

Procurement Assistance Program

Prime Contracts

Prior to July 1965, SBA representatives participated actively with DOD personnel in reviewing procurements for possible set-asides.

At that time, SBA shifted from active participation to the policy of surveillance. SBA personnel reviewed overall procurement policy and figures regarding set-asides, but were not involved in individual cases.

Inquiry by the cognizant Congressional committees indicated that an expansion of the program could add significantly to its potential and resulted in a study to determine whether the joint nature of the set-aside program should be reinstated. A steering committee, including representatives from DOD, NASA, BOB, and SBA, was established in September 1966, to conduct the study.

On February 21, 1967, the steering committee recommended that SBA develop in cooperation with various procurement agencies, a set-aside program which would incorporate the best features of the unilateral, joint and surveillance procedures.*

The recommendation also stated that a new approach should provide for the performance of the following functions by SBA:

*Unilateral--where procurement agencies are responsible for the initiation of set-asides; joint--where procurement agencies and SBA share the responsibility for initiating set-asides; surveillance--where SBA reviewed procurement policies and figures on set-asides, but had no involvement in individual set-aside cases.

- Exercise the set-aside function only on those procurements not unilaterally set aside by the procuring agency;
- Appeal to the Secretary or head of the procuring agency in cases where agency representatives do not concur on an SBA recommended set-aside;
- Make periodic surveillance reviews of procuring activities;
- Provide for set-aside reporting under a unified system not differentiating between unilateral and joint set-asides, and
- Perform additional functions such as recommending "break-outs," locating additional small business suppliers, and recommending modification of unduly restrictive specifications.

Lack of personnel resources prevented full implementation of these recommendations immediately. However, SBA did begin active participation with DOD personnel in the set-aside program utilizing those individuals previously committed to the surveillance effort, and began adding the personnel necessary for fulfilling this need.

The primary responsibility falls upon 42 SBA Procurement Center Representatives assigned to various military installations throughout the United States. The installations to which they are assigned have been chosen for the greatest possible impact on small business contracting. Factors considered in the selection were: Dollar amounts of installation procurements; type of items and services purchased, and estimated potential for small business. A list of installations to be covered is set forth in Volume II, Document 9.

The individuals filling these positions as SBA procurement

representatives have extensive and varied responsibilities. Their basic function is to find ways to increase the amount of business which small firms may do with government agencies.

And in order to fulfill this obligation they must respond to a variety of demands. To maintain the government's procurement set-aside program these representatives must review procurement actions which have not been set aside by the agency unilaterally and make recommendations for joint set-asides. He must screen abstracts of bids, proposals, and award data to determine if the maximum set-aside is being attained and make appropriate recommendations to the procuring agency.

In support of other SBA purposes this lone contract specialist must also try to discover small business bidders for procurements with inadequate small business competition, as well as keep close watch on the Certificate of Competency program to ensure its application when appropriate.

Moreover, as SBA's "man-on-the-spot," he is expected to evaluate the procurement operations and procedures of the installation in order to determine the effect on the nation's small business community, and must maintain an awareness of procurement plans of the agency and recommend changes which will be helpful to small business.

As a direct result of the knowledge gained in these duties, the procurement center representative is always able to recommend specific procurements to be undertaken by SBA and subcontracted to

minority-owned and operated small business. This program, commonly called "8(a)" is described later.

The Procurement Center Representative (PCR) is also the negotiator for SBA, and thereby the small subcontractors, during the life of a contract.

There are two additional duties which are important to the prime contracting program. Specifically, the representative is expected to counsel small businesses on request, at least to the point of ensuring that appropriate aid is provided by the Regional Office, and he is also expected to call SBA's attention to small businesses which are in danger of default on a contract, so that help may be offered in time to prevent that occurrence.

The latter point is of increasing interest to SBA, since the award of a set-aside contract to a small businessman is of negative value if the contract is not fulfilled; both the government and the small businessman are losers.

Although this is not a critical problem in terms of frequency of occurrence, the nature of the issue makes it significant. Therefore, SBA is assigning representatives to some Defense Contract Administration Services Regional Offices.

These individuals will provide advice to small businessmen on matters of performance, inspection and acceptance of material, accounting for government property, security clearance of facilities, reporting and payments. The representatives will be increasingly valuable in locating firms which are experiencing difficulty in

fulfilling contracts. They also will participate in a study to determine principal contract administration problems faced by small business. Later, this study will serve as a basis for SBA recommendations of changes in policy and procedure, which will make this aspect of government contracting less burdensome on small concerns.

Subcontracting Assistance

The subcontracting program is a result of Public Law 87-305, passed in September 1961. By this act, the Congress required SBA, DOD and GSA to jointly develop a small business subcontracting program. Scarcely two months later, in December, the agencies reached agreement on fifteen principles which were incorporated into the Armed Services Procurement Regulations (ASPR) and the Federal Procurement Regulations (FPR).

The requirements of contracts were inadequate, however, to assure enthusiastic participation in the program. Also, the regulations were being applied across the board in a general way, while the need was for more selective efforts in areas where a substantial return might be expected. Recognizing these needs, SBA and DOD jointly launched the Voluntary Subcontracting Program in 1963.

The initial proposal of this program, which would be unrelated to the prime contractors' legal obligations, was made by a joint letter from the SBA Administrator and Assistant Secretary of Defense (Installation and Logistics). The letter was forwarded on May 3, 1963, to the 25 defense prime contractors who received the

highest net value of the government's prime contract awards in Fiscal Year 1962. All of the 25 firms agreed to participate in the program.

On December 4, 1964, another letter was sent by SBA and DOD (I&L), inviting additional firms to participate. Additions prior to May 1968, lifted the total number of participants to 37.*

Substantial increase of small business subcontracting with participating firms has confirmed the value of this program. Therefore, an invitation to 37 more of the largest DOD prime contractors was mailed March 14, 1968.

As of August 9, 25 firms had officially accepted and affirmative action by others was expected. This final round of invitations completed the coverage of those members of the "Top 100" DOD prime contractors which are considered to offer substantial subcontracting potential. Since the "Top 100" accounted for 65.5 percent of the total dollar value of military prime contracts over \$10,000 in FY 1967, and all other large prime contractors (some 300 corporations) received only 14.2 percent of the total dollar value, any further extension of the Voluntary Program would be of dubious value.

If the subcontracting program continued to show gains, SBA had to develop new approaches to the issue. And one means of enlarging the present efforts without excessive personnel requirements is to place an increasing reliance upon review of contractors' subcontracting program, while disengaging SBA from active participa-

*There would have been thirty-nine but for two mergers of member firms.

tion in those programs.

DOD has implemented the subcontracting program in ASPR, as discussed earlier, and retains responsibility for assuring that its prime contractors discharge their obligations under the subcontracting clauses as under any other element of the contracts. At the same time, SBA has the responsibility of obtaining information regarding methods and practices utilized by prime contractors and to report to the Congress on the accomplishments of small business programs. In order to minimize the impact of these responsibilities on the prime contractors SBA participates with DOD in reviews of contractors, utilizing mutual information to the greatest extent possible.

At the conclusion of the review, a summary of the findings and recommendation is provided to the contractor, and to the Defense Documentation Center. The material is then available to contracting officers who are developing weighted guidelines for profit on negotiated contracts. Small business subcontracting is a factor under "Contractor Performance."

Neither contract provisions and reviews nor voluntary effort will result in tangible benefits, however, if no qualified small businesses bid on contracts. To assure continued availability of such bidders and to increase their number, SBA has instituted "Project Upgrade." The purpose is to give interested small businessmen the opportunity to compete effectively for subcontracts within their manufacturing capabilities.

This program resulted from internal studies and industry suggestion. In early 1967, SBA contacted firms participating in the Voluntary Subcontracting Program and requested comments and suggestions for improving the program. Many urged SBA to concentrate on the use of its advisory and educational programs to improve the subcontracting capabilities of small firms which were unqualified to bid for subcontracts. At the same time, an internal review of the Subcontracting Program, seeking possible improvement, showed that there was increasing mutual industry-SBA knowledge of qualified sources. It was therefore recommended that SBA should attempt to assist new firms to qualify for referral, as was suggested by industry sources.

The goal will be accomplished by individual counseling, literature, management courses, and jointly sponsored conferences. It is the responsibility of SBA's subcontracting specialist, located in Area Offices, to identify firms needing and desiring this service, identify problem areas, provide individual counseling, recommend individual counseling by a regional team or SCORE (Service Corps of Retired Executives) and recommend the use of scheduled courses and conferences.

When a firm has been selected for assistance the subcontracting specialist at the SBA Area Office conducts a thorough analysis of the firm to determine deficiencies. Areas of study include production, finance, facility, quality control, administration, management, sales, and services.

When the problem areas which prevent the firm's qualification as a subcontractor have been identified, the specialist determines which SBA assistance programs will aid in the solution of the problems and he supplies or recommends appropriate aid. The specialist provides to the cognizant regional office the names of the firms, a statement of the assistance required, and a copy of his report analyzing company needs and recommended solutions.

When a firm has completed the recommended management training, conducted by regional offices, and has been provided counseling which is desirable, a report of the results is forwarded to the area office. There, the subcontracting specialist is responsible for reviewing the results and, where applicable:

- Determine the firm's area of capability;
- Refer the firm to prime contractors who have a current or future need for the product or service **being** supplied by the firm;
- Supply the firm with names of appropriate people to contact in sales efforts;
- Assure that the firm's capabilities are made known to Facilities Inventory personnel; and
- Suggest that the small firm request the prime contractor which previously rejected the firm to reconsider the company as a subcontractor.

"Project Upgrade" will broaden the small business base from which prime contractors may select. Their responsibilities under the Voluntary Program and under their contracts should be lighter if the

number of qualified small business bidders is increased. The SBA, on the other hand, will be able to place its emphasis upon direct assistance to small businesses, utilizing currently operational services, instead of the circuitous means which constituted the primary approach previously. Review will continue to be necessary but it will be oriented to observation and cooperative assistance rather than to an audit function.

Facilities Inventory Register

The facilities inventory program stemmed from the Korean War. The problems of mobilization at that time suggested the need for a current roster of small business skills for use in the event of war needs and Congress authorized the SBA, in Section 8(b)2 of the Small Business Act "to make or arrange, an inventory of production facilities of small concerns."

Thus, the early aim of the Facilities Inventory (FI) Program was to develop a knowledge of the capabilities of small firms on the broadest possible basis.

Events, however, led to radical change of environment. The discontinuance of SBA active participation in set-asides significantly lessened the demand for referrals of potential contractors. A study of the requirements for this program was soon conducted to determine whether the SBA investment in the Inventory Program was justified.

Analysis of the decreased activity of the register, in view of the increasing demands in other programs, indicated that reduction

of personnel was appropriate. Further study determined that some classifications which were included in the inventory were in small use or demand. Evaluation of commercially available services showed that manpower devoted to the program could be reduced while material on the critical industrial classifications would remain available, if certain commercial services were incorporated into SBA processes. The review also established that the scope of the FI greatly exceeded its area of use and, in fact, had only a coincidental relationship with other SBA programs.

Planning was initiated and adapted to redirect the scope of the FI to the needs of the prime and subcontracting programs. Whereas the previous FI registrants were obtained on a voluntary sign-up basis, it was proposed that SBA limit registrations to specific industry categories and seek to obtain as full a listing as possible of those product skills.

Presently, SBA is utilizing computers to catalog the productive capabilities of small firms which fall into 70 Standard Industrial (manufacturing) Classifications. By the end of FY 1969, SBA will have a complete listing of approximately 15,000 small firms and will have physically surveyed their plants to verify the products they are capable of producing.

The FI is improving SBA's ability to identify small firms' capacity and to refer these to government procuring offices and major prime contractors.

Certificates of Competency

The Certificate of Competency (COC) Program is the exercise of SBA's responsibility as the final authority on the capacity or credit of a small firm to perform a government contract.

In Fiscal Year 1964, after representations by field supervisory personnel regarding the propriety of the issuance of COC's without reference to the Central Office, consideration was given to the factors of:

- Greater knowledge of specific and unique situations in the field;
- Increasing number of applications for COC's to be processed, and
- Continuing pressure to fulfill legal COC requirements within specified time frames.

After consideration the Administrator determined that cases involving procurements of less than \$50,000 should be resolved in the field. Larger dollar amounts, importance to the economy or effects on human life or property would require referral of the case to the Central Office. The \$50,000 limitation was subsequently raised to \$250,000.

The words "tenacity" and "perseverance" took on particular meaning for small business, when the Comptroller General on September 13, 1963 (Decision B-151121) stated the doctrine that a distinction can be drawn between the ability to perform a contract and the willingness to do so.

There is a strong potential for the evasion of the COC program inherent in the principle of "tenacity and perseverance", since SBA is authorized to determine only the ability to perform. A procuring agency may therefore rule a small firm out of competition on the grounds that the

firm has previously demonstrated a lack of tenacity and perseverance and there is no recourse to SBA by any means to recover from a record which may no longer be characteristic.

Senator Sparkman introduced a bill on June 12, 1968 (S. 3635) to enlarge the scope of the COC to include all elements of responsibility, including past performance, integrity, ethics, motivation, perseverance and tenacity.

The bill has not been passed at this writing.

In response to the insistence of the Secretary of Defense that the military services do business only with known, qualified suppliers, the Assistant Secretary for Installations and Logistics issued a directive on June 7, 1966, which identified certain procedures regarding SBA's COC program. The procedure has substantially reduced the number of COC's in connection with DOD procurements. And here is the reason:

When SBA looks favorably upon the issuance of a COC, an informal meeting is held between the procuring activity and SBA in which additional facts are presented as developed by SBA. The directive is quoted as follows:

If the information obtained from SBA is sufficiently adequate to reverse the negative pre-award survey, the military department will be expected to withdraw its referral to SBA and award the contract without benefit of a COC.

This development has reduced the actual number of COC issuances while continuing to protect the interests of the United States and America's small business community.

As a direct result of SBA's COC program, Uncle Sam has saved more than \$33.4 million on procurement contracts awarded to low bidding small firms since 1953. This saving represents the difference between the low bidder and the next higher bid.

Section 8(a) Activities to Relieve Minority Underemployment

Pursuant to the President's Cabinet Meeting of September 20, 1967, and his Directive of October 2, 1967, government-wide efforts were initiated to create jobs in low income areas of a number of the major cities where unemployment and underemployment were acute. This test program had among its goals the encouragement of new businesses utilizing the resources of big and small business alike.

The decision to inaugurate such a program was an outgrowth of deliberations of the President's staff after considering the recommendations of the Southern Governors Conference of September 10-13, 1967, that the need for improved education and better jobs in the inner-city was paramount in effectively meeting the educational and economic needs of Blacks in reaching for constitutional guarantees of social equality.

As a member of the President's test program task force, SBA assessed its authority and capabilities with a view toward making a maximum contribution to the program's objectives. SBA and other appropriate government agencies, along with industry representatives, made plans to focus government-industry efforts in creating minority-owned entrepreneurships and jobs.

Through the close personal touch maintained at the grass roots of American industry by 81 strategically placed field offices, SBA was deemed as being legislatively and organizationally able to make significant contributions to the program. Inasmuch as the full weight of SBA programs of procurement and management assistance seemed to offer the most concentrated means for assisting ghetto firms, the agency's Associate Administrator for Procurement and Management Assistance was

delegated responsibility for administering SBA's role for developing minority entrepreneurship through the performance of subcontracts under government procurement requirements.

A full-time procurement specialist was delegated to work with the government-industry steering group. This group became known as the National Alliance of Businessmen and was headed by Henry Ford II. After a period of time, the scope of SBA's commitment became sufficiently persuasive to combine the assignment delegated to the agency's Procurement and Management Assistance office with the government liaison staff and to transfer the combined activity to the agency's PMA office, from which it now operates.

During the development stage, it became clear that the solution to the problems of the hard core unemployed involved more than just the creation of jobs. It was evident that, in order for minority and low-income citizens to become a part of the economic mainstream of American life, business ownership opportunities must be established in their communities. SBA felt that the agency could make its greatest contribution by focusing attention on this ownership aspect.

In seeking to provide an effective tool for helping achieve this broad objective, SBA invoked Section 8(a) of the Small Business Act. This section declares it to be SBA's duty "whenever it determines such action is necessary," to enter into procurement contracts with other Federal agencies on such terms and conditions as the parties agree.

In simple words, the authority provides a legal way to bypass usual procurement laws and regulations by enabling SBA to become the prime contractor (even though it is not a producer of goods or services) and

to subcontract the requirement to small business firms.

Procurement laws and regulations generally apply to prime contracts, but not to subcontracts.

Although Section 8(a) had been a part of the Small Business Act since the inception of the agency in 1953, SBA never elected to take prime contracts under that authority. (Its predecessor agency, the Small Defense Plants Administration, had done so.) The chief objective of Section 8(a) was to help existing small business firms to expand and grow or help new small firms get started.

A major consideration in motivating SBA to utilize Section 8(a) was the recognition that the large volume of government procurement has an important and continuing economic and social impact upon the country. History reveals that Federal procurement is such a vital part of the gross national product that it directly and indirectly affects the careers and livelihood of millions of people, of whole regions, entire industries, and all sections of the country. The SBA objective in implementing Section 8(a) was to funnel a portion of the Federal procurement to firms in low income urban areas. To do so, SBA called upon all of its resource tools: financial, management, technical, as well as the authority vested by Section 8(a) of the Small Business Act.

To date* the agency has helped to establish or expand 16 small business concerns. All are in underemployment areas, employ disadvantaged persons, or are owned and managed by minority citizens. SBA has negotiated 16 prime contracts with DOD and civilian agencies of the government and has awarded 21 subcontracts to minority-owned small business firms.

*As of October 21, 1968

A listing of all the prime contracts taken by SBA through October 21, 1968, appears in Volume II, Document 10. It identifies the item, date and value of the prime contract, to whom the item was subcontracted by SBA, and the number of firms hired and/or retained by the subcontractor. The listing also identifies additional contracts in the process of negotiation.



Summary of SBA's Policies Governing
Activities under Section 8(a) of
The Small Business Act

The following is a summary of SBA's policies in utilizing
Section 8(a):

SBA will continue to use the provisions of Section 8(a)(1) to
take government contracts and Section 8(a)(2) to sublet them to firms which:

Priority 1. Are new minority-owned and managed small firms
which employ minority employees;

Priority 2. Are proposed new firms, which through acceptable
divestiture provisions will eventually become minority owned
and managed small firms, or

Priority 3. Are existing minority-owned small firms which
employ minority personnel and which firms can be expanded
through 8(a) subcontracts so as to achieve solid growth and
employ additional minority personnel, or

Priority 4. Are non-minority owned or managed small firms which
are to employ minority persons certified by the Department of
Labor as needing employment.

In providing assistance, SBA shall seek to create additional per-
manent minority ownership of businesses producing products and
services which are independent of continuing government assistance.
To this end each applicant shall, as a condition of requesting
assistance, satisfactorily explain its program for future independ-
ence from SBA assistance.

SBA will encourage large firms to sponsor small minority firms and
provide small firms, so sponsored, with 8(a) assistance. However,
where the sponsor requires more than 20 percent stock ownership as
a basis for sponsorship SBA will, as a condition to 8(a) assistance,
require submission of an acceptable divestiture program which will

result in affording minority employees with the opportunity to purchase the controlling interest in the company. This is necessary because the intent of Section 8(a) is to assist small firms.

For Section 8(a) assistance, SBA will seek to find procurements of these types:

- (a) Products or services which, because they have never been performed by private business (such as goods or services provided by "in-house" government activities) may be diverted to small minority firms without impinging upon business anticipated by previous suppliers;
- (b) Products or services which, because of abnormal requirements, may be so diverted to new (minority) suppliers;
- (c) Products or services "broken-out" as portions of previous larger procurements;
- (d) Products or services previously supplied by large firms;
- (e) Products or services previously supplied by small firms not located in areas designated by the Department of Labor as labor-surplus areas;
- (f) In (a), (b), (c), (d) and (e) above, repetitive purchases will be sought wherever follow-on contracts are needed.

The extra costs incurred by new minority firms or those employing minority (particularly "hard-core") personnel will be obtained and provided in the negotiation of SBA's prime contract to the extent they do not exceed the highest price paid (adjusted to reflect rising costs) by the procurement agency during recent *

*"Recent history" is judged as normally the last three years.

procurement history. Where further costs are required, these will be sought through funds available from other government agencies, such as the Department of Labor, the Bureau of Indian Affairs for labor training funds, EDA for technical assistance, and others. However, the availability of such funds will not necessarily reduce the prime contract price.

SBA will seek the cooperation of procurement agencies to find forthcoming purchases which they may offer to SBA as Section 8(a) contracts for subcontract to minority-owned and operated small firms. Such exercise of initiative by the procurement agencies will enable SBA to be in a position to offer assistance, rather than to seek, after identification of eligible firms, suitable subcontracts. This will reduce time delays in assisting the small minority firms.

A checklist which evolved as a working tool for SBA field offices for determining the eligibility of prospective inner city firms to take a subcontract under Section 8(a) is set forth in Volume II, Document 11.

A successful pattern for development of job opportunities in low income urban areas has evolved from SBA's inducements. Many paths and methods can be successfully used. SBA has used several, such as 8(a), in the development of small business urban area projects. The following features, we believe, are significant in the agency's approach.

● Local community involvement is an essential feature in the development of a practical ghetto program. Community leaders insist on having a role in determining the type and nature of assistance that is directed toward them.

● It is not jobs alone ghetto residents seek. They want to develop skills which will provide a degree of labor mobility to assure long-term meaningful employment. These disadvantaged people resist menial tasks which will perpetuate their unskilled status.

● Minority group members who form the bulk of the nation's hard-core unemployed desire an opportunity to own and manage businesses to be established in their areas. The initiative and direction for carrying out this program must rely on a meaningful coalition of government, industry, and the target area community.

Other government agencies participate with resource input. The Department of Labor provides training funds, EDA can assist with management and training assistance funds, OEO planning grants, and GSA surplus property and equipment.

Technology Utilization Activities

Section 9 of the Small Business Act of 1953 as amended provides broad authority to encourage and assist small businesses to increase their growth and profitability potential through research and development.

However, the major thrust of SBA assistance, which concentrated on areas of finance, procurement and management, did not allow for the inclusion of a significant R&D assistance program beyond that associated with contract procurement assistance. There were 16 SBA R&D specialist positions assigned to the major regional offices to perform this function.

The nature of Federal R&D procurement practices, however, was such that little effect was felt despite these efforts. A shift in emphasis appeared necessary, primarily because increasing attention was being directed to scientific and technical knowledge accumulating from space, nuclear and defense research and development.

Annual R&D appropriations were topping \$15 billion, and it was felt that this knowledge, if properly identified and applied, could significantly benefit the nation's economy.

Since accumulated R&D knowledge is actually owned by the government, i.e., the people of the U.S., a strong influence was exerted by Congress to require agencies such as NASA and AEC to make unclassified scientific and technical material available to American industry.

In determining the methodology for technology transfer, the dimensions of the problem became increasingly apparent. Even the huge defense, space, and nuclear prime contractors, whose resources in large measure generated much of the knowledge, found the identification and transfer process difficult. And the small business community seemed hopelessly precluded from enjoying the benefits of this publicly owned R&D. Limited physical, financial and technical resources common to the small businessman made the great stockpile of technical information as impenetrable and remote as outer space itself.

Early in 1965, recognition of the growing interest in government and in the private sector suggested the wisdom of exploring the role that SBA might play in a program to assist small business to obtain these benefits. NASA and AEC were two prime R&D contracting buyers interested in such a program. SBA lost little time in parlaying this interest. Both AEC and NASA met with SBA.

AEC's newly-organized Office of Industry Cooperation, with field representation at Oak Ridge and Argonne National Laboratories, represented the Commission in these preliminary discussions with SBA, some of which took place in Washington, others at Argonne.

Both parties recognized that the lack of criteria or guidelines for a joint endeavor involving the dissemination of meaningful technology to small companies suggested that a training or educational approach on a pilot basis was needed. It was agreed that such a joint venture should be recognized and supported at the highest levels, even

though the commitment of resources was minimal.

A pilot project involving possible commercial application of AEC sponsored R&D was arranged. It required that SBA select a number of small manufacturers in several fields or disciplines to attend a conference at Argonne at which they would be briefed on the technical and scientific information and advances available in these fields. AEC would also make available scientists and engineers for consultations and assistance in the transfer process.

The first trial conference was held in October 1965 attended by about a dozen small manufacturers. While no observable concrete results were apparent there was an enthusiasm generated that encouraged growth of the program.

Over the course of the following year four similar briefing conferences, followed by shop visits, were held at Argonne. Nearly 400 small companies participated. Many became aware of, and used governmental services engaged in technology utilization.

Later in 1965 an agreement was signed by SBA and NASA for a pilot project which would involve 18 small manufacturers or R&D concerns selected by SBA.

This project required the commitment of computer services, technical personnel and supervision by SBA, NASA and the three Regional Dissemination Centers, which are supported by NASA on a limited scale. It required the establishment of mutually acceptable procedures and conditions. They were formalized between SBA and

NASA for a one year program.

The companies participating in the pilot project were to be diversified in fields of interest and in size, ranging from 10 to 400 employees. They were to be served, without the customary fee, for one year by one of three NASA Regional Dissemination Centers, (RDCs) each Center serving six of the companies.

Centers selected were the Center for the Application of Science and Technology (CAST), Wayne State University, Detroit, Michigan, Aerospace Research Application Center (ARAC), Indiana University, Bloomington, Indiana, and Knowledge Application Systems Center (KASC), University of Pittsburgh, Pittsburgh, Pennsylvania.

These Centers, although varying in size of staff and methodology are each computer oriented to NASA technology and other U. S. Government resources. Technical staffers work with client companies to identify problems, search for relevant technology, and assist in the transfer and application process.

In SBA the responsibility was assigned to a senior Industrial Specialist in the Agency's Prime Contracts Division who worked closely with the Technology Utilization Division of NASA. SBA then authorized the commitment of a field Industrial Specialist in Detroit, Chicago, Indianapolis and Cleveland to select participating companies and to carry out the project.

The objective of this program was to determine technical problems of small manufacturers, how they can be solved through technology, availability of internal resources, management functions,

what costs are involved in obtaining a workable technological base, and other similar problems.

Early in the experiment it became apparent that the first problem concerned the fact that small manufacturers were only dimly aware that they were scarcely aware of how swift technology was destroying old methods and products and replacing them with new more sophisticated methods or products.

In their day to day struggle for survival there was no time to keep up-to-date on technical advances. Because most companies were in a constant struggle to survive they could not afford a scientist or engineer on the payroll to think and tinker.

To be sure, there are sophisticated small companies having smart technically trained and imaginative personnel that are competing in the technological race. It is also true that these companies are the participants in the swirl of mergers and acquisitions that continues at an increasing pace.

Although the 18 companies in the RDC experiment were carefully selected because of their potential they fell into three predictable groups.

At the end of the year, one-third had failed to avail themselves of the services. They either broke off completely, or had not used information and advice they had received. In all cases it was due to management conflicts, or lack of depth of management or indifference or combinations.

Another one-third obtained some benefit but decided against continuation beyond the year. This was due to variations on the management themes stated above, lack of money to continue on a paying basis (usually a fallacious excuse) or simply lack of interest.

The remaining one-third obtained benefits, were pleased with the results and were determined to continue at their own expense.

A third pilot program involved a collaboration between a large company with multiple product lines and small highly skilled companies who could relieve the big firm of the developmental processes for obtaining new or improved products. Again SBA's role was to locate qualified small manufacturers or job shops and arrange for the initial discussions.

The idea originated in a large New Jersey concern which was interested in obtaining the services of small manufacturers willing to negotiate mutually satisfactory agreements to carry on such work. The company turned to SBA to obtain its assistance in identifying potentially interested small concerns.

Discussions with company representatives were held in Washington and at its Research and Engineering Laboratory in New Jersey. These meetings resulted in plans to proceed on a pilot basis, and a one-day conference between the firm's engineers and scientists and representatives of 15 small companies invited by SBA was held in April 1966.

There was little immediate reaction, probably due to an arm's-length attitude between the parties. The company was loath to disclose too much technical information concerning their

developmental objectives, and the small companies likewise felt under constraints.

During the summer and fall of 1966, personnel from the big company originally involved in the project were shifted to other positions with the resultant loss of continuity. However, one small company was collaborating with the firm in the development of a water filtration system promising to be a major contribution to the control of municipal water supply systems.

Early in 1967 an evaluation of these pilot projects was made by a small task force in SBA's Central Office. The task force found that the small business manufacturing community could benefit from a technology utilization program, and that the program would aid that community in maintaining a competitive posture encouraging it to be progressive.

The task force also presented a program which would educate, stimulate and motivate those small manufacturers who appear to have the capability to usefully apply technological advances obtained from Federally-sponsored R&D.

In other words the program was to be selective as to the small companies participating due to the limitations within SBA of personnel and funds. It would:

1. Provide information to small manufacturers as to the sources of technical information in the various government agencies through interagency conferences.

2. Provide opportunities for the transfer of technology information and the application of technical advances to industry problems through seminars and workshops.
3. Publish useful technological advances having possible industrial and/or commercial potential which were collected from the various generating agencies.
4. Publish information about sources of technical information.
5. Provide technical and management assistance in identifying problems, searching for technical solutions and applying useful technology.
6. Encourage small companies to maintain a posture of current awareness of technological growth in their respective fields.
7. Bring to bear other SBA assistance programs to solve problems as appropriate.
8. Work closely with other agencies to insure their technology utilization programs effectively reach small business.

The project, originally cosponsored by the large firm, was to be temporarily shelved because of personnel and other limitations. SBA's Task Force recommendations were accepted by the Associate Administrator in charge of the project and with concurrence of SBA's Administrator, a Technology Utilization Division was created. This was staffed by four professionals designated as "Technical Information Specialists." Eight former R&D Specialists assigned to SBA in the field offices were reassigned, and eight additional positions were to be filled.

The operation became effective for Fiscal Year 1968.

Program Under Sections 406 and 407 of
the Economic Opportunity Act of 1967

The 1967 amendments to the Economic Opportunity Act placed upon SBA a major responsibility for helping disadvantaged citizens achieve entrepreneurial status and develop managerial ability. SBA's interest fell in these minorities: Negroes, Mexican-Americans, Puerto Ricans, American Indians, and rural and urban poverty area residents. Plans were quickly made for programs to provide help to these groups by aiding in the creation of new small businesses, and by contributing to the maintenance and growth of existing enterprises owned or managed by members of these groups.

Section 406 provides for financial assistance to carry out the planning and research necessary to identify and develop business opportunities in designated areas. Initial emphasis was placed on assessing the potential for developing retail and service operations in "target areas" established by SBA as a means of providing a base for overall economic stimulation and growth. Contracts for market and economic research studies were awarded to provide a basic, overall plan by which SBA can pursue its objective of developing new production outlets in ghetto areas.

Finally, a third type of research, regional feasibility studies in a number of the designated areas, will be necessary to assure that there is enough potential in a given region to justify the risk in attempting to create a new business.

Section 406 further authorizes SBA to make loans to public or private organizations to pay all or part of the costs of projects

designed to provide technical and management assistance to small business concerns in target areas.

To augment SBA's own Training Program, it has been proposed that arrangement be made with universities, trade associations, and business concerns to provide management training centers to which ghetto trainees may be sent.

As new businesses are established in target areas, training of prospective management will be essential.

In addition to the training centers, SBA intends to contract with sponsoring business firms or with consultants to provide tailored management training and support programs for new minority-owned firms. The availability of such contracts could be a significant inducement to encourage large businesses to sponsor appropriate ghetto projects.

Proposals made to encourage minority-owned businesses include:

An assessment of the current capability of SBA staffers indicates that its input to a comprehensive management assistance program for the minority entrepreneur must be in an organizing and coordinating role.

With a limited field staff, the capacity for direct management support to minority entrepreneurs concentrated in major metropolitan centers is limited. Therefore in the field, and particularly in those target cities selected for concentrated effort, SBA management experts must serve as coordinators for all aspects of management training provided to minority entrepreneurs. In line with this responsibility, the field staff will organize counselors from various segments of the

economy into "trade teams" to provide a source of continuing management aid and advice to minority individuals entering new business or to those upgrading or developing existing ones.

Sources from these trade teams will be:

- (1) Owners and managers of local retail and service businesses. Trade associations, banks, and other business groups will be solicited to lend their support, especially their time, to aid new businessmen;
- (2) Local franchisors and franchising association representatives will be urged to serve as members;
- (3) SCORE volunteers will be asked to participate in the program, and
- (4) Management consulting firms and associations will be invited to contribute to the project.

Four areas of trade teamwork are feasibility studies and business appraisals; prospective entrepreneur selection and evaluation; general business training, and direct and continuing counseling and support.

SBA's management specialist will prepare a plan for each of his assigned projects, and it will be his responsibility to see that all functions for the trade team are performed.

Size Standards Program

Missions and Objectives before and after November 1963

Since the Small Business Act was enacted in 1953, there has been no fundamental change in the policy of Congress with respect to the preservation and expansion of competition through the encouragement and development of small business. For the purposes of this Act, a small business concern is deemed to be one which is independently owned and operated and is not dominant in its field of operation.

America's industrial society is the largest and most complex of any nation in the world. Because of this complexity, it is necessary that small business be defined depending on both the size of business enterprise competing in a particular industry or field of operation and the specific objectives of particular small business assistance programs.

This applied to the SBA and any other government agency establishing and administering a small business assistance program such as the DOD procurement assistance. These detailed definitions are required to properly channel the benefits of SBA programs and objectives.

Foreseeing this size standard complexity, Congress wrote into the Act (Section 3) that where the number of employees is used as one of the criteria in making a detailed definition for any of SBA's purposes, the maximum number of employees which a small business concern may have under the definition shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industry and to take proper account of other relevant factors.

To establish any single size standard would result in giving preferential treatment to large business in some industries and denying assistance to small business in other industries.

Prior to January 1, 1957, SBA's small business size standards were set forth in an internal bulletin. Different size standards were established for government procurement assistance than for financial assistance and for other purposes. Generally, the 500-employee size standard was used as the dividing line between small and large business for the purpose of government procurement. Detailed industry size standards were established for the purpose of SBA loans and other types of agency assistance except disaster loans.

On December 7, 1956, there was published in the Federal Register a proposed Small Business Size Standards Regulation. This proposed Regulation became effective on January 1, 1957.

It set forth size standards that were the same or similar to those that had been published in the agency's bulletin.

During the period January 1, 1957 to November 1963, the Size Regulation was amended and revised as necessary on the basis of economic studies, the knowledge gained through the administration of the size standards by SBA, and the solutions to the problems which developed in the operation of the size standards program in the various government procurement agencies.

Size standards set forth in the Size Regulation as of January 1, 1957, were based primarily on economic studies of the industry size statistics tabulated by the Bureau of the Census. Some size standards

were revised in 1962 and 1963 on the basis of more current studies of the industry size statistics tabulated by the Bureau of the Census.

During the period November 1963 to 1966, the basic approach to the development of small business size standards did not change. However, more detailed definitions were established for the purposes of government procurement assistance programs.

In 1966, there was a significant change in SBA policy with respect to defining small business for the purpose of prime contracts awarded for passenger cars. The agency established a new size standard based on percentage of total production in an industry.

Under this new definition American Motors Corporation is included in the small business category because it has less than five percent of the market.

A somewhat similar action was also taken in the tire industry which had the effect of including in the small business category those companies which account for less than five percent of the total U. S. production of passenger car, motorcycle, truck and bus tires.

Organizational Changes Before and After November 1963

In June 1960, an Office of Small Business Size Standards was created. It stood alone as an individual or separate entity of SBA. The office was solely responsible for the promulgation of small business size definitions and their administration. October 1963 saw an internal reorganization; responsibility for the Size Program was transferred to the agency's economic staff. It remained there until July 1966, when it was transferred to SBA's Procurement and Management Assistance offices. Events concerning that move follow:

In 1965, a change in the agency's economic functions was realized. Emphasis was being placed on the development of a data bank and the launching of a planning, programming and budgeting system. Since a large proportion of the work of promulgating and administering size standards has to do with preferential treatment of small business concerns bidding on or negotiating for government contracts, it seemed logical to transfer the size function to that part of the agency. Arguments--both pro and con--were made. Some claimed that the function should not be located within an office concerned with program responsibilities, i.e., those involving financial, investment, or government procurement assistance. On the other hand, the effectiveness of a government agency may be improved by taking into consideration the human relationships and the working relationships which exist at a particular time in a particular situation. The best organizational structure is one

which is evolved as a result of discovering what type of organization will have the effect of utilizing to the fullest extent the abilities of individuals who are to carry out the particular program. Experience has demonstrated that the decision to place the function as it now exists, was a good one.

Program Changes After November 1963

The most outstanding single event in establishing definitions of small businesses during this period was the action taken by the SBA to include in the small business category a relatively small manufacturer of passenger cars and three tire manufacturers.

In the 1950's Studebaker Corporation had approached SBA requesting a small business classification for purposes of qualifying as a small firm for government procurements of passenger cars.

SBA's economic staff and the administrators during those years decided that it was not the intent of the Small Business Act to provide preferential treatment to a company such as Studebaker even though it was obvious that the automobile manufacturer was small in the field of producing passenger cars. It was decided that the firm should be excluded because of its "absolute" large size.

The change in agency policy in this respect which occurred in 1966 was one which resulted in an effort on the part of a number of companies of substantial size to qualify as small business, particularly for the purpose of obtaining government contracts open for exclusive bid by small producers.

As of August 1968, the only actions taken which established industry size standards higher than 1,000 or fewer employees including

affiliates, were for the aircraft industry, for which the employment size standard was raised from 1000 to 1500 employees, and the passenger car and tire industries for which new size criteria based on a percentage of market, rather than number of employees, were adopted.

The SBA definitions of small business are the result of careful consideration of a number of different factors by several persons with different disciplines and different degrees of participation within the agency. In addition, careful consideration is given to the written statements of facts, opinions, or arguments of interested persons.

First, it is necessary to understand the requirements of the act as set forth in Sections 2 and 3. Section 2 explains the policy of the Congress, and Section 3 broadly defines what is meant by small business. Beyond the legal requirements, there is the difficult task of applying economic theory in a situation where statistical, economic, and other relevant information all have severe limitations.

In addition, American industries are so diversified, markets are so intertwined, economies of scale are so varied by product and by market, that program objectives are different and the views of operating officials, businessmen, trade associations vary depending on their interests.

Finally, the views of the members of Congress who are responsible both to the public for the making of laws and to their individual constituents who seek assistance, express different views depending on the circumstances that prevail in a specific situation.

It has not been possible to develop small business size standards and to administer SBA's Size Standards Program in a way that is satisfactory to everyone, or to a high percentage of those most interested.

In 1967, SBA's small business size standards were revamped. During the year a Small Business Size Standards Task Force was formed which included representation from the following agency operating divisions:

General Counsel, Financial Assistance, Investment, Procurement and Management Assistance, and the Office of Planning, Research and Analysis. The Director of SBA's Size Standards Staff was Chairman.

In February 1968, a report was presented to the Administrator stating that there was basic agreement between the Size Standards Staff and the Assistant Administrator for Planning, Research and Analysis with respect to theoretical economic considerations as to what constitutes a small business. However, there remained significant divergent views concerning the specific criteria to be used in the development of detailed industry size standards.

A controlled project was authorized by the Administrator for purposes of evaluating the basic approach to the development of size standards. This involved a joint study by the Size Standards Staff and the economic staff of the Office of Planning, Research and Analysis. The scope of this study was limited to selected manufacturing industries where there are substantial amounts of government procurement potentially suitable for small business concerns.

The study is not yet completed.

In the meantime, the Small Business Size Standards Regulation, Revision 8 is being used by SBA for its programs and other Federal Government agencies administering procurement programs to assist small business.

Small Business Investment Program

In August 1963, the Small Business Investment Division marked the completion of its fifth year of existence as a novel experimental program.

Congress had given SBA its SBIC mandate to stimulate and supplement the flow of private equity capital for long-term loan funds needed by small concerns for the sound financing of their operations and for their growth, expansion, and modernization. SBA had, during this period, taken the necessary steps to carry out the mandate by establishing, regulating and making funds available to a small business investment industry which supplies financing to small concerns while encouraging maximum participation of private financing.

The unique feature of this particular program was its emphasis on venture capital financing and the fact that SBICs are not arms of the government. Although SBA is authorized to make loans to SBICs, the bulk of the resources of the SBIC industry in 1963 and since that date has come from private sources.

At that time, over 700 licenses had been issued to SBICs in all parts of the country and the industry had approximately \$390 million outstanding in loans and investments and had generated a gross income of \$31.5 million -- an 80 percent increase over the preceding year.

In the latter part of 1963, it was becoming apparent that to help meet the needs of the small business community more funds should be

made available, preferably through the facilities of SBICs with larger capital structures than the majority of those which had been licensed to date. Consequently, through the combined efforts of SBA, the SBIC industry and the Administration, amendments of the Small Business Investment Act were approved in February, 1964.

These amendments increased to \$700,000 from \$400,000 the funds available to match the private capital of an SBIC, thus paving the way for larger companies. The amendments also permitted SBA to guarantee operating loans made to SBICs by other lending institutions, eliminated a \$500,000 loan limitation which had been in force since 1961, and permitted idle SBIC funds to be placed in insured savings and loan institutions.

In order to improve communications between government agencies and the industry, a Government-Industry Liaison Committee was formed in April, 1964. Its members included representatives from the SBIC industry, the Treasury Department, SEC, Internal Revenue Service and SBA.

With the increasing number of SBICs it was becoming necessary to place more emphasis on the regulatory aspects of the program. In order to permit a review of the companies from both regulatory and operational viewpoints the issuance of licenses was suspended for a period of 90 days from July 6, 1964.

During the three-month period the entire structure was examined with particular emphasis on the new law and regulations. Analyses of examinations and reports indicated that, despite the fact that many SBICs were showing improvement in their overall operations and were beginning to show recognizable profits, there were many SBICs, particularly among the smaller companies, whose inactivity or poor condition gave rise to doubts as to their viability.

As the period ended new and more stringent standards for licensing were announced. They specified \$300,000 as minimum initial private capital, required full-time management in an office open to the public during normal business hours and established formulas for the composition of the boards of directors and major stockholders. Subsequently, these standards were made applicable in cases of changes in ownership of SBICs. Examination procedures were also improved in order to provide for closer surveillance of the operating companies and to permit more frequent examinations.

In furtherance of the emphasis on the financing of industrial and commercial enterprises, the investment in certain types of real estate ventures was limited to one third of the portfolio of an SBIC. Those companies which were able to demonstrate an overriding need for real estate investments and competence in handling such matters were permitted to exceed this limitation in varying amounts.

Plans which promised to make the program more flexible and more profitable were announced in December, 1964. The industry, in turn, promised full cooperation in utilizing the resources of the SBIC program in achieving important national goals. The new investment latitude included a "Special Discretionary Portfolio" permitting proportions of portfolios to be invested in transactions not normally eligible. Accelerated depreciation was permitted in certain cases and steps were initiated which would simplify the exit from the program of those companies whose operations did not measure up to the intent of the Act.

At the same time SBA's personnel structure of the Investment Division was rearranged in an effort to establish better communications

with the licensed companies and to streamline the handling of reports in order to better coordinate the compliance and lending functions. Examination procedures were improved and a cyclical plan was adopted so as to insure regularity of examinations.

In July, 1965, regulations and interpretations aimed at clarifying certain provisions of the Act were issued. They defined conditions under which SBICs could purchase third party notes and obligations of small business concerns, cleared the way for anti-dilution clauses in refinancing transactions and verified the eligibility of bank officers and directors as officers and directors of SBICs.

By 1966 the years had shown that there were weaknesses as well as strength in the program. This gradually became apparent to Congress as well as to SBA.

In the spring of 1966 the SBIC industry was the focal point of a searching inquiry by the Congress due to a multitude of problems involving all aspects of the industry and of SBA's operation of the program.

The primary problem which was faced in June of 1966 was that there were many SBICs who were either unable or unwilling to adhere to the SBI Act, the Regulations, and to sound financial practices and requirements incident to the borrowing of funds from SBA. A month later SBA instituted vigorous action in order to rid the industry of these operators.

As of June 10, 1966, there were 686 licensed SBICs; as of September 30, 1968, there were 509 licenses outstanding. As of that date, 139 of these companies were in the process of dissolution and most of

these licensees will be leaving the program in the near future. The remaining 370 licensees form the nucleus for SBA's future plans.

The agency was able to identify and proceed successfully against the type of problem companies described as a result of a continuing program of examination, investigation and appropriate legal action.

One of the most glaring deficiencies was SBA's examination program prior to 1966. SBICs were not being examined on a continuing basis nor were the examinations being conducted in depth. From August 1 through November 30, 1966, 434 licensees were examined. This represents every licensed company who had not been examined between January 1 and June 30, 1966. In all of the preceding 12 months only 339 companies had been examined. Today each SBIC is now being examined at least once each year.

As a result of the findings of the examinations, 74 investigations were requested and 64 completed in Fiscal Year 1967, 29 were requested in Fiscal Year 1968 and 38 were completed, and four had been requested for the first couple months of Fiscal Year 1969 and eight completed. In the previous history of the program only 56 investigations were completed. In this connection, when violations of the Act or regulations are uncovered, legal action is promptly initiated.

In September 1966, the Congress passed legislation strengthening SBA's enforcement powers and authorizing fines for failure to file reports as required. The legislation also provided that SBA could be named receiver in appropriate cases. The 1966 amendments greatly improved SBA's regulatory tools to allow us to properly administer the program.

There were certain other program problems which were apparent at the time of the 1966 Congressional hearings.

Licensing procedures needed improvement. In this area SBA is now strictly adhering to a policy of a close scrutiny of each proposal received and of the individuals involved, and an examination of the company within six months of licensing.

Further, the 1967 Amendments to the SBI Act provided that the Administration, prior to licensing, would give due regard to the need for a licensee in the particular area, the business reputation and character of the proponents, and the probability for financial soundness and profitable operations. It is felt these amendments provide useful guidelines with regard to the issuance of licenses.

The new regulations, which became effective on January 9, 1968, better enable SBA to take action against licensees who are not carrying on active operations. The new regulations provide a presumption of inactivity where SBICs with large amounts of idle funds do not invest a significant portion of them within a year.

The conference report incident to the SBI Act Amendments of 1967 indicated that the House and Senate Banking and Currency Committees would review the overall industry involvement in real estate investments prior to June 30, 1968. SBA was directed to prepare a study involving the entire spectrum of the real estate problem. That report was submitted to the Congress. Pending Congressional review, SBICs who are approved real estate specialists and who are not otherwise in violation of the Act or regulations have been accorded the same benefits and privileges as other non-problem licensees.

SBA has established an "early warning" system in order to ascertain SBICs encountering serious financial difficulties. In addition, the licensees themselves have been provided guidelines which help them to evaluate initially and on a continuing basis the viability of their small business borrowers.

The Small Business Investment Act Amendments of 1967 resulted from the experience by SBA, the Congress and the industry over a period of years, and a general agreement that certain basic problems faced the program. These problems generally fall into three categories: SBIC size, SBIC profitability, and the need to encourage more equity-type investments by the companies.

Studies indicated that minimum-size SBICs lacked sufficient capitalization to interest prospective investors and competent management, to make thorough investigations of investment prospects, to maintain continuous services for portfolio concerns, to insure a competitive return on investments, and to create a reasonable prospect for success. In short, these studies indicated that the minimum-size company was generally much too small, too limited in finance resources and management skills to do the job contemplated by the Congress.

It was also recognized that the leverage offered to investors in SBICs by prior law through SBA loans to the companies was not enough to attract and maintain the flow of private capital to the program. Moreover, larger companies were discriminated against in the amount of assistance they could receive from SBA.

The other major problem was that financing provided their portfolio companies by SBICs was too frequently of a conventional debt nature rather than the more desirable and needed equity-type investment.

While long-term loans are beneficial to small firms, equity financing is often more appropriate and necessary. In contrast to straight loans, equity-type financing does not place the recipient under early repayment pressure. It does not take priority over other obligations of the borrower. And it does not cut off other sources of credit. Such equity type investments may include common or preferred stock, or debt obligations which have appropriate subordination and non-amortization features. The recent legislation, which had the backing of the President, substantially improves the situation with respect to these matters.

SBA has in 1968 issued regulations implementing the provisions of the new law. For example, related to the question of size of SBICs, the regulations require that each SBIC shall have and maintain qualified management in charge of its operations and available at its office to the public during regular business hours.

We believe that over a period of time these provisions, as well as a growing recognition by the companies of the desirability and necessity for an adequate capital base, will result in an SBIC industry comprised of companies with adequate amounts of private capital to support effective operations under the Act. It should be remembered that many minimum-size companies have left the program either as a result of SBA action against them for violations, through default on their loans, or voluntary because of lack of profit. We are also encouraging growth of remaining smaller companies through mergers and the addition of more private capital.

SBA regulations also define "Venture Capital" which must comprise 65 percent of an SBIC's funds and investments. "Venture Capital" is defined to include common and preferred stock, and debentures or loans

(whether or not convertible or having stock purchase rights) which carry an effective interest rate not to exceed 10 percent, are subordinated to borrowings of the small concern from other institutional lenders, and have no part amortized during the first three years.

This definition will encourage SBICs to provide long-term funds to small concerns on a basis which will not require early amortization or prevent short-term borrowings of the small concern. This equity-type assistance is the type that is generally needed by small business and for which the program was primarily designed.

The legislation also contains a number of other provisions to promote the SBIC program. Increased investment by banks in the companies is permitted, subject to appropriate safeguards; and an industry advisory board to SBA is provided. The new legislation increases permitted bank-SBIC investments from two percent to five percent of a bank's capital and surplus but limits acquisitions of ownership of an SBIC by a bank to 49 percent or less.

The SBIC Advisory Council authorized by the amendments, has held meetings since early March 1968. This Council promises to be a most helpful means of improving communication between SBA and the industry and to aid in developing measures to better enable SBICs to provide increased assistance to the small business community. Among the matters being emphasized are methods to broaden the geographic coverage of the program, to attract more private capital to the industry and to aid in the improvement of various governmental rules and procedures affecting the companies.

SBA is also working with other government agencies (such as the Internal Revenue Service and SEC) to simplify and clarify their rules applicable to SBICs. In addition SBA is continuing its efforts to aid the industry in improving SBIC profitability, obtaining better access to institutional loan funds for the companies, and in methods to make the industry more attractive to investors so as to increase the flow of private capital to the SBIC program.

Concurrently with the January 9 effective date of the new legislation, SBA issued a general revision of its regulations applicable to the SBIC industry. A major purpose of this revision was to consolidate, simplify and improve SBA rules applicable to the companies. There are a number of new provisions in this regulations package which are especially significant. These include specific authority for SBICs to guarantee to institutional lenders debts of portfolio small concerns. This authority could substantially help portfolio small concerns in obtaining short-term financing supplementary to their long-term financing from SBICs. The regulations governing control of a small business concern by an SBIC have been tightened. The regulation requires the SBIC in all cases where such control is acquired to divest control within a reasonable time, subject to a written plan approved by SBA.

Other significant changes in the regulations include a tightening of the conflicts of interest regulations to prevent possible self-dealing by SBICs; and a specific regulation prohibiting unreasonable inactivity, since the Act contemplates that an SBIC shall

conduct active operations to meet the needs for financing of small business concerns in its area.

A provision has also been added for an early warning to SBA in the case of significant capital impairment by a debtor SBIC.

The industry is now on a much sounder footing, largely as a result of these legislative and administrative improvements.

SBIC profits have been rising and realized and unrealized appreciation of SBIC investments has been much greater. After a shakeout period of a number of years, the industry is gaining increased recognition as a needed and viable form of financial institution. SBIC managers are more experienced, and many companies have developed high quality staffs.

The SBICs have learned how to invest in equity financing growth situations with the best chance of maximizing profits and minimizing losses. And there is every indication that the demand for capital from growing and high-potential small businesses will continue to present many desirable and profitable investment opportunities to SBIC management.

SBA considers the SBIC program to be one of its most important activities. It has high potential effectiveness in that it is carried out primarily with private resources and aids the most innovative and productive types of small firms. As the program develops and matures, SBICs are gaining better recognition in the small business and financial communities as necessary and useful financial institutions.

We are confident that the SBIC program now more than ever before is geared to strengthen the growth of small business; to improve the competitive position of small business in the national economy; to promote SBIC participation in the development of minority entrepreneurships in areas experiencing high levels of unemployment, poverty and areas which normally do not provide reasonable business opportunities for minority entrepreneurs; and to promote balanced economic growth by promoting the establishment of SBICs in areas of high growth and areas experiencing high levels of unemployment and poverty, including inner city areas.

The SBIC industry, the Small Business Investment Act, and SBA regulations have, of course, undergone many changes since first established in 1958.

Congress, SBA and the industry have been gaining experience in ways to further the purposes of the Act so as to maintain and foster a healthy, expanding and useful industry to serve the small business community.

CHAPTER V

LEGISLATION

Introduction

Legislative activity relating to SBA programs and authority was probably greater in the Johnson Administration than in any comparable period since the agency was first created as a temporary one in July 1953. All this activity gave further recognition to the continuing needs of the small business community.

While SBA was still relatively new in the hierarchy of Governmental agencies, many of its activities had had their beginnings elsewhere. Several predecessor agencies operated programs for the benefit of small business concerns which, in varying degrees, resembled those conducted by SBA. For example, the lending activities of the Reconstruction Finance Corporation, established in 1932 (P.L. 2, 72nd Cong., 2nd Sess.) included a special program for small concerns. And the Smaller War Plants Corporation established in 1942 (P.L. 603, 77th Cong., 2nd Sess.) also conducted a small business loan program.

Another was the Small Defense Plants Administration. Established in 1951 (P.L. 96, 82nd Cong., 1st Sess.), it had no

lending program of its own, but, in appropriate cases SDPA was authorized to submit recommendations to RFC for loans to small business. The procurement and management assistance authority possessed by SDPA foreshadowed most of the nonfinancial assistance programs subsequently entrusted to SBA.

SDPA awarded certificates of competency, and had a voice in deciding what should be done to assure small business a "fair proportion" of government contracts and of scarce materials. In addition, SDPA was empowered to undertake several other collateral functions relating to the development of small business production potential.

Despite such resemblances none of the predecessor agencies possessed the broad authority eventually vested in SBA to promote the interests of the small business community. SWPC and SDPA had been authorized to assist small business only to the extent that such assistance furthered war or defense efforts or contributed to essential civilian purposes. To SWPC and SDPA the welfare of small business was merely a means to these ends. To SBA, on the other hand, the welfare of small business had become an end in itself.

In addition to authorizing small business oriented assistance, the legislation establishing SBA in 1953 transferred to the new agency the disaster loan program which had been conducted, since 1936, by RFC. Under this program loans were authorized to assist individuals, small and large business concerns, churches, schools and other institutions to finance the reconstruction or repair of dwellings, plants, premises or other property destroyed or damaged

by flood, hurricane or other catastrophe. Disaster loan authority had been subsequently extended to cover special situations, e.g., economic injury to small concerns as a result of such occurrences as drought, excessive rainfall, dislocation by Federally-financed activities.

The Johnson years saw the redirection of SBA programs into areas where small business assistance could also achieve indirectly other national goals, principally in improving economic opportunities for the long-deprived members of minority groups. They also saw SBA's disaster loan authority not only being used in the largest disasters in SBA's history (the 1964 Alaska earthquake and 1965 Hurricane Betsy which ravaged the Southeastern United States) but also to relieve the hardships resulting from an entirely new cause--assistance to owners of business concerns and others whose property was destroyed or damaged by civil disorders.

This introductory material should place in better perspective the description of the principal substantive legislative changes in SBA programs and authority which follow in chronological order.

88th Congress

Public Law 88-264, approved on February 5, 1964, broadened the disaster loan authority for economic injury loans to small business concerns to cover all types of major and natural disorders declared by the President and Secretary of Agriculture.

Prior to this amendment, economic injury disaster loans to small concerns were limited to injury resulting from drought or excessive rainfall constituting a major disaster as determined by the President or a natural disaster as determined by the Secretary of Agriculture. But drought and excessive rainfall were by no means the only disasters which could cause economic injury to small business concerns by destroying or reducing the buying power of their customers. A hard freeze could be equally damaging and similar economic injury could be caused by other physical disturbances such as flood, hurricane, fire, earthquake, and storm. The amendment accordingly removed the previous statutory limitation.

It also authorized SBA to assist small concerns suffering substantial economic injury as a result of the inability of such concerns to process or market a product for human consumption because of disease or toxicity occurring in such products through natural or undetermined causes. This provision followed the botulism episode which had caused the Food and Drug Administration to recommend in October 1963 that consumers avoid the use of smoked fish caught or processed in the Great Lakes area. As a result of this warning, commercial fishing in the area came to a virtual standstill, causing serious economic injury to small firms in the industry.

* * *

Public Law 88-273, approved February 28, 1964, may have been an indication of the continued maturing of the small business

investment company program. Created by the Small Business Investment Act of 1958, as a result of the Johnson Bill (then Senator Lyndon B. Johnson), the SBIC program provided SBA with a new tool for helping small business. Through the instrumentality of SBICs SBA could help meet the needs of small concerns for equity or venture capital as well as long-term loans, which had been found to be generally unavailable on reasonable terms to small business concerns from traditional sources of financing. The new law had authorized SBA licensing, financing, and regulation of privately-owned and operated SBICs which in turn financed small concerns.

The February 1964 enactment increased the amount of SBA funds available to SBICs; removed a limitation on the amount of financing SBICs could provide to individual firms, and directed SBA to issue conflicts of interest regulations governing SBIC transactions with affiliated persons or business organizations.

* * *

Following the devastating earthquake which ruined substantial parts of Alaska on March 27, 1964, President Johnson sent to the Congress comprehensive legislation to provide greater flexibility in Federal programs to cope with the extraordinary circumstances arising out of the earthquake, including programs dealing with highways, urban renewal, housing, and

harbor improvements. The legislation was based on recommendations of the Federal Reconstruction and Development Planning Commission For Alaska established by Executive Order 11150, on which the SBA Administrator served as a member.

Although Small Business Act disaster provisions already provided broad authority to SBA, the resulting Public Law 88-451, the 1964 Amendments to the Alaska Omnibus Act, enacted on August 19, 1964, included a provision amending the Small Business Act to extend the maturity on disaster home loans from 20 to 30 years, a proposal the agency had previously made to the Bureau of the Budget to cover home loans in any disaster, in recognition of longer maturities of modern home financing. At the time Section 7(b)(1) was enacted maturities on home financing rarely exceeded 20 years. Since many of these loans would normally include some portion of pre-existing indebtedness on the damaged or destroyed property, and high construction costs prevailed in the state, the debt burden on homeowners was thus considerably eased.

However, in commenting to the Bureau of the Budget on the draft of the President's Legislation, the SBA Administrator had recommended to no avail that the 30 year maturity be extended to loans on business realty as well--a recommendation previously made to the commission by the Director of SBA's Disaster Program.

* * *

Title IV of Public Law 88-452, the Economic Opportunity Act of 1964, enacted August 20, 1964, authorized the Office of Economic Opportunity to act through the instrumentality of SBA, to assist in the establishment, preservation, and strengthening of small business concerns and to improve the managerial skills employed in such enterprises. The statute provided for a program of \$25,000, 15-year term loans having a particular emphasis on employment of the long-term unemployed. Thus, for the first time, SBA small business assistance programs were being redirected from assistance to small business per se to assistance with a collateral objective of giving all individuals the opportunity of contributing to the nation's economy to the full extent of their capabilities and of participating in the workings of our society.

SBA carried out this activity through a statutorily authorized delegation of authority from the Director of the Office of Economic Opportunity.

* * *

Sections 305(c) and 319 of the Housing Act of 1964 (Public Law 88-560 enacted September 2, 1964), amended the Small Business Act to broaden the assistance previously authorized for small business concerns displaced by Federally aided urban renewal projects.

First, SBA was authorized to provide at the earliest practicable time such information and assistance as may be appropriate, including information on eligibility for loans under previously

enacted legislation to federally displaced small business concerns. Other statutory restrictions had made it difficult for SBA to disseminate information on its financial assistance programs except on request and, therefore, many small businesses were undoubtedly unaware of such assistance until too late to allow the most effective planning for reestablishing their businesses.

Second, the amendment made clear that SBA loans already authorized for displaced small business concerns could be used for the purchase or construction of new premises, even though the concern involved did not own the premises from which it was displaced.

89th Congress

Public Law 89-41, enacted June 17, 1965, the Pacific Northwest Disaster Relief Act of 1965, included a provision increasing from 20 to 30 years the maximum term governing disaster loans for dwellings destroyed or damaged by the extensive floods and high waters which struck Oregon, Washington, California, and Idaho in December 1964, and January 1965.

This amendment followed the pattern of the amendment to the Small Business Act, section 7(b)(1), disaster loan authority enacted in the previous year (Public Law 88-451) for the benefit of Alaska homeowners. As was the case then, the 30 year loan maturity would, in cases of hardship permit smaller installments over a longer period of time, particularly where the borrower was not only financing the replacement or repair of his property but also continuing to meet existing mortgage obligations.

The agency had, however, taken exception to the piecemeal approach taken by the legislation. In reporting its position to the Congress, the agency had recommended an overall amendment to the Small Business Act to permit maturities of up to 30 years on any loans made pursuant to section 7(b)(1). SBA could then draw upon such broader across-the-board authority in all appropriate cases thereafter to allow smaller repayment installments over a longer period of time.

Shortly thereafter, the SBA recommendation for the broader authority to permit 30-year loans was enacted into law. Public Law 89-59, approved on June 30, 1965, accomplished this, along with other changes in the Small Business Act. The legislation made special allowances for homeowners and small businessmen who obtain disaster loans to finance the replacement or repair of premises destroyed or damaged by a major disaster declared by the President, or by a natural disaster declared by the Secretary of Agriculture.

In order to prevent severe financial hardship to such a borrower, SBA would be permitted to suspend the payment of principal and interest on, and to an extension of the maturity of the agency's share of the loan for a period of five years. During the period of suspension, SBA could also upon the request of any private participant in the loan purchase the latter's participation. And, if necessary to avoid a default, the agency could assume the disaster

loan borrower's obligation to make principal and interest payments to the participant for the balance of the period, provided the borrower agreed to reimburse SBA.

* * *

Section 316(a) of the Housing and Urban Development Act of 1965, Public Law 89-117, approved August 10, 1965, amended the Small Business Investment Act of 1958 by adding a new Title IV creating a lease guarantee program. This program was designed to enable small businessmen displaced by Federally aided programs or eligible for antipoverty loans under Title IV of the Economic Opportunity Act of 1964 to lease rental commercial or industrial property otherwise unavailable to them on reasonable terms, by guaranteeing their rental payments.

This amendment also made clear that powers under the Small Business Investment Act other than those relating to the SBIC program could be exercised through such agency organization and personnel as the Administrator determined, rather than through the Small Business Investment Division and the Deputy Administrator for the SBIC program as the original legislation seemed to imply.

This ambiguity in the law had interfered with the Administrator's discretion in aligning agency staff and resources to achieve the most efficient methods of operation. The agency had for that reason submitted a legislative proposal to correct this deficiency in 1964, with the approval of the Bureau of the Budget.

* * *

The Southeast Hurricane Disaster Relief Act of 1965, Public Law 89-339, approved November 8, 1965, was enacted to provide assistance to the states of Florida, Louisiana and Mississippi for the reconstruction of areas damaged by massive Hurricane Betsy in the preceding September.

Congressional Reports said that in terms of numbers of people affected and in terms of monetary losses, the damages caused to this area of the nation appeared to be greater than in any previous natural disaster.

The amendment gave SBA new authority. On that part of any disaster loan in excess of \$500 SBA could, at the borrower's option, cancel up to \$1,800 of the loan, or waive interest due on the loan over a period of three years up to \$1,800.

In other words, SBA was authorized for the first time to approve grants of Federal funds, limited though they were, by means of this provision permitting the forgiveness of principal and interest payments on loans approved for disaster rehabilitation.

In addition, Section 3 authorized SBA to lend to a privately-owned school, college, or university without regard to whether the required financial assistance was otherwise available from private sources.

One interesting feature of the legislative history of Section 3 was a Congressional intent of limiting the scope of its effect notwithstanding the plain language of the statute to the contrary. In responding to a BOB request for comments on the enrolled bill, SBA's Executive Administrator had pointed out that the "forgiveness" feature of the assistance was, according to Congressional Reports, intended for uninsurable risks rather than for those who fail to have insurance

through their own neglect. The agency's administration of this new authority was greatly facilitated by the statement of President Johnson in signing the Act:

" . . . this relief will be given only in the case of uninsurable loss or damage -- such as that resulting from flood, high water, or wind-driven water. It cannot be extended, nor should it be, to those who did not take advantage of available insurable protection."

The President also described the legislation as a "fine example of constructive cooperation by the Congress and the executive departments in providing promptly additional authority needed to aid the victims of disaster."

* * *

The most important feature of Public Law 89-409, approved May 2, 1966, was the complete revision of section 4(c) of the Small Business Act to provide for two separate revolving funds instead of a single kitty to finance SBA's several lending programs.

The overall effect was to provide one distinct fund for all SBA disaster loan activities (other than loans for displaced businesses under section 7(b)(3)) and another fund for other SBA financial assistance activities /N.B. The lease guarantee program was established with its own revolving fund by Public Law 89-117.

The primary purpose of the funding revision was to prevent curtailments of the business loan program which could result when substantial sums were diverted to meet emergency needs under the disaster program. Although the change was thought by agency

officials to introduce unnecessary rigidity to the existing revolving fund structure, there was no opposition to the bill since it would not present serious operational problems.

Supplementing the split revolving fund provision was the removal of the statutory limitation on the amount of money which may be outstanding at any one time from the disaster loan fund. Ceilings on other SBA credit programs remained in the law.

* * *

While not amendatory of SBA legislation, Public Law 89-429, the Participation Sales Act of 1966, approved May 24, authorized SBA (among other Federal agencies) to set aside obligations from its loan portfolio and subject them to a trust administered by the Federal National Mortgage Association. FNMA in turn would sell participating interests in the trust to investors such as banks, pension trusts, and insurance companies and return the net sale proceeds to SBA for reuse within budgeted limits in its lending programs. Thus the need for appropriations would be in part displaced.

This had resulted from an earlier proposal in the President's 1965 budget message for legislation to provide for the sale by SBA or FNMA of participation interests in pools of loans held by SBA. SBA had accordingly submitted to the Budget Bureau a proposed Bill along these lines, in the belief that the alternate availability of

the two procedures would be advantageous in enabling SBA to choose whichever method appeared most appropriate at particular times-- in view of the agency's current loan portfolio, the condition of the financial market, and other administrative considerations.

However, the Administration Bill subsequently transmitted to the Congress and enacted provided for sales of participations in SBA obligations to be made only through FNMA. In transmitting the legislation to the Congress, the President described it as designed to "conserve our budget resources by substituting private for public credit while still meeting urgent credit needs in the most efficient and economical manner possible." Efficiency was to be the result of concentrating the sales in an extensively experienced FNMA rather than having each of the several Federal credit agencies, including SBA, conduct separate sales programs.

This legislation was not without strong dissenters in the Congress. Minority views were expressed by appropriate Committee members who were alarmed at the declining role of Congress; who did not feel that private credit was in fact replacing public credit; who saw in the legislation not a sale of assets but a refinancing of government activities at higher cost than direct Treasury financing. Nevertheless, use of the Participation Sales Act of 1966 permitted continued authority through subsequent years of the Administration.

* * *

By means of a rider on the Demonstration Cities and Metropolitan Development Act of 1966, Public Law 89-754 approved November 3, 1966, section 8(b) of the Small Business Act was amended to authorize private groups and individuals cooperating in SBA counselling programs to use the agency's office facilities, including supplies and secretarial help. The proposal was primarily aimed at facilitating the work of SCORE members, the Service Corps of Retired Executives, a voluntary group of experts which was organized in 1964 to provide advice and counsel to small businessmen throughout the country.

* * *

Included in Public Law 89-769, the Disaster Relief Act of 1966 enacted on November 6, 1966, was a new subsection added to section 7 of the Small Business Act for the benefit of privately-owned colleges or universities suffering property damage as a result of a "major disaster" declared by the President. A disaster loan can be made to such an institution without regard to whether the required financial assistance is otherwise available from private sources.

Moreover, the amendment permits SBA to waive interest payments and defer principal payments on such a loan for the first three years.

The special disaster loan benefits accorded private educational institutions by the Southeast Hurricane Disaster Relief Act of 1965 were thus extended to major disasters generally.

* * *

The Small Business Investment Act was substantially amended by Public Law 89-779, the Small Business Investment Act Amendments of 1966, approved November 6, 1966.

First, the Associate Administrator for Investment (formerly Deputy Administrator for Investment) would now clearly derive his authority by delegation from the Administrator. The Amendments of 1966 thus clarified prior law, which did not expressly grant to the Administrator full authority and responsibility for administering the Investment Division.

In the substantive area, the Amendments were primarily intended to improve the Administration's regulatory authority, for the benefit of the industry. SBA was given authority administratively to revoke licenses, as well as to issue cease and desist orders with general applicability to "persons," not just licensees. Intentionally false or misleading statements made to the agency in any required report or application would now be subject to appropriate sanctions. Directors and officers would be removable from office for violation of the Act when necessary to protect the SBIC or SBA,

subject to certain procedural safeguards and judicial review. Violations of the Act or regulations by an SBIC would now be deemed violations by any person participating in the violation. Any breach of fiduciary duty by a director or officer causing or creating imminent danger of financial loss to an SBIC was declared to be unlawful. Without prior written consent, no person convicted of a felony or found civilly liable for personal dishonesty would be allowed to serve or continue to serve as an SBIC officer or director.

Penalties were provided for an SBIC's failure to file required reports, unless reasonable cause for the delay was established. Jurisdiction in actions to enforce these new and several existing provisions of the Act was established as the district in which the licensee maintains its place of business, with service of process permitted wherever the defendant may be found. And SBA was given authority to act as receiver of licensees.

Section 8 of Public Law 89-779 also amended the organizational provision of the Small Business Act so that SBA was provided for the first time with an official who can act as Administrator during the absence or disability of the Administrator, or in the event of a vacancy in the latter position. This official was given the statutory title of Deputy Administrator and, at the same time, the title of each of the three Deputy Administrators then in existence was changed to that of Associate Administrator.

Public Law 89-779 was substantially based on recommendations proposed by the Agency to provide a greater degree of control and responsibility on the part of SBA over the small business investment company program. Congressional Hearings on the program's performance had revealed serious operating conditions within a number of SBICs as well as possible irregularities within the industry.

Together, the changes would enable SBA to deal promptly and effectively with violations of the Small Business Investment Act and regulations issued thereunder.

The draft Bill leading to Public Law 89-779 was prepared and submitted to Congress by SBA without advance clearance by BOB although clearance was anticipated.

Nevertheless, most of SBA's proposals survived the legislative process to final enactment. Those failing of enactment included proposals to repeal the statutory status of the Investment Division; authorize examination of small business concerns receiving financial assistance from SBICs; and impose personal liability on SBIC officers and directors diverting SBIC funds to unauthorized purposes. Moreover, the agency had considered seeking clarification of its authority to institute court action for the dissolution of SBICs violating the Act or regulations; but the Administrator did not press this proposal in view of negotiations then in process with

the Department of Justice for a revised memorandum of understanding that would make legislative clarification unnecessary.

* * *

The authority to make small business loans for antipoverty objectives, given to the Director of the Office of Economic Opportunity by Title IV of the Economic Opportunity Act of 1964, and delegated by him to SBA, was assigned directly to the agency by Public Law 89-794, approved November 8, 1966. The transfer was intended to promote greater efficiency in the conduct of the program.

90th Congress

Public Law 90-104, approved October 11, 1967, substantially represented recommendations of the Administration for changes in the Small Business Act and the Small Business Investment Act of 1958 to improve further SBA programs for assisting small business. Title III of this law also enacted the Small Business Protection Act of 1967 which required SBA to conduct within one year a special study of the impact of crime on small business with a view of determining ways in which such concerns could best protect themselves against such activities.

Besides increasing the dollar ceilings on various SBA programs, the Small Business Act amendment increased to 15 years the maximum maturity on business loans used for construction. SBA had previously found small business to be at a competitive disadvantage

vis-a-vis big business in having to amortize such loans within 10 years and had included this proposal in the legislative program submitted to the Bureau of the Budget for the first session of the 89th Congress. The agency had pointed out that other legislation recognized the need for long amortization periods for construction loans and this would be particularly beneficial to small businesses often in need of longer periods to prevent undue drain on working capital.

The amendment also clarified the authority of SBA to establish advisory boards and pay their expenses under limited circumstances; and authorized the reimbursement of persons (particularly SCORE members) cooperating in the work of the agency for certain expenses incurred by them.

Finally, SBA was given further freedom from the general rule prohibiting government agencies from using the mails to distribute information to people who have not requested it. This provision recognized the desirability of liberal exceptions for government agencies which, like SBA, are charged with the responsibility of alerting underprivileged persons to programs available for their assistance when too often they are unaware of their existence.

Included in the agency's original legislative submission to BOB, but not approved by the latter for transmittal to the Congress, was a proposal to extend the certificate of competency procedure embodied in Section 8(b) of the Small Business Act to

include competency as to integrity, tenacity, and perseverance of a small firm to carry out a specific government contract.

Under existing law, SBA could pass only on a small firm's capacity and credit to perform, thus leaving to contracting officers broad authority to deny awards to low bidding small firms on grounds dealing with reliability. There were indications of exceptions on the part of the Department of Defense because in DOD's opinion lack of integrity, tenacity, or perseverance is a factor SBA cannot assist a firm in overcoming; integrity is determined from a review of a firm's activities and practices over a period of time and SBA cannot change the record.

The Small Business Investment Act amendments enacted by Public Law 90-104, fulfilled the Administrator's promise at the time of the enactment of Public Law 89-779 to return to the Congress at a later date with further proposals to revitalize the SBIC program and convert it into a more effective instrument of assistance to small business.

In licensing SBICs SBA would now have new criteria upon which to evaluate a license application: general business reputation and character as well as the probability of successful operations based upon a projection of profitability and financial soundness. New minimum capital requirements were established, again to insure a sounder financial basis for operations. While increasing from 2 to 5 percent of their capital and surplus, the amount banks could

invest in SBICs, the amendment also limited bank holdings of SBIC voting stock to less than 50 percent.

The means and amounts of SBA financing of SBICs were changed with the principal result being that more government funds in the aggregate would now be available to lend to SBICs, with a special incentive of even more government funds for those SBICs substantially concentrating in equity investments in small business concerns.

The amendment also repealed at the request of SBA the provision giving an option to small business concerns to purchase stock of an SBIC in an amount up to 5 percent of any equity-type financing which the SBIC provided to it. The purchase of SBIC securities had been a rare occurrence and created regulatory and administrative problems.

Finally, the SBIC amendment changed the method of computing the permissible amount an SBIC could invest in a single small business so as to encourage use of private capital in SBIC operations; required yearly SBA examinations of SBICs; and required an annual report to the President and the Congress on SBA efforts and those of specified other agencies on progress toward the resolution of certain specified problems affecting small business and the SBIC program.

However, in the period intervening between the original submission of SBA's legislative program to the Bureau of the Budget

on January 16, 1967, and formal enactment on October 11, 1967, there had been some giving and taking and some accommodation to achieve generally acceptable changes in the SBIC program.

For example, SBA had initially recommended enactment of authority to establish a final five-member SBIC advisory board appointed by the Administrator for definite and staggered terms up to five years. This proposal was rejected by BOB, although the broadened authority to appoint advisory boards and pay expenses of their members, which was added to Section 8(b)(13) of the Small Business Act, achieved a similar result.

The amendment made clear that SBA had authority to establish such advisory boards and committees as might be necessary to achieve the purposes of the Small Business Investment Act of 1958, as well as the purposes of the Small Business Act.

The agency had also proposed initially the division of the existing business loan and investment revolving fund into two funds. The purpose of this change was to establish separate identity for the SBIC program inasmuch as it had been established by separate legislation in 1958.

The agency believed that a separate identity would facilitate funding, costing, and reporting of SBIC program activities. BOB believed this proposal to be unnecessary and it was not included in the final enactment.

Also rejected by BOB (probably because of SEC opposition) and not enacted was SBA's proposal to authorize SBICs subject to the Investment Company Act of 1940 to give restricted stock options meeting the terms of the Internal Revenue Code in order to make the SBIC industry more attractive to qualified management officials.

On the other hand, BOB accepted SBA's view that a minimum of \$1 million in private invested capital was required in any one SBIC to assure adequate income, to interest competent management, to make the SBIC attractive to private investors, to allow diversification of investment, and to enable an SBIC to have reasonable expectations of a successful long-time operation.

But the proposed minimum capital requirement was rejected by the Congress. The approach adopted by Congressional lawmakers was in effect a more flexible one in that it authorized SBA to consider the need for and require capital in excess of minimum statutory capital in cases where necessary to insure sound financial operations by SBICs.

The other major change rejected by BOB was the recommendation that SBA match private invested dollars in SBICs on certain ratios without a dollar ceiling except as determined administratively by the Administrator. The government to private dollar ratio would have been two-to-one in the case of ordinary SBA financing of SBICs, and three-to-one in the case of the additional financing authorized as an inducement for equity-oriented companies.

BOB, and subsequently the Congress, imposed statutory ceilings of \$7.5 million and \$10 million, respectively.

But probably the most telling and apparently precedent-setting development in the intervening period was the rather incisive and frank letter sent to BOB Director Charles L. Schultze by SBA Administrator Bernard L. Boutin on April 7, 1967.

The Administrator pointed out forcefully that SBA had spent considerable time evaluating the SBIC program and developing the necessary legislative changes; had already had too many meetings with BOB examiners and provided the Bureau with much supplemental information. The Administrator said that the "legislation has been massaged now at the Bureau for two and a half months" and that it was time to decide on one of three alternatives:

1. Send to the Congress SBA's most recent submission to the Bureau (the alternative recommended by the Administrator);
2. Submit no legislation to the Congress, letting the industry work directly with the Congress, thus clearly opening a pandora's box and placing SBA in an almost impossible position in testifying before the Congress, or
3. Proposing legislation abolishing the program, an alternative he did not recommend if a good law could be enacted.

SBA's legislative program was finally submitted to the Speaker of the House and the President of the Senate on May 20, 1967.

Public Law 90-104 also amended Title IV of the Small Business Investment Act of 1958 to extend to small business generally the lease guarantee authority originally limited to the payment of rentals on leases of commercial or industrial property by small concerns displaced by Federally-aided programs or small concerns eligible for antipoverty loans under Title IV of the Economic Opportunity Act of 1964.

* * *

Public Law 90-222, Economic Opportunity Amendments of 1967 approved December 23, 1967, contained several amendments to Title IV of the Economic Opportunity Act of 1964, under which SBA operates its Economic Opportunity Lending and Management Assistance Programs. Language was added directing that special emphasis be given to loans to small business concerns located in areas with high proportions of unemployed or low-income persons or owned by low-income individuals, and that equitable distribution should be made between urban and rural areas in making such loans.

At least 50 percent of the amounts loaned or guaranteed under Title IV would now have to be allotted to small business concerns located in urban areas identified by the Director of OEO as having high concentrations of unemployed or low-income individuals, or to small concerns owned by low-income individuals.

SBA was also given authority to extend financial assistance to public or private organizations for the purpose of making technical and management assistance available to small concerns eligible for loan assistance under Title IV. And SBA was directed to coordinate the placement of Federal government prime and subcontracts, in such a way as to further the purposes of Title IV.

* * *

Public Law 90-448, the Housing and Urban Development Act of 1968, approved August 1, 1968, incidentally contained several provisions affecting SBA. Section 7(b)(1) of the Small Business Act was amended to include "riots or civil disorders" among the catastrophes covered by SBA's disaster loan authority. This was in the nature of a clarifying amendment since at the time of the 1967 major disorders in Newark and Detroit, when President Johnson had marshalled all possible Federal assistance programs in aid of the stricken areas, SBA had determined its existing authority sufficient to cover the situation.

Another significant provision amended Section 4(a) of the Small Business Act, which defines "United States" for purposes of the Act, to include the "Trust Territory of the Pacific Islands."

The effect of this change was to extend SBA assistance programs to persons and organizations located in such Territory. The Department of the Interior supported this legislation as a major contribution to the economic development of the area and

deemed it consistent with the terms of the trusteeship agreement by which the United States administers the area on behalf of the United Nations. The BOB, while it had no objection to the Interior Department's report on the legislation to the Senate Committee on Banking and Currency, believed that the existing authority of the Interior Department as the administering agency for the Territory was sufficient to meet the needs, but that if additional resources were required they should be channeled through the Department rather than SBA.

The Act also prohibited Federal disaster assistance (defined to include a disaster for which loans may be made under Section 7(b) of the Small Business Act) to the extent that any loss, destruction or damage to real or personal property is, or could have been covered, by the National Flood Insurance Program established in the Department of Housing and Urban Development by Title XIII of Public Law 90-448.

Some exceptions could be made to avoid undue hardship to low-income persons under regulations which the Secretary would issue. Also prohibited for a period of one year after conviction was disaster relief to any person convicted of a felony during a riot.

* * *

The Federal-Aid Highway Act of 1968, Public Law 90-495, enacted August 23, 1968, included a provision amending section 7(b)(3)

of the Small Business Act to broaden the authority authorizing loans to small businesses suffering substantial economic injury as a result of displacement by Federally-aided construction. The amendment provided that small businesses be covered under circumstances short of actual displacement, i.e., by merely being located in, adjacent to, or near such construction.

Recommendations along these lines had earlier been advanced by the House Small Business Committee, Senator Sparkman, and the Advisory Commission on Intergovernmental Relations. SBA officials at first saw in the change the creation of sufficient administrative difficulties to justify withholding its endorsement of the legislative change. Although the agency subsequently moderated its position enough so as not to oppose the change, actual endorsement continued to be withheld because of BOB opposition which was said to be grounded on fiscal considerations, largely the low interest rate in this program. But the agency, in commenting in August 1966 to the BOB on S. 1681, the Uniform Relocation Act, which contained a similar provision, argued that by yielding on such a provision, it would probably place the Administration in a better position to eliminate from the Bill less attractive provisions which would have provided for loans to small businesses affected by state construction where no Federal money was involved and would have extended the program beyond construction activity to "any other public improvement program."

* * *

CHAPTER VI

SBA RELATIONSHIPS

Congressional Relations

During the Johnson Administration, SBA's Congressional Relations functions were expanded considerably as a result of the sensitivity of the agency's administrators to the wishes of Congress.

Initially, Congressional Relations for the agency were handled by a small staff. Responses to Congressional inquiries usually were carried out by the program staff. In 1966 the SBA administrator determined that it would be more desirable to centralize the Congressional Relations functions, and established an Office of Congressional Relations under an Assistant Administrator for Congressional and Public Affairs.

The agency then embarked on a more active program to improve the existing rapport between the Agency and the Congress. New projects undertaken included the establishment of a procedure whereby members of Congress were notified of agency policy changes and modifications through a series of "Notices to Members of Congress."

Additionally, all Members of Congress were provided with profiles of SBA's various programs. These profiles, written in

newsletter style, were frequently used by the members to inform their constituents and so reflected the continued interest of the members in small business. Detailed data on individual States or Districts were provided on request. Efforts were expended to give members of key committees and committee staff briefings on new agency programs such as lease guarantees.

New Members of Congress were given special briefings by the Administrator. A special effort was also made to provide Members of Congress with prepared stories of successful assistance to small businesses in their districts for insertion in the Congressional Record. This effort was highly successful. An important objective of the Congressional Relations function is to assist in securing successful passage of agency-sponsored legislation in the Congress and to keep Congress currently informed on agency activities. The record will bear out that the agency has been successful in this respect. This measure of success is not necessarily a reflection of the success of various projects undertaken by the Office of Congressional Relations, but rather evidence of the strong emphasis and support of Congressional Relations by the Administrators of the Agency.

Public Relations

The assets of public relations

The fundamental goal of SBA's public information program was to spell out for the nation's small business community, the agency's function and detail the services available to small businesses.

SBA from the outset established a policy of full disclosure of information on services rendered to small concerns. This stems from the fact that the agency believes the public has a right to know and the agency has the responsibility to inform.

However, information received in confidence such as personal financial data necessary to make credit determinations, processes involved in contracts on which small firms were bidding and similar data are not disclosed.

As a carryover from the Small Defense Plants Administration, some of America's small businesses were already aware of the contracting services available from the agency and its efforts to help small business bidders obtain a fair share of government procurement contracts. But, as the emphasis turned from a defense-oriented basis at the end of the Korean Conflict, SBA's efforts were concerned with the ability of small contractors to provide goods and services for commercial rather than military purposes.

The public information program also set out to inform the public of SBA's financial assistance program, and to emphasize the fact that the SBA function in providing small firms with financial assistance was in no way competitive with the nation's banking facilities, but rather a supplement to funds available from conventional lending sources.

But SBA early established the policy of publishing a monthly listing of the approved loans including the name and location of

the firm receiving the loan, the amount approved and the type of SBA loan approved, as well as the borrower's business activity. The Agency also would release if requested the interest rate and maturity of the loans and the general purposes for which the funds were to be used.

In the formative period of the agency's existence, information functions were centralized in Washington and consequently the major emphasis in the public information program was carried on by a small staff in the Public Information Office. This emphasis was mainly geared to the Washington press and the Washington bureaus of newspapers and magazines in major metropolitan areas.

The first major change in emphasis on SBA's public information program occurred in 1961 when its Director was elevated to an Assistant Administrator for Public Information.

In addition to directing the informational program, the Assistant Administrator became a top level adviser to the Administrator and participated in major policy decisions of the agency.

A strong new emphasis was placed on public information activities particularly with regard to the Small Business Investment Companies and Local Development Company Programs.

The Administrator took a more active role through speaking engagements to make the agency's services better known.

A field information program was initiated and each region designated one person as responsible for making information available

locally to news media. Meetings with these representatives were held in Washington to explain the purpose of the information program and the duties these representatives would assume.

The agency also established a working relationship with major trade associations whose headquarters were in Washington, and a separate mailing list was also established to supply these groups with current information on agency activities.

In addition, Congress added a major new program when it directed SBA, DOD and GSA to establish a subcontracting program for small concerns. Until this time, the emphasis had been on prime contracts and small firms' share of prime contracts had been dwindling with the change in government buying requirements necessitated by technological and other changes.

The Office of Public Information in concert with the Office of Procurement and Management Assistance of the agency sought to make small businesses aware of the government's new service, and to inform large prime contractors that there were qualified small firms seeking to become subcontractors.

(These efforts have achieved some success and about half of the 100 largest prime contractors in terms of dollar volume now are working with the agency in small business subcontracting programs).

With the appointment of a new Administrator in 1963, SBA's public information activities underwent another major change.

The prime emphasis for informing the public was undertaken by the new Administrator through an extensive, nationwide speaking schedule.

Many major policy announcements were made by the Administrator in speeches to professional, civic, banking and other groups and through frequent press conferences in cities he visited.

The press became more aware of the Agency and its activities and interest in SBA grew. Placement of articles and personal interviews with the Administrator in magazines and newspapers was stressed and the Agency's activities became better known throughout the country.

The President's interest in and emphasis on the importance of small business in large measure stimulated public interest and awareness of small business programs administered by SBA.

He told an audience of small businessmen at the White House in 1964, "Your business may be small. But in every community where you live, your opportunity--and your responsibility--for leadership is large.

"Every American community draws its base of leadership, draws its stability, its continuity, and its drive for progress from responsible, energetic, forward-looking, progressive business people. . .

"We ask of you the use of your time and your initiative in the leadership of your country when you go back home, and the

leadership of your community," he said. "Your leadership at the local level will decide the quality of our cities. . . It will decide the quality of life in our nation for a century to come."

There was an upsurge in all of SBA's activities in 1964.

The Administrator, while personally assuming the major role in informing the public, also made a major change by consolidating the functions of public information and Congressional relations under one person--an Assistant Administrator.

The Administrator made a number of major administrative changes, chiefly reorganization of the agency's field operations by establishing eight area offices to administer and supervise the work of subordinate regional and branch offices.

With the increased emphasis on the importance of small business SBA's activities continued to increase. Citing the growth and progress of small business on the occasion of proclaiming Small Business Week in May, 1965, President Johnson noted that the nation's 4.7 million small businesses "include nine of every 10 businesses that supply the needs and wants of the American people; provide more than a third of the nation's goods and services; contribute significantly to the well-being of our citizens, to the defense of freedom, and to the exploration of new scientific frontiers. . . hold open the doors of opportunity for men and women of all races and creeds, and are a source of new ideas, new methods, and new products, which enrich the lives of our citizens and stimulate our economic growth. . ."

In the autumn of 1965 the Administrator was appointed to another high level government position and the agency underwent a hiatus in leadership until May, 1966.

During that time, the agency also declared a moratorium on its lending activities since its funds were used up largely as a result of disaster loans made after Hurricane Betsy. Public Information activities as a consequence, remained static.

In May, 1966, the President appointed a new Administrator.

The Administrator was faced with several major tasks. He was directed by the President to reopen the lending program and he did so with emphasis on helping achieve national goals and objectives through assisting small firms.

The Administrator was also faced with the problem of reporting to a number of Congressional committees including the Subcommittee on Investigations of the Committee on Government Operations on improprieties in the administration of the Small Business Investment Company program.

There followed a series of actions by the Administrator which resulted in correcting the improprieties and in restoring confidence in the SBIC program which subsequently has shown growth and progress in terms of the strength of SBICs and their greater assistance to small firms.

In all of this, the public information office was responsible for providing the public with accurate and timely information on the program.

In 1966 there was a modification of the public information field program in that, whenever practical, the management assistance professional staff member in each regional office was assigned the additional duty of performing the public information duties since this person normally had the most frequent contact with the public.

In August 1968, the President appointed the eighth SBA Administrator and gave him the mandate to develop minority entrepreneurship in the nation.

In this program the public information activity is a major factor. The program, named "Project OWN," commits the agency to obtaining the support of the inner city communities, American business and industry, and the nation's banking fraternity in a concerted effort to establish minority-owned and operated businesses.

Consequently, the public information office now has three audiences to reach in addition to the general public--civic leaders, bankers, and other business and industrial leaders.

The Administrator also assumed more personal responsibility for public information through his frequent planned and unplanned radio and television appearances, interviews with major press outlets, and extensive travel and speaking engagements.

Press conferences, and radio and TV appearances were commonplace at nearly every speaking engagement and city visited by the Administrator to advance the program.

Thus, the Office of Public Information has had a major role in establishing the agency's information policy and a dual role of informing the public and educating special audiences of the growing socioeconomic role the agency assumed in its 16th year of operation.

Advisory councils

The Small Business Act of 1953 directs the agency "to establish such advisory boards and committees as may be necessary to achieve the purposes of this Act. . . ." In spite of this directive, the years 1953 to 1961 saw little activity and only limited membership on a few councils scattered through the country. These were assigned to no specific functions or responsibilities.

From 1961 to 1963, the councils were increased numerically and geographically. However, little or no use of the council members persisted as the pattern.

In February 1963, the National Advisory Council, composed of 60 members, had no representation from some states, while the representation from other states was excessively disproportionate to their size and population. State advisory councils met sporadically. Altogether there were less than 900 members on state councils throughout the country. Council participation was handicapped by the members' lack of familiarity with programs and procedures of the agency.

The year 1964 saw the beginning of some council participation with the establishment of the unique National and State Small Businessman of the Year Award Programs. But, the same problems existed along with limited use of members.

In 1966, a review of the Advisory Council program was made. It was decided that as structured SBA's advisory council activities

were inadequate in its composition and lacked responsibilities and contributions. It was found that the program was a vehicle which, if properly organized and directed, could be of valuable assistance to SBA and the small business community it seeks to serve.

To achieve this end the councils were expanded along with their geographic representation, bringing them to their present structure and effectiveness.

Since the reorganization, the councils have a controlled structure and planned procedures, responsibilities and purposes. Each regional office has an advisory council composed of representatives from small business, banking and the related fields. These councils in turn have a representative on the National Advisory Council which meets with SBA officials in Washington, D. C.

The National members bring the suggestions and resolutions of the individual councils to the attention of the Administration. The suggestions and resolutions deal with policies, programs, procedures and administration. The meeting in effect serves as a forum at which members from throughout the country discuss and then decide which recommendations should be given to SBA.

There are now 65 advisory councils representing every state in the Union as well as Puerto Rico and Guam. Combined membership has now reached 1,648 and the new directive to raise the membership of all councils to 28, regardless of the size of the state and population, will increase this number.

The contribution of the councils is inestimable. Active participants in the business field are able to give the agency

valuable insight on the problems of small businessmen and advice on ways of improving its services to the community.

Legislation which resulted in SBA's Lease Guarantee Program arose from council activity. Further, it was through advisory council members that SBA interested the First Pennsylvania Banking and Trust Company in initiating a special program to finance minority entrepreneurs in Philadelphia--a prototype for banks throughout the country.

Advisory council members undertake to not only advise SBA's officials on ways to improve the effectiveness of current and proposed programs but also to act as a channel of information to small business in their individual regions regarding specific programs suitable in their locality.

Members may be instrumental in the initiation of new programs, the revision of programs to more practically meet existing conditions, or may bring to the fore special economic problems which exist in their communities or areas which SBA can resolve. Therefore, through advisory councils, the agency has a direct channel to the individual communities in widespread areas of the Nation and is well versed in the problems of each of these areas.

The small businessmen, bankers and members of the related fields that make up the council are appointed by SBA's Administrator and serve the agency without compensation.

One half of the total council membership is filled by representatives from independently owned small business. One

fourth of the total membership is made up of representatives from the banking field and the remaining fourth is taken from fields related to small business interests, i.e., lawyers, accountants, real estate developers, labor leaders, educators, representatives of the news media, chambers of commerce, and others.

The total membership is taken from the private sector and federal employees or individuals whose participation might raise a conflict of interest, such as SBA borrowers, are excluded from eligibility.

Each member serves a term of two years. As terms of members expire and resignations occur the council representation is kept static by the appointment of new members to fill the existing vacancies.

The regional directors are responsible for the orientation of all new members and must hold a training course within four months of appointment to give the members a good grounding in SBA's programs and procedures.

In a typical orientation meeting new members receive an explanation of each program area by the official who is in charge of operation; they review forms and loan applications and are given an opportunity to question officials on any aspect of interest to them or to seek clarification of any point. Pamphlets on various programs are also supplied, providing current information to which members can refer as the need arises.

In addition to the orientation meeting, each regional office holds semi-annual council meetings. It is during these

meetings that the advisory function of the council comes to the fore. Pertinent data on business situations and SBA programs are brought to the discussion and the emphasis is placed on member participation. Guest speakers also are used to elucidate some particular segment of existing problems or programs available. It is during these meetings that the resolutions presented at the national meeting are formulated.

In 1967, SBA further expanded the role of its advisory council members by emphasizing their responsibilities to take the agency's programs to their local communities. Members are encouraged to accept speaking engagements in their capacity as council members and to publicize SBA.

In 1968, the council structure was strengthened by appointing members-at-large from each of SBA's eight areas. These members serve as a liaison function with the several regional councils in their respective areas. The eight members-at-large can be brought together at meetings and conferences frequently and with short notice through the year. The members-at-large are usually persons experienced in SBA's programs who have outstanding service records with small business and this agency. They are recommended by SBA's Administrator for appointment by the Administrator.

SCORE (Service Corps of Retired Executives)

A major factor in business success or failure is management capability. Most small businessmen operate on such slender margins that they cannot afford the expensive services of the professional management consultant. Because this lack of management skill is a continuing problem, SBA continually has sought ways to improve the small businessman's capability.

The whole concept of SBA's management assistance activities has been based upon satisfying the need for counseling when small business managers cannot avail themselves of professional consulting services.

SBA's research studies and experience revealed that a wide gap existed between the coverage provided to small businesses by professional consultants and the existing need for such services. The gap principally involved very small businesses. Discussion with a number of professional consultants lead to the conclusion that the majority of professional consultants cannot profitably serve clients having fewer than 25 employees. And consultants who offer specialized services to the small business community cannot profitably serve clients with less than 10 employees. Of the five million plus small businesses in the United States, 75 percent have fewer than three employees and 95 percent have fewer than 20.

SBA took the lead in 1964 with the establishment of SCORE--the Service Corps of Retired Executives. SCORE provides small concerns and individual proprietors with the management know-how of retired persons who were successful businessmen and executives.

The first pilot project was started in Washington, D.C. in conjunction with the special loan program for very small businesses. The second pilot project was kicked off in Boston; it concentrated on the team approach to solving management problems. The success of the pilot projects was such that the decision was made to organize SCORE on a nationwide basis. Thus, on October 5, 1964, SCORE became a national program with 60 simultaneous organizational meetings throughout the nation.

Shortly before the official organizational meetings took place, the following message was received:

September 16, 1964

Community leadership has never been more important to this Nation than it is today. It is the source of our strength and the sustenance of our society. The future of this great Nation will not be determined by what Washington does. It will be determined by the quality and dedication of the leadership of its communities--its towns and villages and cities.

That is why your united support of the Service Corps of Retired Executives is so vital. The small businessman occupies a key position in almost all community endeavors. They are among the principal architects of progress in every community. They assure the stability of our towns and cities across this great land. The Service Corps will strengthen the community because by working together the bonds of common purpose will be tightened.

These retired businessmen with their knowledge and experience can plan an important role in the War on Poverty by advising struggling businessmen as they battle to get into the economic mainstream and become productive members of our society. The satisfaction the retired businessmen will receive from their important contribution will give them a new sense of fulfillment and purpose.

Sincerely,

[Lyndon B. Johnson]

The response to the organizational meetings and publicity was unexpected--both in the number and caliber of the people who registered. The press--including radio and TV--picked up the story and spread it from coast to coast. And the ranks continued to swell by the registration of competent people of such varied background including: retailers, wholesalers, lawyers, engineers, accountants, economists, bankers, advertising and public relations specialists, marketing experts, and many more.

Since the inception of SCORE, some 3,100 retired executives have volunteered their services on the "no fee" basis. And these volunteers have counseled more than 30,000 small business owners and operators.

Following is a typical case illustrating problems encountered by volunteers and the results obtained.

Al had been in business for ten years, ever since he had inherited the flower shop from his father. He knew the flower trade but his business was going downhill. Despite efforts to make ends meet, he was always in financial straits. Eventually, he appealed to the local SBA office.

SBA suggested that it might be to his benefit to have one of its SCORE volunteers call at his shop to ascertain the cause of his difficulties. SBA explained that SCORE is a group of retired business executives who give counsel to small business, free of charge.

Al consented, and a SCORE volunteer who had had experience in retailing visited Al's shop to make a critical analysis of his business.

The SCORE volunteer found that Al's fixtures and facilities, methods of operation, and dollar volume of sales were the same as the day he took over ten years ago. Al did no advertising or soliciting but just accommodated what business came his way. His record-keeping was lamentably inadequate.

The SCORE counselor recommended that Al advertise in the local newspaper; that he hire an accountant to set up a simple system of bookkeeping to reveal profit or loss at the end of each month;

and that he modernize his store by installing better facilities to display and prolong the freshness of his stock. Al complied. In due time, the business was on a profitable basis, without need of a loan.

Today, a special effort is being made to recruit volunteers willing to work with minority businesses. Because of this great need, the opportunity to render a much needed public service is being particularly stressed. Reward is measured only in terms of personal satisfaction, the opportunity to feel useful, and the change to keep in the mainstream of American life.

Interagency Relations

Although SBA has had an interagency program for a number of years, the program was substantially strengthened in 1966. Under this program SBA identifies and studies existing and proposed Federal programs and regulations which have, or could have, a material effect on the competitive strength of small business and makes appropriate recommendations reflecting the views of the small business community.

The program is a natural complement to the major program functions of SBA and an implementation of the policy stated in section 2 of the Small Business Act, i.e., "to aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns." It is a service that many small businessmen, government officials and congressmen believe SBA ought to actively perform, and the mandate for service is clearly drawn and defined in sections 8(c) and 10(f) of the Small Business Act. SBA is the sole representative of the small businessman within the Executive Branch. Other government agencies are daily planning programs or making decisions which

affect small business. Their plans or decisions are made on such broad principles as what is good for agriculture, the economy, big business, international trade, banking, interstate commerce, or the general public welfare. By introducing the small business viewpoint at the propitious moment, it is quite conceivable that the successful advocacy of a single case can save a segment of the small business community from destruction.

Under the program SBA has established and will continue to establish formal and informal liaison with other government agencies for presentation of the small business viewpoint. Contacts are made on a case by case approach. And as personal contacts are made, the program is explained in such a way as to encourage the official of the other agency to bring to our attention pending matters in his agency which he feels may affect small business and in which SBA's expertise will be of assistance. Emphasis is placed upon SBA's desire to know not only situations possibly adverse to small business but that agency's accomplishments on behalf of small business.

When an agency ruling or regulation is considered discriminatory toward small business, relief is sought through one or more of the following means: (1) Informal discussion, (2) correspondence between agency officials, (3) formal appearance by the administrator of his delegate, or (4) an appearance amicus curiae at any hearing between a private party or parties and the government in which the final decision may have an impact on a segment of the small business community.

These actions are recommended only when there is a clear showing of injury or possible injury and where SBA has substantive evidence to

introduce which will have a persuasive influence on behalf of small business.

Pursuant to the above, the following were the most significant accomplishments during the Lyndon B. Johnson Administration:

- IRS--Communicated written objection to a proposed regulation (section 1.61-15) on stock options that would have been advantageous to large business and disadvantageous to small business. After Inter-agency consultation, IRS eliminated regulation objected to by small business.

- Commerce--Quota regulation on import of certain watches from the Virgin Islands, Guam and Samoa would have resulted in a denial of allocation to a firm without production experience. Conference resulted in a change which would enable firms without production experience to have a quota allocation subsequent to 1967.

- Health, Education and Welfare--Conference resulted in obtaining representation of the smaller pharmaceutical manufacturers on the National Food & Drug Advisory Council. This accomplished the objective of protecting the interests of the smaller pharmaceutical manufacturers.

- Department of Agriculture--Conference at the Department of Agriculture concerning regulations which would damage the soft freeze industry, mainly small business. The regulations were subsequently amended which cured the objections.

- Department of Agriculture--Foreign Agriculture Service. The conference with the administrator has led to mutual efforts to implement a means for small business participation under the Food for Peace Act.

● Civil Aeronautics Board--Brief filed supporting institution of helicopter service in the Washington-Baltimore area and between the three area airports and for certification to a small business helicopter company. The Examiner's decision denying public necessity and convenience has been heard by the Civil Aeronautics Board on its own motion, and all issues, including certification, are to be determined.

● Federal Maritime Commission--Brief filed concerning disparity between outbound and inbound ocean freight rates and between small shippers and large shippers. The Examiner's initial decision upholding contentions of SBA has been appealed and the decision of the Examiner has been affirmed by the Commission.

● U. S. Tariff Commission--Consultation with the Tariff Commission on proposed regulation to raise tariff on typewriter ribbons which would have a number of small business distributors at the mercy of a single domestic manufacturer. Tariff rates were not raised and small business was not placed in a position of disadvantage.

● Atomic Energy Commission--Independent Telephone Company requested SBA assistance in obtaining equal opportunity with an AT&T affiliate to purchase Los Alamos Telephone Company from the Atomic Energy Commission. After intervention by SBA (with Department of Justice), AEC opened purchase opportunity for independent telephone companies.

CHAPTER VII

THE JOHNSON ADMINISTRATION AND SBA

How SBA Shaped Its Operations and Staff Functions in an Effort to Meet the Objectives of the Johnson Administration

The Pre-Johnson Years

In the early years of SBA's history, a substantial portion of its analytical and research activities was devoted to the analysis of the structure of business, the establishment of size standards which reflect the differing characteristics of industry, and the certification of businesses as small concerns.

During the decade 1953-1963, detailed data on the size and characteristics of manufacturing concerns were compiled and published. Basic data and information on the position of small business in the economy were developed and initial attempts were made to correlate changes in SBA financial assistance activity with indicators of aggregate economic activity.

Embryonic work was begun on the economic aspects of minority and poverty programs. It included in-house and contracted studies of the SBA's financial, investment, and procurement programs as well as investigations of opportunities for, and the competitive position, of small business in selected industries and localities.

A special study was also made for the Congress of the effect on small business of changes in bulk third-class mail rates.

Selected industry studies and a history of small business in the United States were prepared at the request of the European Economic Commission. Routine analytical activities included counseling of the Administrator and program officials, and advocacy for legislative, program, and policy modifications and needs.

The Johnson Years

The primary efforts which were begun during the first decade of SBA's history to relate small business to its total economic environment were strengthened and broadened in the first year of the Johnson Administration.

SBA planned and contracted for the first comprehensive study of the impact of economic forces on small business and their influence on its future. Again, for the first time, emphasis was placed on small business in a social context and consideration of research topics for small business was extended to the total economic, social, and political environment. A panel of research advisers comprised of economists, sociologists, and non-government consultants was established on an advisory basis to study and recommend the types of small business research which should be conducted.

SBA's economists sponsored lectures by leading U.S. economists and foreign governments on timely small business topics. The agency also continued to cooperate with foreign small business groups and participated in meetings of the Organization for Economic Cooperation and Development. A greater degree of attention was given to the effect of exogeneous events on small business--such as the impact of future defense reductions and the growth of the franchise method of distribution.

From 1953-1963, the objectives of SBA policy and the methods of providing information for decision-making within the agency remained fundamentally unchanged. To a considerable degree, SBA policy and the efforts of SBA's economic personnel continued to be directed toward filling the credit gap for small business and providing a fair share of government sales and procurement for small firms.

Although SBA gave some consideration to the implications of its assistance on the overall economy, it was concerned largely with maintaining, strengthening, or establishing individual firms or groups of firms which were determined to be relatively small by SBA's size standards.

The method of decision-making used by SBA was one of enlightened individual judgment. The determination on size standards and recommendations on policy depended heavily on the analysis of information and data considered to be most appropriate for a given purpose. While mathematical and statistical methods were employed

in these processes, final determinations usually were based on judgments rather than standardized methods of determination.

From 1964-1969, SBA continued its traditional types of research.

Again, it conducted a major special study of small business problems--impact of crime on small business concerns--at the direction of the Congress.

However, during this period, basic changes took place in SBA policy as it affected objectives of its programs and its approach to decision-making. Increased attention was geared to establishing priorities for SBA assistance, and developing a continuing method for systematic analysis of information which could be used for planning, directing, and controlling program activities.

During 1964, the agency provided new interpretations of the objectives of the Small Business Act, as amended. Principal changes were related to SBA's responsibility to small business concerns ". . . in order to preserve free competitive enterprise . . . and to maintain and strengthen the overall economy of the Nation."

It was determined that these purposes were not served by simply maximizing the number of small business concerns. As SBA's resources are not sufficient to accommodate all eligible applicants, it was contended that the agency should establish priorities which would discriminate among eligible applicants on the basis of economic principle or national objective.

In November 1964, after excluding loan applications based on social considerations and innovating firms that would offer new products, SBA formulated the first preliminary criteria for discrimination among the remaining eligible applicants, which were based on competitive performance of industry and the anticipated rate of return on the investment.

By April 1965--a scant five months later--SBA had reinforced its preliminary efforts at establishing priorities by identifying desirable and undesirable goals as a whole.

Desirable objectives included the increase of production, improvement of competition, encouragement of an expanded private capital market role in financing small business, maximization of SBA leverage, and maximization of job creation. Again, the mere increase in the total number of small firms was not viewed as a valid or meaningful objective of the Small Business Act, as amended.

These early policy considerations were reassessed and revised during the next two years. In January 1967, priorities for financial assistance were incorporated in the "National Directive on Loan Processing" under the program categories of economic growth, competitive environment, and local economic development.

The agency's views on competition were influential in reversing SBA policy on franchising, and on the absolute size of firms which are small for SBA procurement assistance. Consideration of change in the agency's franchise policy which was initiated in

January 1964 was culminated in a paper on the economics of franchising in November 1964. Up until that time, the policy on franchising had been based principally on legal considerations of the franchise agreement--whether or not the franchisee was independently owned and operated or controlled by and, therefore, affiliated with the franchisor.

In September 1966, SBA policy restrictions on franchise agreements were largely nullified on the basis of the competitive virtues for small business and economic benefits to the economy and the consumer.

During 1965, modification of SBA policy on the absolute size of firms which might be eligible for small business assistance for procurement was recommended by the agency's economic staff. This was a problem which had recurred frequently during the SBA's life.

In 1966, SBA's size standards were amended to permit firms which are very large in size, but small in market shares of highly concentrated industries to be considered small for selected areas of procurement assistance.

During 1967 and 1968, SBA economists provided somewhat different guidelines for achieving the objectives of the Small Business Act, as amended, and subsequent related legislation. The competitive and general economic objectives of the Act were considered to be inseparable in theory and fact, and the antipoverty goals

of the 1967 Amendments to the Economic Opportunity Act were considered to provide a single objective. But for emphasis and convenience, the features directed toward poverty areas and low-income persons were considered separate.

To these objectives--stimulation of small business in deprived areas, promotion of minority entrepreneurial opportunity, and promotion of small business contribution to economic growth and competitive environment--priorities were assigned. Thus the primary objectives of the agency's previous goals were subsumed more intensive concern hovered over urban problems, depressed areas, and entry into business ownership for minority groups.

As activities including the inauguration and development of a systematic collection method and analysis of economic information, and its entrance and participation in the government-wide plans gained in stature after 1965, both the structure and emphasis of SBA's programs changed.

The administration of size standards was again transferred in 1966, and the traditional research and policy analysis were subordinated to the development of an economic information system and program planning and evaluation. SBA continued with long-range planning guidance, program evaluation, the interpretation of objectives and development of controlled projects to carry out the policy objectives within the framework of its internal Planning-Programming-Budgeting System.

Economic Information System

From the inception of the agency in 1953, until 1966, SBA did not have a continuing method of collecting economic information on its borrowers or other recipients of assistance to be used as a base for making informed management decisions.

For the loan programs the most essential elements of an economic information system did exist in the form of raw data, but this information, aside from purely accounting data, was not tabulated or classified for purposes of management decisions.

In November 1964, development of a systematic, computerized data bank which, in its final stages, would be a repository of national and regional economic data, as well as of loan and borrower financial information was proposed. After winning enthusiastic agency support a contract for the development of an automated data base and associated statistical procedures and techniques was awarded to Operations Research, Inc. The contract was awarded in June 1965 for SBA by the National Bureau of Standards.

By February 1966, the first test tabulations of loan data were received by SBA, and by the end of October 1966 the data bank system was operational. It consisted of a computerized file of loan data taken from SBA Form 135--the basic loan application--of all loans made since 1953, a number of statistical routines, and provision for entering external economic data.

A number of tests were made of the system and a number of special tabulations were produced. The activity was identified as the Economic Information System.

SBA began work on its PPB System in October 1965, the same month that Bureau of the Budget, promulgated instructions for its implementation. The development of a more effective SBA research program was a primary step to establishing the new system because the existing work focused on the total economy and its small business sector rather than on the effectiveness of SBA programs.

Much of the initial work of the new program evaluation group consisted of coordination with the economic information system and planning of specific outputs. In 1966 and 1967, two of the major requirements of the government-wide PPBS effort were Program Memoranda, and Program and Financial Plans. Preparations for the production of both of these major PPBS elements were made.

As a foundation for the five-year Program and Financial Plans, an Interim Planning System was established in July 1966. Under it, tentative missions and objectives were set up for each office and department within the SBA, which submitted five-year projected plans and annual plans for quarterly operating targets.

In April 1966, a large-scale contract was awarded for the "Development of a System to Aid Program and Policy Management Decision-Making in SBA." It was intended to determine and specify

SBA's goals and objectives, formulate management systems and procedures, perform program analysis, and develop the program memoranda for selected plans. Reports were submitted by the contractor (Operations Research, Inc.) concerning the first and part of the second of these phases. The first SBA program category structure (adopted in December 1966) was based on the ORI study of goals and objectives. The contract was terminated before completion in January 1967, by mutual agreement of both parties.

In late 1966 and early 1967, SBA's research staff also began a large-scale analysis of the agency's programs in preparation for the submission of details to the Bureau of the Budget. The loan programs, excluding disaster loans and loans to SBIC's, were chosen for extensive program analysis. A first step was the award of a contract to Computer Usage Corporation for the creation of magnetic tape records of the financial statement data from the form (SBA Form 697) that retrieved these statistics from the SBA field offices. These records were integrated with the "data bank" loan information. The contractor created and edited the financial data file, merged the two files, assisted with methodology, and developed the supporting computer programs to do growth rate and cost-benefit analysis.

Analysis of these financial statements, covering about 22,000 SBA borrowers, was conducted in two phases, each of which became a major portion of SBA's first Program Memorandum (on Financial Assistance programs, completed January 1968).

● The first phase consisted of the tabulation and analysis of the performance of borrowing firms after receiving loans, as measured by percentage changes in profits, assets, net worth and sales.

These changes were traced for many different subgroups of a total of nearly 20,000 firms for each year following loan approval. To the extent that available data permitted, these borrower performance "growth rates" were compared with industry-wide experience of the experience of other firms of comparable size over a like period of time. Computer tabulations of this growth study were completed in June 1967, and the resulting section of the Program Memorandum in August of the same year.

● In March 1967, SBA began the second major phase of the program evaluation which resulted in the first systematic attempt to apply benefit/cost techniques to a government lending program. This part of the analysis attempted to compare economic benefits with total economic costs of the lending programs. Benefits were measured by increased profits before tax and, in the case of corporations, increased executive salaries and withdrawals. Cost included the gross loan funds disbursed, administrative and servicing costs, plus an estimated opportunity cost. The latter cost element was entered into the analysis as a discount factor (10 percent).

Use of an opportunity cost factor in this way presumes that the primary economic cost of a government lending program

is measured by the returns forgone because of diverting resources from alternative uses in the private sector.

The discounted present values of the benefit and cost streams were computed, and benefit/cost ratios were developed for various types of loans, by industry, geographic area and other variables. Differences in benefit/cost ratios were extensively analyzed and presented as a major section of the SBA Program Memorandum.

A shorter analysis of the Economic Opportunity Loan Program was completed in October 1967. It contained an abbreviated version of the benefit/cost technique.

During the first eight months of 1968, the analytical techniques employed in the 1967 Program Memorandum have been refined and updated. A new version of the Program Memorandum is scheduled for late 1968. At the same time the first steps have been taken toward extending program analysis to additional SBA programs--the state and Local Development Company loan programs, and the SBIC program.

One of the principal SBA-internal undertakings in 1968 has been the design and promulgation of a Regional Programming System for allocating loan funds to regional offices on a more rational basis than past performance. Two main features of the System are: ● A point system for weighing a given region's score on a number of economic indicators, and ● Provision for feedback

from field offices, which frequently may have superior knowledge of local conditions and ramifications. The pilot test of the System will take place in one SBA area during November 1968.

Early in 1968, SBA initiated action to undertake the development of a Program Memorandum on the problem of minority entrepreneurs. The study is planned to encompass research into sources of minority entrepreneurial supply, assessment of capital requirement, present SBA activity in this field, and recommended resource levels for a lively program. Completion is scheduled for mid-November, 1968.

Finally, the problem of delineating the goals and objectives of SBA into a formal program category structure, acceptable to the Bureau of the Budget, was solved in September 1968.

Many previous formulations had been developed, two of which were approved by the agency's Administrator but did not fully meet the needs of the Bureau of the Budget.

Civil Rights Activities in General

Enactment of Title VI of the Civil Rights Act in 1964, prohibiting discrimination in Federally assisted programs, began a new and needed era in the employment and service policies of the nation's business community benefiting from SBA financial assistance. The agency would, therefore, bear a broad responsibility for the encouragement and enforcement of nondiscriminatory practices and procedures of SBA borrowers.

It was a responsibility the agency welcomed. Some officials had long urged passage of substantial civil rights legislation, and long supported strong minority rights. The Civil Rights Act resulted in SBA seeking to develop new and vigorous approaches whose success would match the agency's concern for meeting the problems of the disadvantaged. SBA representatives were assigned to the White House Subcabinet Group on Civil Rights and worked closely with the President's Committee on Equal Employment Opportunity to ensure that the agency's own programs and policies of nondiscrimination were actively and effectively expanded.

SBA's nondiscriminatory program had been initiated before early 1965 when it published regulations to implement Title VI. In July 1963, the agency's Rules and Regulations were amended to implement the nondiscrimination provisions contained in Executive Orders 10925 of March 6, 1961, and 11114 of June 22, 1963. These new regulations involved disaster and business loans, and loans to state and local development companies authorized by section 502 of the Small Business Investment Act.

Affecting any "grant, contract, loan, insurance and guarantee" involving Federal construction contracts, the orders were binding on SBA contractors and Federally assisted contractors where the proceeds of SBA programs of financial aid would be used for "construction, rehabilitation, alteration, extension or repair of buildings or other improvements to real property."

With the passage of the Civil Rights Bill in the summer of 1964, SBA immediately began the task of revising its policies and procedures to implement the expanded nondiscriminatory provisions of the new bill.

Title VI of the new act was designed to prevent discrimination in all Federally assisted programs. "No person," it declared, "shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Though far reaching, insofar as SBA was concerned the act seemed to fall short of the ambitious goals for uprooting discrimination in the public and private sectors of the nation which were envisioned by President Johnson. Section 604, in fact, denied government agencies the authority to take any action with respect to the employment practices of an employer, an employment agency, or a labor organization, except where the primary objective of the Federal aid was to provide employment opportunities. On April 29, 1964, the late Attorney General Robert F. Kennedy clarified this point in what amounted to a landmark decision binding on Federal agencies.

In written reply to questions put to him by Senator John Sherman Cooper of Kentucky, he reaffirmed that where the creation of job opportunities was not a major purpose of Federal aid, the government had no authority to limit a recipient's discriminatory practices. Weaknesses in the bill were considered unsatisfactory by

SBA officials. The agency would have to utilize authority other than Title VI to achieve the purposes it set forth.

After consultation with the Attorney General, the SBA Administrator proposed the use of SBA's own statutory authority under section 4(d) of the Small Business Act, which directed SBA's Loan Policy Board to establish policies "with reference to the public interest" and in accordance with other activities and policies of the government. Under section 4(d), it was decided that SBA could and would deal with a form of racial discrimination which was beyond the reach of Title VI. The latter does not authorize the agency to refuse loans to otherwise eligible business concerns--such as restaurants, motels and theaters--which discriminate in the services they furnish to the public. Pursuant to section 4(d) SBA's stand was to refuse such firms unless and until they open their facilities to everyone.

Members of the Loan Policy Board--Under Secretary of the Treasury Robert V. Roosa, and Under Secretary of Commerce Franklin D. Roosevelt, Jr.--found the proposal a "salutory" one, and recommended immediate incorporation of appropriate provisions in SBA's new regulations.

The agency's legal staff further supported the proposal and urged interagency cooperation in developing clear and uniform investigatory and compliance procedures which could deal effectively with evasive devices.

Without extra regulatory action on the agency's part, it was noted that the loopholes in Title VI would even have prevented the denial of an SBA loan to a Birmingham, Alabama, restaurant famous for its refusal to serve Negroes.

SBA's legal staff, in fact, played a decisive role in shaping the agency's approach to its civil rights responsibilities. The staff pinpointed the legal and operational roadblocks SBA would encounter in encouraging nondiscriminatory programs, and developed effective remedies.

Part 112 of the SBA Rules and Regulations was issued in January 1965 to implement Title VI.

Its provisions, though dealing with broad areas of discrimination in certain agency programs, did not go far enough. Further regulatory action was encouraged. A vigorous push was made for supplementary regulations which would make a clean sweep of racial discrimination by all SBA borrowers.

Thus, less than a year after the effective date of Part 112, Part 113 was added to SBA's Rules and Regulations in February 1966.

Taken together, they reflected the nondiscriminatory policies of the Federal Government. Discriminatory practices by all recipients of any SBA financial aid were prohibited; and the prohibitions were explicit. Recipients shall not:

"With regard to employment practices within the aided business or other enterprise, whether or not operated for profit, fail or refuse, because of the race, color,

or national origin of a person, to seek his services, or to provide him with opportunities for advancement, or to promote him or accord him the rank and rate of compensation, including fringe benefits, merited by his services and abilities, or to permit him the use, on a nonsegregated basis, of toilets or cafeterias or any facilities for rest, comfort, or recreation.

"With regard to services or accommodations offered or provided by the aided business...fail or refuse, because of race, color, or national origin of a person, to accept him on a nonsegregated basis as a patient, student, visitor, guest, customer, passenger, or patron."

Review and reporting procedures for assuring compliance consistent with Part 112 requirements were developed under the new regulations. Procedures imposing penalties, while providing fully for hearings and appeals consistent again with Part 112, were developed to deal with noncompliance. These procedures remain in force today.

SBA was the first Federal agency to utilize its general administrative authority to require equal opportunity commitments from all its direct borrowers. Issuance of Part 113 was a precedent setting step; one that was subsequently used as a model by other agencies of the Federal Government.

The Office of Minority Groups was established in September 1963-- a year before passage of the Civil Rights Act itself. To ensure that no "watering down" in SBA civil rights programs occurred, the head of the new office was made a Special Assistant, directly responsible to the Administrator. The office's primary responsibilities were to

insure that both the employment practices within the agency and its programs of financial assistance were being conducted on a firm basis of equality.

This office immediately set to the task of identifying and contacting minorities, and opened channels of communication through which SBA services could be made better known to minority small businessmen. That the new service was much needed was undisputed. An investigation of the extent to which the agency's services were being made equally available to all small businessmen revealed that among certain groups, principally Negroes, those SBA services were little known and little used.

To remedy the situation, SBA launched an ambitious informational campaign. Issuing news releases to 142 Negro weekly and daily newspapers. The agency made an extended promotional push to inform minority businessmen of SBA services through the utilization of television and radio, by appearing before community business groups, by working with Negro institutions of higher learning, and by participating in national conferences of organizations concerned with equal opportunity.

Response to the new informational effort was immediate and substantial, and similar programs have become a fixed part of the agency's publicity campaigns.

As legislation was enacted, organizational units were reorganized to administer them properly. An agency-wide program

of equal employment opportunity for all qualified persons, regardless of race, creed, color, or national origin was executed by 1967.

To assure that recipients of SBA financial assistance complied fully and actively to a policy of nondiscrimination, an Equal Opportunity Division was established in 1966. This office planned, directed, and coordinated programs of recipient compliance, and others designed to assure minorities equal access to all SBA programs of financial aid. Through regional equal opportunity coordinators, it reviewed borrowers compliance with Parts 112 or 113 of SBA's Rules and Regulations, and encouraged an agency-wide climate of equal opportunity through information and training programs.

The programs under the agency's new activities reflected policy attitudes prevalent within SBA. It had not taken the narrow view that its responsibilities under Title VI were satisfied solely through its enforcement programs. It adopted instead the view that one of the primary purposes of the Civil Rights Act was to assure that agencies of the Federal Government would actively carry their programs to minority groups.

In September of 1966, the minority "Outreach Program" was established. It reached deeply into urban neighborhoods and determined first-hand the needs of minority small businessmen.

In turn, and often for the first time, it gave those businessmen the opportunity to know on a person-to-person basis, the variety

of financial, technical, and managerial assistance programs that were being made available to them. The program called for the full utilization of the communications media, and required field personnel to establish continuing contacts and hold meetings with local minority community leaders and organizations.

The "Outreach Program" and the monthly reports identifying minority usage of SBA programs, submitted periodically to the Washington Central Office, are now providing essential information concerning the degree to which SBA's programs are effectively reaching minority groups.

It should be noted that at this point identification of minorities was in itself a serious problem. Practices of the day were opposed to directly involving a minority member in any formal identification procedure, since such procedures in the past had been used by others as a tool of discrimination. Since SBA had no accurate data dealing with the degree to which minorities were being reached by agency programs, the absence of such information worked to their disadvantage.

To remedy the problem, SBA developed a method of visual observation. To avoid embarrassment or misunderstandings, no person dealing with the agency was asked to state his race or national origin, but agency interviewers made note of their ethnic background and later recorded the information. As a result, a precise evaluation of the effectiveness of economic opportunity programs was made possible,

and deficiencies corrected, and minorities were the direct beneficiaries. This system of identification is unique in government, and is still in use at SBA.

SBA had early recognized the need for and acted to stimulate entrepreneurship among the less advantaged in 1963 by encouraging the development of "small business opportunity corporations." These were situated in less advantaged metropolitan areas, were composed of local business, educational, religious, and labor leaders and organizations. They further extended information concerning SBA programs into areas most in need of them and screened, counseled, and provided management training for SBA loan applicants. Such a corporation in Philadelphia qualified for a \$300,000 ARA grant in 1963 to research minority credit problems, and was instrumental in recommending the agency's "6 by 6" program, already discussed.

A concerted drive for minority entrepreneurship would be initiated in the fall of 1968. Substantial movement in that direction came in early 1964, however, when SBA introduced its imaginative and now famous "6 by 6" financial and managerial assistance program to help Negro and minority small businesses--barber shops, grocery stores, beauty parlors, delicatessens--obtain credit and managerial advice.

Launched in Philadelphia as a pilot project and rapidly extended to include Washington, New York, and Camden, N. J., the

program provided loans of up to \$6,000 for up to 6 years. By the end of the year, more than \$1.2 million in loans had been made to 286 minority businessmen. These loans represented 52.4 percent of the total number of loans made under the program in 1964.

The Senate Committee on Labor and Public Welfare called the results of SBA's "6 by 6" program "encouraging and dramatic," while the House Committee on Education and Labor cited it as an outstanding example of action to aid needy people.

The Congress then provided for an expanded version of the program to be incorporated into the Economic Opportunity Act of 1964. Under Title IV of the act, it assigned to SBA the job of providing loans of up to \$25,000 for as long as 15 years as part of a key feature in the War on Poverty.

Under the new program, economic opportunity loans (EOL's) numbered 2,585 in the first 23 months of the program, totaling \$26.2 million.

In the next 16 months of a further expanded program, 4,320 loans were made totaling \$46 million. And by March 1968, members of minority groups had received over 40 percent of all the loans made under SBA's Economic Opportunity Loan Program, a ratio three times that of the minority group population in the United States. The total EOL loan volume reached more than \$72.2 million.

SBA's increasingly active programs directed to minority groups have moved them closer than ever before to the goal of full

and equal participation in the mainstream of the nation's economic life. That the agency's continuing responsibility to minorities is well met is reflected in the facts of minority aid.

By the end of June 1968, 13.6 percent of the business loans in the 50 states were received by minority group applicants. This figure represents 49 percent of the total dollar loans made by SBA.

Although those figures are impressive, others told a more telling story of the pressing need to develop a meaningful entrepreneurial class among minorities. Of the more than 5 million full-time business concerns in the United States in 1968, not more than 3 percent were owned by minorities, though they comprised over 12 percent of the population.

The number of minority businesses had been increasing at the rate of over 4,000 per year, and SBA lending programs had financed 2,200 of those businesses in 1968. But at that rate, it would take more than a century for the minority population to approach proportional representation in the business community.

To the new Administrator, Howard J. Samuels, the facts spoke for themselves.

Himself the founder of the \$50 million-a-year Kordite Corporation, he recognized the essential need for the business community and the Federal Government to pool their talents and resources in developing minority businesses. His goal: To raise the SBA loan

rate of minority businessmen from the 2,200 annual rate achieved in 1968, to an annual rate of 10,000 by the end of fiscal year 1969, and 20,000 by the end of fiscal year 1970.

Clearly, an impressive program of action would be required. Called "Project OWN," it was patterned after the similar and successful efforts of the National Alliance of Businessmen, a program Mr. Samuels helped launch as Under Secretary of Commerce. He referred to this new program as an example of "creative capitalism," with "government and the private sector working together toward a solution of one of the nation's most compelling problems."

The expansion of minority ownership to meet the goals of Project Own will require an investment of \$250 million by the end of the first year, and \$500 million by the end of the second year. The funds will come largely from private resources, and be backed by SBA guarantees.

Project OWN will be based on a four-pronged approach. The banking community is expected to increase its commitments to minority borrowers, and play an active role in the selection and supervision of loans.

Industry groups will volunteer management assistance and other support, including franchising opportunities. Community groups will be involved in identifying potential owners and managers and organizing local efforts to develop business sites, help process

loans, and coordinates managerial assistance. And finally, SBA will assume leadership on behalf of the Federal Government in guaranteeing loans and coordinating the work of other agencies.

It is, of course, too early to judge the success of the program. What is clear is that Project OWN stands as one of the most all-embracing programs yet devised to meet the needs of minority businessmen, and is a reflection of the most current concepts in minority aid. It also faces a harsh reality. As the Administrator noted: "A program to answer the appeal from ghettos for a stake in American capitalism can wait no longer."

"6X6" Program (The Pilot
Loan and Management Program)

Though great strides had been made in race relations in the areas of public accommodations, churches, schools and voting, very little had been done in housing, employment, business, transportation, etc. The progress made during World War II had seemed to stabilize and the Negro's economic status relative to whites progressed only proportional to the economic growth of the nation.

The Negro in business scarcely touched the economic mainstream. He operated in extremely small activities which provided services neglected by the typical competitive small businessman. He had little encouragement to enter into manufacturing or any large commercial activities and the added handicap of limited education and lack of managerial know-how. But perhaps the greatest factor

inhibiting the growth of Negro businesses was their lack of accumulation of capital.

For this reason efforts to develop capital ownership among Negroes by increasing their businesses on a significant scale became the goal of the SBA. The approach used was chiefly through opening financing to provide long-term, high risk, low interest capital especially for the disadvantaged who traditionally had no opportunity to borrow through normal channels.

Tied to this lending program SBA provided stepped-up management training in business practices. Often it was made a condition of the loan that the person must complete specified training in the art of entrepreneurship.

In the fall of 1963 SBA moved by severe criticism decided to make a bold move and solve some of the problems confronting the agency. Some of the problems were the scarcity of loans being made to minority groups, i.e., seven loans to Negroes in 10 years in Philadelphia and six in Washington, D. C., in 10 years. The criticism on the part of minority groups regarding inability to obtain loans and other services from SBA was mounting.

Another problem was the average SBA loan at that time--\$50,000, obviously not reaching down to the very small businessman. In addition, there were long and complicated application forms that needed simplification and abbreviation.

The requirement of a letter of declination from a bank posed another problem in reaching minority groups and non-minority groups whose educational and economic status were similar. Certain taxing questions in the meantime had to be answered. SBA was confronted with these and other questions.

A series of conferences were held and it was finally decided to launch a pilot program to be known as "6 by 6" designed to make loans up to \$6000 with a maturity up to 6 years, with no emphasis on collateral and no requirement of letter of declination from a bank.

It was also decided to shorten and simplify the application form--to establish a Small Business Development Center and to launch the program in Philadelphia in January 1964.

The Small Business Development Center (SBDC) was established for the specific purpose of seeking out, screening and referring small businessmen to SBA. The SBDC was composed of three groups with three objectives:

- The Fellowship Commission with a membership of 5,000 would be the communication medium.
- Drexel Institute for research (ARA provided the basic funds for research and other financial needs.)
- The City of Philadelphia for sponsorship and public relations.

The Pilot (6X6) Loan Program was launched in Philadelphia on January 29, 1964, at which time a press conference was held in City Hall. Officials from SBA, ARA and the City of Philadelphia were principal speakers.

Additional features of the launching were radio and television interviews and a luncheon. The response was prompt. In the beginning, applications came in, some from the non-minority community than from the minority community. This gap closed rapidly after the news spread that all qualified small businessmen could apply regardless of race or any other artificial consideration. The applicants were interviewed and screened at SBDC before they came to SBA for the loan.

Barely three months later the program was launched in New York City. Washington, D. C. got underway in July 1964 and in the fall of 1964 the "6 X 6" Pilot Loan and Management Training Program was launched in San Francisco, California, and Houston, Texas.

A summary report as of February 1965 shows the following progress since the first SBA launching of the "6 X 6" in Philadelphia, January 29, the Harlem Branch Office on April 6, and Brooklyn on August 10, 1964:

In Philadelphia the total number of approved loans in 1964 was 219 for \$912,547; of that number 98 loans for the amount of \$379,656 were made to Negroes. Established businesses got 161 loans for \$686,647, 68 went to Negroes for \$272,757 and 93 to whites for \$413,890. Fifty-eight loans for \$225,900 were made to new businesses, with 30 of the loans going to Negroes for \$106,900, and 28 going to whites for \$119,000.

In the Harlem Office 204 loans totaling \$1,468,000 were made from its opening on April 6, 1964, to years end in five boroughs of New York City and four counties (Nassau, Suffolk, Westchester and Rockland). In the Bedford-Stuyvesant Office 47 loans totaling \$246,000 were made to minority group businessmen from August 1964 to the end of the year (41 of these were 6X6 loans for \$178,500).

In Washington, D. C. the Pilot Program was launched in July, 1964 and through the end of the year approved 111 loans for \$529,850 with 50 or 45 percent going to minority group businessmen for a total of \$225,900. During that same period the Washington Office showed considerable success with management courses---15 management courses were conducted, 14 Basic Courses and one Intermediate Course with 401 participants in attendance, and they scheduled 12 courses for 253 registered participants for the following year (four Advanced, four Intermediate, and four Basic Courses). During this period they also showed a great deal of progress in counseling cases.

A decision by the bankers not to require a letter of declination was an important one. The very small businessmen would hesitate to go into a "cold, hard" bank and try to match wits with powerful figures in the financial world.

The "6X6" experimental program accomplished its purpose and was phased in 1965 into the Economic Opportunity Loan Program which

came to be known as "15X15" and is explained in another section of this history.

It seems appropriate, however, that we include in the story of SBA and its efforts to improve the lot of the minority small businessman, some reference to the thinking on this subject of the new Administrator who took Office on August 1, 1968.

It is crystal clear judging from his actions and statements of mission and objectives for the agency that he intends to push forward the program to aid the minority small businessman and others similarly situated. One of his most energizing statements that opens the window of his thinking is as follows:

"I want SBA to become known as the Federal Agency that made the greatest contribution to social change."

Statements made to the Special Assistant to the Administrator for Equal Employment Opportunity and Executive Recruitment during briefing sessions, staff conferences, etc., which further reflect the new Administrator's thinking relative to support of the President's program of black entrepreneurship in the inner city are as follows:

- Give all out support to black entrepreneurs to enter into retail and service trades rather than in the manufacturing field which would call for greater outlay and sophistication.
- Be willing to take more risk on the black entrepreneur because of the low loss ration now experienced.

- Double, if necessary, the loss ratio in order to move the black entrepreneurship program forward rapidly.
- Fight for better understanding between black and white and establish better relationship between the races.
- Open offices in ghetto areas to render faster and more convenient service to the very small businessman in the community.
- Get more bank participation in minority group loan programs.
- Assist black entrepreneurs in buying out some of the non-minority small businessmen who "want out."

A showing of the extent to which minorities were assisted under the "6X6" Program is set forth in Volume II, Document 12.

The Women's Program

Effective May 17, 1967, responsibility was assigned for upgrading the status of women in the agency. Only 3.1 percent of the positions GS-12 and above were then filled by women and SBA felt that this showed a great waste of talent.

On May 22, 1967, SBA informed its field staff of their responsibility and suggested that they immediately give their attention to the areas of upgrading of women already employed; recruiting more technical/professional women; and reviewing training practices to assure that training opportunities were being distributed fairly.

Executive Order 11246 was amended October 13, 1967, to include equal employment opportunity for women under a positive continuing program in each Federal Agency. Also, it extended rights to a Civil Service Commission appeal for women who charged discrimination on the basis of sex.

SBA issued a statement of policy on July 13, 1967, which was directed to each SBA employee outlining the agency's philosophy on the women's program. See Volume II, Document 13.

As a result of several complaints from women employees about being short-changed in management training top level secretaries and administrative women were included in a professional management training course. This was the beginning of "The Women's Career Development Day" in which 26 SBA women participated in December 1967.

As a result of this a Women's Career Club was set up in February 1968. Its first project was a series of seven meetings on Women and Money Management held in April 1968. Seventy-five SBA women participated.

In May and June, 1968 a second project was conducted for the ladies, Introduction to Professional Management, consisting of three meetings with 77 participants.

The latest project was a communications laboratory with discussions centered around four subjects: Listening, Reading, Writing and Speaking.

The Equal Employment Opportunity Program

SBA's Office of Equal Employment Opportunity developed and prosecutes a program in keeping with Executive Order 11246 where it specifically states there shall be no discrimination based on race, religion, sex, color or national origin.

The positive action program includes a strenuous plan of prevention. Among SBA's administrative functions are the receipt of complaints, the conduct of investigations of racial discrimination and in appropriate instances the conducting of hearings or the assigning of cases to SBA's independent hearing examiner. Another important phase is conducting a preventive program, having conferences with supervisors, assisting them in affirmative action programs which are designed to prevent problems of discrimination based on race or any other artificial consideration. Recruitment is an important function at all levels including executive recruitment. Special attention is given to SBA's Intern Program where emphasis is on securing talent that can be trained for high level positions in the Federal Service. Significant progress has been made in employment and upgrading of minority people in the agency--- 11.3 percent of the 4,000 SBA employees are of minority status. Significant too, is the growth in the middle and upper grades---nothing spectacular by any means but steady gains. Charts showing various breakdowns of SBA minority employment are in Volume II, Document 14.

Minority Bank Relations

In November 1967 the possibility of establishing a strong working relationship with the approximately 20 Negro banks in the country was seriously considered.

A decision was made calling for personal visits by SBA officials to minority operated banks.

The specific purpose of the visits was to ascertain from the bankers their thought covering areas of greatest local need and to discover how banks and SBA could most effectively combine forces to help meet those needs.

The approach to this project called for a full-days meeting with SBA representatives and the banker. And the response was gratifying.

An example: after visits with several Negro banks, SBA's Chicago Area Administrator suggested that the agency not confine its contacts with Negro banks but to also help with some of the non-Negro banks that had been rather uncooperative. This major decision was carried out in response to the request from the field. Listed below are banks visited by SBA officials to promote minority business loans:

(Minority Banks)

BANKS VISITED

The Citizens Savings Bank and Trust Company	- Nashville, Tenn.
Tri-State Bank	- Memphis, Tenn.

Industrial Bank of Washington	- Washington, D. C.
United Community National Bank	- Washington, D. C.
Consolidated Bank and Trust Co.	- Richmond, Va.
Gateway National Bank	- St. Louis, Mo.
Swope Parkway National Bank	- Kansas City, Mo.

(Non-Minority Banks)

Marquette National Bank	- Chicago, Ill.
Chicago City Bank and Trust Co.	- Chicago
The Metropolitan Bank and Trust Co.	- Chicago
South East National Bank	- Chicago
Sears Bank and Trust Co.	- Chicago
Guaranty Bank and Trust Co.	- Chicago
The Drovers National Bank	- Chicago
Lakeside Bank	- Chicago
Mercantile Trust Company	- St. Louis, Mo.
Bank of St. Louis	- St. Louis, Mo.
First National Bank	- East St. Louis, Ill.
Southern Illinois National Bank	- East St. Louis, Ill.
Union National Bank	- East St. Louis, Ill.
Community State Bank	- Kansas City, Mo.
Southeast State Bank	- Kansas City, Mo.
Westport Bank	- Kansas City, Mo.
Twin City State Bank	- Kansas City, Kansas

(Integrated Banks With Negro Officers Visited:)

University National Bank (Negro President)	- Chicago, Ill.
Amalgamated Trust and Savings Bank (Negro Vice President)	- Chicago
Hyde Park Bank and Trust Co. (Negro Vice President)	- Chicago

A well-planned "follow-up" was initiated. This included:

A letter from the Administrator to the bank officials thanking them for their courtesy and cooperation with the members of his staff while visiting their banks.

Return visits were arranged by the local SBA staff.

Develop specific calendar for return visits.

Take action on items of interest expressed by bankers such as---Co-sponsoring management training course; assigning a loan specialist from the SBA regional office to help train the bank loan officers in handling SBA loan applications and developing a community relations program in cooperation with the bank.

Keep banks on SBA mailing list to receive bulletins and literature, etc. Keep the communication alive.

A new plan for bank relations is now being developed in cooperation with the American Bankers Association. A major thrust is also being initiated to involve all banks, large and small, Negro and white, in a massive effort to promote minority entrepreneurship.

This would involve, in many instances, the bank assisting the Negro in the purchase of established white businesses whose owners want to retire from the ghetto area or critical areas of inner city. SBA considers this a high priority program.

Project Own

In 1968 the SBA launched a half-billion dollar a year bank-industry program to rapidly sweep members of minority groups into the mainstream of business ownership.

The agency recognized that the major problems are:

1. White ownership of the vast majority of ghetto businesses
2. Lack of black capital
3. Lack of black experience
4. Lack of a coordinated vehicle for an action program, with heavy private sector involvement.

The following actions have been taken: First, the agency determined that there were three major elements necessary to the program--selecting the right businesses, getting the capital, and getting the right man into the business in the right way.

Next it was determined there were four major institutions which had to get involved: the Federal Government, the banks, business and industry, and local governments and community groups.

In moving from paper to action, SBA determined that the institutions have the following jobs in relation to the three major elements:

The Federal Government - It should develop a master plan, and decide upon the 20 or 30 types of businesses to be developed by minority entrepreneurs.

SBA undertook this responsibility. For example, it met with the Menswear Retailers of America, and was satisfied that this is one area of high promise for minority business development.

Other businesses will be selected, and as they are, plans will be developed in concert with the private sector, e.g., trade associations or franchise operations. These plans will be usable, with modification, in any deprived area in the nation, and must be able to be communicated to a field structure. It is imperative that this program be decentralized, and the Federal Government's role played essentially through SBA's field office structure.

SBA believes that it has the prime tools in its already existing financial loan programs to make this program work. Key to the whole operation is SBA's guaranteed loan program. However, other programs, such as the Local Development Company and SBIC programs can play major roles.

And in development, the Federal Government can provide an important support role in training and management assistance and in making sure that the new minority businessman who is opening a menswear store, for example, has an able and experienced businessman in the same field at his elbow, helping him over the first hurdles.

The Banks - SBA determined that, to consider a program such as this without the total commitment of the banking community would be folly. Therefore, the agency met with the leadership of the American Bankers Association, and the banking community, as well as business and industrial leaders, initially to gain their support for the establishment of a National Alliance of Businessmen type of organization made up of key bankers and business leaders.

The response from both areas was positive and enthusiastic. It was expected that banks would make a major commitment of loan funds for potential minority businessmen, to be covered by SBA guarantees of up to 90 percent. The agency believed it essential the banks have at least a small exposure, to stress their partnership role in the program and its objectives.

The banks' role in the program was decentralized, working through a field structure much like the one that was established for the National Alliance of Businessmen. Banks have a vital role to play in helping to select the types of businesses which would be most successful in their particular area, and in helping to select the right man for the right business.

Industry - Business and industry, through such vehicles as trade associations and franchise groups, help SBA to determine the types of businesses which have the greatest potential in the central city. Good market analysis, obviously, is as important as any element in the program.

SBA also looked to the business sector--to set up top-flight training programs in every target city selected. It would be their job to help with developing qualifications, business-by-business, so that the right man could be matched to the right business. SBA also looks to them for business guidance and counseling.

Local Community - As has been stressed, every phase of this program is to be decentralized. Therefore, it is obvious, that without the cooperation, guidance and know-how of local governments and institutions, the chances for success will be slim.

It was determined that SBA should meet and work closely with the elected leaders of all target areas. It would ask help from all relevant community organizations--from Chambers of Commerce to black militant groups to community action agencies. It would have teams of SBA specialists working with these groups, in some instances under the same roof in the heart of the ghetto. The city would be needed to provide planning leadership. The city is needed to help SBA find its way through the maze of the bureaucracy and the multitude of local organizations that have sprung up in every ghetto in America.