§ 614. Telecommunications Development Fund

(a) Purpose of section

It is the purpose of this section—

(1) to promote access to capital for small businesses in order to enhance competition in the telecommunications industry;
(2) to stimulate new technology development, and promote employment and training; and
(3) to support universal service and promote delivery of telecommunications services to underserved rural and urban areas.

(b) Establishment of Fund

There is hereby established a body corporate to be known as the Telecommunications Development Fund, which shall have succession until dissolved. The Fund shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof.

(c) Board of Directors

(1) Composition of Board; Chairman

The Fund shall have a Board of Directors which shall consist of 7 persons appointed by the Chairman of the Commission. Four of such directors shall be representative of the private sector and three of such directors shall be representative of the Commission, the Small Business Administration, and the Department of the Treasury, respectively. The Chairman of the Commission shall appoint one of the representatives of the private sector to serve as chairman of the Fund within 30 days after February 8, 1996, in order to facilitate rapid creation and implementation of the Fund. The directors shall include members with experience in a number of the following areas: finance, investment banking, government banking, communications law and administrative practice, and public policy.

(2) Terms of appointed and elected members

The directors shall be eligible to serve for terms of 5 years, except of the initial members, as designated at the time of their appointment—

(A) 1 shall be eligible to service for a term of 1 year;
(B) 1 shall be eligible to service for a term of 2 years;
(C) 1 shall be eligible to service for a term of 3 years;
(D) 2 shall be eligible to service for a term of 4 years; and
(E) 2 shall be eligible to service for a term of 5 years (1 of whom shall be the Chairman).

Directors may continue to serve until their successors have been appointed and have qualified.

(3) Meetings and functions of the Board

The Board of Directors shall meet at the call of its Chairman, but at least quarterly. The Board shall determine the general policies which shall govern the operations of the Fund. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Fund and shall discharge all such functions, powers, and duties.

(d) Accounts of Fund
The Fund shall maintain its accounts at a financial institution designated for purposes of this section by the Chairman of the Board (after consultation with the Commission and the Secretary of the Treasury). The accounts of the Fund shall consist of—

1. interest transferred pursuant to section 309 (j)(8)(C) of this title;
2. such sums as may be appropriated to the Commission for advances to the Fund;
3. any contributions or donations to the Fund that are accepted by the Fund; and
4. any repayment of, or other payment made with respect to, loans, equity, or other extensions of credit made from the Fund.

(e) Use of Fund

All moneys deposited into the accounts of the Fund shall be used solely for—

1. the making of loans, investments, or other extensions of credits to eligible small businesses in accordance with subsection (f) of this section;
2. the provision of financial advice to eligible small businesses;
3. expenses for the administration and management of the Fund (including salaries, expenses, and the rental or purchase of office space for the fund); 1
4. preparation of research, studies, or financial analyses; and
5. other services consistent with the purposes of this section.

(f) Lending and credit operations

Loans or other extensions of credit from the Fund shall be made available to an eligible small business on the basis of—

1. the analysis of the business plan of the eligible small business;
2. the reasonable availability of collateral to secure the loan or credit extension;
3. the extent to which the loan or credit extension promotes the purposes of this section; and
4. other lending policies as defined by the Board.

(g) Return of advances

Any advances appropriated pursuant to subsection (d)(2) of this section shall be disbursed upon such terms and conditions (including conditions relating to the time or times of repayment) as are specified in any appropriations Act providing such advances.

(h) General corporate powers

The Fund shall have power—

1. to sue and be sued, complain and defend, in its corporate name and through its own counsel;
2. to adopt, alter, and use the corporate seal, which shall be judicially noticed;
3. to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;
4. to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;
5. to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated, for the purposes of the Fund;
6. to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Fund;
7. to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;
(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and
(9) to enter into contracts, to execute instruments, to incur liabilities, to make loans and equity investment, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(i) Accounting, auditing, and reporting

The accounts of the Fund shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants. A report of each such audit shall be furnished to the Secretary of the Treasury and the Commission. The representatives of the Secretary and the Commission shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Fund and necessary to facilitate the audit.

(j) Report on audits by Treasury

A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Fund, together with such recommendations with respect thereto as the Secretary may deem advisable.

(k) Definitions

As used in this section:

(1) Eligible small business

The term “eligible small business” means business enterprises engaged in the telecommunications industry that have $50,000,000 or less in annual revenues, on average over the past 3 years prior to submitting the application under this section.

(2) Fund

The term “Fund” means the Telecommunications Development Fund established pursuant to this section.

(3) Telecommunications industry

The term “telecommunications industry” means communications businesses using regulated or unregulated facilities or services and includes broadcasting, telecommunications, cable, computer, data transmission, software, programming, advanced messaging, and electronics businesses.

Footnotes

1 So in original. Probably should be “Fund);”.


Amendments

2004—Subsec. (f). Pub. L. 108–494 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Loans or other extensions of credit from the Fund shall be made available in accordance with the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) and any other applicable law to an eligible small business on the basis of—

“(1) the analysis of the business plan of the eligible small business;
“(2) the reasonable availability of collateral to secure the loan or credit extension;
“(3) the extent to which the loan or credit extension promotes the purposes of this section; and
“(4) other lending policies as defined by the Board.”