OMB

From: James J. Jukes on 08/05/99 04:51:59 PM

Record Type: Record

To: Lisa Green/OPD/EOP@EOP

cc: Janet R. Forsgren/OMB/EOP@EOP, Richard E. Green/OMB/EOP@EOP
Subject: Suggested changes to the new investment bills

This is the e-mail (from Barry White of OMB to other OMB staff) that was the subject of my voicemail to you. Janet, Richard, and I would like to compare notes with you on how to handle this and the other changes that were discussed in a recent conference call. (We have some suggestions on procedure that we'd like to discuss with you.)

To: Francis S. Redburn/OMB/EOP@EOP, Michael Deich/OMB/EOP@EOP, Alexandra Gianinno/OMB/EOP@EOP, Kenneth L. Schwartz/OMB/EOP@EOP

cc: See the distribution list at the bottom of this message
Subject: Suggested changes to the new investment bills

Thanks for the shot at making changes to the two bills along the lines we discussed.

The purpose of these changes is to expand the possibility and make explicit the goal that new jobs created are available to low and moderate income persons living in the affected areas, whose workforce participation and career growth are the focus of other Federal programs. We have tried to do this without placing too many burdens on the entities, so as to maximize flexibility and avoid appearing to change the focus of the bills themselves. The changes primarily require (a) documented consultation with TANF, WIA, and the school boards, to connect their programs to the new job opportunities to be created; and (b) some accountability for the job creation aspect.

No changes are suggested to any of the material relating to financial aspects of the bills, or to the provisions or drafting styles which seem unique to these bills.

Please let us know if we should meet to discuss this, and how we can help move these kinds of changes along.

Amendment to the Small Business Act and Small Business Investment Act of 1958.

sec. 350. (Definitions) We were surprised to see that the "participation agreement" between SBA and the "New Markets Venture Capital company" only requires investments in areas 60% of which are in the 2(A) definition (essentially high poverty census tracts) but not the 2(B) areas (EZ/ECs, et al). On its face, it would appear useful to include 2(B) here, unless the 2(B) areas are somehow presumed under 2(A).

sec. 351. (Purposes). Suggest adding a third purpose:

(3) to create new employment opportunities for residents of the low income area served.

sec. 353(a) (Selection of NMVC companies/Eligibility to Apply). Suggest adding a fourth criterion (probably before the current #3):

( ) has an explicit purpose of generating new employment opportunities for low and moderate income persons.

sec. 353(b) (Applications). at the end of 353(b)(3), which now reads, "a description of how the applicant will interface with community organizations", suggest adding the following:

> , specifically including how the applicant will work directly and cooperatively with the local Workforce Investment Board, the State TANF agency, the local school board, and where applicable, the governing entity of the EZ/EC, in order to ensure that the new job opportunities created by the NMVC will, to the maximum extent feasible, become available to low and moderate income residents of the areas served;

Similarly, at the end of 353(b)(5), which now reads, "measurement criteria by which to evaluate the company's performance in meeting program objectives", suggest adding:

> , including criteria related to the success of the company in providing employment opportunities to low and moderate income individuals, particularly those served by the TANF and Workforce Investment Act programs;

sec. 353(c) (Selection Criteria). Similar to a provision suggested for the other bill, below, we suggest reinforcing the employment purpose of the program by providing for a consultation role for the employability-related agencies in company selection. This can be done by adding the words in italics:

> The Administration, *in consultation with the Secretaries of Labor, Health and Human Services, and Education,* shall review the applications and shall select companies to be conditionally approved....

We then suggest adding two additional criteria, probably after #6:

> ( ) the likelihood that the applicant will be successful in creating new job opportunities for low and moderate income residents of the area served, especially those served by the TANF and Workforce Investment Act programs;
>
> ( ) the extent to which the proposed activities are coordinated with the efforts of the Workforce Investment Board, TANF agency, and school board;

sec. 353(d) (Conditional approval). We suggest adding an employment-purpose related provision to what must be done within 24 months. To do this, change the lead in from "two" to "three" conditions, and add:

> (3) Employment Goal Requirement. Each company must demonstrate that it has provided expanded employment opportunities to low and moderate income residents of its geographical area at a pace consistent with its plan.

sec. 353(e). (Approval to operate...) Consistent with the suggested approach to conditional approval, modify final approval here, as follows:

> The Administration, *in n consultation with the Secretaries of Labor, Health and Human Services, and Education*, shall grant final approval...

sec. 355 (Technical assistance grants). Suggest adding another purpose for these grants by amending 355(a)(1) by adding the words in italics:

> ... to provide marketing, management and technical assistance, *including technical assistance technical assistance in applying for targeted employment tax credits, and in meeting the application requirements relating to working with TANF, the Workforce Investment Boards, the school boards, and other entities preparing low and moderate income persons for new careers*, for the benefit of

smaller enterprises....

Similar language would be added to 355(b) (Supplemental Grants) or that section would refer back to the "same purposes as defined in 355(a)(1)."

sec. 360 (reporting requirements). I'm comfortable with this reference back to the "measurement criteria" as modified above for 353(b)(5). However, we have found much benefit in programs in this Division in requiring recipients to make the reports of their activities public. It enhances local accountability and helps the entity take seriously its responsibilities to the community. A requirement to that effect could be added here by adding at the end a new sentence, such as:

> This report will simultaneously be made public by the NMVC company in a manner approved by the Administration.

Accountability. The APIC bill seems to have better clauses for actual accountability for results than this bill. Where possible, we would make requirements for demonstrated success a condition of continued support, and bring consultation with DOL, ED, and HHS into play in making those decisions.

America's Private Investment Companies Act

sec. 104(d)(1) (Cooperation and Coordination/Program policies). This section seems mainly aimed at coordination on the financial instruments. To the extent the Act is modified below to complement that focus with a strong employment focus (which it quite nicely signals already in its findings and purposes sections), suggest adding to the current list (SBA Administrator, Secretary of Treasury), the following, even though the text now allows the Secretary (HUD) to add anyone he wants; naming the names makes the point more directly:

> The Secretary of HHS, the Secretary of Labor, and the Secretary of Education.

sec. 105(b) (Licensee Selection Criteria). The changes below parallel the ones in the other bill, though we are pleased to see that this bill already has a lot more explicit references to job opportunities for low and moderate income persons.

In the introductory paragraph, suggest adding here, as in the other bill, a role for the Secretaries with responsibilities for the employability programs. The first sentence would thus read:

> The Secretary, *in consultation with the Secretaries of Labor, Health and Human Services, and Education,* shall select...

In subsection (6), concerning public purpose goals, add to the sentence before the lettered clauses, the words in italics:

> The goals shall promote community and economic development, *including expanding job opportunities in the area for low income residents*, and include at least --

In (6)(B), the term "creation of jobs that pay decent wages" is not easy to define in ways which permit the Secretary and the public to hold the entity accountable. Suggest modifying the whole subsection as follows:

> creation of jobs in low-income communities and for residents of such areas that pay wages and benefits at or above the prevailing wage in the community, and which give promise of leading to career and wage advancement;

sec. 105(7). This section requires "capacity to cooperate" with states or units of general local government, et al. I'm troubled by the "capacity" approach which, after all, could simply mean having a phone and a conference room. Suggest modifying it to make the duty more specific, and to bring in explicitly the organizations that prepare poor people for careers. This language parallels the "prepare and submit" approach in 105(5) and 105(6):

(7) The entity must prepare and submit its strategy for ensuring that the jobs created by its activities primarily benefit low and moderate income residents of the area it serves, through cooperation with States, units of general local government, community-based organizations, residents of low-income communities, the Workforce Investment Board(s), the TANF agency, the local school board(s), and organizations preparing low and moderate income residents for career opportunities.

sec. 109(b)(3) (Monitoring, Updating and Program Review/Examination standards). This clause has a general reference to the public purpose goals. Because of the importance of linking these investments to the people in the communities and the programs serving them, suggest adding an explicit examination of how well the entity is doing on these dimensions:

( ) **Review for success in meeting employment goals**. No less often than every 2 years, the Secretary, in cooperation with the Secretaries of Labor, Education, and HHS, shall examine the extent to which the APIC has succeeded in meeting its public purpose goals relating to generating career opportunities for low and moderate income residents of the area, and the extent to which the APIC has worked with Workforce Investment Boards, School boards, the TANF agency, State and local elected officials, community organizations and low income residents, to implement these goals. Judgments on the progress toward achievement of these goals will determine continued support for the APIC.

sec. 110 (Incentives and Penalties). Suggest adding incentive linked to job creation goals, and penalty linked to lack of success in meeting such goals.

In 110(a), add the words in italics: ... as an award for high performance of the APIC in carrying out its investment strategy and statement of public purpose goals, *with particular emphasis on the APIC's success in generating career opportunities for low and middle income residents of the area served.*

In 110(b)(1) [In General], add: The Secretary may also penalize any APIC or any manager of an APIC in the event the APIC or the manager fails to establish working relationships with the WIB, the TANF agency, the school board, or other entity in the area whose cooperation is necessary to ensure that low and moderate income residents of the community obtain the benefit of new jobs created by the APIC. The Secretary may further penalize any APIC or manager of an APIC in the event the APIC or manager in the event the investments do not generate jobs for the low and moderate income residents of the community. In assessing the necessity for such penalties, the Secretary may consult as appropriate, with the Secretaries of Labor, Education, and HHS.

Reporting. We would also suggest adding at the appropriate place a duty on the APIC to make a public report at least annually on the number and quality of jobs created by its investment, compared to its public purpose goals.

Message Copied To:______________________________

Michael Deich/OMB/EOP@EOP
Barbara Chow/OMB/EOP@EOP
Larry R. Matlack/OMB/EOP@EOP
Wayne Upshaw/OMB/EOP@EOP
Jack A. Smalligan/OMB/EOP@EOP
Alison Perkins-Cohen/OMB/EOP@EOP
Maureen H. Walsh/OMB/EOP@EOP
Anil Kakani/OMB/EOP@EOP
Wei-Min C. Wang/OMB/EOP@EOP