

Volume 26, No. 8  
September 2012

# Small Business Notes

Minnesota Department of Employment  
and Economic Development (DEED)

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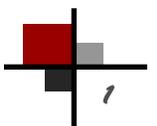
## **Small Business Administration to Take Substantial Hit if Budget Sequestration Occurs**

On September 14 the Office of Management and Budget released *OMB Report Pursuant to the Sequestration Transparency Act of 2012 (P.L. 112-155)* which details the impact of budget sequestration on federal agencies and their programs. The U.S. Small Business Administration would take a substantial 8.2 percent cut in its major programs if sequestration occurs. Those programs and the amounts of cuts are: Salaries and Expenses of the Agency (\$34 million); Office of the Inspector general (\$1 million); the Office of Advocacy (\$1 million); Disaster Loan Program Account (\$10 million); and the Business Loan Program Account (\$29 million).

## **Securities and Exchange Commission Proposes First Set of Rules Implementing Requirements of JOBS Act of 2012**

After missing the ninety day deadline for rulemaking on certain sections of the JOBS Act of 2012 (signed April 2, 2012), the SEC on August 29<sup>th</sup> published the first set of proposed rules implementing the Act's changes to Rule 506 of Regulation D. The Act requires that the SEC amend its rules to eliminate the prohibition on general solicitation and advertising of securities offerings in cases where the purchasers are accredited investors as defined in Rule 501. That definition provides that a natural person qualifies as an accredited investor if the investor has an individual net worth, or joint net worth with a spouse, that is greater than \$1 million at the time of the offering excluding the value of the investor's primary residence; or the individual investor had income exceeding \$200,000 in each of the two most recent years (\$300,000 with spouse) and a reasonable expectation of at least that same level of income in the current year.

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As proposed, the new Rule 506 would allow for general solicitation and general advertising for a securities offering under Regulation D if all purchasers are accredited investors because they come within the definition of Rule 501 or because the securities issuer “reasonably believes” that they are accredited investors AND the issuer takes reasonable steps to verify that the purchasers are accredited investors.

In the rulemaking the SEC declined to give bright line tests for issuer verification instead requiring the issuer to look at the facts and circumstances of the transaction to include: the standard of accredited investor being used by the purchaser; the amount and type of information that the issuer has about the purchaser; and the nature of the offering (i.e., the manner in which the purchaser was solicited, the terms of the offering such as required minimum investment.

Despite expectations to the contrary the SEC published this as a proposed rule not a final rule or interim final rule.

Rules implementing the “crowdfunding” section of the JOBS Act are to be developed with 270 days of passage of the Act. There is some question as to whether that deadline, for early January, will be met.

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