds for the WBC.

Applicant organization. An entity that applies for Federal financial assistance to establish, administer, and operate a WBC under a new or renewed cooperative agreement.

Application (also known as the proposal). The written submission by a new applicant organization or an existing recipient organization describing its projected WBC activities for the upcoming budget period and requesting SBA funding for use in its operations.

Annual work plan. See option year work plan and budget.

Area of service. The State or U.S. Territory, or a regional portion of a State or U.S. Territory, in which the SBA approves a WBC to provide services.

Assistant Administrator of the Office of Women's Business Ownership (AA/OWBO). The AA/OWBO is statutorily responsible for management of the WBC program. The AA/OWBO may elect to designate staff to complete tasks assigned to the AA/OWBO position. When AA/OWBO is referenced, it includes the designee.

Associate Administrator for the Office of Entrepreneurial Development (AA/OED).