

# THE SMALL BUSINESS

# ADVOCATE

United States  
Small Business  
Administration

Office of Advocacy

July/August 1997

Vol. 16, No. 5

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## Congress

### Taxpayer Relief Act of 1997: A Legacy of the WHCSB

The Taxpayer Relief Act of 1997 (P.L. 105-34), signed into law by President Bill Clinton on Aug. 5, 1997, brings major benefits to small business. Provisions in the new law will direct approximately \$40 billion in tax relief to small businesses over the next 10 years, over and above the benefit of general rate reductions, credits, or exclusions that benefit all taxpayers. This tax reform is another example of the commitment of the Administration and the Congress to be responsive to the needs of small businesses.

Since the 1995 White House Conference on Small Business (WHCSB), the Administration has implemented a number of the conference's recommendations through executive action. Also, Congress has moved forward with key WHCSB requests that required legislation. Within the last year, Congress has passed and the President has supported and signed the Small Business Regulatory Enforcement Fairness Act, the Small Business Jobs Protection Act, and the Health Insurance Portability and  
*Continued on page 4*

## Research and Publications

### Micro-Business-Friendly Banks Identified in New Report

Commercial banks with significant activity in lending to "micro businesses" — that is, in making loans in amounts under \$100,000 — increased their total micro-loan dollars by about 26 percent from 1995 to 1996, according to a report recently issued by the Office of Advocacy.

The report — the 1996 edition of *Micro-Business-Friendly Banks in the United States* — identifies 478 banks with significant activity in micro-business lending, accounting for a total of \$15.8 billion in loans of less than \$100,000 (outstanding as of June 1996). The findings show that the growth in lending by

these active micro-lenders far exceeded the 4.7-percent average growth in micro-business loan dollars for all banks that make such loans.

"That is quite impressive," said the SBA's Chief Counsel for Advocacy Jere W. Glover in reference to the report's findings, "and even more so when you consider that these 478 banks held only 3.3 percent of total bank assets. Information rationalizes markets. The more competitive a market is, the more efficient it becomes, providing more and better quality services. Since 1994, Advocacy has been  
*Continued on page 10*

## Chief Counsel's "In Box"

**Q:** *Our company founded its technical writing division to serve clients by using both in-house staff and freelance writer-editors, document designers, and artists. One of our corporate missions was and is to give work to these creative people who enjoy a very long history and tradition of running their own businesses as freelancers. They operate out of their own offices or studios and pay taxes as freelance business entities: Social Security, quarterly estimated income tax, etc. America's finest writers are freelancers. National and international organizations consist of tens of thousands of creative, freelance, talented men and women.*

*Our company's accountant researched the IRS regulations regarding independent contractors and designed our company regulations and procedures to comply fully with those published IRS documents.*

*Unless we are misreading the following text of an IRS directive, we are precluded from ever hiring any of these independent business people. This would be a serious restraint of trade for our company. The IRS directive states:*

*"... beginning July 1, 1997, and for all periods thereafter, editors, writers/editors, translators and illustrator/graphic artists and persons performing equivalent duties regardless of taxpayer's job titles will be treated as employees for all federal employment tax purposes."*

*Is it the intention of the IRS to eliminate independent contractors and the freelance tradition? The national trend is toward increasing numbers of independent businesses, many home based, especially in the creative fields. There are hundreds of thousands of creative freelance people, along with the companies and individuals who contract for their services, that need to be notified. If this is the intention, the IRS*

**This month:**

### The intractable problem of the tax treatment of independent contractors.



*must issue a clear directive with which freelancers and their clients may comply. Those impacted can then appeal to their representatives to consider the effect of such an IRS decision.*

*Perhaps the more serious question is how the IRS can collect taxes twice on the same work performed. It seems clear that freelancers paying taxes (estimated income, Social Security, etc.) as independent businesses cannot, at the same time, be another company's employee. Our company and the entire business community need absolute clarity with regard to this important issue.*

*I hope that citizens, artists, and businesses impacted by this decision appeal it, using every available forum.*

**A:** As you may recall, clarification of worker classification was the top recommendation of the 1995 White House Conference on Small Business for just the reasons you mention.

Congress has prohibited the IRS for the past 20 years from writing

clarifying regulations on worker classification. That has left the IRS to try to enforce the common law rules, which, as you are discovering, are complex and outdated. In an effort to explain the process, the IRS drafted and made public last year the training manual it uses to train revenue agents on the worker classification issue (see page 3 of the March/April 1997 issue of *The Small Business Advocate*).

The White House Conference on Small Business regional taxation issue chairs believe that legislation is the only way to resolve the matter. The House and Senate recently considered bills that would clarify the law defining "independent contractor" for tax purposes; once again, however, the issue proved too controversial and was not included in the recently passed Taxpayers Relief Act of 1997.

### Do You Have a Question?

*Do you have a question for the Chief Counsel? Address letters to: "In Box," Chief Counsel for Advocacy, U.S. Small Business Administration, Mail Code 3114, 409 Third St., S.W., Washington, DC 20416.*

*For immediate access, call SBA On-Line at 1-800-697-4636 (9600 baud); in Washington, D.C., call (202) 401-9600.*

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*The Small Business Advocate* (ISSN 1045-7658) is published monthly by the U.S. Small Business Administration's Office of Advocacy and is distributed to Small Business Administration field staff and members of the U.S. Congress. *The Small Business Advocate* is available without charge from the Office of Advocacy, U.S. Small Business Administration, Mail Code 3114, Washington, DC 20416. Back issues are available on microfiche from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

Send address changes to The Small Business Advocate, Mail Code 3114, U.S. Small Business Administration, Washington, DC 20416. Include your current address label.

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## Correction

*Due to a production error in the last issue of The Small Business Advocate, a portion of a story on the SBA's new PRO-Net program was inadvertently dropped. Here is the complete story as it was meant to appear:*

On June 2, in conjunction with the national celebration of Small Business Week, Vice President Al Gore and SBA Administrator Aida Alvarez announced the U.S. Small Business Administration's new pilot procurement program, the Procurement Marketing and Access Network, or PRO-Net. PRO-Net will help federal contractors effectively search for small businesses and companies whose services are in demand as well as provide another outlet for small businesses to market themselves.

"As the federal government modernizes the way it does business," stated Administrator Alvarez, "PRO-Net will give small firms a new and efficient way to market their capabilities."

PRO-Net is a virtual one-stop procurement shop for government contracting, and will be used free of charge by federal and state agencies and prime and other contractors to find small business contractors, subcontractors, and partnership opportunities with small businesses. During the pilot phase, the PRO-Net service also will be provided free of charge to all participating small businesses.

The PRO-Net system currently contains electronic profiles of almost 6,500 small businesses, including 8(a) certified firms in the SBA's data base and all women-owned firms in the state of Maryland. These electronic profiles include a synopsis of the company's history, products, services, and other information important to potential contracting entities. Participating companies can update their profiles with information about new products, announcements of contracts won, and other current advice to attract the attention of poten-

tial customers. Businesses will be able to receive and ask procurement opportunity questions electronically. Additionally, businesses with home pages can link their Web site to their PRO-Net profile, creating an even more powerful marketing tool.

As an electronic gateway, the system provides access and is linked to the *Commerce Business Daily*, agency home pages, and other sources of procurement opportunities. "PRO-Net is a truly exciting step forward," said Administrator Alvarez, "because it can give under-utilized businesses a better chance to compete for procurement contracts."

## How to Connect to PRO-Net

To learn more about PRO-Net, view the SBA's home page at <http://www.sba.gov>. Then click on PRO-Net and see it in action. Technical questions should be directed to Ollie Snyder via e-mail at [oliver.snyder@sba.gov](mailto:oliver.snyder@sba.gov). For specific questions concerning 8(a) status, contact Bob Marchand via e-mail at [robmarchand@sba.gov](mailto:robmarchand@sba.gov).

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## Tax Relief, from page 1

Accountability Act, each of which contained new laws originally proposed by the 1995 Conference. The Taxpayer Relief Act of 1997 builds on this outstanding record of cooperation in implementing WHCSB recommendations.

Major provisions of the new law include:

- **Estate tax reform.** By 2006, the unified gift and estate tax credit will increase to an amount equivalent to excluding from taxation the first \$1 million of a transferred estate. Small businesses will get a special break that, when combined with the unified credit, will increase the excluded amount to \$1.3 million. This targeted credit applies when a family-owned business or farm constitutes half the value of an estate and the family owners continue to run the business. The added credit, effective January 1, 1998, will save small businesses \$33 billion over 10 years.

- **Health insurance for the self-employed.** The percentage of health insurance payments that a self-employed business owner can deduct will increase yearly, and reach 100 percent by 2007. This provision will save small businesses \$3.4 billion over 10 years.

- **Home office deduction.** For the purpose of deducting expenses, the new law expands the definition of a home office to include any home office that is the business' sole office and is used regularly for essential administrative or management activities. Courts have construed the previous law to require that customers come to the home and generate income. This antiquated definition disqualified most home office business people, who either communicate electronically with their customers or visit them on site. The new provision is not effective until 1999, but is expected to save small business owners \$2.3 billion over the next 10 years. (See box at right.)

- **General capital gains relief.** Effective July 22, 1997, capital gains taxes are reduced from 28 percent to 20 percent (10 percent for

## The Home Office Deduction

Working out of the home has become a significant and growing phenomenon in the United States. Recent studies have found that more than 7 million businesses — including more than half of women-owned businesses and nearly half of businesses owned by men — were home-based. Owning a home-based business is a market option that offers flexibility and other advantages to these entrepreneurs.

In the past, tax law has recognized this option by allowing deduction of expenses for a home office. These deductions were limited, however: courts construed the definition of "home office" to require that clients visit the home office and that business income be generated in the home.

Delegates to the 1995 White House Conference on Small Business recognized that reality had moved far beyond this tax definition. Most of today's home office proprietors, rather than requiring their clientele to come to them, either visit their customers or communicate with them electronically

or by other means. The delegates recommended that the tax definition be updated.

The 1997 Taxpayer Relief Act took note of this recommendation and expanded the definition to include any home office that is the business' sole office and is used regularly for essential administrative or management activities. The new law takes effect in 1999.

In enacting the provision, Congress and the President recognized that home-based businesses:

- provide unlimited new opportunities to start fresh businesses with less capital in a modern, telecommuting age;
- expand options, for example for parents, by allowing home office proprietors to stay close to their families;
- use fewer natural resources by requiring less use of transportation and allowing more business to be conducted electronically;
- are the most cost-effective small business incubators ever devised.

those who are in the 15 percent tax bracket) on property held for at least 18 months, making investments with a high potential to appreciate in value more attractive to investors than investments that pay dividends. (Small start-up firms appeal to investors seeking returns based on appreciation.) The rate drops to 18 percent (or 8 percent for the lower tax bracket) for assets held five years for sales completed after 2001. Collectibles do not qualify. Section 1250 property (that is, depreciable real estate) is subject to a 25-percent tax.

- **Targeted capital gains — small business stock.** Under previous law, only 50 percent of gain on qualifying small business stock held for at least five years is subject

to tax. The effective rate of tax was therefore 14 percent. The 14-percent rate is retained, but the bill reduces the share subject to minimum tax to 42 percent. Also, an individual investor can roll over gain from an investment in qualified small business stock held for at least six months into another qualifying stock tax-free. The replacement stock must be purchased within 60 days of the original sale. This provision is effective as of the date of enactment.

- **Alternative minimum tax.** Small corporations (those with gross receipts under \$5 million) will no longer need to calculate the alternative minimum tax. This provision effectively exempts about 95 percent of all corporations (more

than 2 million businesses) from needless and complex paperwork.

- **Balanced federal budget.** The 1980, 1986, and 1995 White House Conferences on Small Business all recommended that the federal government establish a plan to balance the federal budget. The Taxpayer Relief Act, as part of the Budget Act of 1998, helps to achieve a balanced budget by 2002.

- **Employer-provided education assistance.** The law extends for three years the exclusion from

taxable income of money spent by an employer on education for employees.

- **Electronic federal tax payments.** For firms with more than \$50,000 in annual payroll deposits that are required to pay taxes electronically, no penalty will apply for failure to do so until June 30, 1998.

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## Senate Passes SBA Reauthorization Bill; Next Stop, House

The Senate passed draft legislation to reauthorize programs of the Small Business Administration on Sept. 9, 1997. Earlier, during the Senate Small Business Committee's markup session, a group of *en bloc* amendments offered by Committee Chairman Christopher Bond (R-Mo.) and ranking Democrat Sen. John Kerry (D-Mass.) was approved by a unanimous voice vote.

The *en bloc* amendments addressed a number of concerns expressed by the SBA regarding earlier drafts of the bill and incorporated certain amendments proposed by members of the Small Business Committee. Two major amendments in the group are a Welfare-to-Work Microloan Pilot Program and HUBZone contracting legislation.

The bill sets new loan authority levels for the SBA's credit programs for fiscal years 1998 through 2000 at or above the amounts proposed by the SBA for most of its programs. The bill also incorporates a number of other provisions from SBA's reauthorization proposal, which:

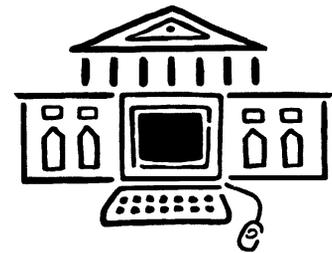
- make the microloan demonstration program permanent;
- extend the microloan guarantee pilot program for three years;
- renew authority for annual fees

paid by borrowers under the Certified Development Company program;

- provide permanent authority for fees under the Small Business Investment Company (SBIC) program and make those fees directly available for program administration;
- extend authority for the Small Business Technology Transfer program for six years (the SBA had proposed a three-year extension);
- renew authority for the co-sponsorship program and the Preferred Surety Bond program for three years; and
- extend authority for the women's business centers, the National Women's Business Council, and the Interagency Committee on Women's Business Enterprise.

The bill also allows the SBA to make five-year funding commitments for SBICs, makes substantial changes to the Women's Business Ownership Program, extends the Competitiveness Demonstration Program for three years, establishes provisions to reduce contract bundling, and makes changes to the Small Business Development Center (SBDC) program.

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## Regulatory Agencies

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### Review Panels Consider EPA Proposals

Small commercial, retail, and institutional facilities that are subject to regulation by the Environmental Protection Agency (EPA) were given a new avenue of appeal with the enactment of amendments to the Regulatory Flexibility Act that were contained in the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

Under the revised provisions of the law, the EPA (and other federal regulatory agencies) are required to meet with the SBA's Office of Advocacy and representatives of the Office of Management and Budget prior to promulgating a rule that could have a significant economic impact on a substantial number of small entities. The purpose of the meetings is to solicit input from the potentially affected small businesses.

These "Advocacy Review Panels" give small businesses the earliest possible opportunity to submit their comments and concerns to the agency project managers who actually write and develop the rules.

Under the process set up by SBREFA, an Advocacy Review Panel performs a considerable amount of outreach, soliciting oral and written comments from a number of small businesses and small business associations whose members could be significantly affected by the rule. The panel discusses the concerns, and develops recommendations or options to be included in the proposed rule to mitigate the financial impact. These recommendations are forwarded to the respective agency administrator, who decides if the panel recommendations should be included in the rule.

The first such panel to discuss EPA proposals convened in April 1997, to consider the impact of a rule that would set new emissions standards for certain sizes of diesel engines used in non-road applications.

Three Advocacy Review Panels concerning EPA proposals with

which the Office of Advocacy is currently involved deal with rules expected to be issued by the EPA's Office of Water. The first rule concerns the second phase of a rule-making process designed to control stormwater discharges from certain commercial, retail and institutional facilities, as well as discharges from certain municipal separate storm sewer systems. The other two rules deal with discharges from

wastewater treatment facilities that launder industrial garments and from those that clean transportation equipment.

For additional information on these EPA proposed rules or the Advocacy Review Panel process, contact Damon Dozier, assistant advocate for environmental policy in the Office of Advocacy, at (202) 205-6936, or via e-mail at [damon.dozier@sba.gov](mailto:damon.dozier@sba.gov).

### Status Report: Advocacy Review Panel Activity for EPA Proposed Standards

#### Completed:

- Control of emissions of air pollution from non-road diesel engines (final panel report signed on 5/23/97).

#### In Progress/Upcoming:

- Industrial laundries effluent limitations guidelines and standards (panel convened in June 1997).
- Comprehensive NPDES Phase II stormwater regulations (panel convened in June 1997).
- Transportation equipment cleaning industry — effluent limitations guidelines and standards (panel convened in July 1997).
- Management of cement kiln dust (panel convened in August 1997).
- Industrial combustion coordinated rulemaking (ICCR) (panel to convene in 1998).

#### No Date Scheduled:

- Emissions standards for new non-road spark-ignition engines at or below 19 kilowatts (Phase 2).
- Protection of stratospheric ozone: amendment to refrigerant recycling rule to include all refrigerants.
- Lead program; lead hazard standards (TSCA 403).
- TRI program; data expansion amendment (also known as Phase 3).
- Modifications to the definition of solid waste and regulations for hazardous waste recycling.
- Amendments to parts 51, 52, 63, 70, and 71, provisions for determining potential to emit.
- Corrective action for releases from solid waste management units at hazardous waste management facilities (subpart S rule).
- Revision of NPDES industrial permit application form and regulations.

## FCC Decision Bodes Well for Small Firms

In a major victory for small business, the Federal Communications Commission (FCC) on May 7 rejected a recommendation made last November by the Federal-State Joint Board on Universal Service on implementing universal service provisions of the Telecommunications Act of 1996. Instead, the FCC adopted a plan to ensure that telephone carriers that serve residential and business telephone users — even those with multiple lines in high-cost and rural areas — will continue to receive full funding support for universal service until other mechanisms are developed to fund the costs of providing service to high-cost areas. In doing so, the FCC eliminated the proposed differential treatment of businesses with one line and those with multiple lines, acknowledging that the average small business has four telephone lines.

“The FCC’s decision to continue universal service support for telephone users with more than one line is an unqualified win for rural America and small business,” said the SBA’s Chief Counsel for Advocacy Jere W. Glover.

In the Telecommunications Act of 1996, Congress mandated that all Americans — even those in rural areas that may be costly to serve — have affordable telephone service. Charged to implement the law’s mandate, the FCC convened the Federal-State Joint Board on Universal Service in March 1996 to consider, among other things, how to distribute the costs for providing universal service.

In its November 1996 recommendation, the Joint Board stated, “We disagree that support should be extended to multiple-line businesses” and declined “to provide support for other residential connections beyond the primary residential connection.” The Joint Board also recommended that single-line businesses not receive the full amount of support designated for residential connections in high-cost areas.

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### Rural small businesses emerge as winners in the wake of a recent FCC decision on universal service.

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In several comment letter to the FCC, the Office of Advocacy asserted that the Joint Board’s proposal to eliminate or reduce current levels of support was inconsistent with the Telecommunications Act’s mandate to ensure that consumers throughout the country including “those in rural, insular, and high cost areas, should have access to telecommunications and information services . . . that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”

The unanimous FCC decision maintains \$1.5 billion annually in full support for small rural telephone companies for approximately three years, and for non-rural companies serving rural areas until January 1, 1999. The FCC also recommended that a rural task force be established by the Joint

### For More Information

The proceedings of the Federal-State Joint Boards on Universal Service can be found on the FCC’s Web site at [http://www.fcc.gov/ccb/universal\\_service/welcome.html](http://www.fcc.gov/ccb/universal_service/welcome.html).

The full text of comment letters submitted by the Office of Advocacy to the FCC on universal service can be found on Advocacy’s Web site at <http://www.sba.gov/ADVO/laws/>. Go to the section on comment letters addressing compliance with the Regulatory Flexibility Act that were sent in 1996 and 1997.

Board to analyze fully the development of new forward-looking support mechanisms for rural carriers and to assess the changing telecommunications landscape in rural America.

In a separate but related proceeding, the FCC on May 7 considered the impact of access charge reform on small businesses, particularly those with multiple telephone lines. In this decision, the FCC said that businesses in rural areas served by non-price-cap carriers — traditionally small, rural telephone companies — will not have an increase in flat-rate subscriber line charges. Although businesses served by larger “price-cap” telephone companies will be subject to incremental increases in their subscriber line charges, the FCC assures that such increases will be offset immediately by lower long distance charges. Taking into consideration the needs of small business, the FCC reduced the increase in the subscriber line charge by 46 percent from the previously proposed amount and imposed a cap on future increases.

Nonetheless, the Office of Advocacy shares FCC Commissioner Rachelle B. Chong’s concern that small businesses with multiple lines and low-volume long distance usage may not be the beneficiaries of the access charge reform. Chong especially expressed concern for small businesses that “do not make many long distance calls and will not experience the full benefits of lower per-minute calling rates that will be enjoyed by a large business.” The Office of Advocacy raised this issue in an April 1997 letter to FCC Chairman Reed Hundt.

For more information, contact S. Jenell Trigg, assistant chief counsel for telecommunications in the Office of Advocacy, at (202) 205-6950 or via e-mail at [s.trigg@sba.gov](mailto:s.trigg@sba.gov).

## Major Changes to SBA's 8(a) Program Proposed

The Small Business Administration announced plans to revamp the agency's 8(a) business development program and expand contracting opportunities for small business. The changes, which are expected to be finalized within the next 90 days, are the result of a comprehensive review and discussion among representatives of the Administration, Congress, trade groups, and program participants.

The SBA's 8(a) program, named for a section of the Small Business Act, is a business development initiative that helps socially and economically disadvantaged citizens gain access to the economic mainstream. Many of the participating firms are minority-owned businesses. In fiscal year 1996, the program accounted for about \$6 billion in federal contracting.

The program's restructuring has four principal objectives: (1) to create a mentor-protégé program encouraging private-sector relationships; (2) to help small businesses compete for larger federal contracts through changes in affiliation rules; (3) to provide a more equitable distribution of contracting opportunities; and (4) to revise, consistent with recommendations of the Department of Justice, the standard for proving "social disadvantage."

The changes also give the SBA more freedom to delegate elements of its 8(a) contracting authority to other federal agencies. This will help reduce the duplication of efforts that can slow the contracting process. The agency already has in place a pilot program with the U.S. Department of Transportation featuring this delegated authority. Several other federal agencies have expressed an interest in similar arrangements as a way of increasing their levels of 8(a) contracting.

"The President urged the nation to 'amend, not end' affirmative action programs," said SBA Administrator Aida Alvarez. "The proposed regulations we have crafted will go a long way toward maintaining the

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### A package of changes to the SBA's minority contracting program promises to "mend, not end" this vital economic development initiative.

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integrity of this vital initiative. This is a program intended to help socially and economically disadvantaged individuals create viable small businesses that provide local jobs and economic security. How well it works is reflected in the number of individuals employed at 8(a) firms around the country — more than 150,000 and growing."

The proposed regulatory package was published in the *Federal Register* on Aug. 14. The public will have 60 days to comment before the agency moves to finalize the proposal.

The proposed regulations call for non-minority applicants to the 8(a) program to meet a new standard for establishing social disadvantage. Until now, non-minority candidates for admission had to prove a pattern of social disadvantage with "clear and convincing" evidence. That standard will now be changed to a "preponderance" of evidence, which will open the program to a wider array of applicants, including non-minority women, the physically challenged, and others. Left unchanged is the criteria for the remaining admission requirement, economic disadvantage.

Limits will now be placed on the amount of sole-source (or non-competitive) contracting any one firm can receive. The limit will be triggered either by a formula involving five times the company's dollar-based size standard, or \$100 million, whichever is less. The new limit will not apply to firms already in the program as of Jan. 1, 1997,

and all participants will continue to be allowed to compete for the non-sole-source 8(a) contracting.

A provision that will have a pronounced impact on firms in the 8(a) program and other small businesses has to do with changes in affiliation rules, or so-called "teaming arrangements." Under current regulations, if the total combined revenues, or total employee count, of a newly-formed team exceeds the standard for what the SBA calculates as a "small business," that new team cannot qualify for a contract reserved for small businesses. Under the proposed regulations, as long as all the individual members of a team qualify as small, then the new grouping will also be considered small. This provision is seen as a way for small firms to band together to secure larger, more challenging prime contracts, thereby reducing the effect of contract bundling. (According to a recent Office of Advocacy study, contract bundling may limit small business participation in federal procurements. See the May/June 1997 issue of *The Small Business Advocate*.)

### To Comment on the Regs

Written comments on the proposed changes to the SBA's 8(a) program must be submitted on or before Oct. 14, 1997, and should be addressed to William Fisher, Acting Associate Administrator for Minority Enterprise Development, U.S. Small Business Administration, 409 Third St., S.W., Suite 13, Washington, DC 20416.

The text of the proposed changes are available on the SBA's Web site at <http://www.sba.gov>. For additional information, contact Arthur E. Collins, Assistant Administrator for Minority Enterprise Development, at (202) 205-6410.

### Nominations for 1998 Small Business Week Awards Due Nov. 14

The deadline for submitting nominations for Small Business Week 1998 is fast approaching: Nomination packages must be sent to local SBA offices by Nov. 14, 1997.

Awards are presented each year in a variety of categories at the district, state, and national level. These categories include small business person of the year, young entrepreneur of the year, small business exporter of the year, and 10 other categories.

Any individual or organization dedicated to the support of the small business community, including trade and professional associations and business organizations, may submit nominations for Small Business Week awards. Nomination packages must comply with the

standards listed in the *Guidelines for Small Business Award Nominations* booklet, and must be post-marked or hand delivered to the nearest district office of the SBA no later than Nov. 14, 1997.

For more information on Small Business Week, or to receive a Small Business Week nomination brochure, contact your nearest SBA office. For the location of the SBA office in your area, consult the U.S. Government listings in your telephone directory or call the SBA's Answer Desk at 1-800-827-5722. (The *Guidelines* are also available on the SBA's Web site at <http://www.sba.gov/opc/indexpubs.html>.)

### Special Advocacy Award

The SBA's chief counsel for advocacy has in the past presented special national awards during Small Business Week to persons who have made unique and outstanding efforts to advocate on behalf of small businesses — for example, for lifetime small business advocacy or outstanding *pro bono* work. Nominations for **this award only** should be sent directly to: Chief Counsel's Advocacy Award, U.S. Small Business Administration, Mail Code 3114, Washington, DC 20416.

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### Review Panels Look at Draft of OSHA Standards

The Occupational Safety and Health Administration (OSHA) has issued a draft proposal that would require all employers to implement a comprehensive safety and health program. The Office of Advocacy is concerned with several aspects of the Safety and Health Program Standard as written. Preliminary concerns include subjecting small businesses to increased paperwork demands without accounting for resource limitations or flexibility needs, and enforcement actions that could be taken against small businesses.

As drafted, OSHA's Safety and Health Program Standard has five core elements:

1. management leadership and employee participation;
2. hazard assessment;
3. hazard prevention and control;
4. training; and

5. evaluation of program effectiveness.

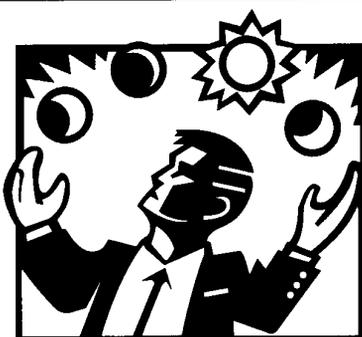
Small business representatives reviewed and discussed OSHA's draft document at four regional meetings held in July. (Such meetings enable a cross-section of small businesses to express their concerns before a proposed rule is published.)

Small businesses expressed concerns on several fronts, including (1) that the draft was unclear on how OSHA would enforce the standard; (2) that the draft should provide flexibility and/or exemptions for small businesses in low-risk industries; and (3) that the proposal increased paperwork and administrative burdens while not improving safety.

Additionally, the meetings served as preparation for the Small Business Advocacy Review Panel process, which is required under the recently enacted Small Business

Regulatory Enforcement Fairness Act (SBREFA). Members of the interagency panel include officials from the SBA's Office of Advocacy, the OSHA, and the Office of Management and Budget. (For more information about SBREFA, see the April 1996 and January 1997 issues of *The Small Business Advocate*.)

To obtain a copy of the draft proposed standard, contact OSHA at (202) 219-8055, extension 129. Comments on the draft proposal may be mailed to the Occupational Safety and Health Administration, Attention: Robert Burt, Directorate of Policy, 200 Constitution Avenue, N.W., Room N-3641, Washington, DC 20210. (Copies of comments should be mailed to the Office of Advocacy.)



## Juggling Your Small Business Priorities?

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Free, confidential counseling from professional members of SCORE, a nonprofit association dedicated to mentoring and training small business entrepreneurs. Whether you want to start a business, or need a hand with your existing enterprise, SCORE's free small business counseling can help. Founded in 1964, SCORE has assisted more than 3.5 million entrepreneurs. Call for your nearest chapter today!

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#### AUTHOR QUERY

Are you a retired employee of the SBA? Author writing a history of the agency from its establishment in 1953 through the Reagan years would be interested in corresponding with those who have memories of the agency's development. Please contact: Jonathan Bean, Asst. Professor of History, Southern Illinois University, Carbondale, IL 62901; tel. (618) 453-7872; E-mail: [jonbean@siu.edu](mailto:jonbean@siu.edu)

#### Lending, from page 1

placing emphasis on lending studies to stimulate bank competition for the small business customer, and it seems to be working."

The study also found that among the 478 banks studied, a number of large banks were very active in micro-business lending. Twenty large banks had at least \$100 million in micro-business loans outstanding.

The report is the third in an annual series of reports published by the Office of Advocacy in its effort to improve small business access to capital. It is based upon analyses of the Consolidated Reports of Condition and Income (or "call reports") that banks must file quarterly with federal bank regulators. In presenting its findings, the report ranks lender performance by state to help small business borrowers identify banks that are "small-business-friendly" in terms of their making loans in amounts under \$100,000.

Since issuing the findings of the first study on micro-business-friendly banks in early 1995, the Office of Advocacy has received many suggestions for improving the format and usefulness of the report. Many of these ideas have been incorporated into the 1996 edition, including a new, four-variable scoring system to permit a more balanced analysis of the micro-business lending performance of banks; revised bank asset-size classes to reflect recent changes in the structure of the banking market; and credit card activity.

Other banking reports issued recently by the Office of Advocacy include the 1996 edition of *Small Business Lending in the United States* (a comprehensive state-by-state ranking of all 9,670 U.S. banks regarding their lending performance for business loans of less than \$250,000) and the 1996 edition of *The Bank Holding Company Study* (a study of the small business lending activities of the nation's larger banks, which includes a listing of the top three lenders in small business loan volume in each state). According to *The Bank Holding*

*Company Study*, 27 large bank holding companies made a total of \$48.8 billion in small business loans in 1996, up from \$39.3 billion in 1995.

"Keeping an eye on bank lending and publicizing the findings is helping to increase the capital pool for the dynamic small business sector," said Chief Counsel Glover. "Like their smaller counterparts, larger banks are realizing that lending to small business is good, profitable business, and we hope to see more and more with healthy small business loan portfolios."

Technical questions about any of these studies may be directed to Dr. Charles Ou, senior economist in the Office of Advocacy, at (202) 205-6966 or via e-mail at [charles.ou@sba.gov](mailto:charles.ou@sba.gov).

### How to Get the Report

The 1996 edition of *Micro-Business-Friendly Banks in the United States* is accessible via the Office of Advocacy's Web site at <http://www.sba.gov/ADVO/stats/>. Paper or microfiche copies are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; telephone (703) 487-4650; TDD: (703) 487-4639. Ask for publication number PB97-188247.

Copies of the companion studies, *Small Business Lending in the United States*, and *The Bank Holding Company Study*, are also available from the same sources.

## Effects of Electric Utility Deregulation Examined in New Study

A recent study undertaken for the Office of Advocacy, *Electric Utility Restructuring: Issues for Small Business* (J.W. Wilson and Associates, Inc., March 1996), examines the issues associated with electric power deregulation and restructuring for their potential impact on small business. The researcher provides an overview of the environment for utility industry restructuring, identifies the potential cost savings for small business, compares the "Poolco" and "Direct Access" models for restructuring, reviews several examples of restructuring policies in effect, and presents arguments against permitting electric utilities to recover all of their "stranded costs" in a deregulated environment.

A number of developments have led policymakers to raise questions about potential cost savings that could result from deregulation and restructuring of the electric utility industry, among them:

- The separation of electrical power generation from electrical power transmission and the development of nonutility electrical generating companies as a result of the Public Utilities Regulatory Policy Act (PURPA) of 1978.

- The realization of cost savings in power generation by municipal utility distributors using nonutility generators — and by large industrial companies able to generate their own power or to threaten utility providers with self-generation and thus obtain special rate discounts.

- With advancing technology, a recognition that, with open access to a utility's transmission system, competitors could enter the monopolized market for power generation. With appropriately defined transmission access rules, power can be efficiently provided by independent suppliers at substantial cost savings to consumers in many instances.

- A growing perception that recovery of utility costs — including

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### As the electric utility industry deregulates, are small businesses at a disadvantage? A new study sponsored by the Office of Advocacy looks at the issues.

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"stranded" costs that would not be fully recoverable in a competitive environment — has become disproportionately the responsibility of "captive" customers, such as small businesses, who lack the bargaining clout to demand and obtain special discounts.

Building on initiatives already taken by the Federal Energy Regulatory Commission (FERC), Congress in 1992 passed the Energy Policy Act, which required transmission-owning utilities to permit access to their transmission systems for bulk-power transactions. Today, policymakers are aware of the potential to provide even greater benefits if the integrated utilities allow alternative power producers to gain direct access to retail customers.

The potential for cost savings to an individual small business varies, depending in part on the efficiency of the local utility. For some high-cost utilities, the gap between their generation cost and that of currently constructed generating units can be as high as 2 to 3 cents per kilowatt hour. A well-functioning competitive system for electric power could therefore reduce a small business' power costs by 20 to 30 percent or more. While utility costs — and these potential savings — may not represent major amounts for individual small businesses, overall small business utility costs and potential savings are immense.

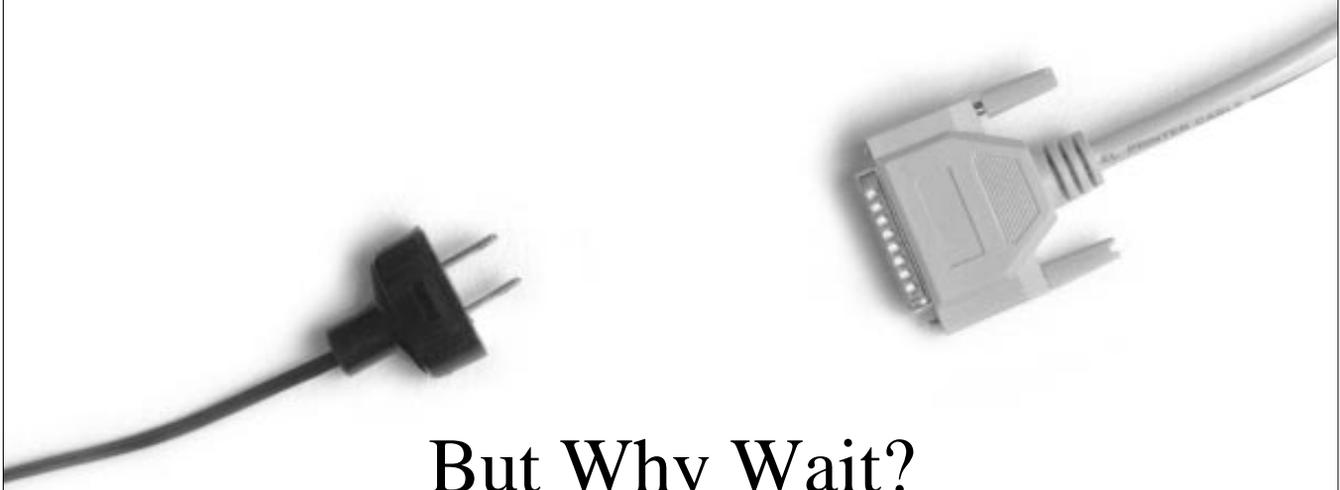
A debate is under way about the

best means to effect a restructuring. In a comparison of the Direct Access and Poolco models, the researcher finds the Direct Access model to be more market-oriented and less regulation-dependent. FERC does not regulate access to local distribution systems: state regulatory commissions do. The process by which this opportunity is developed into a reality for small businesses will require effort and commitment on behalf of the small business community.

### How to Get the Report

Copies of *Electric Utility Restructuring: Issues for Small Business* are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; telephone (703)487-4650, TDD (703) 487-4639. Ask for publication number PB96-162573.

# In a Couple of Years, Small Businesses and Investors Will Plug into 21st Century Technology



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