



NATIONAL ASSOCIATION OF SURETY BOND PRODUCERS

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December 1, 2015

Ms. Linda Reilly
Chief 504 Loan Program
Office of Financial Assistance
Office of Capital Access
U.S. Small Business Administration (SBA)
409 Third Street, SW
Washington, DC 20416

Re: Proposed Rule: *Affiliation for Business Loan Programs and the Surety Bond Guarantee Program*; RIN: 3245-AG73

Dear Ms. Reilly:

On behalf of the National Association of Surety Bond Producers (NASBP), a national trade association whose membership includes firms employing licensed surety bond producers placing bid, performance, and payment bonds throughout the United States and its territories, I am contacting you to express our comments regarding the proposed rule that redefines “affiliation” for certain SBA Programs.

The proposed rule appears to establish two different standards for determining small business size status – one for bidding on government contracts and subcontracts and the second for securing a loan or bond guarantee. NASBP is concerned that the proposed rule creates the potential for inconsistent results regarding the company’s small business status; that is, a company potentially could qualify as a small business for purposes of obtaining a business loan or a surety bond, but not for government contracting opportunities.

Specifically, the proposed rule would “modify” or “streamline” affiliation determinations for Business Loan Programs, which includes the SBA Surety Bond Guarantee Program. This simplification is achieved by eliminating or limiting the effect of certain bases for a finding of affiliation as they exist for government contracting and business development programs under 13 CFR 121.103. NASBP, however, is concerned that the proposed rule then creates a separate regime for evaluating whether affiliation exists for business loan programs under 13 CFR 121.301. For example, the proposed rule in 13 CFR 121.301(f)(4), concerning “identity of interest,” generally parallels with the rules in 121.103, while others depart significantly. Subsequently, interested parties would need to be knowledgeable with 13 CFR 121.103, and the new rules applicable to business loan programs under 13 CFR 121.301(f)(4), which may create

confusion. To avoid confusion, NASBP suggests creating one set of rules for 121.103 and 121.301 to be renumbered as 121.306 (there currently exist 121.301 through 121.305), so that small businesses wishing to pursue federal contracting opportunities do not face the complexity of being well-versed in two distinct sets of rules.

Thank you for your consideration of our concerns. If you have any questions regarding our comments, please feel free to contact me directly at 202-464-1217 or at lleclair@nasbp.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence E. LeClair". The signature is written in a cursive style with a large initial "L".

Lawrence E. LeClair
Director, Government Relations