

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2561 Rayburn House Office Building
Washington, DC 20515-6515

September 12, 2023

The Honorable Isabella Casillas Guzman
Administrator
U.S. Small Business Administration
409 3rd Street SW
Washington, D.C. 20416

Mr. Bruce Purdy
Associate Administrator
Office of Small Business Development Centers
U.S. Small Business Administration
409 3rd Street SW
Washington, D.C. 20416

Dear Administrator Guzman and Associate Administrator Purdy:

The Committee on Small Business (Committee) is investigating the Small Business Administration's (SBA) proposed changes to Small Business Development Center's (SBDC) client privacy rules. In particular, the Committee is interested recent rule changes which will allow the SBA to disclose personally identifiable information (PII) from small businesses utilizing SBDCs to federal or state agencies and remove the existing provision enabling small businesses to opt out of providing SBA this information.¹ The Committee seeks to better understand the rationale behind these rule changes and determine whether small business data will be adequately protected.

The Small Business Act states that "a SBDC, consortium of SBDCs, or contractor or agent of a SBDC **may not disclose** the name, address, or telephone number of any individual or small business concern receiving assistance under this section **without the consent of such individual or small business concern.**"² The Small Business Act allows for three exceptions—disclosure by court order, financial audit of an SBDC, or client surveys conducted by the SBA.³

However, the SBA's proposed rule released on December 13, 2022, expands these exceptions to allow the Administrator discretion to release this information to federal and state agencies without consent of the small business. The proposed rule states the SBA can release the information to federal agencies if "the Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a center, not including those required under § 130.830, as determined on a case-by-case basis when formal requests are made by a Federal or state agency."⁴ Though these agency requests must justify and document the need for individual

¹ Small Business Development Centers, 88 Fed. Reg. 76127 (to be codified at 13 CFR Part 130.380).

² Small Business Act, Pub. L. No. 85-536 § 21(a)(7)(A) (*emphasis added*).

³ Small Business Act, Pub. L. No. 85-536 § 21(a)(7)(A) (i-ii), (B)(ii).

⁴ *Id.* at 1.

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client contact and/or Program activity data, the determination of whether the provided justification is valid remains solely up to the discretion of the Administrator.

Additionally, the Committee is extremely concerned about this change in conjunction with another proposed change in which small businesses who utilize SBDCs will no longer be allowed to opt out of sharing their information with the SBA.⁵ SBDCs are required to collect the information on Form 641 from each small business or prospective small business that receives one-on-one counseling or advising.⁶ The current Form 641 has an opt out option which will not be on the new form. We are concerned that businesses will not understand or have any way to prevent the Administrator from sharing all their information with any other government agency that requests the data.

American small businesses deserve to know that their information is protected when they visit an SBDC. We therefore request a staff level briefing on the proposed regulatory changes to the SBDC program no later than September 19, 2023 and the following information as soon as possible but no later than September 26, 2023:

1. A list of all federal agencies that have requested small business personal data from the SBDC program over the last 10 years, including the justification provided by those agencies for the data.
2. The number of businesses, if any, who have had their information shared with federal agencies outside of the provisions listed within the Small Business Act.

To schedule the delivery of responsive documents or ask any related follow-up questions, please contact Committee on Small Business Majority Staff at (202) 225-5821. The Committee on Small Business has broad authority to investigate “problems of all types of small business” under House Rule X. Thank you in advance for your cooperation with this inquiry.

In God We Trust,



Roger Williams
Chairman
Committee on Small Business

⁵ Data Collection Available for Public Comments, 88 C.F.R. § 48941(2023).

⁶ *Id.*