

SBA

SOP 90 75 5

Outreach Activities and Agreements

Office of Communications and Public Liaison

U.S. Small Business Administration



**SMALL BUSINESS ADMINISTRATION
STANDARD OPERATING PROCEDURE**

SUBJECT: Outreach Activities and Agreements	S.O.P.		REV
	SECTION 90	NO. 75	5

INTRODUCTION

1. Purpose. This SOP establishes Agency policy on Outreach Activities and Agreements.
2. Personnel Concerned. All SBA employees.
3. Directives Cancelled. SOP 90 75 4.
4. Originator. Office of Communications and Public Liaison.

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Chapter 1: General Overview

1. What is the purpose of this SOP?

This SOP establishes the U.S. Small Business Administration's (SBA) policy on all Agency Outreach Agreements and Outreach Activities. Outreach Agreements include Cosponsorship Agreements, Strategic Alliance Memoranda (SAM), and Memoranda of Understanding (MOU). Outreach Activities include Cosponsored Activities, SBA-sponsored activities, and SBA staff participation in third-party activities.

2. What is an Outreach Activity?

SBA Outreach Activities are SBA-sponsored or cosponsored public events, either in-person or online, for the benefit of small businesses. Outreach Activities can also include joint undertakings with outside organizations or participation in a third-party event to further the mission of the SBA. An Outreach Agreement is required when the Agency jointly creates and co-hosts an event or undertaking with an outside party. This SOP explains how and when the Agency should utilize Outreach Agreements.

3. To whom does this SOP apply?

This SOP applies to all SBA employees and contractors, except for employees of the Office of Inspector General, unless otherwise noted.

4. What is SBA's authority for Outreach Activities?

SBA's Outreach Activities and Agreements are governed by various Public Laws and authorities including:

- a. Cosponsorship authority § 132(a) of Division K of Public Law 108-447 as extended in annual appropriations acts.
- b. Authority to provide technical, managerial, and informational aids, 15 U.S.C. § 637(b)(1)(A).
- c. SBA's regulations on Cosponsored Activities, SBA-sponsored activities, and gifts, 13 C.F.R. §106.
- d. Authority to use SBA's seal, 13 C.F.R §101.105.

5. What is not covered by this SOP?

Gifts to the Agency are governed by SOP 90 53 and gifts to individual SBA employees are governed by ethics regulations. See 5 C.F.R. Part 2635. Marketing activities are governed by SOP 90 78. This SOP applies only to activities for the public. This SOP does not apply to activities that are conducted **solely** for SBA employees, contractors, or grantees, or a combination of those.

Chapter 2: Responsible Program Officials

1. What is a Responsible Program Official?

A Responsible Program Official (RPO) is a senior SBA official accountable for an Outreach Activity or Gift to the Agency (see Gifts SOP 90 53) and must be certified by the Office of Strategic Alliances (OSA).

2. Who can be an RPO?

A District Director, Deputy District Director, Regional Administrator, Associate/Assistant Administrator, or Deputy Associate Administrator, or their equivalents, may become an RPO and exercise Outreach authority and responsibility within his or her office.

Each Associate Administrator, or their equivalent, may designate no more than two subordinate employees at the GS-15 level or higher, such as an Office Director, to become RPOs.

The Director of Strategic Alliances may also be an RPO for programs managed by the OSA office. In Washington, DC (headquarters), OCPL managers may sign as RPOs.

3. How does an RPO become certified?

An RPO candidate must first pass a test to show command of the laws, regulations, and policies of the Agency with respect to Outreach. OSA will then certify the candidate as an RPO. Every 6 months (January and June), a new RPO list will be distributed to District Offices. This list will include the expiration dates of RPO certification for each individual.

OSA and the Office of General Counsel (OGC) have developed training, which is available to all employees, and an online test. The training and the test cover all matters related to Outreach, including gifts to the Agency (see Gifts SOP 90 53). Passing the test qualifies an individual to serve as an RPO.

RPO certification must be renewed at least every 3 years. Failure to do so will result in loss of RPO certification. OSA tracks an RPO's performance, and may report concerns (for example, failure to seek timely approval or poorly drafted outreach requests) to an RPO's rating official.

4. Can RPO certification be suspended or revoked?

Yes. RPOs must exercise appropriate judgment while engaging the Agency in Outreach Activities. In joint consultation, a Program Office's Associate Administrator (AA) and the Associate Administrator, Office of Communications and Public Liaison (AA/OCPL) may suspend or revoke an RPO certification—and further impose a waiting period on becoming recertified—if the RPO exercises poor judgment. Examples of poor judgment include, but are not limited to, permitting an inappropriate party to use the SBA logo, permitting the SBA's logo to be used for commercial endorsement, failure to complete agreements/forms before events or receipt of gifts, or failing to recognize conflicts of interests with potential Outreach collaborators.

If an RPO is suspended or decertified, the remaining certified individuals in that office may continue to authorize and oversee Outreach Activities. An RPO from another office may approve Outreach Activities if there is no certified RPO in that field or Program Office.

5. What responsibilities does an RPO have?

An RPO may initiate Cosponsorship Agreements, initiate solicitation and acceptance of gifts to the Agency under Gifts SOP 90 53, organize SBA-sponsored events, authorize SBA's appearance at an event organized by an outside entity, and initiate a SAM or MOU. Cosponsored Activities, gifts to the Agency, MOUs, SAMs, and certain activities with candidates for public office require further approval as described in this SOP, Gifts SOP 90 53, and the Cosponsorship Approval Process Procedural Notice issued by OCPL. RPOs may have further responsibilities and requirements, including those detailed in the Marketing SOP 90 78.

RPOs must ensure that all Cosponsored Activities (including speeches and other materials presented) comply with this SOP, and that such events/materials represent SBA programs accurately. If RPOs have questions related to ethics, they should contact their ethics official.

6. Who should RPOs consult for advice?

RPOs should seek advice from OCPL or OGC for issues or concerns related to Outreach Activities and/or Agreements. If RPOs have an ethics question, they should contact their ethics official.

Chapter 3: General Event Guidelines

1. Are there rules that apply to all SBA events?

Yes. SBA events, whether solely SBA-sponsored (see Chapter 4), Cosponsored with outside entities (see Chapter 9), or Third-party events (see Chapter 5) are subject to federal law, regulation, and SBA policies including this SOP. This chapter details policies that apply to all SBA events (both SBA-sponsored and SBA Cosponsored Activities) and SBA's participation in third-party events.

2. Must an elected official participating at an SBA-Sponsored or Cosponsored event be notified of SBA's political speech limitation?

Yes. Elected federal, state or local government officials or members of their official staff, or candidates for public office or members of their official staff or campaign staff must be cautioned in writing before the event by the RPO, that the official's or candidate's remarks cannot be designed to facilitate or be directed toward the success or failure of a political party, candidate for public office, or a political group. A template letter that should be used for this purpose is available on the OSA SharePoint site.

3. Must an SBA employee obtain approval to appear with a candidate for public office within 30 days of an election?

Yes, SBA's policy is that SBA staff may not appear as a speaker at or be part of the official program of the same event as a candidate for public office (or members of their staff) within 30 days of a primary or general election in which the candidate is on the ballot, without prior written approval from the SBA Chief of Staff (or designee). Requests for such approval must be submitted in writing through the Designated Agency Ethics Official (DAEO). This requirement applies to SBA-sponsored (Chapter 4), SBA Cosponsored (Chapter 9), and Third-Party Activities (Chapter 5). Further detail and instructions for obtaining approval can be found in each type of activity's chapter in this SOP.

4. Must an SBA event offer accommodation for persons with disabilities?

Yes. All SBA events are required under federal law to make reasonable accommodations for persons with disabilities. Examples of accommodation include providing a sign language interpreter at an in-person event or live-

captioning a webinar. Reasonable accommodations should be offered in the form of a disclaimer on SBA event announcements/flyers. The SBA Office of Diversity and Inclusion provides guidance with reasonable accommodation requests.

5. Are SBA events conducted online subject to Section 508 of the Rehabilitation Act?

Yes. All SBA events conducted using electronic communications and information technology (i.e. conference call or webinar) are required to comply with Section 508 rules for accessibility.

6. Are SBA event registrants/participants required to provide affirmative opt-in to receive future communication from SBA or Cosponsors?

SBA policy is that for all SBA events, registrants/participants must affirmatively provide consent to receive future communication from SBA and/or Cosponsors. Consent may be obtained through a separate opt-in button or checkbox upon registration (whether online or in person). Consent to receive future communication must not be a requirement to register or attend an SBA event. Affirmative opt-in is not required for communication about the specific event (i.e. information about time, location, parking) because consent to receive such communication is implied by registering.

7. What type of photo or video releases, if any, are required from participants at an SBA event?

A photo or video release form is required from SBA event participants when SBA intends to use an image or video of the individual in future promotional materials (i.e. SBA brochure). However, event participants are not required to sign a release form or waiver giving SBA or Cosponsors rights to their image in order to attend an SBA event. When a photographer or videographer is present at an SBA event, a notice should be posted warning individuals that their image will be captured.

If an event participant does not wish to be photographed or filmed, SBA and/or Cosponsors should attempt to limit the participant from being recorded by notifying the photographer/videographer and by offering the participant the ability to wear a mark denoting non-consent.

Templates are available on the OSA SharePoint site.

8. What information can be collected from event participants during registration/check-in?

The collection of information at SBA events is subject to provisions of the Paperwork Reduction Act (PRA). Generally, except for limited contact information (name, address, including email address, and telephone number) information may not be collected without prior approval from OMB. See SOP 00 30 3.

May SBA employees partake of meals and refreshments at an Outreach Activity – [or] May appropriated funds be used to provide meals to employees at an Outreach Activity?

- a. SBA employees may partake of meals and refreshments at a third party or Cosponsored activity provided the following criteria are met:
 - i. The meals and refreshments are incidental to the meeting or conference;
 - ii. Attendance at the meal or when refreshments are served is important to ensure the employees' full participation in the meeting or conference;
 - iii. The meal and refreshments are part of a formal conference or meeting that includes not just the meal and refreshments and discussions or speeches that may take place when the meal and refreshments are served, but also substantial functions separate from when the food is served;
 - iv. The event must involve topical matters of interest to, and the participation of, multiple agencies or nongovernment participants;
 - v. The meeting or conference may not be a routine meeting involving the day-to-day operations of the government (e.g., working group meetings, staff meetings, "All Hands" meetings, meetings to discuss business matters internal to SBA, or other topics having little relevance outside of SBA, or interagency or intergovernmental meetings that take place on a continuing basis); and
 - vi. The presence of a mealtime speaker between meeting segments to discuss business, management, and day-to-day operations does not provide adequate justification to provide food.

Exception: SBA employees may partake of meals and refreshments at an SBA-Sponsored event when the Agency leased space in a venue for the event and the hotel provided food with the space for one comprehensive and non-negotiable price (“bundled contract”).

Chapter 4: SBA-Sponsored Activities

1. What is an SBA-sponsored activity?

An SBA-sponsored activity is an event, activity, or initiative that is planned and conducted solely by the SBA. Under appropriate circumstances, SBA-sponsored activities may include training, disseminating information about small businesses and SBA programs, fostering business networking, and publicizing the achievements of small businesses. Examples of SBA-sponsored activities include awards to small businesses, speeches, seminars, and trainings hosted solely by the SBA. Attendees may include government employees and individuals from the private sector. Other parties may participate in SBA-sponsored activities in accordance with this chapter.

2. How can appropriated funds be used for the expenses of an SBA-sponsored activity?

SBA can use appropriated funds for necessary expenses which are directly related to an SBA function and not prohibited by law. Expenses must comply with appropriations and procurement requirements. Consult the Denver Acquisition Office for procurement concerns particularly for purchases of supplies over \$10,000 and services over \$2,500. Use of funds must also satisfy applicable documentation requirements (such as completion of SBA Form 2).

Examples of SBA-sponsored event related expenses that, under appropriate circumstances, can be paid for using appropriated funds include:

- a. Travel expenses of SBA employees;
- b. Travel expenses, including per diem, of private sector individuals invited to attend an SBA-Sponsored activity, but only if the SBA can justify the expense as an official travel expense under SOP 20 11;
- c. Space rental;
 - i. SBA can pay for facilities rental that includes food if, and only if, the fee charged to the SBA is all-inclusive, not negotiable, and competitively priced at not more than the rental cost of comparable rental facilities which do not include food;
 - ii. All hotel and facility contracts above the micropurchase threshold must be executed by the Acquisitions Office;

- d. Decorations;
 - e. Printing, e.g. invitations, programs, and agendas;
 - f. Nametags;
 - g. SBA signs and banners, but not signs/banners for other entities;
 - h. Fees for equipment, e.g. audio-visual, projectors;
 - i. Photography, but only for documenting purposes;
 - j. Postage, e.g. to mail invitations; and
 - k. Awards, e.g. framed certificates and plaques.
3. **When are you not allowed to use appropriated funds for expenses of an SBA-sponsored activity?**

Entertainment expenses associated with the event including music, food, and beverages, or such activities as golf tournaments cannot be paid for with appropriated funds.

4. **Can donated funds be used to pay for the expenses of an SBA-sponsored activity?**

Yes. Donated funds can be used to pay for the expenses of an SBA-sponsored activity in the following manner:

- a. Donated funds must be deposited and disbursed in accordance with Gifts SOP 90 53. Consult the Office of the Chief Financial Officer (OCFO) for use of the Business Assistance Trust (BAT) funds.
- b. As when accepting other gifts to the Agency, the SBA may provide limited recognition to its donors. The recognition may be oral or in writing. When recognizing a donor, the SBA must avoid the appearance of an endorsement or promotion of the donor's products or services. The SBA may thank its donors verbally or in writing by stating something like the following: "The SBA gratefully acknowledges the evening meal provided by XYZ Corp." The SBA may use the logo of the donor only in connection with the recognition of the gift to the Agency.
- c. Except when doing so is impractical due to space constraints, if written recognition of a donor is given, the recognition must be accompanied by the following disclaimer: "the SBA's acceptance of this gift does not constitute an endorsement of the views, opinions, products, or services of the donor or any other person or entity."

5. Does SBA charge Participant Fees for SBA-sponsored activities?

No. Although SBA has the authority to do so under 13 CFR, SBA has not developed the mechanism to collect participant fees for SBA-sponsored activities.

6. Can SBA sponsor a political activity?

No. The SBA cannot sponsor a political activity. A “political activity” is one that is primarily designed to facilitate, or is directed toward, the success or failure of a political party, candidate for public office, or political group. A political fundraising event or activity must always be considered a political activity.

7. Can SBA use appropriated funds to support grass roots lobbying?

No. The Anti-Lobbying Act, 18 U.S.C. § 1913, prohibits the SBA from using appropriated funds to directly or indirectly pay for any communications or services intended to influence any executive, legislative, or judicial official on the Federal, State, or local level to favor or oppose any legislative, policy, appropriation, or ratification action. This does not prohibit an SBA official from educating the public about what the SBA’s position is with respect to a specific issue. For example, an SBA official could deliver a public speech in an official capacity explaining SBA’s budget constraints. However, that official cannot ask or encourage the audience to tell the President that the SBA should receive a more substantial appropriation to run its programs.

8. Can other parties participate in SBA-sponsored activities?

Yes. Although an SBA-sponsored activity is conceived, initiated, and implemented by the SBA, outside parties may participate in the event at SBA’s invitation. Outside entities may provide speakers and market the SBA’s event to their audience. See the Marketing SOP 90 78 for further guidance on the use of the SBA logo at SBA-sponsored activities.

9. Can a government official or candidate for public office participate in an SBA-sponsored activity?

Yes. A federal, state or local government official or a member of his/her official staff, or a candidate for public office or a member of his/her official staff or campaign staff, can participate in an SBA-sponsored activity as a speaker or as part of the official program. However, the SBA must caution the official or candidate, or his/her staff, in writing, before the event, that the official’s, or

the candidate's, or the staff members remarks cannot be designed to facilitate or be directed toward the success or failure of a political party, candidate for public office, or a political group. A template letter that should be used for this purpose is available on the OSA intranet site:
<https://sba123.sharepoint.com/sites/OCPL/StrategicAlliances>.

Candidate for public office: A candidate for public office, or a member of his/her official office or campaign staff, must not appear as a speaker at, or be a part of the official program of, an SBA-sponsored activity if that activity will take place within thirty (30) calendar days before a primary or general election in which the candidate is on the official ballot (unless the upcoming election is a primary and the candidate is the only candidate for a particular office on the primary ballot), without the written approval of SBA's Chief of Staff or designee. Requests for such approval must be submitted in writing through the DAEO and provide the following information:

- a. Provide a short description of the SBA-sponsored activity;
- b. Identify when and where the activity is going to take place and whether it is going to be in the candidate's home district or state;
- c. Identify what kind of election is involved and how many calendar days prior to the election the activity will take place;
- d. Identify (by name and title) the candidate for public office (or the member of his or her staff, if applicable), that will participate in the activity, the public office for which he/she is a candidate, and whether the candidate is opposed;
- e. Identify the specific role the candidate or staff member will have at the activity; and
- f. Explain whether the candidate has an official or historical connection or involvement with the issue or subject to be addressed at the activity, with the host organization, or with the activity itself.

10. What documentation may be required for an SBA-sponsored activity?

Training. If the event includes training, the RPO should ensure that participants are given the opportunity to provide feedback using an SBA authorized participant feedback survey.

Gifts. If the event was supported by gifts to the Agency (including in-kind gifts), submit SBA Form 1962 (or 1962-A if the gifts were not solicited). Be sure

to comply with Gifts SOP 90 53 and get the necessary approvals, including, before accepting the gift to the Agency.

RPOs may be required to submit additional reports to OFO (i.e. Activity Contact Report) or OCPL regarding SBA-sponsored activities.

11. How may SBA use the logos of outside parties at SBA-sponsored activities?

An RPO may authorize her/ his office to use the logo of an outside organization if doing so serves a permissible Agency purpose. See Marketing SOP 90 78 for applicable requirements and restrictions.

Chapter 5: Third-Party Activities

1. What is a third-party activity?

A third-party activity is an event or other activity planned, organized, and executed by one or more parties, not including the SBA. The SBA's participation in the activity is at the invitation of the third party. These are sometimes called "piggyback" activities or "invited guest" activities.

2. What are some examples of SBA participation in third-party activities?

Examples of SBA participation in third-party activities include SBA personnel speaking at a conference, conducting training as part of a third party's larger activity, staffing a booth at an expo, or participating in a radio or newspaper interview. Providing editorial content to media sources is also considered a third-party activity because 17 U.S.C. § 105 prevents the U.S. government from claiming domestic copyright in government works. As always, the SBA should take care to avoid the appearance of government sanction or of providing preferential treatment to any third party or endorsement of any third party or its products or services.

3. Who plans the third-party activity?

The third party plans the event or activity and is responsible for its execution. The SBA does not plan or execute the activity. The SBA's role is limited by the scope of the invitation extended by the third party.

4. Can SBA's logo be used for a third-party activity?

Yes. Under appropriate situations, SBA's logo may appear in connection with third-party activities. See the Marketing SOP 90 78 for further guidance on the use of the SBA logo at third-party activities.

5. Do third-party activities go through a formal Vetting process?

No. Third-party activities are not required to be vetted. Nevertheless, the RPO for the office participating in the third-party activity should consider whether the SBA's participation presents a reputational risk to the Agency or creates the appearance of governmental endorsement under relevant ethics rules. SBA staff should consult with district or headquarters counsel or an agency ethics

official about possible ethical implications that may arise when attending or participating in third-party events.

6. How can SBA funds be used for a third-party activity?

The SBA is permitted to use Agency funds to support the Agency's own participation in the event. For example, Agency funds may be used to pay for employee's travel expenses, the employee's registration fees, where allowable, and/or to rent booth space at an expo. All uses of Agency funds for these purposes must comply with applicable appropriation statutes, regulations, and policies.

7. Can SBA publicize and/or encourage participation in a third-party event?

The SBA can publicize that an SBA official is speaking or participating in a third-party activity through online postings (including an office's calendar of events), social media, newsletters, or other public announcements. The RPO is responsible, consistent with this SOP and relevant ethics rules, for determining whether the SBA's publicity is appropriate and may contact OCPL or OGC for guidance.

However, the SBA cannot encourage the public to register for a third-party event unless the event is being sponsored by another Federal Agency or by an SBA grantee. For example, the SBA cannot send an email that reads "please register here for the ACME event." However, the SBA may state that it is attending or participating in a third-party event, and thus provide details concerning its participation. The SBA may give the name of a contact person, a phone number, or a website address for the event or for the organization hosting the event. In this context, the SBA could provide a statement such as "for more information about the ACME event click here."

To the extent feasible, the SBA's communication about a third-party event should include a disclaimer that the SBA is not endorsing the host, or its products or services, and that the SBA cannot attest to the accuracy of the information provided by the third party.

8. May SBA employees, in their official capacities, speak at or be a part of the official program of a partisan political activity?

No. Under the Hatch Act (see 5 USC §§ 7321-7326) SBA employees, in their official capacities, shall not speak at or be a part of the official program of a

partisan political activity. A “partisan political activity” is one that is designed to facilitate, or is directed toward, the success or failure of a partisan political party or organization, or a partisan candidate for office. See 5 CFR § 734.101. A partisan political fundraising event or activity will always be considered a partisan political activity for Hatch Act purposes. If you have questions concerning what constitutes “partisan political activity,” or concerning Hatch Act restrictions generally, please contact an Agency ethics official.

9. May SBA employees participate, in their official capacities, in an activity sponsored by a non-partisan political organization?

Under certain limited circumstances, SBA employees may, in their official capacities, speak at or be a part of the official program of an activity sponsored or hosted by non-partisan political organization, as long as: 1) the employee’s participation would further the mission of the Agency; 2) the event or activity is not designed to facilitate, and is not directed toward, the success or failure of a candidate for public office; and 3) the employee’s participation would not violate applicable ethics rules or Agency policy. A non-partisan political organization is one that exclusively concerns itself with non-partisan elections and does not engage in “partisan political activity.” A non-partisan election is one in which none of the candidates are nominated or elected as representatives of a partisan political party. See 5 C.F.R. § 734.101. Applicable ethics rules may be found at 5 C.F.R. Part 2635 and they include prohibitions against misusing one’s official title or position. If you have any questions concerning what constitutes a non-partisan political organization or how applicable ethics rules might apply to your involvement in an activity sponsored or hosted by a non-partisan political organization, please contact an Agency ethics official.

10. May SBA employees participate in a third-party activity that also includes candidates for public office?

SBA employees, in their official capacities, must not appear as a speaker or be a part of the official program of a third-party activity that includes a candidate for public office who is also appearing as a speaker or as part of the official program, if that activity will take place within thirty (30) calendar days before a primary or general election in which the candidate is on the official ballot (unless the upcoming election is a primary and the candidate is the only candidate for a particular office on the primary ballot), without the written approval of the SBA's Chief of Staff (or designee). Requests for such approval

must be submitted in writing through the DAEO and provide the following information.

- a. Provide a short description of the third-party-sponsored activity and identify the host(s) of the activity.
- b. Identify when and where the activity is going to take place and whether it is going to be in the candidate's home district or state.
- c. Identify what kind of election is involved and how many calendar days prior to the election the activity will take place.
- d. Identify (by name and title) the candidate for public office (or the member of his or her staff, if applicable), that will participate in the activity, the public office for which he/she is a candidate, and whether the candidate is opposed.
- e. Identify the specific role the candidate or staff member will have at the activity.
- f. Explain whether the candidate has an official or historical connection or involvement with the issue or subject to be addressed at the activity, with the host organization, or with the activity itself.

If such approval is granted, the SBA employee must limit his/her remarks to official SBA business and strictly adhere to the requirements of the Hatch Act and its implementing regulations. See 5 C.F.R. §734.

Chapter 6: Vetting

1. What is “Vetting”?

Vetting is the process by which various SBA offices report any interactions, e.g., matters in litigation, loans, grants, program status, such as 8(a) certification status, or opinions between the SBA and a particular individual or entity. Vetting is conducted for the purpose of making a conflict of interest determination by OGC regarding an entity and/or individual that the SBA would like to accept a gift to the Agency from or enter into a relationship with, such as a SAM or a Cosponsorship Agreement. The SBA can only work with and accept gifts to the Agency from donors that have no conflict of interest with the Agency.

2. Who conducts Outreach Activity and gifts to the Agency Vetting?

For Outreach Agreements and gifts to the Agency, OSA conducts Vetting. OSA sends the Vetting request to the different Program Offices when Vetting entities and additionally, to the Office of the Inspector General and/or the Office of Diversity, Inclusion and Civil Rights when Vetting individuals.

3. Does Vetting include a reputational analysis by OCPL or OGC?

No. Vetting for the purpose of approving an Outreach Agreement or gift to the Agency includes a review of formal relationships with the Agency that would pose a conflict of interest. OCPL and OGC rely on RPOs to use their best judgement when proposing the Agency work with an outside party. RPOs should consider the reputations of entities and/or individuals to ensure that there is no risk to the Agency by working with the proposed entity and/or individual including negative publicity or damage to the Agency brand.

4. For how long are Vetting results valid?

On a case-by-case basis, OSA and OGC may rely on Vetting results pertaining to the same entity for multiple conflict determinations for up to **six months** from the date of initial Vetting.

Can Vetting requests be submitted to OSA in advance? Yes. Program and district offices are encouraged to submit Vetting requests in anticipation of an Outreach Agreement, Outreach Activity, or gift to the Agency, even before the details of the activity or form or agreement are finalized.

5. What is the Vetting process?

- a. As soon as a field office or Program Office determines that it would like to enter into an agreement, develop or engage in an activity, or receive/solicit a gift, it should submit a Vetting request to OSA. Prompt submission will ensure that Vetting and subsequent clearance process can be completed in a timely fashion. To submit a Vetting request, email the **exact, legal name of the individual (in the case of gifts) or entity that will appear on the Outreach Agreement or Gift form** (including any affiliates) and **city/state** where the individual or entity is located to alliances@sba.gov. Offices must also submit a short description of the proposed activity and/or gift with estimated budget to obtain preliminary clearance from OSA. Proposed activities with certain entities may require heightened scrutiny/approvals as described in Chapter 9, Section 2. Failure to submit the complete and correct name of the individual or entity may result in an extensive delay for final approval. OSA may also update the process by which offices submit Vetting requests, for example, by creating a submission form on the SBA intranet site.
- b. OSA sends requests to each of the HQ Program Offices mentioned below, which then perform research on the organization by searching through office databases for possible or apparent conflicts of interests, as well as current standing of that individual or entity with that office (if any exists).
- c. The Program Office responds to OSA with results, which are then entered into a Vetting database as “cleared” or “result” along with the identified relationships.
- d. If it is determined that the SBA should not partake in a relationship with the individual or entity, OSA will notify the field/Program Office of the decision.
- e. If OSA finds proposed relationship appropriate, OSA will return the Vetting results and preliminary clearance to the requesting office.

6. What entities and/or individuals must be vetted?

In general, any individual or entity that fits under one or more of the following categories must be vetted:

- a. Any entity with which SBA desires to conduct a Cosponsored Activity;

- b. Any entity or individual that desires to make an unsolicited gift to the Agency prior to acceptance;
- c. Any entity or individual that an SBA staff member desires to solicit a gift from prior to solicitation; or
- d. Any non-profit or state, or local government organization being considered as a partner in a SAM.

7. When must the Oversight Committee be involved in Vetting?

The names of Public Officials who are proposed cosponsors must be sent to the Oversight Committee for its review and approval. The Oversight Committee must also review and approve entities or individuals proposing Gifts to the Agency in excess of \$300,000.00, as described in SOP 90 53.

8. How is Vetting conducted?

At a minimum, the following HQ Program Offices performing the Vetting must report on a proposed entity/individual as described below. Program Offices are encouraged to complete a thorough search to determine potential conflicts of interest. OSA and OGC may require supplemental information from Program Offices, when necessary.

- a. Office of Government Contracting and Business Development: checks 8(a), HUBZone, SDB, and COC status
- b. Office of Grants Management: checks for grants and 7(j) status
- c. Office of Capital Access: checks for 7(a), 504 and microloan loan status; checks for SBA guaranteed lender participant status
- d. Office of Investment and Innovation: checks for SBIC program involvement
- e. Office of Surety Guarantees: checks for any surety guarantees
- f. Denver Finance Center: checks for any contracts with SBA
- g. OSA: checks for any past alliances; review of cumulative feedback
- h. OGC: checks for any pending or potential litigation involving SBA, including OHA litigation involving 8(a) applicants or participants.

9. Which entities or individuals are prohibited sources?

The Agency may not accept a gift from or enter into an Outreach Agreement with a prohibited source. While conflicts of interest are always determined on a case by case basis, the following entities are considered prohibited sources:

- a. Participants in an SBA government contracting program, including but not limited to 8(a), and HUBZone recipients.
- b. Recipients of an SBA guaranteed loan, including but not limited to 7(a) and 504 loans
- c. Recipients of an SBA-backed Surety Bond Guarantee and Surety Agents
- d. Certified Development Companies
- e. Community Advantage Lenders
- f. Microloan Intermediaries
- g. Entities licensed or certified by SBA, including but not limited to Small Business Investment Companies and Small Business Lending Companies
- h. Entities in litigation with or subject to an enforcement action by the Agency
- i. Entities that have applied for a size determination

Chapter 7: Strategic Alliance Memoranda

1. What is a Strategic Alliance Memorandum (SAM)?

Section 8(b)(1) of the Small Business Act authorizes the SBA to provide “technical, managerial and informational aids” to small businesses by cooperating and advising with voluntary business, professional, educational, and other nonprofit organizations, associations, and institutions, and other state and local agencies.

A SAM may be executed between the SBA and a non-profit or governmental organization to formally recognize mutual cooperation and working relationship. SAMs are used to provide structure for SBA-sponsored activities or third-party activities. A SAM also can be used to initiate negotiations for Cosponsored Activities, which would require execution of a separate Cosponsorship Agreement.

2. Who can be a SAM partner?

Non-profit organizations or state/local governmental agencies are eligible SAM partners. Resource partners are not eligible.

A SAM can only be executed with one outside entity per agreement, though multiple field offices or Program Offices may participate on the same SAM.

3. What is the term of the agreement?

A SAM is effective for a period of two (2) years upon full execution by both parties unless terminated earlier by one of the parties. A party may terminate its participation under the SAM at any time, with or without cause, upon thirty (30) days written notice to the other party.

4. Who signs the Strategic Alliance Memorandum?

Only the Director of the OSA can execute SAMs on behalf of the SBA. Other SBA staff may cosign the SAM, including District Directors.

5. What process must be followed to obtain approval of a SAM?

After completing the SAM template (available on the OSA intranet site), the RPO from the originating office forwards the draft agreement to the OSA Director for review and execution.

Aside from information specific to the other party (i.e. organization name, point of contact information), the SAM template should not be altered. SAMs submitted with edits to the template, in addition to the information that needs to be filled in, will be automatically declined. OSA must consult with OGC for legal sufficiency and conflict of interest determination. OGC provides its review and determination to OSA.

After OGC's determination is received, the agreement is reviewed and, if appropriate, signed by OSA on behalf of the SBA. The executed original is then returned to the RPO to obtain the signature of the other party to the agreement. All OSA agreements must follow retention periods outlined in the OSA records schedule. If a records schedule is not in place, then records are unscheduled and permanent. See SOP 0041 2.

The RPO then provides a copy to the other party and a third copy to OSA.

6. Can a SAM support a joint or cobranded activity?

No. SAMs cannot be used to conduct a joint or cobranded activity with the SAM partner, other than a signing ceremony for the SAM itself. A SAM may be used to structure an SBA-sponsored activity or third-party activity that involves participation from the other party. A SAM cannot be used to circumvent the Cosponsorship Agreement approval process.

Chapter 8: Memorandum of Understanding

A. GENERAL MOU REQUIREMENTS

1. What is a Memorandum of Understanding (MOU)?

A MOU is an agreement between the SBA and another government entity (or other type of entity, if authorized by the Administrator), to cooperate to achieve a particular purpose.

2. What are the types of MOU that the Agency engages in?

MOUs can be grouped into three different categories:

- a. Programmatic MOUs
 - i. Example: Data Sharing/Information Transfers
- b. Interagency Agreement MOUs
 - i. Example: MOUs that involve the transfer of funds
- c. Operational MOUs
 - i. Example: MOUs that allow for shared office spaces with other agencies.

3. Who must review MOUs before they are executed?

All MOUs, regardless of category, must be reviewed by the initiating Program Office's respective OGC representative for legal sufficiency. Programmatic MOUs also must be reviewed by OGC's Outreach Attorneys and OSA's Director.

4. Where must executed MOUs be stored within SBA?

All executed MOUs, regardless of category, must be logged into the MOU Tracking database, stored in the Office of Strategic Alliances database within SharePoint. Electronic copies of the agreements are kept within the system. The executed originals of the document must be retained by each Program Office.

5. What is the process for logging and storing all categories of MOUs?

Program Offices are responsible to provide the following information:

- 1) Name of each party to the MOU;
- 2) Date of execution (date by which all parties signed);

- 3) Date of expiration;
- 4) In the NOTES section, provide pertinent information concerning the MOU or the activity/event that is the subject of the MOU.
- 5) A copy of the fully executed MOU (if executed in counterparts, include a full copy of the document(s) that are signed by each party).

Each Program Office must email a copy of the final fully executed version of the MOU to Alliances@sba.gov.

Once the MOU has been executed by all parties, a courtesy copy should be sent to the Program Offices affected by the MOU.

6. What is SBA's authority to enter a MOU?

SBA's authority to enter into a MOU varies depending on the subject matter. It can be the Small Business Act (§§ 5(a) or 8(b)(1)(A)) or some other statutory or executive authority. For example, SBA may be required to enter a MOU with another federal agency by statute. Consult OGC if there are any questions related to the appropriate authority.

7. Can a MOU be used to circumvent applicable law?

No. MOUs, regardless of category, cannot be used to circumvent applicable law. For example, the parties cannot agree that the Federal Advisory Committee Act (FACA) does not apply to a group created by the MOU, which would otherwise be subject to the FACA.

8. What information must a MOU include?

A MOU must describe its purpose, cite the underlying authority, detail the roles and responsibilities of the parties, and include provisions on effective date, termination, amendment, agency contact, any required appropriations law provisions, and authorized signatures. Depending on the MOU category there are other terms that will be required on a case by case basis. A MOU generally should not include a provision for SBA to indemnify another party. In addition, all choice of law and damages provisions should be reviewed by the Associate General Counsel, Office of Litigation.

Consult your program office's OGC representative for draft templates. This is why OGC review is required as part of the approval process for all MOUs.

9. Can a MOU authorize a third party's use of SBA's name and logo?

A MOU can authorize a third party, such as a state governmental entity, to use SBA's name and logo. The MOU must include language providing for SBA to review and approve its logo use in advance, and its use must be consistent with SBA's logo policy found in SOP 90 78. An example of such language would be the inclusion of a publicity clause specifying that SBA's name and logo can be used in marketing materials only with SBA's prior written approval.

Federal agencies are generally authorized to use the SBA's name and logo, however, we should always review materials in advance involving our name and logo for accuracy and to ensure the SBA is represented appropriately.

B. PROGRAMMATIC MOU REQUIREMENTS**10. Who can initiate a Programmatic MOU?**

Any Responsible Program Official (RPO) may initiate a Programmatic MOU, subject to the approval and signatory requirements described below.

11. When should a Programmatic MOU be used?

MOU's should be used when the SBA and a government entity envision a specific course of action including, but not limited to, working together to provide technical assistance to a particular region or sharing data and other information.

12. What process must be followed to obtain approval of a Programmatic MOU?

When considering entering into a Programmatic MOU, the RPO should first consult with OGC's Outreach Attorneys. Those attorneys will be able to provide the RPO with a template from which they can start.

Before the Programmatic MOU is finalized and sent to the other party(s) for execution, the RPO must send the final draft to OGC Outreach Attorneys for final approval. After approval, and once the MOU has been executed by all parties, the MOU must be logged and stored pursuant to the process outlined in Question 5 above. A courtesy copy should also be sent to the Program Offices affected by the MOU.

13. Who can be a Programmatic MOU partner?

Any government entity (or other type of entity, if authorized by the Administrator) may enter a Programmatic MOU with the SBA.

14. What information must a Programmatic MOU include?

A Programmatic MOU must comply with the requirements in Question 8 above. Additionally, depending on the nature of the activity or engagement, Programmatic MOUs may also include provisions related to privacy, confidentiality, publicity, name, costs, no reliance and no warranties, and logo use, etc.

15. What is the term of a Programmatic MOU?

The term of a MOU can be any set period of time but should not last in perpetuity. The recommended length is no more than 3 years, subject to appropriate renewal terms. However, longer terms coupled with the ability to terminate with 10 to 30 days' notice may be justified based on the circumstances. A program office must consult with OGC regarding longer terms.

16. Who can sign a Programmatic MOU on behalf of the SBA?

A MOU may be signed by the Administrator, the Deputy Administrator, or the relevant Associate Administrator on behalf of the Agency. Authority to sign MOUs may be delegated, in writing, by the Administrator, the Deputy Administrator, or the relevant Associate Administrator. If authority is delegated, such written delegation must be included in the file with the final executed agreement.

C. OPERATIONAL AND INTERAGENCY AGREEMENT MOU REQUIREMENTS

17. Where can I find additional policies and guidelines for Operational and Interagency Agreement MOUs?

For policies and guidelines specific to Operational and Interagency Agreement MOUs, consult the individual Program Offices initiating the Agreement or your program office's OGC representative. Additionally, Operational and Interagency MOUs must be reviewed by the initiating program office's respective OGC representative for legal sufficiency.

Chapter 9: Cosponsored Activities – Purpose and Eligibility

1. What is a Cosponsored Activity?

The SBA is authorized to provide assistance for the benefit of small businesses through Cosponsored Activities with any Eligible Entity. This assistance must be for the benefit of U.S. businesses and further the mission of the Agency. Assistance generally includes training, education, or dissemination of information. A Cosponsored Activity must be planned and conducted by SBA and one or more Cosponsors. All Cosponsored Activities must be established through a written agreement (Cosponsorship Agreement) and conducted pursuant to the terms of that agreement.

2. What is an Eligible Entity?

An Eligible Entity can be a for-profit or nonprofit entity, or a federal, state, or local government official or entity. Individuals, including individuals that do not hold office but are candidates for public office, are not eligible.

Certain entities may be rendered ineligible because of their relationship with the SBA despite not being a prohibited source. Chapter 9 sets forth the process by which OSA and OGC determine whether a proposed Cosponsor may enter into a Cosponsorship Agreement with SBA.

3. What types of activities may be conducted with Cosponsors?

Many types of activities may be Cosponsored Activities so long as the activity is jointly planned and conducted by the SBA and the Cosponsor(s) and provides assistance for the benefit of small businesses. Acceptable Cosponsored Activities may include, but are not limited to, the following:

- a. Training or Webinar. This includes an activity in which presenters from the SBA, a Cosponsor, and/or a third party actively deliver an instructional program with information or experiences on SBA programs or services, or a business-related subject. Training may be conducted in-person classroom style, or online via a webinar. Training activities planned and conducted solely by the SBA are not considered Cosponsored Activities. Content about SBA programs and services must be presented by SBA staff to ensure accuracy.

- b. Publications. This includes stand-alone print or electronic publications which contain information on SBA programs and services. These publications may also include general information on other topics of interest to small business owners so long as the content is appropriate and approved in advance in writing by the RPO. The SBA's participation in publications might alternatively be structured as a third-party activity or a gift to the agency under Gifts SOP 90 53.
- c. Web Pages or Sites. Cosponsored web pages or web sites can be used for activities including (1) the actual Cosponsored Activity itself, (2) a means to host the Cosponsored Activity (i.e., online training, digital publication or podcast), or (3) a means to advertise or register participants for the Cosponsored Activity. Regardless of the circumstance, Cosponsored web pages or sites must not include commercial activity (the promotion of a Cosponsor or the selling or promotion of a product or service other than the Cosponsored Activity). For example, a cosponsor could not place a banner ad on a Cosponsored Web site to advertise a 2-for-1 sale of its product. All Cosponsored web pages or sites must include information or links to the relevant SBA programs and services. They may also include general information on topics of interest to small business owners so long as the content is appropriate and approved in advance in writing by the RPO. Web-based advertising, in any format, is not permissible on Web sites within the www.sba.gov domain.
- d. Counseling. One-to-one counseling may be a part of a Cosponsored Activity only if the counseling is performed by an SBA employee whose job description includes counseling responsibilities, or by an SBA grantee that provides counseling services as part of its SBA funded activity, or by a Cosponsor provided the following disclaimer is displayed at the activity during check in: "This event may include counseling performed by people other than SBA officials. The SBA makes no representation as to the accuracy or reliability of such counseling."
- e. Recognition Events. Events that solely celebrate the contributions of small businesses, small business owners, or small business advocates may be a Cosponsored Activity. Awards given at such activity must be part of an SBA-established program of recognition. The SBA-established awards must be approved by the

Administrator or the Associate Administrator for Communications and Public Liaison, or another Administrator designee. An example of an activity that is part of an SBA-established program of recognition is the SBA's National Small Business Week Awards.

- f. Matchmaking Activities. Activities designed to bring government and private sector resources together with small business owners are permissible provided (1) the matchmaking activities are not limited to any particular private sector entity or group, and (2) no business transactions (e.g., signing of contracts) take place during the Cosponsored Activity.
- g. Original Video and Audio Content. SBA may jointly create co-branded video and audio content so long as the content is original and includes appropriate references or discussions of SBA products and services. These programs may also include general information on other topics of interest to small business owners so long as the content is appropriate and approved in advance in writing by the RPO.

4. Can an eligible entity or the SBA jointly create a portion of an event or activity?

Yes. Eligible Entities may jointly create all or a portion of a Cosponsored Activity so long as each Cosponsors' roles and responsibilities are clearly defined in a Cosponsorship Agreement and each activity's expenses and source of revenue, as relevant, are distinguishable in the budget. Each Cosponsor must sign the Cosponsorship Agreement.

Conversely, the SBA may jointly create a portion of an Eligible Entity's third-party activity so long as the portion SBA is creating conforms to law and SBA policy governing Cosponsored Activities. The SBA's portion must be easily distinguishable as a discrete segment of the overall activity. A Cosponsorship Agreement must be drafted to cover the segment of the overall activity to be cosponsored.

5. What types of activities may not be conducted with Cosponsors?

Certain types of activities are not permitted as Cosponsored Activities because they are either illegal, create appearance problems for the Agency, subject the Agency to potential liability, or are otherwise inappropriate activities for the SBA. Such activities include but are not limited to the following:

- a. Pre-existing Events. The SBA may not “sponsor” a pre-existing event including training programs, trade shows, conferences, or other gatherings that the SBA did not play a role in creating. However, as stated above, the SBA can create a portion of a third-party event.
- b. Pre-existing Products, Publications, and Programs. The SBA may not “sponsor” a pre-existing publication, software program/app, web site, or any other product or service if the SBA did not play a role in its creation. Cosponsored Activities involving an existing product are permissible only if the SBA provides a substantial amount of new content, thus creating a new product. The SBA should ensure that it obtains sufficient intellectual property rights and protections to fulfill its mission and its responsibilities under the Cosponsorship Agreement.
- c. Pre-existing Media Programming. The SBA may not “sponsor” a pre-existing, regular television, radio, video, or audio program. Consistent with applicable ethics rules in 5 C.F.R. §2635, SBA employees may appear on these shows as guests. An SBA employee’s guest appearance on a media program is participation in a third-party event under this SOP, not a Cosponsored Activity.
- d. Advertising. While advertising the Cosponsored Activity itself may be one component of a Cosponsored Activity, the sole objective must not be advertising. Advertising is broadly defined as the practice of calling something to the attention of the public by paid announcement. Because a Cosponsor may not make a profit from a Cosponsored Activity, the SBA’s participation in a media program (TV, radio, etc.) that sells advertising is generally structured as participation in a third-party activity, not a Cosponsored Activity. Alternatively, the third party may donate this time to the SBA as a gift to the Agency.
- e. Political Activities. The SBA may not create or “sponsor” a political activity. A political activity is one that is primarily designed to facilitate, or directed toward, the success or failure of a political party, candidate for public office or political group. A political fundraising event or activity is considered a political activity.
- f. Fundraising or Profit-Making Activities. The SBA may not create or “sponsor” activities which also serve, in whole or in part, as fundraising for the Cosponsor. No Cosponsor can make a profit from a Cosponsored Activity.

- g. Receptions. The SBA may not create or “sponsor” an activity that is solely a social reception. Social reception refers to activities where the sole purpose is to mingle with others while refreshments are served, and SBA does not have a formal opportunity to make a presentation on SBA programs and services. While a modest reception may be a component of a Cosponsored Activity, it may not be the only or primary activity.
- h. SBA Program Content Presented by Outside Parties. The SBA may not create or “sponsor” an activity where outside parties present content or provide training in an authoritative manner on SBA’s programs or services. Content about SBA programs must be presented by SBA staff to ensure accuracy. Furthermore, SBA staff may not use Cosponsors or their representatives to perform their job duties.

6. Are activities with grantees considered Cosponsored Activities?

SBA administers several Congressionally-mandated grant programs under which SBA provides financial assistance to recipient organizations that in turn provide some form of assistance (e.g., training, counseling, or other services) to the small business community. The scope of this assistance is established in the recipient organization’s Cooperative Agreement. A recipient organization is the legal entity that received the grant award. It should be noted that many SBA grant recipients participate in activities both within and outside of the scope or authority of their Cooperative Agreement.

- a. Activities within the scope of the Cooperative Agreement. The SBA may co-host an activity with a grant recipient organization without drafting a Cosponsorship Agreement when the proposed activity is authorized in the Cooperative Agreement. If the activity is authorized by the Cooperative Agreement, it is considered “within the scope of the Cooperative Agreement.” Therefore, the SBA and the grant recipient may co-host the activity under the authority of the Cooperative Agreement. No additional documentation is required. The terms and conditions of the Cooperative Agreement govern the activity. Under its Cooperative Agreement, a grant recipient can charge participants a reasonable fee to cover the costs associated with holding the activity. Any fees charged are considered program income.

- b. Activities with multiple grantees. An activity between the SBA and multiple grant recipients does not require a Cosponsorship Agreement, provided the activity is within the scope of each grantee's Cooperative Agreement.
- c. Activities with grantees and non-grantees. When the SBA creates an activity with one or more grant recipients and one or more non-grantees, a Cosponsorship Agreement is required. All Cosponsored Activity rules apply. However, when the SBA creates an activity with one or more grant recipients and one or more Federal agencies, a Cosponsorship Agreement is not required by SBA.
- d. Activities outside the scope of the Cooperative Agreement. A Cosponsorship Agreement is required if the SBA and the grant recipient(s) will create an activity outside of the scope of the Cooperative Agreement. The terms and conditions of the Cosponsorship Agreement govern the activity.

7. **Can a government official or candidate for public office participate in a Cosponsored Activity?**

Yes. A federal, state, or local government official or a member of his/her official staff, can participate in a Cosponsored Activity as a speaker or as part of the official program. However, the SBA must caution the official, or his/her staff, in writing, before the event, that the official's/staffer's remarks cannot facilitate or be directed toward the success or failure of a political party, candidate for public office, or a political group. A template letter that should be used for this purpose is available on the OSA intranet site.

SBA's 30 Day Rule: However, without prior written approval from SBA's Chief of Staff or designee, SBA must not allow candidates for public office (i.e., up for re-election, running for another office, or competing in an upcoming primary election) or members of the candidates office or campaign staff to participate in the official program of a Cosponsored Activity if that activity will take place within thirty (30) calendar days before a primary or general election in which the candidate is on the official ballot (unless the upcoming election is a primary and the candidate is the only candidate for a particular office on the primary ballot).

Requests for such approval must be submitted in writing through the DAEO and provide the following information:

- a. A short description of the Cosponsored Activity;

- b. Identify when and where the activity is going to take place and whether it is going to be in the candidate's home district or state;
- c. Identify what kind of election is involved and how many calendar days prior to the election the activity will take place;
- d. Identify (by name and title) the candidate for public office (or the member of his or her staff, if applicable), that will participate in the activity, the public office for which he/she is a candidate, and whether the candidate is opposed;
- e. Identify the specific role the candidate or staff member will have at the activity; and
- f. Explain whether the candidate has an official or historical connection or involvement with the issue or subject to be addressed at the activity, with the host organization, or with the activity itself.

8. What is the Role of SBA Employees in a Cosponsored Activity?

To ensure that a Cosponsored Activity is successful, an SBA employee must participate in both the planning and the execution of the activity. Employees can participate by attending meetings, promoting the activity, registering attendees, staffing an SBA booth, presenting information about SBA programs and services, presenting SBA awards, and otherwise helping to plan and conduct the activity.

It is the duty of the RPO to ensure that Cosponsored Activities comply with all laws and policies. This duty cannot be delegated. RPOs must also ensure that all SBA employees participating in the Cosponsored Activity, especially those within their supervisory chain of command, understand and comply with applicable laws and policies.

9. What other rules govern employee conduct in planning and participating in a Cosponsored Activity?

In addition to this SOP, government ethics rules govern the conduct of an individual employee planning and participating in a Cosponsored Activity, including but not limited to:

- a. SBA employees must not exhibit preferential treatment for any private individual or entity and must not endorse or promote the products or services of any Cosponsor during the Cosponsored Activity.

- b. SBA employees must not solicit Cosponsors' promotional gift items (*i.e.*, non-cosponsored material) to present to attendees and must not assist in the distribution or assembly of items provided by Cosponsors. SBA employees must review the ethics gift acceptance rules (5 C.F.R. Part 2635, Subpart B) to determine if they may accept a Cosponsor's promotional gift item offered by Cosponsors at the event. Employees should consult with an Agency ethics official when considering whether a particular action or activity complies with ethics rules and guidelines.

10. Can SBA employees solicit potential Cosponsors or Donors?

Yes. SBA employees may actively solicit Eligible Entities for any Cosponsored Activity if the entity does not create either an institutional or personal conflict of interest or appearance problem for the SBA or for the employee under applicable ethics rules. Employees should consult Agency ethics officials if there is a question about actual or perceived conflicts of interest. Likewise, the SBA may solicit cash or in-kind donations for the SBA, which may be used to support a Cosponsored Activity, subject to the provisions of Gifts SOP 90 53 and applicable ethics rules. SBA employees must not solicit donations to a Cosponsor for the Cosponsored Activity.

11. Can SBA employees participate in registration for an activity and collection of Participant Fees?

SBA employees may handle pre-activity or on-site registration for any Cosponsored Activity. However, when a Participant Fee is charged, SBA employees must not be responsible for collecting or handling Participant Fees. Instead, the Fiscal Agent or another Cosponsor should collect and handle Participant Fees, if any, and ensure that the fees are deposited into the Cosponsorship Fund.

12. Can SBA employees partake of food at an SBA Cosponsored Activity not purchased with appropriated funds?

Yes. An SBA employee attending an SBA Cosponsored Activity at which food is paid for by Cosponsors, may partake of the food so long as he/she is required to attend the event by his/her supervisor and is performing a vital function during the activity. This may include managing and overseeing the activity, providing registration or other on-site support, speaking, presenting awards, or staffing an SBA booth. Employees are expected to use common sense and good judgment in partaking in food, as their conduct will reflect on the Agency.

Chapter 10: Cosponsorship Agreement Approval Process

1. When is a Cosponsorship Agreement required?

A Cosponsorship Agreement must be approved by the Agency and fully executed by the parties before the Agency conducts any activity under SBA's Cosponsorship Authority.

2. What is the workflow for obtaining approval of a Cosponsorship Agreement?

All Cosponsorship Agreements must be approved by OSA and OGC using the SBA Form 1615 **prior** to signature by outside parties. The 1615 must be accompanied by current Vetting results to allow OGC to make a conflict of interest determination. Signatures must be obtained in the order in which they are listed in the document. When all clearances are obtained on the 1615, OSA will obtain the signature of the Associate Administrator for OCPL and return the Cosponsorship Agreement to the originating office for countersignature. The Administrator has delegated the authority to sign all SBA Cosponsorship Agreements on behalf of SBA to the Associate Administrator for OCPL.

Specific workflow instructions are found in the Cosponsorship Approval Process Procedural Notice issued by OCPL.

3. What Should be Included in the Cosponsorship Agreement?

All Cosponsorship Agreements must be in writing. A template agreement is provided by OSA on the SBA intranet site. RPOs who wish to vary from the template should consult with OGC when drafting the revised Cosponsorship Agreement and should use the template agreement as a model.

All Cosponsorship Agreements must contain the following provisions:

- a. Cosponsorship Authorization number;
- b. Description of the Cosponsor including, but not limited to, name, location, industry, type of entity (e.g. profit or non-profit), nature of entity's business or activities;
- c. Statement that each Cosponsor agrees to abide by the provisions of the Cosponsorship Agreement and the requirements of 13 C.F.R. §106 and this SOP;

- d. Basic information about the Cosponsored Activity including name, date(s), location(s), estimated number of attendees, and estimated direct cost of the activity;
- e. Narrative description of the Cosponsored Activity, which may include a draft agenda as an attachment;
- f. Description of the SBA's and each Cosponsor's rights, duties, and responsibilities regarding the Cosponsored Activity;
- g. Proposed budget that complies with this SOP, providing a reasonable estimation of all anticipated direct costs and the type and source of financial contribution(s), including but not limited to cash and Participant Fees (in-kind contributions may optionally be listed in the budget, but must be tracked and reported in the wrap-up report);
- h. Description of Fiscal Agent and description of Fiscal Agent's duties and responsibilities, when applicable;
- i. Statement that excess funds will be processed in accordance with this SOP;
- j. Statement that Participant Fees, if charged, will not exceed the minimal amount needed to cover the anticipated direct costs of the Cosponsored Activity as outlined in the budget;
- k. Statement that each Cosponsor agrees that it will not make a profit on the Cosponsored Activity;
- l. Statement that Cosponsors will include appropriate recognition for SBA in Cosponsored Materials (all materials created for the activity, as defined in the Cosponsorship Agreement);
- m. Definition of and description of Cosponsored Materials;
- n. Limitations on marketing and promotional activities, including proper use of the SBA name and logo;
- o. Statement granting the SBA pre-approval and licensing rights to Cosponsored Materials;
- p. Statement prohibiting political speech;
- q. As applicable, provisions regarding the establishment, management and use of any event website;
- r. Required disclaimer language (see Marketing SOP 90 78) relating to non-endorsement, and nondiscriminatory actions, and other disclaimers (i.e., arrangements for disabled individuals) as necessary given the scope of the Cosponsored Activity;
- s. Name of the SBA Responsible Program Official;
- t. Name(s) of Cosponsor(s) Points of Contact;

- u. Statement that additional Cosponsors may be added subject to SBA approval;
 - v. Terms, termination, and amendment provisions; and
 - w. Signatures of Cosponsors.
4. **What information must the originating office include in the proposed budget?**

The proposed budget should include cash expenses, which are costs paid by the Fiscal Agent from the cash collected or contributed. Income reflected on the Cosponsorship Budget should show how the Cosponsors will cover the expenses. Total proposed cash expenses must equal cash sources, indicating that the Cosponsored Activity will not make a profit or incur a loss.

In-kind expenses and self-performed services are not required to be listed in the budget, but rather listed as responsibilities or duties of the Cosponsor. In-kind expenses are expenses incurred by a Cosponsor with a third party to support the activity. For example, if a Cosponsor purchases something to provide to the Cosponsored Activity, this is considered in-kind. Self-performed services are those provided by a Cosponsor that have value but do not incur an additional expense by the Cosponsor. Use of facilities owned by the Cosponsor or use of a webinar tool license already owned by the Cosponsor are examples of self-performed services. The event support or other work which salaried employees of the Cosponsor render is considered a self-performed service and is not considered a contribution to the Cosponsored Activity by the Cosponsor for the purposes of the proposed budget. Both in-kind expenses and self-performed services must be tracked by the RPO and reported on the Cosponsored Activity wrap-up form (SBA 2299).

The next chapter provides detail on authorized costs and authorized sources of income for Cosponsored Activities.

5. **What does the Director of Strategic Alliances consider when reviewing Cosponsored Activities/Cosponsorship Agreements?**

The Director of OSA shall consider a Cosponsored Activity in terms of its potential effect on the reputation of the Agency and on its consistency with the Agency's outreach efforts. The Director of OSA will reject the proposed Cosponsored Activity and associated agreement if the purpose of the activity does not further the Agency's mission or is otherwise prohibited.

6. How does OGC perform a conflict of interest determination?

OGC evaluates the results of the Vetting for legal sufficiency and conflict of interest determination in order to determine that each potential Cosponsor does not exhibit an actual or apparent conflict of interest with the Agency. OGC must sign SBA Form 1615 to demonstrate a conflict of interest determination was performed.

7. What additional factors does SBA consider when reviewing a Cosponsorship Agreement with a government official?

Under appropriate circumstances, federal, state, or local government officials may be Cosponsors. If a federal, state, or local government official is also a candidate for public office, the RPO must advise the official in writing, in advance, that his/her remarks shall not be designed to facilitate, or be directed toward, the success or failure of a political party, candidate for public office, or a political group. A template letter has been posted to the OSA intranet site.

However, if the Cosponsored Activity will take place within thirty (30) calendar days of a primary or general election and the candidate is on the official ballot (unless the upcoming election is a primary and the candidate is the only candidate for a particular office on the primary ballot), then the candidate is not eligible to cosponsor, speak at, or be a part of the official program of an SBA Cosponsored Activity, and no member of his/her official office or campaign staff is eligible to speak at or be a part of the official program, without the prior written approval of SBA's Chief of Staff (or designee) through the DAEO.

Requests for approval shall be submitted in writing through the DAEO and:

- a. Identify the Cosponsors and provide a short description of the activity;
- b. Identify when and where the activity is going to take place and whether it is in the candidate's home district or state;
- c. Identify the kind of election and how many calendar days prior to the election the activity will take place;
- d. Identify (by name and title) the Candidate for Public Office (or the member of his/her staff, if applicable) that will participate in the activity, the public office for which he/she is a candidate, and whether he/she is opposed;

- e. State what role the candidate or staff member will have at the activity; and
 - f. Explain whether the candidate has an official or historical connection or involvement with the issue to be addressed at the activity, with the host organization, or with the activity itself (e.g., Senator X is on the Senate Small Business Committee).
- 8. What is the Role of the Oversight Committee in Connection with Cosponsored Activities?**

- a. Purpose. The Oversight Committee is an internal SBA committee authorized to review Cosponsored Activities that meet the criteria outlined below. Such Cosponsored Activities may not proceed without the prior written approval of the Oversight Committee.

Additionally, the Oversight Committee must review and, if warranted, approve Gifts to the Agency in excess of \$300,000. For further information on the authority and responsibilities of the Oversight Committee when reviewing and approving Gifts to the Agency, please refer to SOP 90 53.

- b. Members. The Oversight Committee will consist of the Associate Administrator for Field Operations, Associate Administrator for Entrepreneurial Development, and may include one additional individual named by the Administrator. This individual must be an Associate or Assistant Administrator, or Chief of Staff, or Deputy Chief of Staff, but should not be the AA/OCPL. Voting responsibility of individual members is non-delegable.

Voting. A simple majority of the members of the Oversight Committee must vote to approve the following:

- i. Cosponsored Activities or series of activities with the same entity(s) in a twelve-month period with a total projected budget of more than \$50,000, and
 - ii. Cosponsored Activities with Public Officials.
- a. Approval. A Cosponsorship Agreement meeting the above criteria may not be signed by SBA and the related Cosponsorship Activity may not proceed unless and until the Oversight Committee has provided written approval of the activity. Decisions of the

Oversight Committee are considered final but may be appealed to the Administrator.

- b. Appeal. To appeal a decision by the Oversight Committee, the RPO must submit a written appeal to OSA, within three (3) business days of receipt of the Oversight Committee's decision. The appeal must contain the RPO's specific objections to the Oversight Committee's decision and provide explicit reasons why the activity should be approved. OSA will forward the appeal, Cosponsorship Agreement file, and documentation containing the Oversight Committee's vote to the Administrator within three (3) business days of receipt of the appeal.
 - c. At his/her discretion, the Director of OSA may ask the Oversight Committee for approval of any Cosponsorship Agreement.
9. **How can a Cosponsorship Agreement be modified or amended?**
- a. Non-substantive Modifications. The RPO may authorize, in writing, non-substantive modifications to an approved and executed Cosponsorship Agreement. Non-substantive modifications include typographical corrections and changes to contact information. Non-substantive changes may, under appropriate circumstances, include activity date and location changes, provided such changes do not materially impact other terms of the agreement. A copy of any non-substantive modifications must be submitted to OSA during the final reporting period. Changes in estimated budget dollar amounts are not considered a modification to the agreement unless they shift the Cosponsored Activity into a separate approval category (*i.e.*, above \$50,000 threshold thereby requiring more scrutiny and a higher level of review). A final budget will be reported with actual costs through the final report.
 - b. Substantive Modifications. All other modifications are considered substantive and must be approved and agreed to in a written amendment executed by the AA OCPL. The originating office must send its request for approval of an amendment to OSA. Types of amendments which must be approved by the AA OCPL or other Administrator designee include, but are not limited to:
 - i. addition or deletion of a Cosponsor or a major change in any of a Cosponsor's duties and responsibilities,
 - ii. significant change in nature or scope of activity,

- iii. change in types of expenses established in the budget,
 - iv. change in source of income (e.g., originally did not intend to charge Participant Fees but after approval of the agreement there is now a desire to charge a fee), and/or
 - v. change in term of the agreement.
10. **Who is responsible for the Cosponsored Activity before, during, and after its execution?**
- a. **Pre-Activity.** The initiating program/field office, through the RPO, is responsible for solicitation of all Cosponsors for a Cosponsored Activity, negotiating Cosponsorship Agreement terms and conditions, and securing the appropriate signatures from Cosponsors. The RPO may not delegate this responsibility to a Cosponsor.
 - b. **During Activity.** Upon approval and execution of the Cosponsorship Agreement by the SBA and all Cosponsors, the RPO holds primary responsibility for ensuring that the activity is conducted according to the terms and conditions established in the Cosponsorship Agreement and applicable laws, regulations, and Agency policy. RPOs may not delegate this responsibility to subordinate employees. Additional responsibilities are assigned as follows:
 - i. **RPO.** Upon receipt of an approved and fully executed Cosponsorship Agreement from OSA, the RPO shall implement the terms of the Cosponsorship Agreement and follow all record keeping requirements as outlined in this SOP. The RPO must ensure the activity is conducted in accordance with and in the manner specified in the Cosponsorship Agreement, that all Cosponsorship Funds are collected and expended appropriately, and that each Cosponsor is given Appropriate Recognition. The burden is on the RPO to ensure that the Cosponsored Activity is conducted in compliance with the Cosponsorship Agreement, applicable law, and Agency policy, and to obtain legal advice from OGC if necessary.
 - ii. **OSA.** OSA is available for consultation should the RPO need advice or guidance while conducting the Cosponsored Activity. The Director of OSA has a general duty to monitor all Cosponsored Activities and address problems and

concerns of which the Director is made aware. OSA is responsible for maintaining the official file.

- iii. OGC. OGC will be available for consultation should the RPO need legal advice or guidance while conducting the Cosponsored Activity.
- c. Post-Activity. After a Cosponsored Activity is completed, the RPO is required to file a wrap up report with OSA. All OSA agreements must follow retention periods outlined in the OSA records schedule. If a records schedule is not in place, then records are unscheduled and permanent. Cosponsored Activities originating in the field are subject to review during Field Accountability Reviews (FAR). The RPO must be prepared to show the FAR team copies of all related files.

Chapter 11: Cosponsored Activity Funds

1. How may a Cosponsored Activity be funded?

Cosponsored Activities may be funded through any of the following sources, individually or in combination with other sources on the list:

a. SBA Sources:

- i. Existing materials or services. The SBA may contribute existing materials, space, or services to a Cosponsored Activity, such as publications (e.g., Resource Guides) or supplies. This situation primarily arises with the contribution of printed or electronic materials for the activity. These contributions are not included in the Cosponsorship Budget but may be reflected as one of the SBA's responsibilities in the Cosponsorship Agreement.
- ii. Business Assistance Trust (BAT) funds. To the extent that BAT funds are available and not otherwise designated, the SBA may use BAT funds to support a Cosponsored Activity. The use of BAT funds is covered in Gifts SOP 90 53.

b. Cosponsor Sources:

- i. *Cash directly from the Cosponsor.* Cosponsors may contribute cash to support the Cosponsored Activity by writing a check or wiring funds to the Fiscal Agent. The Fiscal Agent is responsible for collecting, managing, and expending each Cosponsor's cash contribution.
- ii. *Cash from the Cosponsor collected through donations to the Cosponsor.* A Cosponsor may solicit and accept donations on its own behalf for the purpose of meeting its share of the costs of the Cosponsored Activity. SBA employees may not assist the Cosponsor with such fundraising activity. The SBA's name, seal, and logo must not be used to secure such donations. The SBA's name may be used only to state in a factual manner the Agency's involvement in the activity. Only the Cosponsor, as the recipient of the donation, may acknowledge its donor. Donations to the Cosponsor must not be construed as gifts to the SBA or gifts to the Cosponsored Activity. Because a donation to a Cosponsor is not a gift to the SBA, Gifts SOP 90 53 does not apply to a donation

collected by a Cosponsor for a Cosponsored Activity. Cosponsors must be informed that when soliciting donations to meet their share of the costs of the activity, they must make it clear that they, not the SBA, are asking for the donation. Cosponsors must not imply that the SBA endorses, directly or indirectly, their fundraising activities. A Cosponsor may recognize its donor(s) verbally or in the following manner: “Cosponsor would like to thank Acme Corp for its generous donation which was used to support this event.” Written acknowledgements or donor logos should be placed as far away, spatially, from the SBA name and logo as possible.

- iii. *Goods and In-kind Services Purchased with Cash.* A Cosponsor may purchase goods and services from a third party to be used in the Cosponsored Activity. Contributions to the Cosponsored Activity may include alcohol, but otherwise cannot be of a kind or nature prohibited under Gifts SOP 90 53. While not required to be reported on the proposed budget, in-kind goods and services must be tracked by the RPO and reported on the post-activity report.
- iv. *Goods/property already belonging to the Cosponsor and self-performed Services.* Cosponsors may provide goods or property that they already possess, e.g. use of their venue or self-performed services. The work which salaried employees of the Cosponsor render on behalf of the Cosponsored Activity is not considered a contribution to the Cosponsored Activity by the Cosponsor for the purposes of the proposed budget. Cosponsors may not charge SBA for time employees worked on behalf of the Cosponsored Activity. Except for alcohol, contributions to the activity cannot be of a kind or nature prohibited under Gifts SOP 90 53.
- c. Contributions of Products or Services Procured with Appropriated Funds. After following the appropriate procurement process, the SBA may contribute procured products or services to a Cosponsored Activity as an in-kind contribution. The procurement process is separate from the Cosponsorship Agreement and is not governed by the Cosponsorship Agreement. Consult the Denver Finance Center, Acquisitions Division before including SBA in-

kind contributions over the micropurchase threshold in the Cosponsorship Budget.

- d. Gifts to the Agency: The SBA may solicit, accept, and/or use cash or in-kind gifts from non-cosponsoring entities to support Cosponsored Activities. The SBA must follow the Gifts solicitation and acceptance procedures outlined in Gifts SOP 90 53. Cash gifts to the Agency must be placed in SBA's BAT Fund. Only the SBA, as the recipient of the donation, may acknowledge the donor. Donations to the SBA must not be construed as gifts to the Cosponsored Activity. Please see Gifts SOP 90 53 for a discussion of gifts to the Agency and for guidance on recognizing donors.
 - e. Participant Fees. A Cosponsor may charge participants a minimal fee necessary to cover the direct costs of providing the Cosponsored Activity. Participant Fees must be calculated to offset the estimated direct costs of the Cosponsored Activity. Participant Fees must be used to pay Cosponsored Activity expenses before other sources of income are utilized. The Fiscal Agent is responsible for collecting, managing, and expending Participant Fees in accordance with the Cosponsorship Agreement and applicable law.
2. **What sources of funding cannot be used?**
- a. No Cash Contributions of Appropriated Funds. Subject to appropriations law, SBA may use appropriated funds to support a Cosponsored Activity. However, SBA must purchase the product or service directly (following the appropriate procurement process), and provided that the product or service is an in-kind contribution to the Activity. The SBA is not permitted to contribute appropriated funds in cash directly to the Cosponsored Activity.
 - b. No direct gifts to the Cosponsored Activity. Outside entities that are not Cosponsors cannot provide gifts directly to a Cosponsored Activity, e.g. providing cash directly to the fiscal agent to offset some expense without going through the proper gift to the Agency procedure per Gifts SOP 90 53. Alternatively, non-Cosponsors may support a Cosponsor through direct donations to the Cosponsor (see 1.b. ii. above) or may donate a gift to the SBA in accordance with 1.d above and Gifts SOP 90 53.

3. How can Cosponsorship Funds be used?

Cosponsorship Funds may be used for nearly any expense so long as that type of expense is approved as part of the proposed budget, is a direct cost of the activity, and is necessary and integral to the activity. There are some restrictions which include, but are not limited to the following:

- a. Cosponsorship Funds must not be used to pay a Cosponsor's general operating expenses, overhead (including salaries,) or other indirect costs of the activity, or reimburse a Cosponsor for services or facilities that it provides for the Cosponsored Activity.
- b. Cosponsorship Funds must not be used to pay a Cosponsor's or the SBA's travel expenses (though may be used toward a third party's travel); and
- c. Cosponsored Funds cannot be used to purchase any item prohibited by the Gifts SOP 90 53 from being purchased with Gift funds. Although alcohol may be paid for through direct purchase by a Cosponsor, Cosponsorship Funds may not be used to purchase alcohol.

4. Does every Cosponsored Activity require a budget?

Cosponsored Activities that will incur cash expenses or that will collect Participant Fees require a budget. If a Cosponsored Activity will not incur any cash expenses, a budget is not required, and the Cosponsorship Agreement must state that no expenses will be incurred.

5. Can the budget allow for profit, excess revenue, or a funds shortfall?

The budget must demonstrate that the Cosponsors will not make a profit or accumulate excess funds from the Cosponsored Activity.

The budget may not demonstrate a shortfall of funds. Anticipated revenues must at least equal anticipated expenses.

6. How is a budget estimated for a Cosponsorship Agreement?

The budget should reflect a good faith estimate of the direct costs to be incurred in connection with the Cosponsored Activity (see discussion of direct costs below) and anticipated revenue. It should show: (1) what the direct expenses are, and (2) how those expenses will be met by cash contributions or collection of Participant Fees. Every direct expense must have an

accompanying source of revenue. All Participant Fees must be strictly accounted for.

The budget should be as explicit as possible when describing expenses. Non-descriptive terms such as “decorations,” “marketing,” or “miscellaneous,” should be avoided, especially if these expense items constitute a large portion of the overall budget.

The budget may be in any format so long as it is clear what the expenses are and who is paying.

The items in the budget should correlate to the event description and to each Cosponsors’ roles and responsibilities.

7. When is a Cosponsored Activity required to have a Fiscal Agent and what are the Fiscal Agent’s responsibilities?

If any cash is to be collected or contributed from Cosponsors or participants to support the Cosponsored Activity, one of the Cosponsors must be designated in the Cosponsorship Agreement as the Fiscal Agent for that Cosponsored Activity. As Fiscal Agent, that Cosponsor must set up a separate accounting mechanism to manage the Cosponsorship Funds. The Fiscal Agent must take whatever internal accounting measures are necessary to ensure it does not commingle its own funds with the Cosponsorship Funds. The Fiscal Agent shall receive all cash from the Cosponsors or participants and pay the expenses of the Cosponsored Activity accordingly. Within ninety days of the last day of the Cosponsored Activity, the Fiscal Agent must provide the SBA with a full accounting of the cash received and expenses paid.

8. What costs should be reflected on the budget?

The proposed budget should include cash expenses, which are costs paid by the Fiscal Agent from the cash collected or contributed. Income reflected on the Cosponsorship Budget should show how the Cosponsors will cover the expenses. Total proposed cash expenses must equal cash contributed, indicating that the Cosponsored Activity will not make a profit or loss.

In-kind expenses and self-performed services are not required to be listed in the budget, but rather listed as responsibilities or duties of the Cosponsor. In-kind expenses are expenses incurred by a Cosponsor with a third party to support the activity. For example, if a Cosponsor purchases food to provide to the Cosponsored Activity, this is considered in-kind. Self-performed services

are those provided by a Cosponsor that have value but do not incur an additional expense by the Cosponsor. For example, use of facilities owned by the Cosponsor or use of a webinar tool license already owned by the Cosponsor are self-performed services. Both in-kind expenses and self-performed services must be tracked by the RPO and reported on the Cosponsored Activity wrap-up form (SBA 2299).

The work which salaried employees of the Cosponsor render should not be considered an expense of the Cosponsored Activity.

9. What are examples of allowable cash expenses for a Cosponsored Activity?

Examples of allowable cash expenses include:

- a. Room rental (but not the contribution of the Cosponsor's facility);
- b. Room set-up (tables, drapes/linens, carpet, wiring, etc.);
- c. Refreshments;
- d. A/V equipment rental;
- e. Cosponsored web site creation/maintenance if performed by a vendor;
- f. Hiring of contractors to perform logistics or event planning services;
- g. Speaker fees for speakers not employed by the SBA or a Cosponsor;
- h. Conference signage;
- i. Marketing/advertising expenses;
- j. Photocopies of workbooks or other handouts to be used during the Cosponsored Activity;
- k. Event security;
- l. Photographer/videographer not employed by a Cosponsor;
- m. Travel costs incurred by parties other than the Cosponsor(s) or the SBA; and
- n. Costs related to compliance with the Americans with Disabilities Act (i.e. hiring of a sign language interpreter).

Indirect costs or otherwise excluded expenses include:

- a. Use of a Cosponsor's facility;
- b. Cosponsor employee salaries and benefits;
- c. Copying of non-cosponsored materials;
- d. General office supplies not utilized to support Cosponsored Activity;

- e. Cosponsor or the SBA's travel; and
- f. Non-approved reimbursements to the Cosponsor.

Note that travel for the SBA may be provided through Gifts of Travel if in accordance with the Federal Travel Regulation and SOP 20 11 (Travel).

10. How do Cosponsorship Funds apply in a Cosponsored Activity in which Participant Fees are charged?

Participant Fees must be liquidated prior to other sources of funding for a Cosponsored Activity. Therefore, unless otherwise specified in the Cosponsorship Agreement, a Cosponsor's contribution is meant to fill the gap between the event's cost and the revenues it obtains from Participant Fees, if any. If the Cosponsorship Agreement provides, for example, that the anticipated cost of the event is \$10,000 and Participant Fees are expected to bring in \$5,000, a Cosponsor may agree to donate \$5,000 to the event. If the event ends up costing \$8,000, and Participant Fees end up equaling \$6,000, the Cosponsor need contribute only \$2,000.

11. What happens with excess funds that remain after a Cosponsored Activity?

See Chapter 13 on post-event responsibilities for procedures on disbursing excess funds.

Chapter 12: Promotion of Cosponsored Activities

1. What items may be used to promote a Cosponsored Activity?

The items that may be used to promote a Cosponsored Activity are:

- a. SBA-created notifications including news releases, mailings, online invitations, social media, and email blasts. Any printed or electronic media or promotional materials to announce the event or to be distributed at the Cosponsored Activity shall be approved in advance by the RPO. Any printed or electronic material containing the names or logos of the SBA, a Cosponsor, or a Donor must include the appropriate disclaimers except where doing so is impractical due to space constraints.
- b. Paid advertising: Advertising must be factual. Unless impractical, it must include the required disclaimers (see Chapters 4 and 5) and be approved in advance in writing by the RPO.

All promotion of a Cosponsored Activity must comply with the Marketing SOP 90 78 in addition to this SOP.

2. How can Cosponsored Materials recognize the contributions of the SBA and the Cosponsor(s)?

Under Federal law, the SBA and all Cosponsors must receive Appropriate Recognition for their participation in the Cosponsored Activity. The recognition may be oral or in writing. The recognition must avoid the appearance that the SBA endorses or promotes a Cosponsor or a Cosponsor's products or services.

For instance, a Cosponsored Activity may display a banner or banners depicting each Cosponsor's logo, as well as SBA's logo, so long as doing so does not constitute or imply an endorsement of the Cosponsor(s) by the SBA.

Take-home items may be distributed at the Cosponsored Activity. Restrictions apply to the content and distribution of the take-home items, depending on whether they are purchased by a Cosponsor or purchased using Cosponsorship Funds.

- a. Items Paid for Using Cosponsorship Funds. Cosponsored gift bags and take-home items of nominal value (usually less than \$5, per

SOP 90 53) may be purchased with Cosponsorship Funds, distributed by SBA employees, and given to attendees of a Cosponsored Activity subject to:

- i. The Cosponsored item must display the required disclaimer language (see above) as feasible for the item;
 - ii. The item must be of nominal value and have no resale value; and
 - iii. The item must not be the actual product of one of the Cosponsors or identify a product or service of the Cosponsor.
- b. Promotional Items of a Cosponsor: Gift bags and other promotional items that use the name or logo of a Cosponsor may be given to attendees at a Cosponsored Activity if the item is paid for by a Cosponsor and provided by the Cosponsor directly to attendees, subject to:
- i. Appropriated funds must not be used to support the assembly or distribution of the promotional item;
 - ii. The item must not be distributed by SBA employees; and
 - iii. Promotional items should not be considered part of the Cosponsor's contribution to the Cosponsored Activity and should not be documented in the Cosponsorship Agreement.
- c. Promotional items from Cosponsored funds: Gift bags and other promotional items that use the name or logo of Cosponsors and SBA may be given to attendees at a Cosponsored Activity if the item is paid for with Cosponsorship Funds. SBA employees may distribute such items.

Chapter 13: Post-Cosponsored Activity Responsibilities

1. When Does a Cosponsored Activity Conclude?

A Cosponsored Activity concludes when the Cosponsored Activity is complete or when the Cosponsorship Agreement has expired, whichever comes first. Some Cosponsored Activities may include more than one event (for example, a series of classes) or may encompass a long-term project. In such circumstances, the Cosponsored Activity is deemed to conclude when the last of the Cosponsorship Activities has taken place or the Cosponsorship Agreement has expired, whichever comes first. The RPO must be aware of when a Cosponsored Activity is concluded or the Cosponsorship Agreement has expired.

2. What forms must be completed at the conclusion of a Cosponsored Activity?

At the conclusion of any Cosponsored Activity, the RPO must complete:

- a. Cosponsorship Final Report Form (SBA 2299). This form must be completed and sent to OSA within 90 days after the conclusion of the Cosponsored Activity. The 2299 form should be accompanied by a detailed final budget that includes an accounting of all expenses, income, and in-kind contributions.
- b. Event Feedback. Event attendees should be provided the opportunity to complete an approved feedback form about the Cosponsored Activity. Approved feedback forms are available on the OSA intranet site.

3. What is OSA's "Closeout Period"?

From time to time, OSA may announce a Cosponsorship, SAM, MOU, and Gift "closeout period" wherein no new Outreach Agreements or gifts to the Agency will be processed. During this period, offices will be given the opportunity to complete any unfinished paperwork and file it with OSA.

4. How should excess funds be disbursed after a Cosponsored Activity?

Excess funds are the contributed cash or collected Participant Fees that are left over after expenses are subtracted from the revenues. The RPO, in conjunction with the Fiscal Agent, must disburse excess funds within 120 days of the

expiration of the Cosponsorship Agreement, unless the AA/OCPL grants an extension of time.

The requirements for disbursement of excess funds are based on the origin of the funds.

- a. If the excess funds originated entirely from Participant Fees, then distribute excess funds on a pro rata basis to participants. Before distributing excess funds ensure that, in accordance with 13 C.F.R. § 106.203(f), Participant Fees were spent prior to other sources of funding.

If participants are vetted and a gift to the Agency solicitation is approved under Gifts SOP 90 53, you also may ask the approved participants if they want to donate their share of excess funds to the SBA.

Example 1: The event costs \$10,000, and the SBA has charged each of 120 participants \$100 apiece. There are no Cosponsor contributions. Revenues in that instance would equal \$12,000 and expenses would equal \$10,000, giving us \$2,000 in excess funds. That \$2,000 excess would be divided by the 100 participants, and each participant would get \$20 back.

Example 2: If the Cosponsor paid \$2,000 for participant meals in an event that had an overall cost (including the meals) of \$5,000, and participant revenues—anticipated to be \$3,000—were in fact \$4,000, then the excess funds of \$1,000 would be considered to have originated with the Cosponsor, not the participants. These excess funds can be processed under the procedures in the next subsection. No funds are distributed to participants.

Example 3: If the Cosponsor donates use of its auditorium (for which it usually charges \$1,000 an afternoon) to a Cosponsored Activity which otherwise costs \$5,000, with anticipated participant revenues of \$5,000 and the actual participant revenues are \$6,000, the Cosponsor is not permitted to retroactively charge the Cosponsored Activity \$1,000. The excess funds of \$1,000 should be distributed on a pro rata basis to participants.

- b. If the excess funds originated entirely from cash contributed by Cosponsors. Unless specified otherwise in the Cosponsorship Agreement, each Cosponsor has the following options with respect to its pro rata share of the excess funds:
- i. Donate the excess funds to the SBA as an unsolicited gift to the Agency under Gifts SOP 90 53. The Cosponsor may indicate, within the limits of the SOP, how the money should be spent although the inclusion of intent language to further the Agency's mission is encouraged;
 - ii. Request a refund; or
 - iii. For the headquarters National Small Business Week Cosponsored Activity only, the Cosponsor(s) may direct their pro rata share of the surplus to remain with the Fiscal Agent provided that the Fiscal Agent agrees to make those funds available to the next National Small Business Week Cosponsored Activity, maintains a separate bank account to hold the excess funds, and provides monthly bank statements to SBA. If a Fiscal Agent declines to serve in that role for a related future Cosponsored Activity, with SBA's prior written approval, they must transfer the funds to a new Fiscal Agent or process the funds as a gift to SBA.

The RPO should contact each Cosponsor that contributed cash to inform the Cosponsor of its options. The communication to the Cosponsor should specify which of the options the SBA will process the Cosponsor's share under in the event the Cosponsor does not respond.

Example 4: Original budget of \$10,000. Cosponsor A contributes \$6,000 cash; Cosponsor B contributes \$4,000 cash. No Participant Fees. Actual expenses are \$9,000. After a pro rata division of excess cash, Cosponsor A's contribution is reduced by \$600 and Cosponsor B's by \$400. The Cosponsors can choose to receive a refund of their contribution or make a Gift to the SBA.

- c. If the excess funds are a mix of Participant Fees and cash contributed by Cosponsors. First, process the excess funds under subsection (b) above, with the maximum possible amount being considered as excess funds originating from the Cosponsors. In addition to the three choices above, the Cosponsors can also

choose to donate back to the current Cosponsored Activity to increase the amount available for participant refunds.

After the Cosponsor contributions are settled, process the remaining excess funds under subsection (a) as originating from Participant Fees.

Example 5: The SBA and the Cosponsors anticipate that an event will cost \$10,000 and that Participant Fees will bring in \$5,000. The budget is balanced with a line item that says, “contributed by cosponsor: \$5,000.” If Participant Fees turn out to be \$6,000, the Cosponsor’s obligation is reduced to \$4,000. If the Cosponsor already has paid its \$5,000 contribution or already provided \$5,000 in in-kind contributions, the excess funds are processed under subsection (b). No funds are returned to the participants, unless the Cosponsor chooses to donate its share of excess funds back to the current Cosponsored Activity.

Example 6: Same facts as above, but expenses turn out to be \$9,000 and revenues are \$5,000. The Cosponsor’s contribution to the Cosponsored Activity is reduced to \$4,000.

Example 7: Cosponsor A has given \$3,000 and Cosponsor B has given \$2,000 to a \$10,000 Cosponsored Activity for which we anticipated Participant Fee revenues to be \$5,000. Participant fee revenues were \$6,000. Cosponsor A would have its obligation reduced by \$600 and Cosponsor B would have its obligation reduced by \$400. If either Cosponsor has already paid its contribution (or provided its in-kind contribution), its share of the excess funds is processed under subsection (b).

Example 8: Original budget of \$10,000, but the Cosponsor provides the \$3,000 venue at no cost, thus reducing the budget to \$7,000. We anticipate \$5,000 as revenue from 50 participants each paying \$100. The Cosponsor contributes a dinner for all the participants, such dinner costing \$2,000. We get 60 participants and thus earn \$1,000 more from Participant Fees than we anticipated. The extra \$1,000 partially reimburses the Cosponsor’s cost of the dinner.

Chapter 14 Lender Awards

1. May SBA provide awards to certain lenders for their SBA lending activity or substantial contributions to the small business community?

Yes. SBA may choose to make a public announcement and provide token awards (i.e. trophies, plaques) to certain SBA lenders for their lending activity during the previous fiscal year or substantial contributions to the small business community, consistent with SBA lender award requirements and prior approval policies as set forth in this Chapter.

2. Is prior approval required before a lender is notified of its nomination or selection to receive an award and an award made?

Yes. Before a lender may be notified of its nomination or selection to receive an award and before any award is made or announced, the RPO proposing the award must obtain the prior written approval of the Office of Credit Risk Management (OCRM). All offices should finalize their pre-approval list of lenders to receive an award and submit the list via email to OCRM promptly after the close of the previous fiscal year and no later than January 15.

3. Where should SBA offices send their lender award request?

For proposed 7(a) lender awards, offices should send the request for pre-approval to OCRM via 7alenderawards@sba.gov.

For proposed 504 lender awards, offices should send the request for pre-approval to OCRM via 504lenderawards@sba.gov.

For proposed mission-based or Microloan Intermediary awards, offices should send the request for pre-approval to OCRM via Microlenderawards@sba.gov.

4. What information must be included in the lender award request?

Lender award requests must include the following information:

1. Name of lender with its FIRS number;
2. Identification of the proposed award;
3. A description of the award or what it represents; and,
4. A description of why the lender merits the award.

5. How does OCRM's approval process work?

OCRМ will notify the initiating office via email of its approval or disapproval of a proposed award within ten (10) business days of receipt of the lender award request.

6. When can SBA notify a lender of an award?

Only after receiving written approval of an award from OCRM may the initiating office notify the lender of its nomination and selection to receive the award.

7. What is the deadline for presenting awards?

The office initiating an OCRM approved award must present the award to the lender no later than May 31.

8. How does SBA complete the award process?

Once the lender awards season concludes, the initiating office and/or the Office of Field Operations must update the Lender Award Tracking Database, which will be accessible to the Office of Capital Access through SharePoint.

Appendix A: Definitions

Appropriate Recognition is the statutory requirement that the SBA and the Cosponsor(s) receive “Appropriate Recognition” meaning publicity for serving as a Cosponsor of the activity. Such recognition must not constitute or imply an endorsement by the SBA of any products or services of the Cosponsor.

Candidate for Public Office is any individual running for an elected federal, state, or local government public office.

Cash Gift as used in this Gifts SOP 90 53, reference to a cash Gift refers to checks or other negotiable instruments, not actual currency. Also referred to as donated funds

Cooperative Agreement awards federal funds to a recipient for performance of a project to benefit the public. The Cooperative Agreement’s terms and conditions are provided by a Program Announcement and Notice of Award. Also known as a Grant Agreement.

Cosponsor means an entity or individual that has signed a written Cosponsorship Agreement with SBA and who actively and substantially participates in planning and conducting an agreed upon Cosponsored Activity. As part of their participation, Cosponsors may make a financial contribution to support the Cosponsored Activity.

Cosponsored Activity is an activity, event, project, or initiative designed to provide assistance for the benefit of small business as authorized by SBA’s Cosponsorship Authority, section 132(a) of Division K in Public Law No. 108-447. The Cosponsored Activity must be planned and conducted by the SBA and one or more Cosponsors and approved through a written Cosponsorship Agreement. Assistance for the purposes of Cosponsored Activity does not include grant or any other form of financial assistance.

Cosponsorship Agreement is an approved written document which has been duly executed by the SBA and one or more Cosponsors. The Cosponsorship Agreement shall contain the parties’ respective rights, duties, and responsibilities regarding the planning and implementation of the Cosponsored Activity.

Cosponsorship Funds are all cash collected in support of a Cosponsored Activity. Cosponsorship Funds may be derived from a Cosponsor's cash contribution or money collected from each participant (i.e. registration fee). The Fiscal Agent, subject to oversight by the SBA, is responsible for collecting and expending all Cosponsorship Funds.

Cosponsored Material is all print and electronic materials used to promote the Cosponsored Activity or used in connection with the Cosponsored Activity. Cosponsored Materials may include, but are not limited to, flyers, brochures, mailers, email, promotional pieces, web pages, or any other physical, print, or electronic item, including items bearing SBA's name or logo.

Donated Funds as used in this SOP refers to Gifts of Cash.

Donor means an individual or entity that provides a Gift, bequest, or devise (in cash or in-kind) to SBA. As applied in this SOP, Donor does not include an individual or entity that provides cash or in-kind support to a Cosponsor for use during a Cosponsored Activity. Donors may not be referred to as Cosponsors or Sponsors.

Eligible Entity is an entity eligible to be a Cosponsor. An Eligible Entity must be a for-profit or not-for-profit entity, or a federal, state, or local government official or entity. Individuals, other than government officials, are not eligible to be a Cosponsor; however, a sole proprietorship may be an Eligible Entity. All entities must be legal entities authorized to conduct business in the United States.

Fiscal Agent is the Cosponsor with responsibility for collecting, managing, and disbursing the Cosponsorship Funds.

Gift (including a bequest or a device) means the voluntary transfer to SBA of something of value without the Donor receiving legal consideration. This includes items offered for substantially less than market value, e.g., an exhibit booth or airtime for radio advertising.

Memorandum of Understanding, or MOU, is an agreement between the SBA and another government entity (or other type of entity, if authorized by the Administrator), to cooperate to achieve a particular purpose. The MOU constitutes an understanding between the parties but is a non-binding agreement. It is the SBA's policy to enter into MOUs with other entities to define lines of authority or responsibility, or to clarify cooperative procedures.

An MOU's intent is to more effectively use collective resources and eliminate duplication of activities.

Originating Office is the field or Program Office that initiates, plans, and participates (or the case of gifts solicits and accepts the proposed gift) in the outreach agreement.

Outreach Activity is a public event, either in-person and online, for the benefit of small businesses, which can also include joint undertakings with outside organizations to further the SBA's mission. Outreach Activities include SBA sponsored, cosponsored, or third-party events.

Outreach Agreement is between the SBA and a third party (can be a non-profit, for-profit, or government agency, depending on the activity and agreement). Examples are MOUs, SAMs, and Cosponsorship Agreements.

Participant Fee is a minimal fee assessed against a person or entity that participates in a Cosponsored Activity and is used to cover the activity's direct costs.

Public Official is an elected or appointed federal, state, or local government official.

Responsible Program Official or RPO is an SBA senior management official from the Originating Office who is accountable for the Cosponsored Activity or Gift. If the Originating Office is a district or branch office, the RPO is the district director or the deputy district director. In headquarters, the RPO is the management board member or a deputy with responsibility for the relevant program area. In headquarters the RPO may also be any one of the OCPL Directors.

SBA Advertising is paying for space (i.e., "paid placement") in any type of media to call attention to an SBA product, service, event, or activity. SBA advertising includes all SBA branded and co-branded paid placements.

SBA Marketing Materials are any items used to promote SBA programs, events, and activities. Examples include but are not limited to printed fliers, factsheets, and brochures; infographics; stand-up and table-top banners; and promotional items intended for outreach to the public. SBA co-branded materials created pursuant to a Cosponsorship Agreement ("Cosponsored Materials"), Cooperative Agreement, or contract are considered SBA Marketing Materials. All Marketing Materials must adhere to the SBA's brand

and visual identity guidelines described on www.sba.gov/brand to ensure the integrity of SBA's identity.

SBA Programs are various small business designations and contracting certifications such as woman-owned small business, veteran-owned small business, Historically Underutilized Business Zone, 8(a), 7(j), etc.

Strategic Alliance Memorandum or SAM is a non-binding agreement with a non-profit or state/local government agency to develop and foster a mutual understanding and formalize a working relationship between the SBA and an outside organization to strengthen and expand small business development.

Vetting is the process of gathering information about a potential Cosponsor or Donor to identify a prohibited source and/or allow the General Counsel or designee to make a conflict of interest determination when appropriate.