

**Congress of the United States**  
**U.S. House of Representatives**  
**Committee on Small Business**  
2361 Rayburn House Office Building  
Washington, DC 20515-6515

**MEMORANDUM**

**TO:** Members of the Committee on Small Business

**FROM:** Committee Majority Staff

**DATE:** March 17, 2023

**RE:** Full Committee Hearing Titled: “Oversight of the Small Business Administration”

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On **March 23, 2023, at 2:00 PM EST**, the Committee on Small Business will hold a hearing titled “**Oversight of the Small Business Administration.**” The meeting will convene in room 2360 of the Rayburn House Office Building. The purpose of this hearing is to thoroughly review the activities of the Small Business Administration.

**I. Witnesses**

- The Honorable Isabella Casillas Guzman, Administrator, United States Small Business Administration

**II. Background**

The Small Business Administration (SBA) was created in 1953 with the passage of the Small Business Act<sup>1</sup>. Under the Small Business Act, the SBA’s mission was defined as,

*“It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the Government (including but not limited to contracts or subcontracts for maintenance, repair, and construction) be placed with small-business enterprises, to insure that a fair proportion of the total sales of Government property be made to such enterprises, and to maintain and strengthen the overall economy of the Nation.”<sup>2</sup>*

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<sup>1</sup> The Small Business Act, P.L. 83-163

<sup>2</sup> *Id.*

The SBA is led by the Administrator, Isabella Casillas Guzman, who is confirmed by the U.S. Senate and is a member of the President’s Cabinet. Today the SBA administers a variety of access to capital, counseling, and contracting programs that aim to assist small business owners.

### *Access to Capital*

The Small Business Administration (SBA) administers several lending programs designed to help small businesses. The programs include the flagship 7(a) program, SBA’s primary lending program, which lends to small businesses that couldn’t obtain credit in the private sector at reasonable rates,<sup>3</sup> the 504 Certified Development Company Loan Program, which provides financing for plant, real property, and major equipment,<sup>4</sup> and the Microloan program which provides funding to nonprofit intermediary lenders that subsequently lends funds in amounts of \$50,000 or less to small businesses and startups.<sup>5</sup> Additionally, the SBA oversees the Small Business Investment Company program that aims to increase access to capital for growth stage businesses.<sup>6</sup>

On October 26, 2022, the SBA issued a proposed rule titled, “*Affiliation and Lending Criteria for the SBA Business Loan Programs.*”<sup>7</sup> According to the SBA, the rule is, “proposing to amend various regulations governing SBA’s 7(a) Loan Program and 504 Loan Program, including use of proceeds for partial changes of ownership, lending criteria, loan conditions, reconsiderations, and affiliation standards, to expand access to capital to small businesses and drive economic recovery.”<sup>8</sup> This proposed rule is significant in that it updates the rules SBA lenders must follow when issuing SBA loans.

On November 7, 2022, the SBA proposed the “*Small Business Lending Company (SBLC) Moratorium Recission and Removal of the Requirement for a Loan Authorization*” rule.<sup>9</sup> This rule seeks to lift the moratorium on licensing new Small Business Lending Companies.<sup>10</sup> The SBA is authorized to issue 7(a) loans through certified depository institutions (banks and credit unions) as well as certified non-depository Small Business Lending Companies (SBLCs).

In 1981, the SBA self-imposed a moratorium on licensing new SBLCs because the agency did not have adequate resources to effectively service and supervise additional SBLCs.<sup>11</sup> The SBA is now proposing to lift that moratorium and allow all lenders in the Community Advantage (CA) Pilot Program to permanently participate in the 7(a) program. The proposition will license three (but will not limit themselves to three) additional SBLCs and will add a new definition of

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<sup>3</sup> U.S. SMALL BUS. ADMIN., FY 2024 CONGRESSIONAL BUDGET JUSTIFICATION, FY 2022 ANNUAL PERFORMANCE REPORT, 35 (Mar. 13, 2023).

<sup>4</sup> *Id.* at 37.

<sup>5</sup> *Id.* at 39.

<sup>6</sup> *Id.* at 49.

<sup>7</sup> Affiliation and Lending Criteria for the SBA Business Loan Programs, 13 CFR §120 & 121 (2022).

<sup>8</sup> *Id.*

<sup>9</sup> Small Business Lending Company Moratorium Rescission and Removal of the Requirement for a Loan Authorization, 13 CFR §120 (2022).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

Mission Based SBLCs, in an attempt to increase lending into underserved communities.<sup>12</sup> The SBA is also proposing altering the rules governing the minimum capital requirements for SBLCs.<sup>13</sup>

The Committee is concerned that the SBA may lack the expertise, competence, and staffing to take on an expanded regulatory role. The SBA serves as the only federal regulator for many SBLCs. Increasing their participation in the 7(a) program will require an increased role by the SBA's Office of Credit Risk Management in order to ensure that taxpayer funds, in the form of loan guarantees, are protected.

### ***Paycheck Protection Program***

Congress established the Paycheck Protection Program (PPP), an emergency lending resource to provide loans to small businesses impacted by the pandemic.<sup>14</sup> The goal of the PPP was to help small businesses retain employees by covering their pay and a limited number of near-term operating expenses. Through this forgivable loan program, small businesses, eligible non-profit organizations, veterans' organizations, Tribal business concerns, sole proprietors, self-employed individuals, and independent contractors could apply and receive support to cover eligible payroll and non-payroll costs.<sup>15</sup>

According to the SBA's Office of Inspector General (OIG), on April 27, 2022, the SBA decided to formally end collections on purchased PPP loans with an outstanding balance of \$100,000 or less.<sup>16</sup> The SBA's rationale for the decision was to provide equitable treatment between smaller sole proprietor borrowers not protected by an incorporation shield and larger incorporated borrowers. The SBA indicated that the cost to collect the purchased PPP loans would likely be more than the recovery amount.<sup>17</sup> The OIG found that:

*“we identified concerns with SBA’s decision to end collections on these loans and found that expedited management action is needed to determine whether it is cost-effective to pursue collections on these loans. Management attention is needed to ensure effective stewardship of billions of dollars in potential funds owed to taxpayers. Ending collections could incentivize ineligible borrowers to obtain loans valued at \$100,000 or less in similar future loan programs. However, continuing to pursue collections will help ensure accountability from delinquent borrowers.”<sup>18</sup>*

### ***COVID-Economic Injury Disaster Loans***

The COVID-Economic Injury Disaster Loan (COVID-EIDL) program is a direct loan program that provides financial support to small businesses to help them meet financial obligations and pay for operating expenses that could have been met had the pandemic not occurred, and

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> FY 2024 CONGRESSIONAL BUDGET JUSTIFICATION, *supra* note 1, at 108.

<sup>15</sup> *Id.*

<sup>16</sup> U.S. SMALL BUSINESS ADMIN. OIG, REPORT NO. 22-25, SBA'S GUARANTY PURCHASE FOR PAYCHECK PROTECTION PROGRAM LOANS (Sept. 30, 2022).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

provides for six months of working capital.<sup>19</sup> COVID-EIDL provided low-interest long-term loans (up to 30 years) of up to \$2 million to businesses and non-profits.<sup>20</sup> The EIDL Advance provided funds of up to \$10,000 that did not require repayment for emergency capital needs.<sup>21</sup> COVID-EIDL loan payments were deferred for 30 months from origination and the first loan payments became due starting in September 2022.<sup>22</sup>

### ***Contracting***

Small Businesses have several government-wide small business prime contracting programs available to them known as small business set-asides. These programs are the 8(a) Business Development program,<sup>23</sup> the HUBZone (Historically Underutilized Business Zones) Program,<sup>24</sup> the Service-Disabled Veteran-Owned Small Business (SDVOSB)/Veteran Owned Small Business (VOSB) program,<sup>25</sup> and the Women-Owned Small Business (WOSB) Federal Contracting program.<sup>26</sup>

On January 1, 2023, the SDVOSB/VOSB certification was transferred from the Department of Veterans Affairs to the SBA in accordance with law.<sup>27</sup> Prior to this transfer, firms seeking to do business with the Department of Veteran Affairs as a SDVOSB/VOSB would go through VA's Center for Verification and Evaluation (CVE). Firms looking to do business with non-VA agencies under these programs would then need to self-certify as a SDVOSB/VOSB. This transfer brings all SDVOSB/VOSB certifications under the SBA.

The SBA is required to update the HUBZone map every five years.<sup>28</sup> The updated HUBZone map will go into effect on July 1, 2023. SBA HUBZone Officials have told the Committee that they do not anticipate issues with these updates and plan to conduct outreach to impacted firms.

Each small business prime contracting program has a government-wide goal set by statute.<sup>29</sup> These goals are designed to encourage the federal government to spend procurement dollars with small businesses. Those goals are:

- 23 percent of the total value of all prime contract awards to small business concerns;
- 3 percent of all prime contract dollars to SDVOSBs;
- 3 percent to qualified HUBZone small business concerns;
- 5 percent to small business concerns owned and controlled by SDBs, which includes 8(a) firms; and
- 5 percent to small business concerns owned and controlled by women WOSBs.

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<sup>19</sup> FY 2024 CONGRESSIONAL BUDGET JUSTIFICATION, *supra* note 1, at 109.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 71.

<sup>24</sup> *Id.* at 77.

<sup>25</sup> *Id.* at 83.

<sup>26</sup> FY 2024 CONGRESSIONAL BUDGET JUSTIFICATION, *supra* note 1, at 81.

<sup>27</sup> William (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283 § 862 3776 (2020).

<sup>28</sup> 15 U.S.C. § 657a.

<sup>29</sup> 15 U.S.C. § 644.

The SBA reports on the federal government’s progress towards small business prime and subcontracting goals through an annual “Scorecard.” The FY2023 NDAA codified the Scorecard into law, among other changes.<sup>30</sup>

The number of small businesses participating in government contracts continues to decline. In FY2022 fewer than 60,000 small businesses received federal contracts, while in 2010 about 121,270 received contracts.<sup>31</sup>

### ***Entrepreneurial Development***

The SBA’s “Resource Partners” provides counseling, training, and outreach to entrepreneurs at every stage of their business. The SBA’s Resource Partner network comprises of Small Business Development Centers (SBDCs),<sup>32</sup> Women’s Business Centers (WBCs),<sup>33</sup> SCORE Chapters,<sup>34</sup> and Veterans Business Outreach Centers (VBOCs).<sup>35</sup>

The SBA assists military Service members who are returning to civilian life by providing entrepreneurial education through the Boots to Business (B2B) program.<sup>36</sup> B2B is offered as part of the Department of Defense’s Transition Assistance Program. Another SBA program, Boots to Business: Reboot, offers entrepreneurial education to Veterans who have already returned to civilian life.

### ***Disaster Assistance***

The SBA Administrator has made several changes to the office previous known as Disaster Assistance (ODA). ODA has been transformed into the Office of Disaster Recovery and Resilience ODR&R). The direct SBA disaster lending program which was ODA’s responsibility was moved to the Office of Capital Access. The SBA states that ODR&R will play a supporting role in the delivery of disaster assistance. Additionally, the SBA states that this office will have a coordination role in supporting disaster preparedness and recovery.<sup>37</sup>

## **III. Conclusion**

The SBA plays a vital role in supporting the needs of small business owners with access to capital, counseling, and other programs. The SBA was asked to take on an enormous new role in administering PPP and COVID-EIDL programs during the COVID-19 pandemic. The SBA encountered challenges in meeting these tasks and it continues to work through those challenges today. The Committee looks forward to hearing directly from the Administrator on issues affecting the SBA and the small business community.

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<sup>30</sup> James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. No. 117-263 § 871 (2022).

<sup>31</sup> Chris Riotta, *Small business participation in federal marketplace continues decline despite \$159 billion in awards*, FCW (Feb. 13, 2023).

<sup>32</sup> FY 2024 CONGRESSIONAL BUDGET JUSTIFICATION, *supra* note 1, at 87-100.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> News Release, Small Bus. Admin., Administrator Guzman Transforms SBA’s Disaster Enterprise to Strengthen Support for Disaster-Impacted Communities (Feb. 1, 2023).