Minority Views on H.R. 5427, "A bill to prohibit individuals convicted of defrauding the Government from receiving non-disaster financial assistance from the Small Business Administration."

Over the course of the COVID-19 pandemic, the Small Business Administration (SBA) disbursed approximately $1.2 trillion of economic aid through the Paycheck Protection Program (PPP) ($792 billion), Economic Injury Disaster Loan Program (EIDL) ($405.2 billion), Restaurant Revitalization Fund (RRF) ($28.6 billion), and the Shuttered Venue Operators Grant Program, (SVOG) ($14.6 billion) to help small businesses adversely impacted by the crisis.

In an effort to disburse PPP and COVID-19 funds swiftly, the SBA weakened and removed internal controls. The Office of the Inspector General (OIG) issued a number of reports early on warning of the importance of strong internal controls to mitigate risk, and a total of 22 reports to identify weaknesses in SBA's control environment throughout the pandemic. Beginning in early 2021, long-standing anti-fraud controls were reinstituted, and new safeguards were put into place by the Biden-Harris Administration to reduce the potential for fraud.

On June 27, 2023, the OIG issued a white paper to provide a comprehensive review reporting that SBA disbursed more than $200 billion in *potentially* fraudulent COVID-19 EIDLs, EIDL Targeted Advances, Supplemental Targeted Advances, and PPP loans. SBA also issued a report, entitled "Protecting the Integrity of the Pandemic Relief Programs," which estimates that $36 billion of the $1.2 trillion in pandemic relief emergency funds was obtained fraudulently. Moreover, the agency asserts that 86% of the *likely* fraud originated in the first nine months of the pandemic, under the Trump Administration. As of August 15, 2023, there have been 1,081 indictments. 884 arrests, 574 convictions related to PPP or EIDL, and 579 ongoing investigations.

The bill is aligned with recent actions taken by the Biden Administration to ensure that SBA loans are not approved for those who defrauded the government during the pandemic or any other time. Beginning on August 1, 2023, SBA began proactively screening for prior government loss and connection to fraud for all business loans. This screening includes utilizing the Treasury Do Not Pay system (DNP). The DNP includes a dataset called CAIVRS, which indicates whether an individual or entity has a delinquent federal debt. The screening also includes a check across SBA's internal databases for any business connected to pandemic program fraud (e.g., PPP). If a borrower is flagged through these checks, they have an opportunity to clear the hold by resolving the issue, demonstrating that it does not apply, or proving it incorrect. SBA does not move forward with an applicant's loan unless the hold is cleared.

Given that the SBA already has protocols in place to prevent fraud, Committee Democrats believe the single most important action Congress can take to support the OIG in their efforts to combat fraud is to advocate for their Fiscal Year 2024 (FY 2024) budget request. The Administration's FY 2024 budget plan proposed $47.704 million of discretionary funding, plus a $1.6 million transfer from SBA's Disaster Loans Program, and an additional $14 million transfer to OIG from a mandatory funding source. The proposed mandatory funding source for the $14 million transfer is no longer available following enactment of the Fiscal Responsibility Act of 2023 (P.L. 118-5), which rescinded the unobligated balances in the SBA Disaster Loan Program account.

The OIG budget request would enable OIG to build on its existing oversight capacity as COVID EIDL loans enter into repayment with additional criminal investigators, data scientists, auditors, and professional staff. These investments in data analytics capabilities, auditors, and investigative coverage will enable OIG to analyze more data, conduct more audits and reviews, and investigate more cases, promoting public trust and integrity within SBA's programs and operations.

Unfortunately, the House FSGG appropriations bill provides $32.02 million, which would cripple the OIG, providing budget authority for approximately 130 positions, and bringing operations back to pre-pandemic levels. The Administration's FY 2024 budget provides the necessary funding to enable the OIG to sustain existing oversight capacity and invest in additional necessary staffing. Absent the total budgetary resources requested in the FY 2024 budget, the OIG will not have sufficient funding to combat fraud within SBA programs or to provide effective oversight over the agency's programs. Critically, OIG will not have a sufficient operating budget to capitalize on the new laws (P.L. 117-165 and P.L. 117-166), which extended the statute of limitations for fraud in the PPP and EIDL programs to 10 years.