

U.S. Small Business Administration
Final Plan for Retrospective Analysis of Existing Rules
August 19, 2011

I. Executive Summary of Final Plan and Compliance with Executive Order 13563

Executive Order 13563 recognizes the importance of maintaining a consistent culture of retrospective review and analysis throughout the executive branch. Before a rule has been tested, it is difficult to be certain of its consequences, including its costs and benefits. The U.S. Small Business Administration's plan is designed to create a defined method and schedule for identifying certain rules that are obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive. The agency's review process is intended to facilitate the identification of rules that warrant repeal or modification, including, where necessary or appropriate, strengthening or modernizing those rules.

Executive Order 13563 calls not for a single exercise, but for "periodic review of existing significant regulations," with close reference to empirical evidence. It explicitly states that "retrospective analyses, including supporting data, should be released online wherever possible." Consistent with the commitment to periodic review and to public participation, SBA will continue to assess its existing significant regulations in accordance with the requirements of Executive Order 13563. SBA welcomes public suggestions about appropriate reforms. If, at any time, members of the public identify possible reforms to streamline requirements and to reduce existing burdens, SBA will give those suggestions careful consideration.

The mission of the Small Business Administration is to maintain and strengthen the Nation's economy by enabling the establishment and viability of small businesses, and by assisting in economic recovery of communities after disasters. Because of this mission, SBA is committed to reducing the regulatory burdens facing small businesses and continues to explore initiatives that would simplify the way in which they do business with Federal agencies and enhance their capacity to access capital, create jobs, and revitalize the nation's economy. SBA will also engage other federal agencies in an ongoing conversation to identify and implement regulatory processes for reducing the burden on small businesses across government. As part of its efforts to reduce burden on small businesses, within the next 90 days, SBA will explore opportunities and methodologies to expedite payments to small business contractors consistent with the Federal Acquisition Regulatory (FAR) Council's guidelines. Receipt of expedited payments could improve cash flows for these businesses and their capacity to sustain and grow their operations.

SBA is also particularly invested in reducing the paperwork burden imposed by its loan, innovation, and procurement programs. Along those lines, SBA is analyzing the following initiatives that would streamline and simplify the process for participating in these programs:

- Single electronic lender application for 7(a) loan programs;
- Uniform SBIR Portal for Information and Solicitations;
- Single Uniform Certification for SBA Contracting Programs;
- Automated credit decision model for 7(a) loan program;

- Government contracting program eligibility website;
- Integrated certification and program management system;
- Portal to distribute materials to resource partners;
- Auto-approve disaster loans based on credit scores; and
- Automate process of receiving insurance recovery information.

SBA developed this retrospective review plan in keeping with its resources, expertise, and regulatory priorities. SBA sought suggestions from the public and incorporated best practices from across the Administration. SBA has developed a concrete timetable with rules to be reviewed. Reviews are being conducted by the relevant program office and the Office of General Counsel under the auspices of the SBA Deputy Administrator. SBA anticipates that the reviews will result in rulemakings that propose revisions that meet the Executive Order 13563 guidance. Through this process, SBA seeks to build on its commitment to open government and to promote reasonable decision-making that will help entrepreneurs and small business concerns start, grow, and thrive.

II. Scope of Plan

a. SBA Rulemaking Offices

The agency's regulatory framework is structured around the program offices that oversee the various agency programs: Office of Advocacy, Office of Capital Access, Office of Disaster Assistance, Office of Entrepreneurial Development, Office of Government Contracting and Business Development, Office of Hearings and Appeals, Office of International Trade, and Office of Investment and Innovation. SBA's regulations are codified at Title 13 Code of Federal Regulations, Chapter I, and consist of Parts 100 through 147. SBA's high-level agency official responsible for retrospective review of Agency rules is Marie Johns, Deputy Administrator, Marie.Johns@sba.gov. The Office of General Counsel provides support to the Deputy Administrator.

b. Types of documents covered under this plan:

This plan covers all of SBA's existing rules. Any review of a listed rule may also include related guidance, information collections and other documents.

III. Public Access and Participation

a. Public Access.

On March 14, 2011, SBA published a notice in the Federal Register to solicit comments from the public on how the Agency can develop its retrospective review plan, including suggestions for specific rules to be reviewed and issues that should be addressed. The notice is available at <http://www.gpo.gov/fdsys/pkg/FR-2011-03-14/pdf/2011-5839.pdf>.

SBA received eleven comments in response to the Federal Register notice from a mix of small business trade organizations, a small business owner, a SBA loan program participant, an

advocacy and research organization, associations of research universities, and individual members of the general public.

Three of the commenters raised concerns with SBA's regulations; two commented on the guaranteed loan programs and one on the Small Business Investment Company (SBIC) program. These commenters identified specific regulations or programs that are deemed to be burdensome or unnecessarily complex and suggested ways in which SBA can streamline or clarify those regulations. None of the commenters promoted repeal of any regulations but two presented ideas for modifying certain loan terms, program eligibility criteria, and various application processes. Two of these commenters also suggested ways in which SBA can conduct the retrospective regulatory review.

Some commenters addressed concerns with regulations at other agencies that deal with taxation, transportation, and the environment, particularly compliance with the clean air and clean water requirements. The comments from individual small business owners related to tax burdens have been referred to SBA's Office of National Ombudsman (ONO). This office's mission is to create a fair and less burdensome regulatory enforcement environment for small business government wide. ONO acts as a liaison between these businesses and other federal agencies to resolve issues related to perceived excessive or unfair federal regulatory enforcement actions, such as repetitive audits or investigations, fines, penalties, threats, retaliation, or other enforcement actions by a federal agency.

Some commenters urged that the goals of the retrospective review should be to harmonize regulations, eliminate unnecessary duplication, eliminate regulations that do not add value or enhance accountability, provide targeted exemptions for certain groups, ensure regulations meet their goals in terms of performance, rather than in terms of process, and be cost-effective for the public.

In support of SBA's Federal Register notice, the Senate Small Business Committee also released a statement encouraging public response to the SBA Request for Information. This statement can be viewed at:

http://sbc.senate.gov/public/index.cfm?p=PressReleases&ContentRecord_id=f79d1f8a-b065-4702-bdc5-de471f773f5d&ContentType_id=4bfd610b-f7c6-4d07-9c74-7aab32dd9838&Group_id=0a5867cf-c34c-421f-969b-ea2a5b192a22&MonthDisplay=3&YearDisplay=2011.

On June 23, 2011, SBA published another notice in the Federal Register to announce the availability of the preliminary retrospective review plan on the agency's Open Government website at <http://www.sba.gov/content/sba-preliminary-plan-retrospective-analysis-existing-rules>, and once again invited comments from the public. See 76 FR 36887. By the end of the comment period on July 25, 2011, SBA had received comments from two credit union associations that both expressed general support for the retrospective review initiative. Both associations applauded SBA's plans to explore paperwork burden reduction initiatives such as an e-application for 7(a) lenders, automated credit decision model for 7(a) loans, and a dedicated portal for distribution of materials to SBA participating lenders, grantees and contractors. In general, the trade associations believe that the retrospective review could improve the timeliness

of delivering loan approvals to small businesses, as well as expand the number and type of lenders that participate in SBA's lending programs, which in turn could increase credit availability to small businesses.

However, one of the associations expressed concern that changes in the loan application and credit scoring procedures might not have the same beneficial impact on non-Preferred Lenders as on those lenders that are in the SBA Preferred Lenders Program. The association, therefore, recommended that SBA also consider revising its business loan regulations to ensure that any new processes are equally available to both Preferred and non-Preferred Lenders. SBA intends to develop streamlined processes that would improve accessibility for all lenders, not just those with preferred status and will continue to ensure that small businesses have the same opportunity to benefit from the Agency's programs regardless of which lender they choose. The same commenting association, also recommend that SBA add the regulations governing the temporary 504 Debt Refinancing program to the list of rules to be reviewed in the next 2 years and also, to modify the program to make it permanently available to small businesses. The authority for the debt refinancing pilot program referenced by the commenter is scheduled to expire on September 27, 2012. Since the permanency of the program is contingent on Congressional action, at this point SBA is unable to adopt this recommendation.

1. Startup America Initiative.

As part of the White House's Startup America initiative, senior Administration officials, including SBA representatives, visited eight cities to meet with entrepreneurs and hear directly from them on ideas and suggestions for reducing barriers and regulations to build a more supportive environment for entrepreneurship and innovation. Information on the Startup America: Reducing Barriers roundtable events can be found at www.sba.gov/content/startup-america-reducing-barriers-roundtables.

This roundtable series is part of the Administration's overall Startup America efforts to support start-ups and entrepreneurs with tools and resources to grow America's economy and win the future. SBA is accepting ideas and proposed innovations from the public about reducing barriers in response to the following prompt question: "What concrete ideas could reduce Federal barriers for entrepreneurs trying to start and scale companies?" at <http://reducingbarriers.ideascale.com/>. Some of the initial ideas include:

- Pair bank loans with guidance from small business development centers or other third parties;
- Explore flexibility in lending criteria;
- Increase participation of lenders and borrowers in underserved communities;
- Simplify Federal Acquisition Regulations and other Federal procurement requirements to make it easier for small businesses to participate;
- Create new mechanisms for small businesses to find mentors and prime contractors, and vice versa;

SBA is carefully exploring the feasibility of these collected ideas. The Administration will use information gathered at these roundtable events and broader public participation to produce a

report highlighting ideas to streamline and simplify unnecessary barriers to America's entrepreneurs and innovators. These ideas were also incorporated into SBA's retrospective review process. More information on the roundtable events is available at www.sba.gov/startupamerica.

Small Business Jobs Act Tour.

SBA also conducted a multi-city tour to solicit feedback from the public on the development of rules implementing the Small Business Jobs Act ("SBJA"). Where appropriate, SBA has developed the SBJA rules to reflect comments received during the tour. The agency continues to evaluate the comments and will determine how they can inform the retrospective review process, particularly those regulations that concern government contracting program and activities. Information on the completed SBJA Tour can be found at www.sba.gov/jobsacttour.

IV. Current Agency Efforts Already Underway Independent of E.O. 13563

a. Summary of pre-existing agency retrospective analysis of existing rules:

SBA's current review policy incorporates the requirements of E.O. 12866 and section 610 of the Regulatory Flexibility Act (RFA). Under E.O. 12866, program offices are required to periodically review their existing significant regulations to determine whether any such regulations should be modified or eliminated. Any significant regulations selected for review are included in SBA's Annual Regulatory Plan. SBA also identifies any legislative mandates that require it to issue or continue to impose regulations that SBA believes are unnecessary or outdated because of changed circumstances. The RFA requires SBA to publish and implement a plan for reviewing existing and subsequently issued rules that have a significant economic impact on a substantial number of small entities. The RFA 610 review helps to determine whether such rules should be continued without change, or should be amended or rescinded, in order to minimize the economic impact on small entities. SBA must review any such rules within 10 years of their publication as a Final Rule. The RFA review involves considering the continued need for the rule; the nature of complaints or comments received about the rule; the complexity of the rule; the extent of duplication or conflict with other Federal, State or local regulation; and any relevant economic or technological changes that have occurred since the last review or development of the rule.

b. Specific rules already under consideration for retrospective analysis.

SBA has just completed a comprehensive review of the regulations for the 8(a) Business Development/Small Disadvantaged Business program (8(a)(BD) (Part 124). The final rule reflects an extensive public and tribal participation process, including a lengthy notice and comment period, public hearings in diverse areas of the country, and consultations with various groups. See, 76 FR 8221 (Feb. 11, 2011). The 8(a)BD program provides small businesses with support to help them compete for and win federal government contracts, and helps to put them in a better position to drive economic growth and create jobs. Prior to amending the 8(a)BD regulations, certain sections were deemed too restrictive and to unduly preclude firms from being admitted to the business development program. The changes to these regulations will strengthen the program and help to ensure that the benefits flow to the eligible participants. For instance,

the regulations tighten the requirements for joint ventures to ensure that non-disadvantaged firms do not unduly benefit from the 8(a) BD program.

The regulations also clarify that Subchapter S Corporations are treated the same as C Corporations when determining economic disadvantage, and expand this treatment to Limited Liability Companies and Partnerships. SBA's intent is to not penalize a firm because of the different tax structures. If the business can demonstrate that funds reported on the individual tax return were used to pay taxes or reinvested into the firm, SBA will not count those funds as personal income.

Other benefits to small businesses as a result of these regulations include: owners of 8(a) firms called to active military status may elect to be suspended in order not to lose any of their 9-year term in the program; added objective criteria to determine economic disadvantage based on personal income (\$250,000 for initial eligibility, \$350,000 for continued eligibility) and total assets (\$4 million for initial eligibility, \$6 million continued eligibility); an immediate family member of a current or former 8(a) firm may own an 8(a) firm where there are no or negligible connections between the two firms and the family member can demonstrate sufficient management and technical experience to independently operate the firm.

In the past year, SBA also completed a comprehensive review of the regulations for its hearings and appeals process. See 75 FR 47435 (August 6, 2010). This rule clarified and streamlined current practices and made them more transparent and more understandable, especially for SBA's many small businesses that are appearing pro se.

SBA also recently designed the Women-Owned Small Business Federal Contract Program to specifically reduce the burden on women-owned small businesses. See 75 FR 62258 (October 7, 2010). In particular, the rule identified 83 industries by four digit North American Industry Classification System (NAICS) codes in which WOSBs are underrepresented or substantially underrepresented; removed the requirement that each Federal agency must certify that it had engaged in discrimination against WOSBs in order for the program to apply to that agency; allowed WOSBs and EDWOSBs to self-certify their status as long as adequate documents were provided to support the certification and posted to a document repository; allowed WOSBs or EDWOSBs to be certified by approved third-party certifiers, including Federal agencies; and expanded the eligibility examination process to provide new tools to review the eligibility of WOSBs or EDWOSBs for the program. The rule also set forth the eligibility criteria for the program, as well as the protest and appeal process for WOSB and EDWOSB status protests.

SBA is currently conducting a comprehensive review of its size regulations to determine whether the existing small business size standards in the North American Industry Classification System (NAICS) should be retained or revised. SBA is committed to reviewing all of its small business size standards on a rolling basis and to continue to review one-third of its size standards every 18 months.

SBA is also reviewing the regulations for the Agency's 504 Certified Development Company (CDC) Loan Program. This review is focused on simplifying processes and reducing the regulatory burdens on program participants, while maintaining controls to mitigate risk;

expanding program access for other nonprofit economic development entities, especially in communities not currently served; clarifying issues that have impacted participants' ability to comply with program requirements; and conforming the regulations to current statutory requirements.

Finally, prior to issuance of E.O. 13533, SBA had already begun to consider reviewing regulations or directives for several other programs: HUBZone; Small Business Innovation Research (SBIR); Small Business Technology Transfer (STTR); Service-Disabled Veteran-Owned Small Business Concern (SDVOSBC); and Certificate of Competency (COC).

V. Elements of Final Plan and Compliance with E.O. 13563

a. Strong, ongoing culture of retrospective analysis.

SBA already has a culture of retrospective analysis that embodies the requirements of E.O. 12866 and section 610 of the RFA. However, to enhance the process as required by E.O. 13563, and to strengthen that culture, SBA has included high level agency officials as part of the process from the beginning that fully support retrospective review. SBA solicits input from those offices that are responsible for implementing the rules. The program offices' day-to-day involvement with the rules and interaction with the various program participants provide invaluable insight into any issues resulting from implementation and enforcement of the rules. SBA will also incorporate best practices or lessons from experience with the new retrospective review process into the agency's standard operation procedures for regulations, SOP 70 20 3, Regulation Development and Review Program.

b. Prioritization Factors and Processes.

Initially SBA will consider two factors: (1) length of time since last comprehensive review and (2) an assessment of opportunities for burden reduction based on program office assessment of experiences implementing the regulations and the comments or complaints from those subject to the regulations. SBA will also consider those program regulations that have undergone multiple changes in recent years, whether necessitated by statutory mandates or changes in policy to ensure that they reflect the current economic environment and are harmonized with related regulations.

In choosing rules for review, SBA will consider achievement of the following objectives: (1) promotion of economic growth, innovation, competitiveness, and job creation; (2) elimination of outdated regulations; (3) lessening the burdens imposed on those directly or indirectly affected by our regulations, particularly small entities; (4) increasing transparency and delivery of benefits to the public by our regulations, and improving the cost-benefit balance of our regulations; (5) elimination of duplicative or overlapping regulations; (6) reduction of paperwork by eliminating duplication, lessening frequency, allowing electronic submission, standardizing forms, exempting small entities, or other means; (7) elimination of complexity and confusion arising from conflicts and inconsistencies in SBA's regulations; (8) simplification and clarification of language in regulations; (9) revision of regulations to address changes in technology, economic conditions, or other factors; (10) determining if matters in an existing

regulation could be better handled fully by trade organizations or participants without Federal regulations; (11) reduction of burdens by incorporating industry consensus standards into regulations; (12) reconsideration of regulations that were based on scientific or other information that has been discredited or superseded; and (13) expansion of regulations that are insufficient to address their intended objectives or obtain additional benefits.

c. Initial list of candidates for review over the next two years.

SBA has identified its initial candidate list of rules for retrospective review the following: Certified Development Company Loan Program (Part 120, Subpart H); Small Business Size Standards (Part 120, sectors 22, 56, 51 and 53); Small Business Innovation Research Program (SBIR Policy Directive); and the Small Business Technology Transfer Program (STTR Policy Directive). SBA will also review information collections for each of these programs in light of the goals of the initiative.

As part of this retrospective review, SBA is carefully studying the following burden reduction initiatives:

- Single electronic lender application for 7(a) loan programs.

There is potential for significant burden reductions and process improvement by adopting a single e-application for all SBA 7a guaranteed loans. This would reduce the paperwork burden on lenders (which in turn impacts small business borrowers), and will result in greater lender participation, particularly small community banks, credit unions, and rural lenders. These lenders usually support small businesses who seek relatively small amounts of capital to grow and succeed; hence, additional small, community lender-partners will potentially lead to increasing the amount of small dollar loans flowing to small businesses. This e-application could add value by reducing the screen out rate currently experienced during the loan application process and could improve the timeliness of delivering loan approvals and hence delivery of loan proceeds to small businesses.

- Uniform SBIR Portal for Information and Solicitations.

For the Small Business Innovation Research program, there is no one form or database for applying for the program and submitting proposals. Often, there are multiple systems for a single submission – e.g., eRA Commons (Electronic Research Administration NIH website) and Grants.gov - in addition to the lack of uniformity across the participating eleven agencies in the program. The goal of the project would be to create a common, simple application form that ports over application data into the agencies' application systems on an as-needed basis. This would not replace other application systems, but it would be a common form that ports data over more simply to multiple application systems. In addition to the technology solution, the business process of narrowing and simplifying into a common base of information can be open-sourced to multiple agencies, as they may navigate the same challenges of common applicants for different programs.

- Single Uniform Certification for SBA Contracting Programs.

SBA will analyze the regulatory changes required and implications of developing and implementing a single certification process for common information collected across its small business contracting programs, such as the 8(a) Business Development, HUBZone, Women-Owned Small Business, Service-Disabled Veteran-Owned Small Business, and other Small Business Programs.

- Automated credit decision model for 7(a) loan program.

For loans of less than \$250k, SBA could develop an optional credit scoring methodology to be used by SBA lender partners in their underwriting process which could result in lowering the lenders' cost of delivering capital to borrowers and would likely expand their interest in making low dollar loans. This initiative may also attract additional lenders (e.g., small community banks, credit unions, and rural lenders) to become SBA partners and increase credit availability for small businesses.

- Government contracting program eligibility website.

SBA will analyze the feasibility of building a one-stop website for small businesses to input basic information about their business (e.g., number of employees, revenues, ownership (e.g., women-owned, service-disabled veteran-owned, minority owned)) to determine contracting and loan programs they may be eligible for, as well as help identify local district offices and resource partners in their area. This would make it easier for the public to access and participate in Federal small business programs.

- Integrated certification and program management system.

SBA will review development of a system that will allow the certification and program management (e.g., reviews, protests) processes to be done electronically for the 8(a) and HUBZone programs. The system is also planned to be developed to allow for future additions for other programs such as the Women-Owned Small Business Program and the Service-Disabled Veteran-Owned Small Business program. This system would enable easier access to the small business programs and reduce the amount of paperwork submitted to SBA by applicants.

- Portal to distribute materials to resource partners.

SBA's web development team will review creation of a central portal to hold materials (e.g., training materials, fact sheets, FAQs, talking points) across all program offices that the field and resource partners could search through to find the latest information for each program.

- Auto-approve disaster loans based on credit scores.

Private industry approves a substantial number of loans through credit scoring to reduce the cost of underwriting. The portfolio analysis that is being currently completed indicates that the performance of loans to borrowers with a > 725 FICO score have limited risk. Changing this

process would allow SBA more flexibility to design a loan approval that is in line with current private sector practices and reduce the processing cost for lower dollar disaster loans.

- Automate process of receiving insurance recovery information.

Under the disaster loan program, loan eligibility is based on the uncompensated disaster loss. Being able to automate the insurance recovery information would enhance our ability to ensure that insurance proceeds are addressed and no duplication of benefits occurs as a result of insurance recovery after loan approval. This would reduce the possibility that disaster victims will be asked to repay erroneously disbursed Federal disaster benefits.

e. Independence of Retrospective Review Team.

SBA’s current rulemaking process involves both program offices, support offices, and the Office of General Counsel, with the General Counsel designated as the agency’s Regulatory Policy Officer. Since any meaningful review must necessarily involve the program offices that implement the regulations, and given the size and resources available to the Agency, it might not be feasible to establish a truly independent retrospective review process where the offices that wrote the rules and implement them are not the same offices conducting the review. However, SBA believes that the structure of having responsible officials in a non-program office will provide sufficient independence. In addition, the head of the retrospective review process is the SBA Deputy Administrator. The Deputy Administrator is the second highest official within the Agency, as well as the official responsible for the Chief Operating Officer’s duties. The Deputy Administrator position is ideally suited to provide necessary oversight of the retrospective review and analysis process.

f. Actions to strengthen internal review expertise.

SBA’s Office of General Counsel will provide training to the team of employees selected to conduct the retrospective reviews. OGC provides a comprehensive document summarizing all of the requirements (and supporting guidance documents) for the rulemaking process. SBA is also providing guidance and training on drafting documents in plain language. SBA will also consider best practices developed internally during the process, as well as lessons learned from other agencies, in order to develop and improve methods to strengthen internal review expertise. After observing the process for one year, SBA will reassess the process to consider whether additional staff or other resources or expertise would enhance the process.

g. SBA plan for retrospective analysis.

The timetable is structured around the initial candidate list of rules beginning in FY 2011 and will be expanded to other program areas over the next 5 years.

FY 2011 through FY 2013

| PROGRAM | CFR PART | REVIEW TIMEFRAME |
|------------------------------------|---------------------|-------------------------|
| Certified Development Company Loan | Part 120; Subpart H | FY2011-FY2012 |

| | | |
|---|--------------------------|---------------|
| Small Business Size Standards Sector 22: Utilities Sector 56: Administrative Support & Waste Management Sector 51: Information Industries Sector 53: Real Estate & Rental & Leasing | Part 121 | FY2011-FY2013 |
| SBIR (Small Business Innovation Research) | Policy Directive | FY 2012 |
| STTR (Small Business Technology Transfer) | Policy Directive | FY 2012 |
| SBIC (Small Business Investment Company) | Part 107 | FY2012-FY2013 |
| SGB (Surety Bond Guarantee) | Part 115 | FY2011-FY2013 |
| COC (Certificate of Competency) | Part 125 | FY2013-FY2014 |
| SDVOSB (Service-Disabled Veteran-Owned Small Business Concerns) | Part 125 | FY2013-FY2014 |
| HUBZone | Part 126 | FY2013-FY2014 |
| Small Business Size Standards Other Sectors to be determined | Part 121 | FY2013-FY2014 |
| Analyze Single Electronic Application for 7(a) Loans | Part 120 | FY2012 |
| Analyze Automated Credit Decision Model for 7(a) Loan Program | Part 120 | FY2012 |
| Analyze Uniform SBIR Portal For Information and Solicitations | SBIR Policy Directive | FY2012 |
| Analyze Single Uniform Certification for SBA Contracting Programs | Parts 121, 124, 125, 126 | FY2012 |
| Analyze Government Contracting Program Eligibility Website | Parts 121, 124, 125, 126 | FY2012 |
| Analyze Integrated Certification and Program Management System | Parts 121, 124, 125, 126 | FY2012 |
| Develop Portal to Distribute Materials to Resource Partners | Parts 121, 124, 125, 126 | FY2012 |
| Implement Auto-approve Disaster Loans Based on Credit Scores | Part 123 | FY2012 |
| Automate Process of Receiving Insurance Recovery Information | Part 123 | FY2012 |

h. Analytical Decisions.

The team of reviewing employees will analyze the comments and make recommendations to the heads of those programs impacted by the comments. The senior official for this retrospective review will provide final approval for the disposition of the comments. SBA anticipates that the reviews will often lead to regulatory amendments.

i. SBA plans for revising rules.

First, a team is selected to conduct the retrospective review, based upon the skills and expertise that the team will need to thoroughly review rules retrospectively. Generally, the team will consist of program office, information technology, communication, legal, financial, and policy experts. Those teams will then regularly meet to go over the authority for the program, the current regulations and guidance, the forms and information collections currently used in the program, and other relevant factors. During the process, SBA will seek suggestions from stakeholders, participants, and other members of the public. We envision the process will be similar to the process currently used to draft regulations within the Agency. Once the initial round of reviews is completed, periodic reviews will be conducted at regular intervals or as necessitated by comments or suggestions from the public.

j. Coordination with other federal agencies.

SBA will analyze comments or issues identified during its retrospective review to determine if there are any cross-cutting issues that require or could benefit from inter-agency collaboration. The Agency is a member of various interagency councils, including the FAR Council, National Economic Council, and the Administrative Conference of the United States (ACUS) and plans to leverage its access to these groups to facilitate communications on any cross-cutting rules. SBA's Office of Advocacy will participate in the process to help determine whether some of the issues raised by commenters or identified during the review have such an impact on small entities that it would be appropriate to encourage the applicable agencies to consider alternatives that would minimize small entity impacts.

VI. Components of Retrospective Cost-Benefit Analysis

a. Evaluation Metrics.

There are no overriding metrics of general applicability to all SBA rules; therefore each program will be assessed to determine which methodology or approach will yield the most value.

b. Data.

Primarily, SBA will use available program data generated through current information collections. In addition, SBA will consider data generated or developed through various small business research sources, including data generated by research funded by SBA's Office of Advocacy. SBA will also reach out to resource partners, participants, trade organizations, and similar groups for relevant data.

VII. Publishing the Agency's Plan Online

SBA will publish its retrospective review plan and available data on its Open Government website. The technical staff personnel are Kirk McElwain, Richard Custer, and Stephen Morris, Office of Communications and Public Liaison. SBA will follow the publication guidance in

VIII. Results

SBA welcomes the retrospective review process as part of building a culture of creating current, participant-friendly, cost-effective, low-burden, simple rules. SBA follows Open Government principles of transparency, participation, and collaboration. SBA will publish this Final Retrospective Review Plan for public information and for comment on its Open Government website. SBA considers the Plan to be a living document that will be modified to keep it current and effective to meet the goals of the initiative.

In this effort, SBA will also continue to reach out to its resource partners, participants, small businesses, entrepreneurs, contractors, grantees, lenders, borrowers, and other members of the public to improve SBA retrospective reviews and the retrospective review process. Since many SBA programs, especially SBA's procurement assistance programs, affect other Federal agencies, SBA will also continue to reach out to other Agencies during each individual retrospective review. SBA contemplates that this will result in all of its rules being periodically retrospectively reviewed on a rolling basis creating rules that are more cost effective and less burdensome to participants in the Agency's programs while continuing to promote economic growth, innovation, and job creation.