



December 2009

Report No. 09-41

Stronger Reporting Needed for the Black Business Loan Program; Some Statutory Provisions Outdated

at a glance

The 2007 Legislature passed the Florida Black Business Investment Act, Ch. 2007-157, *Laws of Florida*, which recreated the Florida Black Business Investment Board as a public-private partnership to evaluate the needs of black business enterprises and aid in their development. The act also established the Black Business Loan Program within the Governor's Office of Tourism, Trade, and Economic Development (OTTED).

Stronger reporting is needed for the loan program. Black business investment corporations did not use consistent methods to develop performance information reported to OTTED and were not required to report on the extent to which key program goals were being achieved. Further, outdated provisions in the act resulted in duplicative performance reporting by black business investment corporations.

To address these issues, OTTED should work with the investment corporations to ensure they are reporting reliable information for critical performance measures in their reports and require them to report on their achievement of key program goals. In addition, the Legislature should consider amending the statutes to direct the investment corporations to submit their performance reports to the office rather than the Black Business Investment Board.

Scope

As directed by Chapter 2007-157, *Laws of Florida*, OPPAGA reviewed the performance of the Florida Black Business Investment Board, Black Business Loan Program funding recipients, and the Governor's Office of Tourism, Trade, and Economic Development in meeting the goals of the Florida Black Business Investment Act.

Background

Florida has administered programs to assist black business enterprises since 1985.¹ Prior to 2007, the Florida Black Business Investment Board was charged with supporting the creation and expansion of black-owned enterprises in Florida. To accomplish this goal, the board performed various activities including facilitating procurement opportunities for minority businesses and distributing capitalization funds appropriated by the Legislature. Between Fiscal Years 1985-86 and 2005-06, the board allocated approximately \$10 million in capitalization funds. These funds were distributed through contractual agreements with a statewide investment corporation, a subsidiary of the board, and eight locally controlled regional investment corporations.

¹ Chapter 85-104, *Laws of Florida*.

In 2007, OPPAGA examined the performance of the Florida Black Business Investment Board and the investment corporations.² Our report noted that while the statewide and regional black business investment corporations had reasonable control processes for providing loans and loan guarantees to black-owned businesses, state funds were often commingled with non-state resources. As a result, it was not always possible to determine the number of loans and loan guarantees that were funded with state monies. Relationships between the Florida Black Business Investment Board and the regional corporations were problematic, and there were concerns about changes in the board's mission and role. While the board was initially intended to serve as an advocacy and networking body, its role had evolved to include providing funding support to black-owned businesses through the Florida Black Business Support Corporation, which was a subsidiary of the board.³

Our 2007 report recommended that the Legislature retain the board but change its role to serving as a statewide advocacy and networking entity for entities that assist black-owned businesses. We also proposed that a governmental entity, such as the Governor's Office of Tourism, Trade, and Economic Development (OTTED) rather than the board be responsible for awarding grants to the investment corporations and monitoring their performance.

2007 Florida Black Business Investment Act. The 2007 Legislature passed the Florida Black Business Investment Act, Ch. 2007-157, *Laws of Florida*, which recreated the Florida Black Business Investment Board as a not-for-profit public-private partnership. The board is charged with evaluating the needs of black business enterprises and aiding in their

development.⁴ The act limited the board's role to

- serving as an advisory board to the Office of Tourism, Trade, and Economic Development;
- creating partnerships and leveraging state, local, and private funds to facilitate the development and expansion of black business enterprises; and
- serving as a clearinghouse for information by collaborating and forming partnerships to provide technical assistance for black business enterprises.

The act also created a new Black Business Loan Program within OTTED. The act directed OTTED to annually certify eligible funding recipients, and disburse grant funds appropriated by the Legislature.⁵ In addition, the act required investment corporations to segregate state funds they received in separate interest-bearing accounts.

As shown in Exhibit 1, the Legislature appropriated \$8.5 million to implement the act in Fiscal Years 2007-08 through 2009-10. Of this amount, \$900,000 was appropriated to support the board's operations.⁶ Of the remainder, \$123,000 was appropriated to OTTED to administer the loan program, and over \$7 million was appropriated to provide loans, loan guarantees, and investments to black business enterprises.

² *Legislature Should Consider Options for the Role of the Florida Black Business Investment Board*, OPPAGA [Report No. 07-05](#), January 2007.

³ In May 2006, the board voted to divest itself of the Black Business Support Corporation. Since January 1, 2007, the Black Business Support Corporation has operated as an independent organization with its own board of directors and staff.

⁴ The act directed the board to contract with OTTED to implement its statutory responsibilities.

⁵ Under the act, the board is to receive the applications and make recommendations for certification to OTTED.

⁶ The board was appropriated \$350,000 in Fiscal Year 2009-10.

Exhibit 1**The Legislature Appropriated \$8.5 Million to Implement the Florida Black Business Investment Act in Fiscal Years 2007-08 through 2009-10**

	Fiscal Year 2007-08	Fiscal Year 2008-09 ¹	Fiscal Year 2009-10	Total
Black Business Investment Board administration and operations	\$300,000	\$250,000	\$350,000	\$900,000
OTTED for administering the Loan Program	\$25,000	\$50,000	\$48,000	\$123,000
Loan Program	\$2,675,000	\$2,450,000	2,352,000	\$7,477,000
Total	\$3,000,000	\$2,750,000	\$2,750,000	\$8,500,000

¹ The Fiscal Year 2008-09 appropriation was reduced by a 4% holdback.

Source: Chapters 2007-72, 2008-152, and 2009-81, *Laws of Florida*.

Findings

The Black Business Investment Board has taken steps to carry out its statutory responsibilities, but additional action should be taken

The Florida Black Business Investment Board has taken steps to accomplish the goals of the 2007 Florida Black Business Investment Act.⁷ Specifically, the board has provided recommendations to the Department of Management Services' Office of Supplier Diversity regarding the Florida Minority Business Loan Mobilization Program, which was created to assist certified minority and female-owned businesses in obtaining funding when starting a state-funded project.

The board also has held conferences to build relationships among minority, women, and service-disabled veteran businesses and state agency purchasing specialists and non-minority vendors. Additionally, it has held workshops for state agencies on how to increase black business enterprises' participation in procurement opportunities, and has held an educational workshop on equity financing.

The board also has sought to align its activities with the goals of the act. For example, the

board is reviewing its governing laws to ensure that its current organizational structure, including by-laws, policies, and procedures, are consistent with statutory provisions.

To educate the community on its role in developing and expanding black business enterprises, the board has scheduled a community bank financial symposium to be held in February 2010. This symposium is intended to inform banks on how they can assist black business enterprises within their communities. The event will include a roundtable with northwest Florida financial institutions. The board plans to conduct a follow-up event in South Florida in 2010.

In addition, the board is attempting to shift the focus of its technical assistance activities from business start-up and planning to emphasize growing businesses through programs such as the federal New Markets Tax Credit Program.⁸ The board also is working with surety trade associations and exploring options to provide surety bonds to black business enterprises.

While the board has taken steps to create partnerships and become an information clearinghouse, it should take additional action in this area. For example, the board's website includes a page that notes the Florida Small

⁷ OPPAGA previously issued a report on the board's progress - *Black Business Investment Act Is Being Implemented, But Progress Was Slow in Distributing Loan Program Funding*, OPPAGA [Report No. 08-65](#), December 2008.

⁸ The federal [New Markets Tax Credit Program](#) encourages capital investment in rural and urban low-income communities by allowing taxpayers to earn credits against specified taxes by investing in qualified community development entities that make qualified low-income community investments in qualified active low-income community businesses to create and retain jobs.

Business Development Center Network can provide technical assistance to black business owners and provides a link to the network's website. However, this page is difficult to find and does not provide information on the full range of services provided by the network's small business development centers. The centers offer a range of services, including counseling on starting a business, conducting market research, developing a business plan, and obtaining business financing. The board could provide such information on its website or through newsletters or other periodic publications. Currently, the board's website provides little such information. Further, the website provides few links to information that would be of interest to small and minority businesses owners, such as state chapters of SCORE Counselors to America's Small Business and other small business assistance programs available in Florida.

Stronger reporting is needed for the Black Business Loan Program

OTTED has not yet developed effective processes for monitoring the Black Business Loan Program. Specifically, the office has not obtained reliable performance information from the black business investment corporations nor has it required them to report on their achievement of key program goals.

OTTED has not effectively monitored black business investment corporation performance. The Black Business Loan Program is intended to provide loans, loan guarantees, and investments through eligible recipients (including the black business investment corporations) to black business enterprises that cannot otherwise obtain capital through conventional lending institutions.⁹ OTTED certifies the investment corporations' eligibility to receive funds and it contracts with them to provide loans or loan guarantees to black business enterprises.

OTTED contractually requires the investment corporations to provide quarterly

reports detailing their financial and program activities. This information is to include the number of loans, loan guarantees, and investments provided to black business enterprises; borrower information; the dollar amount the enterprises receive from other entities participating in the transaction; and the source of the funds used in the transaction.

However, our review of quarterly reports submitted by the investment corporations between July 2008 and June 2009 found that the corporations used different methods to determine the amount of state funds provided for loans and the amount of funds provided from other entities. Due to these differences, the reported information is not reliable for determining how the investment corporations used state funds or determining the return on the state's investment of program funds.¹⁰

These reporting problems primarily occurred because OTTED has not provided the investment corporations with sufficient guidance for filling out their quarterly reports. As a result, the corporations used different interpretations of the various required performance measures. Consequently, it is unclear whether investment corporations reported to OTTED the total number of loans specifically made from state funds or the number of loans made from all funding sources.

OTTED does not require the black business investment corporations to report on their achievements of key program goals. The purpose of the Black Business Loan Program is to leverage state, local, and private funds to provide loans and loan guarantees to black business enterprises that cannot obtain capital through conventional lending institutions, but

⁹ Sections [288.7102](#) and [14.2015\(2\)\(g\)](#), F.S.

¹⁰ The board's 2008-09 annual report issued October 2009, reported the number and dollar amount of loans provided, and the number of jobs created and retained by the investment corporations under the Black Business Loan Program. However, the total figures for these measures included in the report are questionable due to the corporations' using inconsistent approaches to compile performance information.

could otherwise compete successfully in the private sector.¹¹ Additionally, the act specifies that loans, loan guarantees, or investments must be economically sound and that will assist black business enterprises in entering the conventional lending market, increase opportunities for employment, and strengthen the economy of the state.¹²

However, OTTED does not require the investment corporations to report on the extent to which these program goals are being met. For example, investment corporations are not required to report whether businesses receiving loans under the program were unable to obtain loans in the conventional lending market. The corporations also are not required to report on how their activities helped the businesses move toward securing conventional loans from mainstream lending institutions.

OTTED reports it will be taking steps to revise the black business investment corporations' reporting requirements to collect better information for monitoring the corporations' performance in achieving key goals and compliance with program guidelines. However, OTTED has not yet incorporated such changes in the contracts it executed with the investment corporations.

Outdated statutory provisions have created confusion and duplication

The 2007 Florida Black Business Investment Act substantially changed the relationship between the Black Business Investment Board and the regional investment corporations. The board's role was changed from being the administrator of the state loan program to serving as a networking entity charged with assisting in the development and expansion of black business enterprises.

However, some provisions of the act reflect the former relationship between the board and the investment corporations. For example, while

the board is no longer responsible for overseeing the corporations' use of state funds, the act continues to require the corporations to send quarterly performance reports to the board, which is responsible for collecting this data and providing a summary to OTTED. This requirement is inconsistent with the board's mission and is duplicative, as the corporations are contractually required to provide quarterly performance reports directly to OTTED.

The act also directs the board to report annually to the Legislature on the performance of the Black Business Loan Program. However, OTTED rather than the board administers the loan program. The board no longer has any authority over entities participating in the program.

In addition, the act requires that the investment corporations send applications for certification to the board. The board examines each application for completeness and compliance with the act, and provides OTTED with its recommendations for certification. However, OTTED certifies the entities based on the criteria specified in its own administrative rules. The board reports that it spends considerable time and resources reviewing the corporations' certification applications, but that this review is unnecessary as OTTED makes the final certification decisions.

Recommendations

To improve its performance in carrying out its statutory responsibilities, we recommend that the Florida Black Business Investment Board enhance its website to provide more information resources of interest to black business owners, such as additional entities that can assist minority entrepreneurs in developing business and marketing plans.

To improve OTTED's ability to monitor the black business investment corporations' use of loan funds, we recommend that OTTED work with the investment corporations to ensure

¹¹ Section [14.2015\(2\)\(g\)](#), F.S.

¹² Section [288.7103](#), F.S.

they are reporting reliable information for critical performance measures in their reports. The office also should require the investment corporations to provide information on loans and other transactions involving the use of state funds. The corporations should clearly indicate the amount of the transaction funded with state money as well as the amount and sources of matching funds that are used to facilitate the transaction. OTTED also should require the investment corporations to report on their achievement of key program goals.

To eliminate duplicative reporting requirements, we recommend that the Legislature amend s. 288.714, *Florida Statutes*, to direct the investment corporations to submit their performance reports to OTTED rather than the Black Business Investment Board. Further, the office, rather than the board,

should annually report to the Legislature regarding the performance of the Black Business Loan Program. We also recommend that the Legislature amend s. 288.7102, *Florida Statutes*, to require the investment corporations' certification applications to be sent directly to the office rather than the board.

Agency Response

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was provided to the director of the Office of Tourism, Trade, and Economic Development, and the Florida Black Business Investment Board. Written responses to the draft report are included in Appendix A.

OPPAGA supports the Florida Legislature by providing evaluative research and objective analyses to promote government accountability and the efficient and effective use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

Florida Monitor: www.oppaga.state.fl.us

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Appendix A



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December 2, 2009

Gary R. VanLandingham, Ph.D.
Director
Office of Program Policy Analysis and Government Accountability
111 West Madison Street
Room 312
Tallahassee, FL 32399

Dear Dr. VanLandingham:

The Office of Tourism, Trade, and Economic Development (OTTED) appreciates the excellent and professional work of your staff in the preparation of the report "Stronger Reporting Needed for Black Business Loan Program; Some Statutory Provisions Outdated," and your consideration of our informal comments on drafts of the Report. Fiscal Year 2008-2009 represents the first year of programmatic activity under the new structure prescribed by the 2007 Black Business Investment Act. As such, the Office of Tourism, Trade, and Economic Development (OTTED) welcomes the opportunity to assess the progress made and revisions to the program's implementation.

We agree with OPPAGA's analysis and conclusions that the Black Business Investment Board has taken steps to carry out its statutory responsibilities, and also agree that the Board should consider additional steps in complying with its legislative charges. Additionally, we concur with OPPAGA's conclusion that the Act's statutory provisions are both confusing and duplicative.

There are certain implications of the Report's conclusions with regard to OTTED's monitoring that we believe need further explanation to accurately communicate the Report's findings. OPPAGA's findings stem from its review of data provided in the Black Business Loan Program recipients' quarterly reports. OPPAGA determined that the reporting methods were inconsistent and that OTTED should provide further guidance for reporting. OTTED agrees that reporting methods are inconsistent among Black Business Investment Corporations (BBICs). However, it is important to note that OTTED went beyond the statutory requirements and created the reporting form that includes directions, and held a workshop that explained the form to the BBICs. A second workshop has already been scheduled to reiterate those reporting methods. As such, OTTED has already taken steps to aid in reporting methods, and continues to work with BBICs to insure they can report consistently. Reporting methods could also be addressed through updates to the statutory provisions, as OPPAGA suggests.

Mr. Gary R. VanLandingham
Office of Program Policy Analysis and Government Accountability
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Additionally, OPPAGA finds that program recipients did not provide data on key programmatic goals. Per Section 288.714, Florida Statutes, recipients of funds under the Black Business Loan Program are to submit quarterly and annual performance reports to the Florida Black Business Board (FBBIB) for compilation of statewide program data. Section 288.714 also provides requirements for the content of such reports which include a report on the duties performed for the program and:

- The dollar amount of all loans or loan guarantees made to black business enterprises, the percentages of the loans guaranteed, and the names and identification of the types of businesses served.
- Loan performance information.
- The amount and nature of all other financial assistance provided to black business enterprises.
- The amount and nature of technical assistance provided to black business enterprises, including technical assistance services provided in areas in which such services are otherwise unavailable.
- A balance sheet for the recipient, including an explanation of all investments and administrative and operational expenses.
- A summary of all services provided to nonblack business enterprises, including the dollar value and nature of such services and the names and identification of the types of businesses served.
- Any other information as required by policies adopted by the board.

The statutorily required performance reports do not include the key program goals that OPPAGA cites as missing.

OPPAGA suggests that a stated program goal is to help the businesses move toward securing conventional loans from mainstream institutions. However worthy this goal may be, the Act does not specify that this is the goal or purpose of the program. Rather, the purpose of the program is to provide funding to black businesses that cannot obtain capital and to develop black business enterprise. As stated in section 288.7103, Florida Statutes, assisting a transition to commercial lending is only referenced as one of several eligibility requirements for a black business to receive a loan from a program recipient.

Eligibility for loan, loan guarantee, or investment.--A black business enterprise is not eligible to receive a loan, loan guarantee, or investment from funds disbursed pursuant to s. 288.7102 unless the black business enterprise demonstrates that:

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(1) The proposed loan, loan guarantee, or investment is economically sound and will assist the black business enterprise in entering the conventional lending market, increasing opportunities for employment, and strengthening the economy of the state.

(2) The black business enterprise will be able to compete successfully in the private sector if the black business enterprise obtains the requested financial assistance and has obtained or will obtain appropriate and credible technical or managerial support through an organization approved by the corporation.

Program recipients through their loans and technical assistance help black businesses (with potential) to become more bankable by building and demonstrating a successful credit history and giving them opportunities to grow. OTTED will work with program recipients to begin collecting data for a longitudinal look at black businesses' success rate at entering the commercial lending market after participating in the program and meeting obligations for existing loans under the program.

OPPAGA also cites black businesses' inability to obtain capital from commercial lenders as a performance goal missing in the quarterly reports. As OPPAGA suggests, the statutes are confusing as this is not listed among the statutory eligibility requirements defined in section 288.7103 for receiving a loan or in section 288.714 as a reporting requirement.

Thank you for this opportunity to comment on the final draft Report and, again, thank you for the fine work of your staff and their open and cooperative approach to this review.

Sincerely,



Dale A. Brill, Ph.D.
Director
Office of Tourism, Trade and Economic Development

Cc (via email):

Ms. Michelle Dennard, OTTED Legal Counsel, Executive Office of the Governor
Ms. Kim Mills, Director of Auditing, Executive Office of the Governor



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December 4, 2009

Gary R. VanLandingham, Ph.D., Director
Office of Program Policy Analysis
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111 West Madison Street - Room 312
Tallahassee, Florida 32399-1475

Dear Dr. VanLandingham:

This letter represents the response of the Florida Black Business Investment Board, Inc. (FBBIB) to the preliminary findings and recommendations of OPPAGA's report entitled, "*OTTED Needs to Strengthen Oversight of the Black Business Loan Program.*"

Below are statements from the OPPAGA report and the FBBIB's responses:

1. OPPAGA Statement: (pg1 par1)

The 2007 Legislature passed...which recreated the Florida Black Business Investment Board as a public-private partnership...

FBBIB Response:

"The Legislature finds that the public interest of the state will be served by the creation of a not-for-profit public-private entity the primary mission¹..."

Also since July 1, 2002, the Board is a 501(c)(3) as well as a state-authorized non-profit under Florida Statutes 617.

2. OPPAGA Statement: (pg1 par5)

Between Fiscal Years 1985-86 and 2005-06, the Board allocated approximately \$10 million in capitalization funds.

FBBIB Response:

This statement seems to reflect that funding was only provided in the two-stated fiscal years. It should state that between Fiscal Years 1985 and 2006, the Board allocated approximately \$10 million in capitalization funds received from the state.

¹ Florida Statutes, Ch. 288. 2007.

FBBIB Response to OPPAGA Report
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3. OPPAGA Statement: (pg1 par5)

These funds were distributed through contractual agreements with a statewide investment corporation, a subsidiary of the board...

FBBIB Response:

The Florida Black Business Support Corporation (the statewide investment corporation the report is referring to) was not created to be nor has it always been an investment corporation. The Florida Black Business Support Corporation was formed in 1988 as a 501(c)(3), not-for-profit entity whose purpose was for training and education for the Black Business Investment Corporations, FBBIB members and staff and those working in the business development arena working to foster business development.

4. OPPAGA Statement: (pg 2 par1)

While the board was initially intended to serve as an advocacy and networking body, its role had evolved to include...

FBBIB Response:

It is important to note that the Legislature defined the initial role of the Florida Black Business Investment Board in Florida Statutes, Ch. 288 as follows:

*The Legislature finds that the public interest of Florida will be served by the creation and growth of black business enterprises by: a) Increasing opportunities for employment of blacks... b) Providing role models and establishing business networks for the benefit... c) Strengthening the economy of the state by increasing the number of qualified black business enterprises...*²

5. OPPAGA Statement: (pg2 par3)

The act limited the board's role to...

FBBIB Response:

It is also important to note that in addition to the duties listed in the OPPAGA Report, the 2007 Act expanded, not limited, the board's role to include:

- a. Evaluate the unmet need for capital by black business enterprises in the state.
- b. Develop strategies to increase financial institution investment in black business enterprises.
- c. Provide a 5-year projection of the need for capital by black business enterprises.
- d. Aggressively market the Black Business Loan Program and related services to black business enterprises...
³

6. OPPAGA Statement: (footnote6)

Historically, the board has had two employees.

FBBIB Response:

Between the initial creation of the board and the time it became a not-for-profit entity, the board has had as many as seven positions.

² Florida Statutes, Ch. 288, 1985.

³ Florida Statutes, Ch. 288, 2007.

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7. OPPAGA Statement: (pg3 par1)

Specifically, the board has provided recommendations to the Department of Management Services' Office of Supplier Diversity...

FBBIB Response:

The Board has met with the Office of Supplier Diversity and is in the process of revising its MOU to enhance, expand and market the Loan Mobilization Program to participating financial institutions.

8. OPPAGA Statement: (pg3 par4)

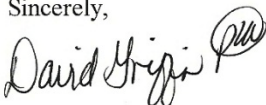
To educate the community... the board has scheduled a community bank financial symposium to be held in Tallahassee in December 2009.

FBBIB Response:

Due to recent appointments of a majority new board of directors, the board has rescheduled the financial symposium until February 2010.

On behalf of the Florida Black Business Investment Board, thank you for the opportunity to respond to this very important issue of black business development and the board's mission in the State of Florida.

Sincerely,



David Griffin
Vice Chairman



Paula Duncan
Interim President

cc: FBBIB Board of Directors
Kim Mills, Director of Auditing
Kelly Seeger, Legislative Policy Analyst
Wendy Holt, Sr. Legislative Analyst