




U.S. Small Business Administration
Washington, D.C. 20416

OFFICE OF
INSPECTOR GENERAL

May 22, 2003

TO: Robert J. Moffitt
Deputy Associate Deputy Administrator
for Management and Administration

FROM: Emilie M. Baebel 
Assistant Inspector General
for Inspection and Evaluation

SUBJECT: Advisory Memorandum:
Problems with SBA's Directives System (Report #3-28)

Summary

The Small Business Administration (SBA) uses a system of directives to inform and instruct its staff and resource partners on required policies and procedures used to conduct SBA-related activities. Unfortunately, the system is breaking down, with negative consequences for Agency staff, resource partners, and ultimately small businesses. For example, expired Policy and Procedural Notices continue to be used and inconsistent interpretations have been provided to SBA staff and resource partners about whether such notices still apply to the Agency's programs and operations. In other instances, drafts of proposed Standard Operating Procedures (SOPs) are sometimes used by program staff *ahead* of time, i.e., before the SOPs have official authority. Such practices raise ex. 5 operational concerns. The Office of Inspector General (OIG) believes that such problems are symptoms of a system needing serious overhaul. ex. 5 the OIG recommends immediate steps to establish an Agency-wide working group to solve the problems of the directives system. The Office of Management and Administration (OMA) concurred with the substance of the recommendation. OMA's comments are attached.

Background

Effective management requires clarity of communication. SBA sometimes uses *temporary* directives to distribute information about policy, procedures, and other matters. These directives are Policy Notices, Procedural Notices, Information Notices, Administrator's Memos, and Executive Memoranda. The Agency's *permanent* directives

are its SOPs. SBA's resource partners, as well as its staff, rely heavily on these directives.

In practice, Agency staff and resource partners have not always been able to identify which directives were in effect and to be followed at a given time. [FOIA Ex. 5], the OIG is issuing this advisory memorandum to seek correction of the problem.

Issues Involving Temporary Directives

Perhaps the most important temporary directive is the Policy Notice. It is used "to convey a definite course of action to be taken by the Agency regarding a specific issue(s)."¹ According to SBA's current SOP on temporary directives, "Policy Notices will remain in effect for 1 year. *Policy Notices are not renewable*. Once they have expired, they *must be* incorporated into the pertinent permanent directive (SOP)." [emphasis added]²

An official involved with the directives process expressed it another way: expired Policy Notices should actually be considered expired. If a Policy Notice expires and the relevant program office wants to continue the policy stated in the notice, that office is supposed to update the relevant SOP. Otherwise, the policy itself would no longer be in effect after the notice's expiration date unless it had been incorporated into an SOP or it appeared in a law or regulation. In any event, the *notice* would no longer apply.

Unfortunately, Agency staff and resource partners, such as lenders, have not always received a clear interpretation, particularly when no other directive has been issued on the subject. Conflicting advice from SBA regarding the status of expired notices has led to some confusion and inefficiency in the Agency's programs.

For example, a Policy Notice instructing SBA employees not to verify the citizenship status of naturalized citizens had an expiration date of June 1, 2002. Some lenders sought guidance as to whether to continue to comply with the notice after the expiration date. SBA district office, program, and legal staff offered differing interpretations on whether the policy described in the notice continued after the notice's expiration date.

A similar situation exists for *Procedural* Notices. Such notices are to remain in effect for one year. However, unlike Policy Notices, Procedural Notices can be renewed under certain circumstances. The Administrative Information Branch determines whether such a notice should be renewed or incorporated into an SOP.³ Yet, some Procedural Notices are neither renewed nor incorporated into an SOP.⁴

¹ SOP 00-23-5A, "SBA Directives Management System," paragraph 29.c., page 19.

² *Id.*, paragraph 32.c., page 22.

³ *Id.*, paragraph 32.d., page 22.

⁴ Other temporary directives—Administrator's memos, executive memoranda, and information notices—are not required to be incorporated into SOPs.

For example, a Procedural Notice on the annual business plan review for Section 8(a) firms had an expiration date of May 1, 1996. According to one official, the notice is officially not in effect but is still being used until a new SOP is issued.

Interestingly, modifying an SOP involves essentially the same process as issuing a Policy or Procedural Notice. SOP 00-23-5 acknowledges this, noting that "...issuing a revision to an SOP generally requires as many clearances, and takes the same amount of time, as issuing a Procedural or Policy Notice."⁵ For example, issuing a new SOP requires clearance by ten offices, while issuing a Policy Notice requires nine offices.⁶ Yet, program officials appear to prefer issuing Policy Notices because, according to one official, program staffers may perceive Policy Notices as easier to process.

Whatever the reasons for not issuing new or revised SOPs, uncertainty among SBA staff and resource partners can waste time (and thus salaries), while delaying the delivery of services to small businesses. Equally important, such inconsistency does little to help the Agency's public image. [FOIA Ex. 5]. None of this is helpful at a time of limited SBA financial and human resources, nor does it advance the mission of the Agency.

Issues Involving Draft SOPs

In contrast to notices used *beyond* their expiration dates, drafts of proposed but unissued SOPs are sometimes used by program staff *ahead* of time. The issue here is that such draft SOPs have no official authority until they are formally cleared and issued. The only way the substance of a draft SOP could be in effect is through a higher source of authority, i.e., a related law or regulation.

For example, a draft SOP for small purchases, grants, and cooperative agreements was prepared in August 1998. Staff members have been directed to follow the draft SOP even though it has not been cleared or assigned an effective date.

It is understandable why program staff might want to use or cite a draft SOP whenever an existing permanent SOP is obsolete. However, a draft is still a work in progress and not the final directive. Moreover, as in the case of temporary directives, the Agency could be exposed to [FOIA Ex. 5] confusion and inconsistent application in the operation of the Agency's programs.

It is our understanding that the SOP on SBA's directives system is currently being revised. However, SBA needs to immediately alleviate the confusion and potential risk inherent in the current situation.

⁵ SOP 00-23-5, "SBA Directives Management System," paragraph 20.b., page 14.

⁶ *Id.*, paragraph 14, page 10; SOP 00-23-5A, paragraph 31.c., page 21.

Fundamental Issues

Solving SBA's directives problems depends in part on the Agency's vision as to the best ways to help small businesses. Components within SBA need to collectively answer basic questions about future directives, such as:

- Should the same type(s) of directive(s) be used for both Agency staff and resource partners?
- In an electronic era, does SBA still need as many *types* of directives? Or can the system be simplified?
- What should the appropriate clearance process be?
- What legal issues, if any, must be addressed in changing the existing system?
- How can changes to any new directives system be done most efficiently and effectively? How can an incremental system that allows changes on an "as needed" basis be incorporated into the system?
- Should SBA rely entirely on the Internet to communicate directives and the subsequent changes to them, with no hard copies produced?
- Should all SBA directives, regardless of type, and subsequent changes appear in one place, e.g., in one Web location?

These and other issues affect all aspects of the Agency. Reaching agreement may require the participation of the major affected parties, i.e., the Offices of Capital Access, Disaster Assistance, Entrepreneurial Development, Government Contracting and Business Development, and Administration, as well as field offices, OGC, and the OIG.

SBA sorely needs a user-friendly directives system that will meet its future needs. To accomplish this, a high level official should have management responsibility for directives system reform and an experienced staff should immediately be assigned to begin changing the existing system. Moreover, a working group of senior managers from each major Agency office should advise the official and staff on key issues involving the system.

Recommendation

To reform SBA's directives system, the Associate Deputy Administrator for Management and Administration (ADA/M&A) should immediately establish, chair, and consult with a working group of representatives from major Agency offices and at least one field office. The ADA/M&A should also assign experienced staff to this effort. Within 60 days after creation of the group, it should develop a plan for revising the fundamental structure of the directives system.

CONTRIBUTORS TO THIS REPORT

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Date: May 21, 2003

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Subject: Advisory Memorandum: Problems with SBA's Directive System

Monica [Signature]

This memo is in response to your April 29, 2003, memo to Lloyd A. Blanchard, Associate Deputy Administrator for Management and Administration referencing problems with SBA's directives system. While some of the processes related to the current system could be improved, the overall structure is sound.

The Office of Administrative Services is in the process of forming a working group consisting of a representative from the Offices of General Counsel, Financial Assistance, and Field Operations to review current processes and incorporate changes into SOP 00 23, "SBA Directives Management System." Within 60 days after the creation of this group, we will develop a plan for revising the fundamental structure of the directives system.

If you have any questions, please contact [] Ex. 6