



Highlights of [GAO-03-863](#), a report to the Committee on Small Business and Entrepreneurship, U.S. Senate

## Why GAO Did This Study

Section 15(k) of the Small Business Act requires that all federal agencies with procurement powers establish an Office of Small and Disadvantaged Business Utilization (OSDBU). This law is one of many designed to enhance the participation of small and disadvantaged businesses in federal procurement. Section 15(k)(3) of the act requires that OSDBU directors, who are intended to be advocates for small and disadvantaged businesses, be responsible only to and report directly to agency heads or deputy agency heads. GAO was asked to determine compliance with section 15(k)(3) across the government, review to whom the OSDBU director at the Office of the Secretary of Defense has reported since the office was exempted from that provision, and determine whether section 15(k) applies to the Office of Administration (OA), which is the central procurement arm of the Executive Office of the President (EOP).

## What GAO Recommends

GAO recommends that the heads of agencies that were found not to be in compliance with section 15(k)(3) of the Small Business Act take all of the necessary steps to comply with the requirement. In their comments, the agencies agreed with the report's description of their OSDBU directors' reporting relationships; however, most disagreed with our conclusion that the reporting relationships did not comply with the law.

[www.gao.gov/cgi-bin/getrpt?GAO-03-863](http://www.gao.gov/cgi-bin/getrpt?GAO-03-863).

To view the full product, including the scope and methodology, click on the link above. For more information, contact David G. Wood at (202) 512-8678 or [woodd@gao.gov](mailto:woodd@gao.gov).

# SMALL AND DISADVANTAGED BUSINESSES

## Some Agencies' Advocates Do Not Report to the Required Management Level

### What GAO Found

Almost half of the federal agencies that GAO reviewed were not in compliance with section 15(k)(3) of the Small Business Act. Thirteen of the 24 agencies were in compliance—that is, the OSDBU director reported directly to and was responsible only to the agency head or deputy head (see table). Eleven agencies were not in compliance with the provision. At these 11 agencies, the OSDBU director (1) reported to officials below the level of agency head or deputy head, (2) was not responsible only to the agency head or deputy head but also to a lower level agency official, or (3) had delegated the responsibilities of the OSDBU director to officials who did not report to the agency head or the deputy head.

Since Congress granted the Office of the Secretary of Defense an exemption from the section 15(k)(3) reporting requirement in 1988, the organizational reporting level of the OSDBU director has changed twice—in both cases to lower levels. From 1989–96, the director reported to officials on the Under Secretary of Defense level, one level below Deputy Secretary. Since 1996 (except in 1999), the director has reported to officials on the Deputy Under Secretary of Defense level, two reporting levels below Deputy Secretary.

OA likely is a “Federal agency with procurement powers” subject to the OSDBU requirements of section 15(k) of the Small Business Act. OA has procurement powers deriving from its authority to contract on behalf of EOP. OA is a “federal agency” by virtue of its being an “agency” under the Administrative Procedure Act (APA), which the Small Business Act adopts by reference, and OA is an APA agency because it possesses the requisite “substantial independent authority.”

### Agency Compliance with Section 15 (k)(3) of the Small Business Act

Agency in compliance (13)	Agency not in compliance (11)
Defense Logistics Agency	Department of Agriculture
Department of Energy	Department of Commerce
Department of Housing and Urban Development	Department of Education
Department of Labor	Department of Health and Human Services
Department of the Air Force	Department of Justice
Department of the Army	Department of State
Department of the Navy	Department of the Interior
Department of Transportation	Department of the Treasury
Department of Veterans Affairs	Environmental Protection Agency
General Services Administration	Federal Emergency Management Agency
National Aeronautics and Space Administration	Social Security Administration
Office of Personnel Management	
U.S. Agency for International Development	

Source: GAO (analysis).