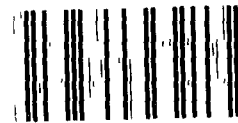


GAO

April 1987

# SMALL BUSINESS ACT

## Treasury's Disadvantaged Business Advocate Not Reporting to Proper Management Level



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General Government Division

B-222903.6

April 28, 1987

The Honorable James A. Baker, III  
The Secretary of the Treasury

Dear Mr. Secretary:

In letters dated January 14 and May 2, 1986, the Chairman, House Committee on Small Business, requested that we review 13 agencies to determine their compliance with Section 15(k) of the Small Business Act. In subsequent discussions, the Chairman's office defined the primary concern as the agencies' compliance with Section 15(k)(3), which describes the required reporting level for each agency's Director, Office of Small and Disadvantaged Business Utilization (OSDBU). The Department of the Treasury was one of the departments selected.

To determine if the Department of the Treasury was in compliance with the Small Business Act, Section 15(k)(3), we interviewed officials in the Department's Office of Procurement and General Counsel's Office and reviewed organizational charts, a description of the OSDBU Director's responsibilities, and management instructions concerning the establishment of OSDBU, its mission, reporting level, and current operations. To determine the required reporting relationship for the Director, we also reviewed the Small Business Act and its legislative history. We did not evaluate the effectiveness of Treasury's OSDBU programs. Our work was performed from April through September 1986 at Treasury's Washington, D.C., headquarters and was done in accordance with generally accepted government auditing standards.

**The Director, OSDBU, Must Report to the Agency Head or Deputy**

The Small Business Act requires each federal agency with procurement powers to establish an OSDBU and requires that the agency head appoint a Director for this office. Section 15(k)(3) requires that the Director shall be responsible only to and report directly to the agency head or deputy. Other provisions of the act describe the Director's duties and responsibilities.

The legislative history of Section 15(k) of the Small Business Act shows that Congress intended to mandate a direct reporting relationship between the Director of Small and Disadvantaged Business Utilization and the agency head or deputy. A 1978 report by the Senate Select Committee on Small Business noted that officials who were responsible for advocating small business participation in federal procurements often did not hold high enough positions in the agency to be effective.

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The purpose of Section 15(k)(3) is to provide the Director immediate access to the agency's top policymakers and thus maximize the Director's effectiveness as an advocate of small and disadvantaged businesses.

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**Treasury Is Not in Compliance With the Law**

The Department's OSDBU was established on May 16, 1979, with its Director responsible to and reporting to the Deputy Secretary, the second highest departmental official. On July 8, 1986, Treasury Directive 27-01 designated the Deputy Assistant Secretary for Departmental Management (now for Departmental Finance and Management) to be the Director, OSDBU. The Deputy Assistant Secretary reports directly to and is responsible to the Assistant Secretary (Management) who, in turn, reports directly to and is responsible to the Deputy Secretary.

On April 1, 1984, Treasury Order 101-30 authorized the Assistant Secretary (Management) to act as "Head of the Agency" with respect to procurement. However, this delegation of authority had no effect on the clear statutory requirement that the Director, OSDBU, be responsible only to and report directly to the actual head of the agency or to the deputy. We, therefore, conclude that since the Director, OSDBU, is not responsible only to and does not report directly to the Secretary or Deputy Secretary of the Treasury, the Director's reporting level is not in compliance with the Small Business Act, Section 15(k)(3).

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**Agency Comments**

In a January 14, 1987, letter commenting on a draft of our report, Treasury said that it believes the placement of the Department's OSDBU Director promotes an effective small business program in full support of the law.

We disagree. Section 15(k)(3) of the act is a specific statutory requirement that must be followed regardless of the opinions of agency officials on the success of their program activities. In addition, full support of the act cannot be claimed when its requirements are not being followed. Treasury's comments and GAO's responses are included in appendix I.

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**Recommendation**

To bring Treasury into compliance with Section 15(k)(3) of the Small Business Act, we recommend that the Secretary require the Director, OSDBU, to be responsible only to and report directly to the Secretary or Deputy Secretary.

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As you know, 31 U.S.C. 720 requires the head of a federal agency to submit a written statement on actions taken on our recommendations. This statement must be submitted to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of this report. A similar statement must also be submitted to the Senate and House Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of this report.

As arranged with the Chairman's office, we are sending copies of this report to the Chairman, House Committee on Small Business; the Director, Office of Management and Budget; and other interested parties upon request.

Sincerely yours,



William J. Anderson  
Assistant Comptroller General

# Comments From the Department of the Treasury

Note: GAO comments supplementing those in the report text appear at the end of this appendix



DEPARTMENT OF THE TREASURY  
WASHINGTON

January 14, 1987

ASSISTANT SECRETARY

Dear Mr. Anderson:

I am responding to your December 15, 1986, letter to Secretary of the Treasury James A. Baker III, which asked for our comments on your draft report on the organizational placement of Treasury's small business advocate.

See comment 1

We believe that, given the Department's overall structure, our OSDBU Director is located at a high level where there can be appropriate coordination of the small business program; the same official has direct influence on general procurement policy, bureau budgets, property management and construction programs and consulting services. This closer relationship of program responsibilities fosters a more effective program, in our opinion, than if the position of OSDBU Director were located elsewhere in the organization.

See comment 2

The effectiveness of our small business program is evidenced by our annual achievement reports to the Small Business Administration. In FY 1986, Treasury accomplished 103% of its total small business contract dollar goals and 125% of its small and disadvantaged business contract dollar goals under Section 8(a) of the Small Business Act. Similarly, in FY 1985, our achievements in these two areas exceeded that year's goals.

See comment 3

In summary, we believe that the placement of our OSDBU Director promotes an effective small business program in full support of the provisions of P.L. 95-507.

See comment 4

As a matter of clarification, you might want to note that the position of Deputy Assistant Secretary for Departmental Management, cited on the bottom of page 2 of the draft, has been redesignated Deputy Assistant Secretary for Departmental Finance and Management. This was effected by Treasury Directive 27-01 dated December 12, 1986 (copy enclosed).

Thank you for the opportunity to review and comment on your draft report.

Sincerely,

John F. W. Rogers  
Assistant Secretary of the  
Treasury (Management)

Mr. William J. Anderson  
Assistant Comptroller General  
U. S. General Accounting Office  
Washington, DC 20548

Enclosure

The following are GAO's comments on the Department of the Treasury's letter dated January 14, 1987.

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## **GAO Comments**

1. The required reporting and responsibility level for the Director, OSDBU, is specifically stated by the Small Business Act, Section 15(k)(3). This cannot be changed by an agency because of its officials' opinions on the effectiveness of its OSDBU programs, or their satisfaction with its organizational structure.
2. We did not review Treasury's OSDBU goals or programs and therefore cannot comment on their adequacy or effectiveness.
3. Treasury cannot properly claim to fully support the Small Business Act without complying with its specific requirements.
4. Our final report recognizes the change in title from Deputy Assistant Secretary for "Departmental Management" to "Departmental Finance and Management."

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