

Small Business Administration

§ 113.2

PROCEDURES

- 113.600 Notice of covered programs.
113.605 Enforcement procedures.

AUTHORITY: 15 U.S.C. 633, 634, 687, 1691; 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688; 29 U.S.C. 794; Sec. 5, Pub. L. 85-536, 72 Stat. 385, as amended; Sec. 308, Pub. L. 85-699, 72 Stat. 694, as amended.

SOURCE: 44 FR 20068, Apr. 4, 1979, unless otherwise noted.

Subpart A—General Provisions

§ 113.1 Purpose.

(a) Part 112 of this chapter, issued pursuant to Title VI of the Civil Rights Act of 1964, prohibits discrimination on the basis of race, color, or national origin by some recipients of financial assistance from SBA. The purpose of this part is to reflect to the fullest extent possible the nondiscrimination policies of the Federal Government as expressed in the several statutes, Executive Orders, and messages of the President dealing with civil rights and equality of opportunity, and in the previous determination of the Administrator of the Small Business Administration that discrimination based on race, color, religion, sex, marital status, handicap or national origin shall be prohibited, to the extent that it is not prohibited by part 112 of this chapter, to all recipients of financial assistance from SBA.

(b) In accordance with Pub. L. 94-239, 15 U.S.C. 1691, cited as the Equal Credit Act Amendments of 1976, it is unlawful for any recipient creditor to discriminate against any applicant, with respect to any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, age: (*Provided*, the applicant has the capacity to contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

(c) It is the intention of the Administrator that the prohibitions in this part supplement those in part 112 of this chapter, that the two parts be read in *pari materia*, and that the procedures established herein be harmonized to the maximum extent feasible with

those established in part 112 of this chapter.

§ 113.2 Definitions.

As used in this part:

(a) The term *Federal financial assistance* includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration, or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(b) The terms *applicant* and *recipient* mean, respectively, one who applies for and one who receives any of the financial assistance under any of the statutes referred to in paragraph (a) of this section. The term *recipient* also shall be deemed to include *subrecipients* of SBA financial assistance, i.e., concerns which secondarily receive financial assistance from the primary recipients of such financial assistance. For the purposes of this part, a paragraph (b) lender (13 CFR 120.4(b)) shall be deemed a recipient of financial assistance.

(c) The term *religion* includes all aspects of religious observance and practice, as well as belief.

(d) The term *qualified handicapped person* means (1) with respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question and (2) with respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(e) The term *handicapped person*, as defined by the guideline set forth by the Department of Health, Education, and Welfare in §85.31 of title 45 of the CFR (43 FR 2137, dated January 13, 1978), means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an