

**S. 1208 “SMALL BUSINESS EXPORT OPPORTUNITY DEVELOPMENT ACT of 2009”**  
**SECTION-BY-SECTION ANALYSIS:**

*Section 1. Short title, Small Business Export Opportunity Development Act of 2009.*

*Section 2. Definitions.*

*Section 3. Office of Small Business Export Development and Promotion.*

This section effectively replaces the SBA’s Office of International Trade with a new Office of Export Development and Promotion, and focuses the programs and activities carried out by the Office specifically on growing the number of small business that sell their goods and services to foreign buyers. Specific provisions for which this new Office is responsible are included in this section of the bill, including:

**A. Definitions.**

**B. Associate Administrator for Export Development and Promotion.**

This provision establishes an Associate Administrator for Export Development and Promotion, who shall report directly to the Administrator, and shall carry out responsibilities of the new Office of Export Development and Promotion.

**C. Duties of Office.**

This provision requires the SBA to maintain a distribution network for export promotion, export finance, trade adjustment, trade remedy assistance, and export data collection, and expands the distribution network to include the United States Export Assistance Centers (USEACs).

This section also requires the SBA to aggressively market the Agency’s export assistance programs as well as information on exporting as a business development opportunity, in order to address the problem of lack of information and understanding about the ability of small businesses to expand and diversify by exporting to foreign buyers.

Under this provision, the SBA will be required to include all partners in its export assistance promotion programs, including the SBA District Offices, the SBDCs, USEACs, WBCs, SCORE, state and local export promotion programs, and the private sector.

This section also maintains the preference in hiring for the Office and the SBA USEAC positions qualified applicants who are fluent in a language other than English. They should be able to accompany foreign trade missions and be available to translate documents, conversations and transactions.

#### **D. Promotion of Sales Opportunities.**

This section requires the Associate Administrator to promote sales opportunities for small business goods and services abroad by working with the Department of Commerce to identify industries with strong export potential and demand in foreign markets, prescreening foreign buyers, increasing international marketing, and linking buyers and sellers. It also requires the SBA to encourage greater participation in trade shows and missions.

This section requires the SBA to carry out a nationwide marketing effort to promote exporting as a business development opportunity for small businesses that utilizes technology, online resources and training.

This section requires the SBA to disseminate information to the small business community on exporting trends, market specific growth, industry trends and prospects through the district and regional offices of the Administration, the Small Business Development Centers, Women's Business Centers, SCORE chapters, State and local programs, and private partners.

This provision also requires the SBA to establish and carry out training programs for the District Office staff and SBA resource partners, including the SBDCs, WBCs and SCORE, on export promotion and providing assistance relating to exporting.

#### **E. Export Specialist Program.**

This provision requires the SBA to work with Federal agencies, including the Department of Commerce and the Export-Import Bank, to market export financing programs available from the Federal government and the private sector. It also requires the SBA to promote greater participation by private lenders in export finance.

#### **F. Counseling for Small Business Concerns.**

This provision requires the SBA to work with Federal agencies and the private sector to council small businesses on U.S. trade laws and increase access to trade remedy assistance.

#### **G. Export Assistance Programs.**

This section requires each SBDC to have an accredited export assistance program, whereby at least 20 percent of the technical assistance staff in the SBDC is certified in providing export assistance. It also requires the SBA to provide training on export assistance to SBDC staff at their annual conference.

This provision requires the SBA to report to Congress on the performance of the accredited export assistance programs, specifically:

- The number of small businesses assisted;
- The export revenue generated by small businesses clients; and
- An estimate of the number of jobs created or retained by clients of the accredited export assistance programs.

#### **H. Export Assistance Officer.**

This provision requires the Administration to designate one person as an Export Assistance Officer (EAO) in each SBA District Office. The EAO shall:

- Be trained in export assistance and marketing, and receive additional training annually;
- Conduct training and information sessions for small businesses on exporting; and
- Conduct outreach to small businesses with export potential.

#### **I. Export Development Grant Program.**

This provision creates a grant program to support small businesses that are actively working to start or grow their export business, and to encourage small businesses to invest in developing their export business.

The Export Development Grant program would match eligible small business spending, up to \$5,000, in order to encourage small businesses to explore and develop potential export opportunities.

To be eligible, the small business must:

- Have been in businesses for at least 1 year;
- Have profitable domestic sales;
- Demonstrate an understanding of exporting and the issues associated with foreign sales;
- Have a strategic plan for exporting;
- Have an employee who has completed an accredited export assistance program; and
- Be in good standing with the IRS.

The program is intended to promote innovative ways for small businesses to enter or expand their presence in foreign markets. Accepted uses of the grant proceeds by the grantee include:

- Participation in a trade mission;
- A foreign market sales trip;
- A subscription to services provided by the Department of Commerce;
- The payment of website translation fees;
- The design of international marketing media;

- A trade show exhibition; and
- Participation in training workshops.

The grant recipient must provide the SBA with receipts for all expenditures made with the grant and information relating to any export sales resulting from the grant.

Appropriations in the amount of \$25 million are authorized for FY 2010 and each fiscal year thereafter for the Export Development Grant Program.

#### **J. Performance Measures.**

This provision requires the SBA to develop performance measures to support export growth goals, including:

- The total number of small businesses that receive export assistance from SBA programs;
- The number of new exporters supported by SBA programs;
- The number of small businesses exporting to additional markets as a result of assistance received from SBA programs;
- Export revenues of small businesses assisted by SBA programs;
- The number of small businesses referred to USEACs or SBDCs by the SBA; and
- The number of small businesses referred to SBA programs by the USEACs and SBDCs.

This section also requires the SBA to work with departments and agencies that are represented on the Trade Promotion Coordinating Committee (TPCC) and the SBDC to develop a system to track small business exports and the measures outlined above.

#### **K. Report.**

This section requires the SBA to submit an annual report to the House and Senate Small Business Committees on the progress in implementing the export programs authorized in the Small Business Act.

#### **L. Discharge of Administration Export Promotion Responsibilities.**

##### ***I. Associate Administrator.***

The Associate Administrator shall be responsible for the duties of the Administrator and shall directly supervise the SBA employees in the Office, including those employees working at USEACs across the country.

##### ***II. Export Development Officers.***

The SBA must assign Export Development Officers to each District Office within 90 days of the enactment of this legislation.

**III. *Export Assistance Centers.***

This section expands the SBA's participation in the Department of Commerce's nationwide USEAC network. Within 90 days of enactment, it requires SBA to fill all USEAC positions that have been vacant since 2003. Within two years of enactment, this section requires the SBA to have staff in at least 40 of the USEAC locations nationwide.

**IV. *Study.***

This provision requires the SBA to carry out a nationwide study, within 6 months of enactment, to evaluate where additional SBA export assistance staffing is needed.

**V. *Appointment of the Associate Administrator.***

The Administrator is responsible for appointing the Associate Administrator within 90 days of enactment of this legislation.

***Section 4. Export Finance Programs.***

The SBA loan guarantee programs for small business exporters are currently underutilized and need to be modified to more effectively enable small businesses to enter export markets and compete internationally. Securing necessary financing can be a challenge for small businesses even after the business has found foreign buyer. Most U.S. lenders do not lend against export orders, export receivables or letters of credit, which means that small business exporters may have trouble securing export working capital. SBA loan guarantees can be vital tools to help U.S. small business compete internationally. The goal of the proposed changes is to make SBA guarantees more effective and more available for small business exporters.

**A. *Export Working Capital Program (EWCP).***

This section modifies the EWCP to raise the maximum loan amount from \$1.66 million to \$5 million, while maintaining the current 90 percent guarantee level. This section also prohibits the SBA from charging the ongoing servicing fee on a monthly basis.

This provision also extends Preferred Lender Program (PLP) authority to make SBA EWCP loans to those lenders who have delegated authority under the Export-Import Bank EWCP program.

This section also precludes the SBA from charging any fees on untapped credit.

**B. *Export Express Program.***

This provision establishes a permanent Export Express program in statute. This program provides for streamlined processing, allows lenders to use their own credit decisions and

documentation, and provides expedited eligibility review by the SBA. The loan can be used for a wide variety of export-related purposes, including standby letters of credit and capital improvements for domestic facilities that are used to produce goods for export.

The maximum loan amount is established at \$500,000. A guarantee amount of 90 percent is provided for loans up to \$350,000, and a 75 percent guarantee is provided for loans in amount of \$350,000 to \$500,000.

***Background.*** The Export Express Program is currently a temporarily pilot program, modeled after the successful SBA Express Program.

### **C. International Trade Loan (ITL).**

This section amends the International Trade Program (ITL) by promoting use of the loans by firms adversely impacted by increased competition from foreign firms and small businesses injured by impacts from unfair trade practices, particularly intellectual property violations. The loan program is amended to provide a maximum loan guarantee of \$5 million with a 90 percent government guarantee, to be consistent with the other export finance programs. Also, eligible small businesses include any firm that qualifies under the SBA's 504 program size standard, which extends eligibility to more small businesses.

This provision also makes ITLs consistent with regular SBA 7(a) loans in terms of allowing the same collateral and refinancing terms as with regular 7(a) loans.

### ***Section 5. Marketing of Export Loans.***

This section requires the SBA to conduct outreach to regional and community lenders to expand the network of lenders participating in the SBA's export loan programs. It also requires the SBA to train lenders on the export loan programs; simplify and streamline the paperwork and processing; and establish an online processing and application.

### ***Section 6. Small Business Trade Policy.***

#### **A. Assistant U.S. Trade Representative for Small Business**

This section creates a new position of Assistant USTR for Small Business, to be appointed by the President, in the Office of the United States Trade Representative in order to represent the interests of small businesses in the formulation of national trade policy. Specifically, the new Assistant USTR for Small Business will:

- Promote the trade interests of small businesses;
- Advocate for the reduction of foreign trade barriers with regard to the trade issues of small business exporters;
- Collaborate with the Administrator of the SBA with regard to small business issues; and

- Assist the USTR in developing policies that increase opportunities for small business concerns in foreign and domestic markets, including policies that reduce trade barriers for small businesses.

## **B. Trade Promotion Coordinating Committee**

This section requires the SBA to detail an employee to the TPCC (housed at the Department of Commerce), of which SBA is a core member. The purpose of this provision is to facilitate more concrete collaboration between the TPCC and the SBA, and to make small business concerns a central part of the development of trade promotion policies and programs.

This provision also requires the SBA to develop for the National Export Strategy, a small business export component that includes strategies to:

- Increase export opportunities for small businesses;
- Protect small business concerns from unfair trade practices, including intellectual property violations;
- Assist small business concerns with international regulatory compliance requirements; and
- Coordinate policy and program efforts throughout the United States with the TPCC, the Department of Commerce, and the Export-Import Bank of the United States.

This section also requires the SBA to report on the implementation and status of objectives in the prior year's National Export Strategy submission.

## **C. Recommendations on Trade Agreements**

This section requires the USTR to notify SBA Administrator at least 90 days before the USTR begins negotiations on any trade agreement. Further, it requires the SBA Administrator to submit recommendations related to the needs and concerns of small businesses at least 30 days before the USTR begins a negotiation on any trade agreement.

## **D. Trade Disputes**

This section requires the SBA to carry out a program to provide technical assistance, counseling and reference materials to small businesses relating to trade disputes and addressing unfair international trade practices under international trade agreements. Specifically, the SBA shall:

- Direct SBA District offices to provide relevant referrals, information, and other services to small businesses;
- Enter into agreements and partnerships with legal services relating to trade dispute mechanisms, to ensure that small businesses may affordably use the mechanisms; and
- Consult with the Director of the United States Patent and Trademark Office and the Register of Copyrights to design counseling services and materials for small business concerns regarding intellectual property protection in other countries.