

November 14, 2023

Dianna Seaborn  
Director, Office of Financial Assistance  
U.S. Small Business Administration  
409 Third Street NW  
Washington, DC 20416

*Re: RIN 3245-AIO3, 2023-19183, Criminal Justice Reviews for the U.S. Small Business Administration's Business Loan Programs and Surety Bond Guaranty Program*

Dear Director Seaborn:

As leading representatives of America's 33 million small businesses, the undersigned organizations write in support of the U.S. Small Business Administration's Criminal Justice Reviews for the SBA Business Loan Programs and Surety Bond Guaranty Program and offer recommendations on how to continue to serve justice-impacted entrepreneurs.

The Agency's meaningful actions to reduce barriers for justice-impacted entrepreneurs will further underscore the SBA's mission to "aid, counsel, assist and protect the interests of small business concerns." By removing restrictions on business owners that have a criminal record so that they may access the 7(a) Loan Program, 504 Loan Program, Microloan Program, Intermediary Lending Pilot Program (ILP), Surety Bond Guarantee Program (SBG), and the Disaster Loan Program, SBA is ensuring that justice-impacted entrepreneurs who want to start or grow their business can do so with one less barrier. This is an important step forward in supporting entrepreneurs across the country.

As the rule stresses, "SBA reviewed the relevant research and found no evidence of a negative impact on repayment for qualified individuals with criminal history records in any American business loan program. This lack of data demonstrates that continuing to rely on this restriction for that purpose would contradict the available evidence and although the restrictions may have been originally put in place with the goal of protecting program performance, the lack of data suggests continuing to rely on this restriction would reflect an outdated, inaccurate structural bias against individuals with criminal history records." We appreciate the SBA's recognition of this flawed perception, which has upheld an inaccurate representation of justice-impacted small businesses for decades, inhibiting American entrepreneurship and perpetuating recidivism among justice-impacted communities.

Still, the proposed rule goes on to say, "Some lenders include conducting criminal history background checks and others do not. SBA's proposed revision does not impact a lender's ability to continue to do so, in accordance with their own policies, provided they do so in a manner that complies with the Equal Credit Opportunity Act and other relevant laws." The proposed rule takes an important step to reduce barriers for borrowers that have experienced the impacts of the justice system; however, we continue to urge the SBA to include clarifications as to how the lifted restrictions will work in tandem with the traditional "five Cs of credit: capacity, capital, conditions, character, and collateral."

We understand that while banks are authorized SBA lenders, they may need to uphold internal standards and processes before granting capital to borrowers; therefore, more clarity is needed from the SBA on the impact of lifting these restrictions as they flow down to the institutions that are lending to these communities. Considering this reality, we hope the proposed rule will create a domino-effect among banks and other lending institutions to reevaluate their underwriting standards to reflect our 21<sup>st</sup> century economy.

Since the banking system has historically discriminated against marginalized communities, we encourage the SBA to work with and uplift institutions that are willing to reassess their underwriting standards (or already have) to mirror the changes in this proposed rule. This would enhance the impact of this rule on the small business ecosystem.

In closing, we are encouraged by these updates and hope that the SBA will continue to advance its innovation in the capital space through continued efforts to modernize the way our banking system services our most underserved and marginalized communities. Small Business Majority and the undersigned organizations stand in support of these long-awaited changes, and we look forward to working with the SBA and other key stakeholders to ensure that SBA programs and loans are made available and accessible to those who have been overlooked by the financial system.

Sincerely,

Small Business Majority

America Forward

Atlanta Wealth Building Initiative

Cambridge Local First

CAMEO - California Association for Micro Enterprise Opportunity

CDC Small Business Finance

Center for Community Action and Environmental Justice

Collateral Consequences Resources Center

Defy Ventures

Destination Crenshaw

Evolve California

Growth Partners Arizona

Los Angeles Area Chamber of Commerce

Legal Aid at Work

Main Street Alliance

Pacific Community Ventures

Prosperity Now

REDF

Responsible Business Initiative for Justice

TeQuion Brookins, LLC

Unite-LA