

§ 120.1892

SBA or SBA will exercise its rights as described in § 120.1830(g).

§ 120.1892 What happens if an SISMBD does not use SISMBD Loan funds for a statutorily mandated purpose?

If the Administrator finds that an SISMBD has used loan proceeds for any purpose other than to finance the inventory of the government guaranteed portion of loans originated, underwritten, and closed under Section 7(a) of the Small Business Act or Pools of such loans, the Administrator shall:

(a) Demand immediate repayment of any outstanding loans to the SISMBD;

(b) Prohibit the SISMBD, its affiliates, or any future corporate manifestation of the SISMBD from using the SBA Secondary Market Lending Authority;

(c) Report to Congress the identity of any borrower found by the Administrator to have misused funds made available under the Secondary Market Loan Program; and

(d) Take any other actions the Administrator, in consultation with the Attorney General of the United States, deems appropriate.

§ 120.1893 Data collections and reporting.

(a) *Data—general.* A recipient of an SISMBD Loan shall maintain such records as may be prescribed by SBA to:

(1) Disclose the manner in which an SISMBD Loan is used;

(2) Determine:

(i) The total outstanding loan amount;

(ii) The total amount repaid on the loan;

(iii) The aggregate value of assets held as collateral for the SISMBD Loan; and

(iv) The amount of any defaults or delinquencies that occurred on the loan;

(3) Demonstrate compliance with the requirements of this part; and

(4) Evaluate the impact of the SISMBD Loan Program on its SBA Secondary Market activity.

(b) *Access to records.* An SISMBD Loan recipient must submit such financial and SBA Secondary Market activity reports, records, statements, and

13 CFR Ch. I (1–1–12 Edition)

documents at such times, in such forms, and accompanied by such reporting data, as required by SBA, the SBA Office of the Inspector General, or other authorized government personnel upon request or upon a request by their duly authorized representatives to ensure compliance with the requirements of this Subpart and to evaluate the impact of the SISMBD Loan Program. SBA or other authorized government personnel and their duly authorized representatives, shall have full and free access to SISMBD offices and facilities and all books, documents, records, and financial statements relating to the use of SISMBD Loan proceeds during normal business hours and may copy such documents as they deem appropriate.

(c) *Retention of records.* A recipient of an SISMBD Loan shall comply with all SBA mandated record retention requirements.

(d) *Review.* (1) At least annually, SBA will review the SBA Secondary Market activity of an SISMBD Loan recipient.

(2) A loan recipient shall submit a report of SBA Secondary Market activity, SISMBD Loan usage and updated financial statements within 45 days after the end of each calendar quarter, or within some other period after the end of each calendar quarter as may be agreed to in the Loan Agreements with information requested by SBA.

(3) A recipient shall submit a report within 60 days after the end of each

Federal fiscal year, or by such alternative deadline as may be agreed to in the Loan Agreements or as required by the Recovery Act on: information on the number of Guaranteed Portions it purchased from SBA Lenders; information describing the manner in which SISMBD Loan proceeds were used. SBA will use such information to verify that loan proceeds were used in a manner consistent with the Loan Agreements, the Recovery Act and these regulations; certification that an SISMBD continues to meet the eligibility requirements described in Section 120.1820 of this Subpart; and its most recent audited financial statements prepared by an independent certified public accountant. Such statements

shall cover the operations of the recipient's most recently completed fiscal year.

(4) SBA may make reports described in paragraph (d)(2) and (d)(3) of this section available for public inspection.

(e) *Reporting requirements.* SISMBD Loan recipients will have reporting requirements related to section 1512 of the Recovery Act. SBA will provide additional separate guidance on the Recovery Act reporting requirements.

§ 120.1900 When does the Secondary Market Lending Authority Program end?

The last date on which a loan under this program can be approved is February 16, 2011, unless Congress extends the SISMBD Loan Program. All loan applications must be received at SBA no later than January 31, 2011. Loans must be paid in full by no later than February 16, 2013.

PART 121—SMALL BUSINESS SIZE REGULATIONS

Subpart A—Size Eligibility Provisions and Standards

PROVISIONS OF GENERAL APPLICABILITY

Sec.

- 121.101 What are SBA size standards?
- 121.102 How does SBA establish size standards?
- 121.103 How does SBA determine affiliation?
- 121.104 How does SBA calculate annual receipts?
- 121.105 How does SBA define “business concern or concern”?
- 121.106 How does SBA calculate number of employees?
- 121.107 How does SBA determine a concern’s “primary industry”?
- 121.108 What are the penalties for misrepresentation of size status?

SIZE STANDARDS USED TO DEFINE SMALL BUSINESS CONCERNS

- 121.201 What size standards has SBA identified by North American Industry Classification System codes?

SIZE ELIGIBILITY REQUIREMENTS FOR SBA FINANCIAL ASSISTANCE

- 121.301 What size standards are applicable to financial assistance programs?
- 121.302 When does SBA determine the size status of an applicant?

- 121.303 What size procedures are used by SBA before it makes a formal size determination?
- 121.304 What are the size requirements for refinancing an existing SBA loan?
- 121.305 What size eligibility requirements exist for obtaining financial assistance relating to particular procurements?

SIZE ELIGIBILITY REQUIREMENTS FOR GOVERNMENT PROCUREMENT

- 121.401 What procurement programs are subject to size determinations?
- 121.402 What size standards are applicable to Federal Government Contracting programs?
- 121.403 Are SBA size determinations and NAICS code designations binding on parties?
- 121.404 When does SBA determine the size status of a business concern?
- 121.405 May a business concern self-certify its small business size status?
- 121.406 How does a small business concern qualify to provide manufactured products or other supply items under a small business set-aside, service-disabled veteran-owned small business set-aside, WOSB or EDWOSB set-aside, or 8(a) contract?
- 121.407 What are the size procedures for multiple item procurements?
- 121.408 What are the size procedures for SBA’s Certificate of Competency Program?
- 121.409 What size standard applies in an unrestricted procurement for Certificate of Competency purposes?
- 121.410 What are the size standards for SBA’s Section 8(d) Subcontracting Program?
- 121.411 What are the size procedures for SBA’s Section 8(d) Subcontracting Program?
- 121.412 What are the size procedures for partial small business set-asides?
- 121.413 [Reserved]

SIZE ELIGIBILITY REQUIREMENTS FOR SALES OR LEASE OF GOVERNMENT PROPERTY

- 121.501 What programs for sales or leases of Government property are subject to size determinations?
- 121.502 What size standards are applicable to programs for sales or leases of Government property?
- 121.503 Are SBA size determinations binding on parties?
- 121.504 When does SBA determine the size status of a business concern?
- 121.505 What is the effect of a self-certification?
- 121.506 What definitions are important for sales or leases of Government-owned timber?