

July 15, 2025

Moving USDA Programs to the Small Business Administration: Authorities and Considerations

A June 2025 news story reported that Small Business Administration (SBA) staff were drafting an executive order that would transfer administration of three U.S. Department of Agriculture (USDA) rural business programs to the SBA: the Business and Industry Loan Guarantee Program, Rural Microentrepreneur Assistance Program, and Rural Business Investment Program (the programs are listed in order of the magnitude of budget authority). These programs support business development through direct loans, grants, licensing of rural business investment companies in rural areas, and loan guarantees.

This In Focus provides an overview of existing statutory authority that may provide the President with the authority to move USDA programs to the SBA, potential limitations of the authority, and policy issues for Congress to consider concerning the transfer.

Background

In FY2025, Congress appropriated \$38 million in budget authority to support \$1.6 billion in loan authority for the USDA Business and Industry Loan Guarantee Program and \$5 million in budget authority to support \$20 million in loan authority to the Rural Microentrepreneur Assistance Program. Congress does not appropriate funding for the Rural Business Investment Program; the program can operate with Rural Development staff without annual appropriations.

The FY2026 President's Budget Request did not request funding for the Business and Industry Loan Guarantee Program and recommended that it be terminated because borrowers could obtain loans through the private market. Program regulations require that borrowers be unable to finance their projects through their own resources or commercial credit at reasonable rates and terms without the loan guarantee. The Administration also did not request funding for the Rural Microentrepreneur Assistance Program, stating that the program is "duplicative and overlaps with similar business development programs operated by other Federal Agencies."

Existing Statutory Authority

When the SBA was created in 1953, Congress provided the President with authority to transfer certain activities to the SBA from other executive departments or agencies. The most recent version of this authority was enacted in 1958, which remains current law. Section 12 of the Small Business Act (15 U.S.C. §641) permits the President to transfer to the SBA "any functions, powers, and duties of any department or agency which relate primarily to small-business problems." This provision also allows a President, in connection with a transfer of functions, powers, or duties,

to "provide for appropriate transfers of records, property, necessary personnel, and unexpended balances of appropriations and other funds available to the department or agency from which the transfer is made."

Historical Use of Authority

The President has used the transfer authority provided by 15 U.S.C. §641 and its predecessor provisions at least two separate times. Both transfers were precipitated by executive orders.

The authority's first use was in 1953, when the SBA was created by the Small Business Act of 1953 (P.L. 83-163, Title II; enacted July 30, 1953). At that time, the SBA assumed several small-business-related duties from the Reconstruction Finance Corporation (RFC). The law left the decision of whether to transfer the RFC's Small Defense Plants Administration (SDPA) to the President. Section 218 of the law included the transfer authority (15 U.S.C. §641) and an additional provision that specifically authorized the President to transfer SDPA to the SBA.

On December 3, 1953, President Eisenhower issued Executive Order 10504 to transfer SDPA to the SBA. The Executive Order cited Section 218 of the Small Business Act of 1953 as an authority for the transfer. The separate provision that specifically authorized the President to transfer SDPA to the SBA was later omitted from the revised transfer authority after the SDPA transfer was completed.

The authority's second use was in 1975 and involved the Service Corps of Retired Executives (SCORE) and the Active Corps of Executives (ACE). In both programs, business executives volunteer to provide training and mentoring to new business owners. In the 1960s, the SBA worked with these groups under the SBA's general authority to cooperate with voluntary groups that assist small businesses. In 1971, President Nixon reorganized several volunteer programs across the federal government into a new agency, the ACTION Agency (not an acronym). Congress later codified the creation of the agency and the reorganization of the volunteer programs with the Domestic Volunteer Service Act of 1973 (P.L. 93-113). Under this division of authority, the ACTION Agency handled operations, volunteer recruitment, and all non-small-business-related activities of SCORE and ACE, while the SBA provided programmatic direction for small-business-related activities.

On July 18, 1975, President Ford issued Executive Order 11871 to transfer the ACTION Agency's statutory duties related to SCORE and ACE to the SBA. The Executive

Order cited Section 12 of the Small Business Act as an authority for the transfer. Congress codified this transfer in 1978 by statutorily moving the SCORE and ACE authorities to the Small Business Act via P.L. 95-510. The SBA continues to administer the programs (now combined in SCORE).

Limitations

This provision remains available as a potential tool for a President to reorganize governmental small business functions, powers, or duties by placing them within the SBA. This authority is subject to several limitations, however. First, as a matter of statutory text, the authority extends only to those “functions, powers, and duties ... which relate primarily to small-business problems.” The statute does not define “small-business problems.” This could lead to interpretative questions about whether a particular function proposed for transfer to the SBA is primarily related to small-business problems.

The historical use of this authority has not given rise to any judicial interpretation of the transfer statute. It is reasonable to expect that any court examining the extent of this authority would employ the typical tools of statutory interpretation in determining the scope of the statutory transfer authority. The USDA programs in question support businesses in rural areas. Although “rural” is distinct from “small,” as a practical matter there may be substantial overlap between rural and small businesses such that a rural-focused program may also qualify as a function “relate[d] primarily to small-business problems.” For example, the Rural Microentrepreneur Assistance Program requires applicants to own and operate microenterprises, business entities with 10 or fewer full-time-equivalent employees. The Rural Business Investment Program requires the companies to invest 50% of their funds in smaller enterprises.

Second, even where the requirements of 15 U.S.C. §641 are met, other laws may place limits on this authority. For example, Section 716 of the Consolidated Appropriations Act, 2024 (P.L. 118-42, Division B, Title VII), provides that “[n]one of the funds provided by this Act, or provided by previous appropriations Acts, ... shall be available for obligation or expenditure” through a transfer of funds that “reorganizes offices, programs, or activities” unless the appropriate Secretary notifies the Committees on Appropriations of both houses of Congress 30 days in advance of the exercise of such authority and receives approval from both committees. These procedural requirements remain in effect in FY2025 under Section 1105 of P.L. 119-4, the current continuing resolution.

Thus, before the Secretary of Agriculture could transfer any funds to the SBA in conjunction with a presidential transfer of a function, the Secretary would likely need to comply with at least some of these procedural requirements. Courts have generally upheld congressional *notification* requirements, sometimes called “report and wait” provisions, like the one found in Section 716. However, the requirement to obtain committee *approval* prior to completing the transfer raises legal issues beyond the scope of this In Focus.

Potential Impacts of Transfer

SBA staff have administered loan guarantee programs and an investment fund program but do not administer direct loan and grant programs. According to a news report, some USDA officials not in favor of the transfer reportedly argued in part “that SBA is not equipped to handle those programs.”

The SBA does administer a similar program to the USDA Rural Business Investment Program called the Small Business Investment Program, which licenses Small Business Investment Companies. The SBA program involves leveraged funds (i.e., low-cost, government-backed capital). The House Appropriations Committee FY2026 report for Agriculture appropriations stated that USDA has struggled to effectively implement its program with leveraged funds (H.Rept. 119-172). Transferring the program administration to the SBA may result in the program being implemented differently.

USDA and the SBA provide different levels of support to applicants in their loan guarantee programs. USDA employees are closely involved throughout the loan application process, providing technical assistance to prospective borrowers and lenders for the USDA Business and Industry Loan Guarantee Program. By contrast, SBA loans are processed using delegated authority where lenders are generally prohibited from requesting the SBA’s direct involvement in the loan decision beyond asking for clarifications of SBA policy. Statute and regulations governing the Business and Industry Loan Guarantee Program do not require the agency administering the program to provide a certain level of staff support. If the SBA were to administer the USDA program, it is unclear what level of staff support it would provide.

Policy Considerations

Congress may consider whether to take actions such as the following concerning the potential transfer of USDA programs to the SBA:

- **Clarify the transfer authority.** Congress could clarify the authority provided by 15 U.S.C. §641 to include or exclude USDA rural business programs in the transfer authority.
- **Directly transfer programs.** Congress could legislate the transfer of the USDA programs to the SBA directly.
- **Increase cooperation between USDA and the SBA.** As an alternative to transferring the programs, Congress could promote a closer integration of USDA and SBA programs, such as by sharing best practices, technology, or staff.

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IF13062

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