AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 111–1173

OVERSIGHT OF THE SBA DISASTER ASSISTANCE PROGRAM

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

MAY 19, 2010

Printed for the Committee on Small Business and Entrepreneurship

Available via the World Wide Web: http://www.fdsys.gov

U.S. GOVERNMENT PRINTING OFFICE

86–867 PDF WASHINGTON : 2014

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

ONE HUNDRED ELEVENTH CONGRESS

MARY L. LANDRIEU, Louisiana, *Chair*
OLYMPIA J. SNOWE, Maine, *Ranking Member*

JOHN F. KERRY, Massachusetts
CARL LEVIN, Michigan
TOM HARKIN, Iowa
JOSEPH I. LIEBERMAN, Connecticut
MARIA CANTWELL, Washington
EVAN BAYH, Indiana
MARK L. PRYOR, Arkansas
BENJAMIN L. CARDIN, Maryland
JEANNE SHAHEEN, New Hampshire
KAY R. HAGAN, North Carolina

CHRISTOPHER S. BOND, Missouri
DAVID VITTER, Louisiana
JOHN THUNE, South Dakota
MICHAEL B. ENZI, Wyoming
JOHNNY ISAKSON, Georgia
ROGER F. WICKER, Mississippi
JAMES E. RISCH, Idaho

DONALD R. CRAVINS, JR., *Democratic Staff Director and Chief Counsel*
WALLACE K. HSUEH, *Republican Staff Director*

C O N T E N T S

Opening Statements

	Page
Landrieu, Hon. Mary L., Chair, and a U.S. Senator from Louisiana	1
Snowe, Hon. Olympia, a U.S. Senator from Maine	2
Vitter, Hon. David, a U.S. Senator from Louisiana	4

Witnesses

Rivera, James, Associate Administrator, Office of Disaster Assistance, U.S. Small Business Administration	5
Shear, William, Director, Office of Financial Markets and Community Investments, U.S. Government Accountability Office	12
Bergeron, Jaimie, Owner, Fleur-de-Lis Car Care Center	29

Alphabetical Listing and Appendix Material Submitted

Bergeron, Jaimie	
Testimony	29
Prepared statement	31
Landrieu, Hon. Mary L.	
Opening statement	1
Rivera, James	
Testimony	5
Prepared statement	7
Responses to post-hearing questions from Chair Landrieu	46
Shear, William	
Testimony	12
Prepared statement	14
Snowe, Hon. Olympia	
Opening statement	2
Vitter, Hon. David	
Opening statement	4

OVERSIGHT OF THE SBA DISASTER ASSISTANCE PROGRAM

WEDNESDAY, MAY 19, 2010

UNITED STATES SENATE,
COMMITTEE ON SMALL BUSINESS
AND ENTREPRENEURSHIP,
Washington, DC.

The committee met, pursuant to notice, at 11:11 a.m., in Room 428A, Russell Senate Office Building, Hon. Mary L. Landrieu, Chair of the Committee, presiding.

Present: Senators Landrieu, Hagan, Snowe, and Vitter.

OPENING STATEMENT OF HON. MARY L. LANDRIEU, CHAIR, AND A U.S. SENATOR FROM LOUISIANA

Chair LANDRIEU. Good morning. I would like to call this Oversight Committee of the Small Business Committee together for the purposes of our ongoing work in the oversight of the Disaster Assistance Program.

I am very pleased to have this panel before us today to provide some updates and insights into that effort. We have with us SBA Associate Administrator James Rivera, we have William Shear from the GAO, and, most especially, we have Ms. Jaimie Bergeron from New Orleans, owner of Fleur-de-Lis Car Care Center.

I welcome you, especially Ms. Bergeron, this morning. The Bergerons are an example of one of the pioneer businesses that I have spoken of so often since this disaster, and I think her testimony is going to be extremely meaningful to the Committee and our work today.

We are focused today on the advancements that we have made in our response to disasters. I believe one of the most important responsibilities of this Committee is to ensure that the SBA is fully staffed, better prepared and ready to provide quick assistance to businesses following disasters. We, obviously, have one continuing to unfold in the Gulf of Mexico, putting some of the same businesses that were at risk after the Katrina/Rita devastation and the breaking of our Federal levee system. Some of those same businesses are being tested now. We have had unprecedented floods in Tennessee and in Rhode Island. So I hope that our new efforts are going to pay off.

Unfortunately, in the past, there have been some terrible stops and starts. After the 2005 storms, it took 90 days to process a home loan, 70 days to process a business loan, even longer for disbursements for disaster funding. SBA used to required disaster victims to supply mountains of tax records when the SBA and the

Federal government should obviously have been able to get some of these tax records themselves. That process has been changed.

As we sit here today, we are less than two weeks away from the 2010 Atlantic hurricane season. I also mentioned what we have already seen in Rhode Island and Tennessee.

So I want to say in conclusion that I am proud to have helped to lead the efforts of some reforms that have been put into place to date. We are looking forward, Mr. Shear and Mr. Rivera, to your testimony. But I am also going to continue to press for additional relief and support for our small businesses when they are faced with not just the economic pressures of the current underlying weak economy in our Country, but in addition to that, they are faced with these immediate situations before them. Please try to provide some testimony this morning in that regard.

So I am going to turn it over to Ranking Member Snowe.

OPENING STATEMENT OF HON. OLYMPIA J. SNOWE, A U.S. SENATOR FROM MAINE

Senator SNOWE. Thank you very much, Chair Landrieu, for holding this oversight hearing on SBA's Disaster Assistance Program, which is certainly timely given what is occurring in the Gulf.

As Ranking Member of the Committee, I join the Chair in welcoming our panelists here today, the SBA Associate Administrator for Disaster Assistance, James Rivera; Government Accountability Office Director Bill Shear; and Ms. Jaimie Bergeron, from Fleur-de-Lis Car Care Center in New Orleans, Louisiana.

We thank you for taking time away from your business, Ms. Bergeron, to fly here to Washington. I know that you have had your share of experiences with the SBA's disaster programs, and we thank you for your willingness to provide your accounts in terms of your experiences. I know you have also had to deal with numerous disasters, between Hurricanes Katrina, Rita and Wilma in 2005, the Hurricanes Gustav and Ike in 2008, and now the Deepwater Horizon oil spill which is fast becoming the worst offshore environmental disaster in the history of this Nation.

I know in future hearings we hope to hear from the CEO of BP, Mr. McKay, who was present at the Commerce Committee, on which I serve, yesterday. But certainly we need to know how the company is going to be compensating small businesses for their losses and what the level of liability BP is committed to as this bill continues, and the economic impact, not to mention the environmental impact, continues to grow.

I assure that as former Chair, now Ranking Member, of this Committee, I have witnessed the good, bad and the ugly when it comes to the SBA's response to natural disasters. In the days and months and even a year after Hurricanes Katrina and Rita devastated the Gulf Coast back in 2005, I saw the worst side of the Federal Government—slow, inefficient and incompetent.

At the time I was Chair of this Committee and through our tireless efforts, including trips to the Gulf, as my colleagues will recall and the Chair will, convening aggressive oversight hearings and forging numerous pieces of legislation, we were ultimately successful in including into the 2008 Farm Bill key provisions to address many of the fundamental flaws in the SBA's Disaster Assistance

Program, which was important to both of my colleagues who of course represent the State of Louisiana, and Senator Vitter as well. This legislation was critical, learning from all of that experience how essential these reforms were, such as ensuring that the SBA maintain adequate loan processing staff and reserve employees who can be called upon to respond to these disasters in a timely fashion.

I am very pleased that our aggressive oversight and reforms resulted in a streamlined, improved Agency that is much better prepared today to help victims of natural disasters recover and rebuild. But unfortunately, the job certainly is not complete, and according to the testimony, I am sure we are going to hear from Mr. Shear today regarding this.

According to the GAO, the SBA has only fully met 15 of the 26 requirements of the 2008 Farm Bill and has missed deadlines on 5 of the major components of this law. With the SBA currently responding to disasters in Tennessee, where very few people have flood insurance, in addition to Rhode Island, Mississippi, California, Kentucky, Massachusetts, New Jersey, West Virginia and American Samoa, the Agency must show more urgency in fully implementing all of the reform requirements.

The GAO has been generally positive about the SBA's initial response after the 2008 Midwest floods and Hurricane Ike, the 2 largest disasters since the 2005 Gulf hurricanes.

And I hope that we hear today that the SBA is fully equipped to mount an effective and rapid response to the next catastrophic disaster, not to mention the one that is currently underway, and how that is going to work with BP, and making sure we extend assistance to small businesses in an effective and efficient way.

I also look forward to hearing from Mr. Rivera and the SBA about the Agency's response to these recent and ongoing disasters, and specifically:

How many SBA disaster reserves have been activated nationwide?

Has the SBA improved the application process and simplified the burdensome paperwork requirements?

Why has the SBA not implemented the private Disaster Loan Program which was created in the 2008 Farm Bill?

What are the capabilities of the Disaster Credit Management System and is it ready for another disaster the size of Katrina?

At the current pace of disaster declarations, how much of the disaster loan fund does the SBA expect to spend by the end of this fiscal year?

In addition to these issues, I also hope, Mr. Rivera, that you address the SBA's response to reports issued by the Agency's Inspector General last fall, indicating that the SBA is failing to protect taxpayers' dollars by not ensuring compliance with insurance requirements on collateral used to secure loans and for not correctly applying insurance offsets to loan balances. As the Federal Government takes increasing responsibility from the States when it comes to disaster recovery and response, as has been the trend in recent years, we must ensure that taxpayer dollars are protected and used efficiently.

Today's hearing represents an opportunity to look ahead, and ensure the SBA is prepared for the hurricane season and is able to mount a more comprehensive and aggressive response to future disasters. It is paramount that we do not relent in our oversight of these programs.

Thank you, Madam Chair.

Chair LANDRIEU. Thank you.

Senator Vitter.

OPENING STATEMENT OF HON. DAVID VITTER, A U.S. SENATOR FROM LOUISIANA

Senator VITTER. Thank you, Madam Chair, for calling this hearing. It is very important, and I welcome all of our witnesses, particularly Jaimie Bergeron from Lakeview in New Orleans. I am very interested to hear all your testimony.

I also want to thank Administrator Mills. I talked with her in the last few weeks about an aggressive SBA response to the current crisis in the Gulf, and we have gotten significant action that I have suggested, and Senator Landrieu and others have suggested, including the deferral of loan payments of Katrina and Rita loans by people who are now underwater because of this current crisis and also new loan opportunities that many others need.

In addition to that, I would ask that we make part of this discussion the not just authority, but mandate that the President set up a quick loan program for fishermen and others in the fisheries industry, under the OPA bill. Again, that is not just an authority or a possibility. That is a mandate that he do that. I think that would give additional quick relief to folks hard hit in that industry as they deal with the BP claims process, and I would ask when that is going to happen because again, that is not simply a possibility open to the President. It is a mandate under OPA.

And I look forward to all of your testimony. Thank you.

Chair LANDRIEU. Thank you.

Let me begin just briefly introducing the panel. Our first witness, James Rivera is Associate Administrator, as has been said. He started his career in 1989 as a disaster loan specialist in one of the regions. So he comes with a great deal of experience this morning.

Mr. Shear joins us today from GAO. Mr. Shear is Director of the Office of Financial Markets and Community Investment. He is overseeing numerous reports addressing the SBA, Federal Housing Administration as well as the Rural Housing Service.

And last, but certainly not least, at my specific request, Ms. Jaimie Bergeron is here. And I want to say, besides her experience as an insurance adjuster and her own professional experience as a small business owner, her personal story as the Katrina saga unfolded was extremely moving to me, having visited her place of business on any number of occasions, and her husband, Ray Bergeron. And what they went through, I mean Senator Snowe, to try to just reestablish their business is truly an amazing and moving business.

So I am thrilled that you are here, Ms. Bergeron, to really put a face and the fabric and the texture behind what we talk about today.

So let us begin with, Mr. Rivera, with your testimony.

STATEMENT OF JAMES RIVERA, ASSOCIATE ADMINISTRATOR, OFFICE OF DISASTER ASSISTANCE, U.S. SMALL BUSINESS ADMINISTRATION

Mr. RIVERA. Good morning, Chair Landrieu, Ranking Member Snowe and members of the Committee. Thank you for inviting me to discuss the SBA efforts with disaster assistance and recovery.

The SBA is responsible for providing affordable, timely and accessible financial assistance following a disaster to businesses, homeowners and renters. This is available in the form of low interest loans. Since the SBA was created in 1953, we have provided 1.9 million disaster loans for more than $48.5 billion.

Today, we have about 1,300 employees with a reserve force of over 2,000. These staff members help provide disaster loans of up to $200,000 to help homeowners rebuild. We also make loans to nonprofits and businesses of all sizes for up to $2 million, to assist with any uninsured or otherwise uncompensated physical loss sustained during a disaster.

More importantly, we offer Economic Injury Disaster Loans to small businesses, small agricultural cooperatives and nonprofit organizations who cannot find credit in the conventional markets. If a business is unable to meet its obligation and pay its ordinary and necessary operating expenses due to a disaster, these working capital loans help provide a low interest rate of 4 percent for up to 30 years. The maximum loan amount is $2 million combined for both physical and economic injury disaster loans.

In 2009, SBA successfully responded to 25 presidential individual assistance declarations, 40 agency declarations, 15 economic injury declarations and 148 Secretary of Ag declarations. In total, we approved over 21,000 disaster loans for over $1.1 billion.

This year, as a result of the Deepwater Horizon BP oil spill, small business owners in the Gulf Region who work in fishing, seafood retail, boatyards, shipping companies, processing plants and other coastal small businesses may face financial losses from having to shut down or interruptions in their operations due to the oil spill. While small businesses harmed by the BP Horizon oil spill disaster should seek compensation from responsible parties, SBA has a role in helping small businesses affected by the disaster, particularly if there is any delay in receiving payments for claims. SBA is ready to assist these businesses by making Economic Injury Disaster Loans for them in the States of Louisiana, Mississippi, Alabama and Florida. This provides vital bridge financing.

Currently, SBA has 25 loan outreach centers in the impacted areas to meet the small business owners and answer questions about SBA loans. Small business owners can visit one of these centers or can apply online through our electronic loan application, which was introduced in August of 2008 and now accounts for one-third of all applications submitted.

We are also supported by the Small Business Development Centers who provided staff to assist fishermen and other small businesses impacted by the Deepwater Horizon BP oil spill in filing potential claims.

In addition, we are allowing existing SBA disaster borrowers to request a deferment, and we are strongly encouraging our private

lending partners to consider deferment relief for borrowers with SBA traditional non-disaster loans.

I should also note that SBA is currently responding to 38 other disaster declarations, including flooding in Tennessee where we currently have 17 disaster locations responding to the event.

Furthermore, I want to emphasize that we have made dramatic improvements to our disaster operations since 2005 and Katrina. For example, we are currently meeting our processing goal by turning around applications within 7 days for disaster home loans and within 14 days for disaster businesses. To put this into perspective, the average processing time during the 2005 Gulf Coast hurricanes was 74 days for disaster home loans and 66 days for businesses.

We have also increased the number of work stations for our disaster employees from 360 to 1,750, and we have brought an online surge capacity of 350 additional work stations in Sacramento.

We have also improved the Disaster Credit Management System which now gives us the technology to serve up to 10,000 concurrent internal users, up from 1,500.

Finally, we have invested in more front-end training, marketing and outreach to improve our preparedness for and our response to disasters. We have even brought together focus groups of Americans who have been directly affected by disasters to help us learn what works and what does not.

I appreciate the opportunity to share with the Committee the role SBA plays in recovery. We believe that we are prepared to effectively and efficiently respond to the needs of the disaster victims, and I look forward to your questions. Thank you.

[The prepared statement of Mr. Rivera follows:]

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

Testimony of James Rivera
Associate Administrator for Disaster Assistance
U.S. Small Business Administration

Before the
U.S. Senate Committee on Small Business & Entrepreneurship

"The SBA Disaster Assistance Program and the Impact of the Deepwater Horizon Oil Spill on Small Businesses"

May 19, 2010

Good afternoon Chair Landrieu, Ranking Member Snowe, and members of the Committee. Thank you for inviting me to discuss the SBA Disaster Assistance Program and the impact of the Deepwater Horizon oil spill on small businesses. I would also like to thank the Administrator, Karen Mills, for providing me with the opportunity to lead the Disaster Program as the Associate Administrator for Disaster Assistance.

SBA's Role in Disaster Assistance

Through our Office of Disaster Assistance (ODA), the SBA is responsible for providing affordable, timely and accessible financial assistance following a disaster to businesses of all sizes, to homeowners, and to renters. Many disaster survivors have insurance, which covers part or all of the physical property losses due to a disaster, but for disaster losses not covered by insurance, an SBA loan is a critical form of federal financial assistance. This financial assistance is available in the form of low-interest loans. Since the SBA's inception in 1953, we have provided 1.9 million disaster loans for more than $48.5 billion.

SBA is not a first responder agency. Rather, SBA is focused on providing low-interest, long-term loans as part of the recovery effort in coordination with other government partners at the Federal, state, and local levels. In addition to SBA's disaster loan program, we help small businesses recover through our guaranteed lending, technical assistance, and government contracting and business development programs.

Disaster loans are a vital source of economic assistance in areas affected by a disaster. As part of our overall effort to help victims get back on their feet, SBA's disaster home loans of up to $200,000 help members of the local community return to and rebuild their homes. We also make loans to non-profits and businesses of all sizes for up to $2 million to assist with any uninsured and otherwise uncompensated physical losses sustained during a disaster.

Additionally, SBA offers Economic Injury Disaster Loans (EIDL) to small businesses, small agricultural cooperatives, and non-profit organizations that have suffered economic injury caused by a disaster and cannot obtain credit in the conventional market. If a small business or organization is unable to meet obligations and to pay its ordinary and necessary operating expenses, an EIDL loan may help. These loans provide working capital to businesses or organizations. The maximum loan amount is $2 million combined for both physical and economic injury.

In 2009, ODA responded to a number of disaster-related events, including disasters resulting from the Midwest floods and Hurricanes Gustav and Ike. We successfully responded to 25 Presidential Individual Assistance declarations, 40 Agency declarations, 15 Economic Injury and 148 Secretary of Agriculture disaster declarations. We issued over 218,000 applications within one day of receipt from FEMA. We processed over 96,643 loan applications with an average approval time of 8 days. In total, during 2009 SBA approved 21,780 disaster loans for over $1.1 billion.

Recent Disaster Assistance Efforts

As a result of the Deepwater BP oil spill, small business owners in the Gulf Region who earn their living fishing in these waters, as well as seafood retailers, boat yards, shipping companies, processing plants and other coastal small businesses may face significant financial losses from having to shut down operations because of the oil spill.

SBA is ready to assist these small businesses by making Economic Injury Disaster Loans available for small businesses in Louisiana, Mississippi, Alabama and Florida.

These Economic Injury Disaster Loans offer working capital of up to $2 million, with a 4 percent interest rate and terms up to 30 years. These loans will provide vital "bridge financing" to fishing and fishing-dependent businesses to assist with the temporary loss of revenue they are experiencing.

Currently, SBA has staff in over a dozen disaster loan outreach centers in the impacted areas to meet individually with small business owners and answer questions about SBA loans. Small business owners interested in applying for one of these loans can visit one of the disaster loan outreach centers or apply online. SBA is also being supported by the Small Business Development Centers who have provided staff to assist fisherman and other small businesses impacted by the Deepwater Horizon BP oil spill in filing potential claims.

Another step we are taking to help small business owners in these affected areas is to allow existing SBA disaster borrowers to request a deferment. Additionally, the SBA is strongly encouraging its participating private lenders to strongly consider deferment relief for borrowers with SBA-guaranteed 7(a) loans and 504 loans.

While we are working in the Gulf Coast today, SBA is currently responding to 38 other disaster declarations, including the flooding in Tennessee where we currently have 12 disaster loan centers responding to that crisis.

Significant Improvements Since Katrina

Since 2005, we have seen a great deal of success in our disaster program. While we fortunately had a light 2009 hurricane season, in fiscal year 2009 we had the highest

disaster loan approval level in five years. Following the 2005 Gulf Coast Hurricanes, SBA faced severe challenges in providing disaster assistance in a timely fashion. As a result, we made dramatic improvements to our operations. Today, by incorporating lessons learned and process improvements, SBA's Disaster Assistance Program has overhauled the processes and improved response times. SBA is now better prepared to process loans faster, provide a better quality of service and be more helpful to disaster victims.

To ensure overall preparedness the Disaster Program has increased the number of workstations for these employees from 300 to over 2,100 (in Fort Worth) and we have brought online a "surge" center (in Sacramento) with 350 additional workstations. We are currently staffed at approximately 1,300 employees with a reserve force of over 2,000 employees. Additionally, SBA has the ability to use regular employee staff and also the ability to get assistance from Small Business Development Centers and other SBA resource partners.

SBA has also improved its Disaster Credit Management System, which now gives the Agency the technology to serve many users, with increased disaster recovery capacity from 1,500 to 12,000 concurrent users.

In regards to loan processing, we are currently meeting our processing goals by turning around applications within 7 days for disaster home loans (our goal is 14 days) and within 14 days for disaster business loans (our goal is 18 days). To put this into perspective, the average processing time during the 2005 Gulf Coast Hurricanes was **74 days** for disaster home loans and **66 days** for disaster business loans. Additionally, in August of 2008, SBA introduced an electronic loan application which allows disaster survivors to apply for assistance online. Currently, this mechanism accounts for 1/3 of all applications submitted.

SBA has also revamped the post-approval process, improving the processes and tools for loan closings and funding disbursements. Our emphasis is on customer service and accountability, with each approved loan being assigned an individual case manager.

In regards to marketing and outreach, SBA has developed an aggressive plan to reach all potential applicants in an area before a disaster strikes. We are concentrating on areas that are vulnerable to recurring similar disasters to provide expanded outreach efforts before disaster strikes. Additionally, we have provided all SBA employees with access to an online "Disaster Tool Kit" with detailed information on the agency's role in preparedness, outreach, and disaster assistance.

We have also instituted annual disaster trainings for SBA's Regional Administrators, District Directors, and Disaster Public Information Officers on disaster assistance responsibilities. And finally, we are currently involved in an overall assessment of our Disaster Assistance messaging, branding, and outreach. This assessment includes focus groups with individuals who have been impacted by a disaster. The outcome of this assessment helped us strengthen the effectiveness of both our preparedness and post-disaster communications and outreach efforts.

In closing, we appreciate the opportunity to share with the Committee the role SBA plays in small business disaster recovery efforts. We firmly believe that the reforms we have

instituted have enabled us to be prepared to effectively and efficiently respond to the needs of our nation's disaster victims. I look forward to further describing these efforts and to answering your questions. Thank you.

James Rivera
Associate Administrator
Office of Disaster Assistance

James Rivera was named Associate Administrator for SBA's Office of Disaster Assistance in November 2009 after serving for several months as Acting Associate Administrator. In a typical year, his office approves about 20,000 loans totaling about $1 billion. This is the SBA's sole direct lending program.

Prior to this, Rivera served as deputy associate administrator of the office. In that role, he led several efforts to improve the agency's disaster operations after hurricanes Katrina, Rita, and Wilma, including the launch of an online disaster loan application, the development of more efficient loan and underwriting processes, and computer upgrades which have resulted in quicker loan disbursements to homeowners, renters and businesses affected by disasters.

Rivera started his SBA career in 1989 as a disaster loan specialist in Ft. Worth, Texas. He joined the Office of Disaster Assistance team in Washington, D.C., in 1994. Rivera has provided leadership in a number of capacities at SBA since that time. For example, from 2002 to 2006, he served as associate administrator in the SBA's Office of Financial Assistance. Also, he served for a year as assistant administrator for Equal Employment Opportunity and Civil Rights Compliance.

Rivera also has private sector experience as a commercial loan officer specializing in marketing, underwriting and closing transactions in commercial real estate, wholesale and retail markets. He received a bachelor of Business Administration degree in Finance and Economics from Texas Tech University. He and his wife live in Maryland and they have two children.

Chair LANDRIEU. Thank you very much.

Mr. Shear.

STATEMENT OF WILLIAM SHEAR, DIRECTOR, OFFICE OF FINANCIAL MARKETS AND COMMUNITY INVESTMENTS, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. SHEAR. Thank you, Chair Landrieu, Ranking Member Snowe and members of the Committee. It is a pleasure to be here today to discuss our work at the Small Business Administration.

To complete my statement, we reviewed and updated our report, "Small Business Administration: Additional Steps Should Be Taken to Address Reforms to the Disaster Loan Program and Improve the Application Process for Future Disasters." We issued this report in July of 2009.

After the 2005 Gulf Coast hurricanes, many deficiencies were exposed in the Agency's Disaster Loan Program and demonstrated the need for reform. Since then, SBA has taken several steps to reform its Disaster Loan Program, which includes creating an online loan application and increasing the capacity of its Disaster Credit Management System.

In June, 2008, Congress enacted the Small Business Disaster Response and Loan Improvements Act, which placed new requirements on SBA to ensure that the Agency is prepared for future catastrophic disasters.

In my statement today, I will summarize first the extent to which SBA has addressed the requirements of the Act and, second, how SBA's response following the major disasters of 2008 aligned with key components of its June, 2007 Disaster Recovery Plan.

First, with respect to addressing the requirements of the Act, the SBA has met 15 of 26 requirements of the Act and partially addressed 6. The remaining 5 provisions do not require action. You can see the figure on Page 5 of my statement which shows, I say, a lot of small print about summarizing SBA's progress.

Since July, 2009, when we issued our report, SBA has taken a number of actions. For example, the Agency issued an updated DRP in November, 2009. In addition, SBA issued regulations on coordinating with FEMA on timely submission of disaster assistance applications.

With respect to provisions that have been partially addressed, SBA has taken steps to address the Act's requirements for region specific marketing and outreach. For example, SBA has begun a dialogue with the SBDC State Directors in the Gulf Coast about disseminating disaster planning information in the five most hurricane-prone States before the hurricane season begins. However, these steps have not been discussed in public documents or venues, such as in the DRP or on the SBA web site, which would make the information more transparent and easily accessible to the public and Congress.

In our July, 2009, we recommended that SBA develop procedures for regional entities that would enable SBA to meet all region specific requirements of the Act. SBA officials told GAO the Agency has not yet completely addressed some provisions that require new regulations because to do so the Agency must make extensive changes to current programs or implement new programs. For two

requirements that will involve private lenders, SBA plans to implement pilots before finalizing regulations. One pilot for the Intermediate Disaster Assistance Program is expected to be in place by September of this year.

In our July, 2009 report, we recommended that SBA develop an implementation plan and report to Congress on the Agency's progress in addressing all requirements within the Act. Such a plan could improve transparency, thereby making it clear how well prepared SBA is to manage catastrophic disasters.

Now I will briefly address our second objective, addressing how SBA's response to major disasters in 2008 aligned with key components of its June, 2007 Disaster Recovery Plan.

SBA's initial response after the 2008 Midwest floods and Hurricane Ike aligned with certain components of its initial DRP, such as using technology and outreach efforts to ensure timely assistance. The individuals GAO interviewed and results from SBA's 2008 Disaster Loan Program Customer Satisfaction Survey provide some positive feedback about SBA's performance following recent disasters.

However, interviewees and survey results indicated areas for improvement. In particular, both indicated that application paperwork was burdensome and that the application process needed improvements. SBA officials told GAO that they have been taking steps to improve the application process, but did not provide documentation of such efforts. As a result, it did not appear to have any formal process for identifying problems in the application process and making needed improvements.

It is a pleasure to testify before this Committee. I would be pleased to answer any questions.

[The prepared statement of Mr. Shear follows:]

United States Government Accountability Office

GAO

Testimony
Before the Committee on Small Business and Entrepreneurship, U.S. Senate

For Release on Delivery
Expected at 11:00 a.m. EDT
Wednesday, May 19, 2010

SMALL BUSINESS ADMINISTRATION

Continued Attention Needed to Address Reforms to the Disaster Loan Program

Statement of William B. Shear, Director
Financial Markets and Community Investment

GAO
Accountability * Integrity * Reliability

GAO-10-735T

GAO
Accountability·Integrity·Reliability

Highlights

Highlights of GAO-10-735T, a testimony before the Committee on Small Business and Entrepreneurship, U.S. Senate

Why GAO Did This Study

After the Small Business Administration (SBA) was widely criticized for its performance following the 2005 Gulf Coast hurricanes, the agency took steps to reform its Disaster Loan Program. Congress also enacted the Small Business Disaster Response and Loan Improvements Act of 2008 (Act), which places new requirements on SBA to ensure it is prepared for catastrophic disasters.

This testimony discusses (1) the extent to which SBA has addressed the Act's requirements, and (2) how SBA's response to major disasters in 2008 aligned with key components of its June 2007 Disaster Recovery Plan (DRP).

In completing this statement, GAO reviewed and updated, as appropriate, the July 2009 report, *Small Business Administration: Additional Steps Should Be Taken to Address Reforms to the Disaster Loan Program and Improve the Application Process for Future Disasters* (GAO-09-755). In that report, GAO recommended that SBA should fulfill the Act's region-specific marketing and outreach requirements; complete its annual report to Congress; issue an updated DRP; develop an implementation plan for remaining requirements; and develop procedures to further improve the application process for the Disaster Loan Program.

View GAO-10-735T or key components. For more information, contact William Shear at (202) 512-8678 or shearw@gao.gov.

May 19, 2010

SMALL BUSINESS ADMINISTRATION

Continued Attention Needed to Address Reforms to the Disaster Loan Program

What GAO Found

SBA has made some progress since GAO's July 2009 report in addressing provisions of the Act and continued attention to certain provisions will be important for sustained progress. As of May 2010, SBA met requirements for 15 of 26 provisions of the Act and partially addressed 6. Five provisions do not require any action at this time. Since July 2009 SBA has taken a number of actions. For example, SBA issued an updated DRP in November 2009. In addition, SBA issued regulations on coordinating with the Federal Emergency Management Agency on timely submission of disaster assistance applications. SBA also has taken steps to address the Act's requirements for region-specific marketing and outreach. For example, SBA has begun a dialogue with the Small Business Development Center state directors in the Gulf Coast about disseminating disaster planning information in the five most hurricane-prone states before the hurricane season. However, these steps have not been discussed in public documents or venues, such as in the DRP or on the SBA Web site, which would make the information more transparent and easily accessible to the public and Congress. SBA officials told GAO the agency has not yet completely addressed some provisions because the agency must make extensive changes to current programs or implement new programs. In particular, for two requirements that will involve private lenders, SBA plans to implement pilots before finalizing regulations. SBA officials recently said that they had formed a cross-functional work group and began reaching out to lenders about the planned pilots. SBA has not yet developed an implementation plan with milestone dates for addressing the remaining requirements, but recently said it would provide a plan or report that included milestone dates for addressing the Act's requirements.

SBA's initial response after the 2008 Midwest floods and Hurricane Ike aligned with certain components of its initial DRP, such as using technology and outreach efforts to better ensure timely assistance. The individuals GAO interviewed and results from SBA's 2008 Disaster Loan Program Customer Satisfaction Survey provided somewhat positive feedback about SBA's performance following the disasters. However, interviewees and survey results indicated areas for improvement; in particular, both indicated that application paperwork was burdensome and that the application process needed improvement. The agency did not appear to have a formal process for identifying problems in the application process and making needed improvements. SBA officials told GAO that they have been taking steps to improve the application process. However, SBA has not provided information to GAO on how it would implement a formal process to address identified problem areas in the disaster loan application process.

Madam Chair and Members of the Committee:

I am pleased to be here today to discuss our work on reforms made to the Small Business Administration's (SBA) Disaster Loan Program. As you know, SBA plays a critical role in assisting the victims of natural and other declared disasters. SBA provides financial assistance through its Disaster Loan Program to help homeowners, renters, businesses of all sizes, and nonprofits recover from disasters such as earthquakes, hurricanes, and terrorist attacks. Since the agency's inception in 1953, SBA has approved more than $47 billion in disaster loans for homeowners, businesses, and nonprofits.

After the 2005 Gulf Coast hurricanes (Katrina, Rita, and Wilma), SBA faced an unprecedented demand for disaster loans, while also being confronted with a significant backlog of applications; therefore, hundreds of thousands of loans were not disbursed in a timely way. Many criticized SBA for what was perceived to be a slow and confusing response to the disasters and one that exposed many deficiencies in the agency's Disaster Loan Program and demonstrated the need for reform. As a result, Congress and SBA agreed that the program needed significant improvements. Since then, SBA has taken several steps to reform its Disaster Loan Program including creating an online loan application, increasing the capacity of its Disaster Credit Management System (DCMS), and developing a Disaster Recovery Plan (DRP).[1] In June 2008, Congress enacted the Small Business Disaster Response and Loan Improvements Act (Act) which places new requirements on SBA to ensure that it is prepared for future catastrophic disasters.[2]

My statement today is based on our 2009 report and updated information on SBA's progress in addressing the Act's requirements and our report's recommendations.[3] Specifically, this statement focuses on (1) SBA's progress in addressing certain requirements of the Act, and (2) how SBA's

[1] SBA's use of the term "disaster recovery plan" differs from how it is generally used in referring to an information technology-focused plan designed to restore operability of a system, application, or computer facility following an emergency.

[2] Pub. L. No. 110-246, subtitle B, 122 Stat. 2168 (2008).

[3] GAO, *Small Business Administration: Additional Steps Should Be Taken to Address Reforms to the Disaster Loan Program and Improve the Application Process for Future Disasters*, GAO-09-755 (Washington, D.C.: Jul 29, 2009).

response, following the major disasters of 2008, aligned with key components of its June 2007 DRP.

For our 2009 report, we identified and analyzed the requirements of the Act and related statutory deadlines; obtained information about SBA's completed, current, and planned reform efforts; reviewed documents and progress reports to determine if requirements had been addressed and deadlines were met; interviewed officials and obtained information on what, if any, challenges exist that may affect SBA's ability to meet certain requirements; and interviewed officials to obtain information about next steps and resources that the agency identified as needed to address any remaining requirements. We visited Iowa and Texas, and obtained information on SBA's performance in the aftermath of the 2008 Midwest floods and Hurricane Ike. We interviewed SBA and Small Business Development Center (SBDC) officials, state and local officials, and representatives of local Chambers of Commerce, economic development organizations, and affected small business owners about what worked well and what improvements to SBA's disaster loan processes they would suggest. Finally, we reviewed results from a survey of SBA loan applicants on their satisfaction with SBA's Disaster Loan Program in 2008. To update this information, we interviewed SBA officials and reviewed documents related to the disaster reform provisions and actions taken to implement our recommendations.

We conducted our work for the July 2009 report between October 2008 and July 2009 and updated information between March 2010 and May 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

SBA's Office of Disaster Assistance (ODA) responds to disasters and administers the Disaster Loan Program. A Presidential disaster declaration puts into motion long-term federal recovery programs, such as the Disaster Loan Program, but SBA is not a "first responder" after a disaster. Rather, local government emergency services assume that role with help from state and volunteer agencies. For catastrophic disasters, and if a governor requests it, federal resources can be mobilized through the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA). SBA typically responds to a disaster within 3 days by

sending ODA field staff to the affected area to begin providing public information about SBA's services.

Once a disaster is declared, SBA by law is authorized to make two types of disaster loans: (1) physical disaster loans, and (2) economic injury disaster loans. Physical disaster loans are for the permanent rebuilding and replacement of uninsured or underinsured disaster-damaged property, including personal residences and businesses of any size. That is, SBA provides loans to cover repair costs that FEMA or other insurance has not already fully compensated or covered.[4] Economic injury disaster loans provide small businesses, including agricultural cooperatives and private nonprofit organizations, with necessary working capital until normal operations can resume.

The Act comprises 26 provisions with substantive requirements for SBA; some with specific deadlines and some needing appropriations, and includes requirements that SBA must meet for disaster planning and response, disaster lending, and reporting.[5] For instance, the Act includes provisions to improve SBA's coordination with FEMA, require that the agency conduct biennial disaster simulations, create a comprehensive disaster response plan, and improve communication with the public when disaster assistance is made available. It includes requirements to improve ODA's infrastructure, appoint an official to oversee the disaster planning and responsibilities of the agency, and establish reporting requirements for various reports to Congress. The Act also creates new programs, such as the Immediate Disaster Assistance Program that would provide small

[4] SBA can lend individuals amounts up to $200,000 for their primary residence and $40,000 for household goods and personal effects and can lend businesses up to an aggregated $2 million for physical and economic injury disaster loans, before the individuals receive their insurance recovery. In these cases, the loan recipient must use the insurance recovery funds to reduce the balance of the SBA disaster loan. Even individuals or business owners who believe they have full insurance coverage are encouraged to apply for an SBA loan because their insurance recovery may turn out to be only partial, or their damage may exceed insurance policy limits.

[5] In June 2008, as part of the Food, Conservation, and Energy Act (also commonly known as the Farm Bill), Pub. L. No. 110-246, 122 Stat. 1651, Congress enacted the Small Business Disaster Response and Loan Improvements Act of 2008. This law repealed and replaced a duplicative enactment, which had been enacted on May 22, 2008. However, the Farm Bill contains a provision that generally preserved the prior act's date of enactment if it would provide an earlier effective date than the date of enactment of the Farm Bill. Although the Act became law on June 18, 2008, the enactment date for purposes of determining the effective date is May 22, 2008. Therefore, all statutory deadlines presented in our July 2009 report were calculated from May 22, 2008.

dollar loans immediately following a disaster and the Expedited Disaster Assistance Loan Program that would provide expedited disaster assistance to businesses.

SBA Continues to Make Progress in Addressing the Act's Provisions, but Has Not Yet Established Milestones for Implementing Remaining Requirements

As of May 2010, SBA fully addressed requirements for 15 of 26 provisions of the Act; partially addressed 6; and took no action on 5 that are not applicable at this time (see fig. 1). For the 15 provisions SBA fully addressed, the agency's actions included putting in place a secondary facility in Sacramento, California to process loans when the main facility in Fort Worth, Texas is unavailable, making improvements to DCMS to track and follow up with applicants, and expanding its disaster reserve staff from about 300 to more than 2,000 individuals. According to SBA and our review, 5 provisions require no action at this time because they are discretionary or additional appropriations are needed before SBA can satisfy the Act's requirements.

Figure 1: SBA's Status in Addressing Requirements of the 2008 Small Business Disaster Response and Loan Improvements Act, as of May 2010

Section	Description of requirement	Status (May '10)	Deadline
12061	SBA permitted to make economic injury disaster loans to nonprofits.	●	
12062[a]	SBA must ensure its disaster assistance programs are coordinated to the maximum extent practicable with FEMA programs.	●	○
12063	Better public awareness of disaster declaration, application periods, and creation of a marketing and outreach plan.	◑	○
12064	SBA must conduct a study looking at the consistency between standard operating procedures and regulations of the Disaster Loan Program.	●	○
12065	SBA increased loan amounts from $10,000 to $14,000 without requiring collateral.	●	
12066	SBA authorizes private contractors to process disaster loans and coordinate efforts with IRS to expedite loan processing.	◑	
12067	SBA must develop, implement, or maintain a centralized information system to track and follow up with disaster loan applicants.	●	
12068	SBA is authorized to increase the deferment period of loans, but the deferment may not exceed 4 years.	N/A	
12069	SBA must put in a place a secondary facility for processing disaster loans in case the primary facility is unavailable.	●	
12070	SBA can not require the borrower to pay any non-amortized amount for the first 5 years after repayment begins.	●	
12071	SBA is authorized to make economic injury disaster loans in cases of ice storms and blizzards.	●	
12072	SBA must develop and implement a major disaster response plan and conduct a disaster simulation exercise at least once every 2 years.	●	●
12073	SBA must assign an individual the disaster planning responsibilities and report to Congress.	●	●
12074	SBA should ensure that the number of full-time equivalent ODA employees is not fewer than 800 and in the disaster cadre not fewer than 1,000.	●	
12075	SBA must develop, implement, or maintain a comprehensive written disaster response plan and update the plan annually.	●	◑[b]
12076	SBA must develop long-term plans to secure sufficient office space to accommodate an increased workforce in times of disaster.	●	
12077	SBA may not rely solely on the loan applicant's status as a major source of employment prior to the disaster to qualify for disaster loans beyond the current statutory limit.	●	
12078	Maximum disaster loan amount increased from $1.5 to $2 million.	●	
12079	SBA may guarantee any surety against loss on a bid, payment, performance, or ancillary bond on any work order or contract that at the time of the bond execution does not exceed $5 million.	N/A	
12081	If the President declares a major disaster, SBA may declare eligibility for additional disaster assistance.	N/A	
12082	SBA permitted to make economic injury disaster loans to eligible small business concerns located anywhere in the US (including outside the disaster area) when the SBA declares eligibility for additional disaster assistance.	N/A	
12083[a]	SBA must establish and implement a Private Disaster Assistance Program. SBA may guarantee timely payment of principal and interest on private disaster loans issued to eligible small businesses and homeowners within an eligible disaster area.	◑	○
12084	SBA must establish an Immediate Disaster Assistance Program to provide immediate small dollar loans through private lenders.	◑	
12085[a]	SBA must establish an Expedited Disaster Assistance Business Loan Program.	◑	○
12086	SBA is allowed to institute a program to refinance Gulf Coast disaster loans resulting form Hurricanes Katrina, Rita, or Wilma up to an amount no greater than the original loan.	N/A	
12091[c]	SBA must submit reports to Congress on disaster assistance.	◑	◑

● Addressed (initial or ongoing)
◑ Partially addressed
○ Missed deadline
N/A Not applicable because no action is needed to be taken by SBA at this time, due to provisions' discretionary nature.

Source: GAO analysis of the Act and SBA documents.

[a]The Act requires SBA to issue regulations for these provisions.

[8]SBA provided the first updated DRP on November 15, 2009, several months past the expected update in June 2009.

[9]12091(f) includes requirements for a loan approval rate report, which is to provide a "detailing of how [SBA] can improve the processing of applications under the disaster loan program." SBA officials told us that they had covered the requirement in the 2007 DRP. However, it is not clear to us whether information in the 2007 DRP meets the congressional intent of the requirement.

When we issued our report in July 2009, SBA had fully addressed 13 of the 26 provisions. Since then, SBA has fully addressed two additional provisions. As we recommended and the Act requires, SBA issued an updated DRP. SBA also issued regulations on coordinating with FEMA to ensure that disaster assistance applications are submitted in a timely manner. In addition, SBA must revise the regulations annually and report on the revisions when submitting its annual report to Congress. The annual requirements associated with the provision on FEMA coordination will help SBA, FEMA, and Congress to determine whether the regulations are effective.

SBA still has to take additional steps to completely address 6 provisions. For example, SBA officials told us that the agency has taken additional steps to address the marketing and outreach provision, including that they (1) began an ongoing dialogue with the SBDC state directors in the Gulf Coast about disseminating disaster planning and preparation information in the five most hurricane-prone states before the hurricane season, (2) detailed an SBA employee who works with the SBDCs to the Office of Entrepreneurial Development to help the agency develop a strategic approach for its disaster role, and (3) issued some public service announcements tailored to specific regions. In our 2009 report, we recommended that SBA should fulfill the region-specific marketing and outreach requirement, including making this information readily available to regional entities prior to the likely occurrence of a disaster. However, the steps recently taken by SBA have not been discussed in public documents or venues, such as in the DRP or on the SBA Web site, which would make the information more transparent and easily accessible to the public and Congress. As we reported in 2009, we consistently heard from regional entities, such as SBDCs and emergency management groups, about the need for more up-front information on SBA's Disaster Loan Program and their expected roles and responsibilities in disaster response efforts.

According to SBA officials, the agency has not yet completely addressed some provisions because to do so, the agency would have to make extensive changes to current programs or implement new programs—such as the Immediate and Expedited Disaster Assistance Programs—to satisfy

requirements of the Act. These programs, which require participation of private lenders, would be designed to provide businesses with access to short-term loans while they are waiting for long-term assistance. As we reported in 2009, SBA plans to conduct pilots of these programs before fully implementing them. SBA officials recently told us they have established a cross-functional work group jointly chaired by officials from ODA and the Office of Capital Access to address these requirements and develop the pilots. ODA officials said they drafted regulations and received subsidy and administrative cost funding in the 2010 budget to allow them to pilot test about 600 loans under the Immediate Disaster Assistance Program (section 12084). Additionally, SBA officials told us that they performed initial outreach to lenders—such as those who have participated in their Gulf Opportunity Pilot Loan Program—to obtain their reaction to and interest in the programs. They believe such outreach will help SBA identify and address any issues that may arise and determine the viability of the loan programs. SBA officials told us that their goal is to have the pilot for the Immediate Disaster Assistance Program in place by September 2010.

The Act establishes multiple new reporting requirements and while SBA has addressed most of these, the agency has not met some statutory deadlines. For example, as required by the Act and as we recommended, the agency issued its first annual report on disaster assistance in November 2009 but the report was due in November 2008. Specifically, the Act requires that SBA report annually on the total number of SBA disaster staff, major changes to the Disaster Loan Program (such as changes to technology or staff responsibilities), a description of the number and dollar amount of disaster loans made during the year, and SBA's plans for preparing and responding to possible future disasters.[6] In 2009, we reported that failure to produce annual reports on schedule can lead to a lack of transparency about the agency's progress in reforming the program. The agency has had limited success in meeting nine additional

[6] The Act also states the annual report must include information on some requirements under certain provisions, such as (a) the regulations on coordination with FEMA to assure that applications for disaster assistance are submitted as quickly as practicable as required under section 12062; (b) disaster simulation exercises conducted by the agency under section 12072; (c) updates to the comprehensive DRP required under section 12075; and (d) updates to SBA's plans for securing office space to accommodate an expanded workforce required under section 12076.

provisions in the Act that have deadlines associated with them.[7] The agency also has not developed a plan with expected time frames for addressing the remaining requirements. Not having an implementation plan in place for addressing the remaining requirements can lead to a lack of transparency about the agency's Disaster Loan Program, capacity to reform the program and program improvements, as well as its ability to adequately prepare for and respond to disasters. In our 2009 report, we recommended that SBA develop an implementation plan and include milestone dates for completing implementation and any major program, resource, or other challenges the agency faces as it continues efforts to address requirements of the Act. Recently, SBA officials told us that they would provide a plan or report that included milestone dates for addressing the Act's requirements.

SBA's Response Following 2008 Disasters Aligned with Some DRP Components, but Its Responses to Disaster Victims' Feedback on the Application Process Could Be Improved

SBA's initial response following the 2008 Midwest floods and Hurricane Ike aligned with major components of its DRP, such as infrastructure, human capital, information technology, and communications. For example, according to SBA, following both disasters the agency used its organizational infrastructure and key staff in each of its core functions to provide disaster assistance. ODA also utilized available operational and technological support, and communications and outreach, to help ensure that the agency would be able to provide timely financial assistance to the disaster victims. Additionally, individuals affected by both disasters with whom we spoke considered the agency's overall performance somewhat positive, but believed the disaster loan process could be improved.

In May 2008, floods devastated 85 counties in Iowa (one of several states affected) and in September 2008, Hurricane Ike devastated 50 counties in Texas. SBA and SBDC officials, state and local representatives, private-entity officials, and business owners in Iowa and Texas told us that in the days immediately following the disasters, ODA staff reported to the affected areas and began providing needed disaster assistance. These individuals also said that SBA staff provided outreach and public information about the Disaster Loan Program; distributed application information; assigned knowledgeable customer service representatives to various Disaster and Business Recovery Centers; and helped applicants by

[7] In July 2009 we reported that SBA had met some deadlines for four provisions, missed one deadline by 27 days, and missed deadlines for four remaining provisions by many months.

answering questions, providing guidance, and offering one-on-one help—as outlined in SBA's DRP. In addition, our review of SBA's 2008 Disaster Loan Program Customer Satisfaction Survey also showed that respondents were somewhat satisfied with the assistance SBA provided during other recent disasters.

However, both the individuals we interviewed and survey results indicated areas for improvement and opportunities to increase satisfaction. For example, individuals we interviewed and survey responses pointed to concerns about the amount of paperwork required to complete SBA's disaster loan application and the timeliness of loan disbursements. Also, some business owners said they had to provide copies of 3 years of federal income tax returns, although they had signed an Internal Revenue Service (IRS) form 8821—Tax Information Authorization—which allows SBA to get tax return information directly from IRS. To address these concerns, the individuals we interviewed suggested several changes to the program, such as eliminating the requirement that business loan applicants provide copies of IRS tax records; providing partial disbursements earlier in the process; using bridge loans to help ensure disaster victims receive timely assistance; and involving SBA, SBDCs, and state and local officials in joint pre-planning and disaster preparedness efforts.

Although SBA officials told us they have been improving the application process, they had not documented the improvement efforts. In addition, we found that while SBA conducts an annual customer satisfaction survey, the agency does not appear to incorporate this feedback mechanism into its formal efforts to continually improve the application process. Furthermore, SBA does not appear to have a formal process for addressing identified problem areas and using the information gained to improve the experience of future applicants. By establishing such a process to address identified problem areas, SBA could better demonstrate its commitment to improving the Disaster Loan Program. Because the agency has missed opportunities to further improve its Disaster Loan Program, and in particular improve the application process for future applicants, we recommended in our July 2009 report that SBA develop and implement a process to address identified problems in the disaster loan application process. In response to our recommendation, SBA cited ongoing efforts since 2005, such as the electronic loan application, and said the agency has plans to continue its improvement efforts and make them an ongoing priority. However, SBA has not provided information to us on how it would implement a formal process to address identified problem areas in the disaster loan application process.

As you know, we have reported on a variety of issues related to the federal government's response to the 2005 Gulf Coast hurricanes.[8] As part of this committee's efforts to assess the level and success of federal efforts to help Gulf Coast small businesses recover from the 2005 hurricanes, we are conducting work at your request that focuses on small business recovery efforts in four states impacted by Hurricanes Katrina and Rita: Alabama, Louisiana, Mississippi, and Texas. This summer, we will report to this committee on: (1) assistance small businesses in the Gulf Coast received from the SBA, the Department of Housing and Urban Development, and the Economic Development Administration; (2) federal contract funds received by small businesses; and (3) the small business economy in the Gulf Coast region.

Madam Chair, this concludes my prepared statement. I would be pleased to respond to any questions you or other Members of the Committee may have.

GAO Contacts and Acknowledgments

For further information on this testimony, please contact William B. Shear at (202) 512-8678 or shearw@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals making key contributions to this testimony include Kay Kuhlman, Assistant Director; Beth Faraguna, Alexandra Martin-Arseneau, Marc Molino, Linda Rego and Barbara Roesmann.

[8] For example, GAO, *Small Business Administration: Actions Needed to Provide More Timely Disaster Assistance*, GAO-06-860 (Washington, D.C.: Jul 28, 2006); *Catastrophic Disasters: Enhanced Leadership, Capabilities, and Accountability Controls Will Improve the Effectiveness of the Nation's Preparedness, Response, and Recovery System*, GAO-06-618 (Washington, D.C.: Sep. 6, 2006); and *Small Business Administration: Additional Steps Needed to Enhance Agency Preparedness for Future Disasters*, GAO-07-114 (Washington, D.C.: Feb. 14, 2007).

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.

GAO's Mission	The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.
Obtaining Copies of GAO Reports and Testimony	The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site (www.gao.gov). Each weekday afternoon, GAO posts on its Web site newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to www.gao.gov and select "E-mail Updates."
Order by Phone	The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's Web site, http://www.gao.gov/ordering.htm. Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537. Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.
To Report Fraud, Waste, and Abuse in Federal Programs	Contact: Web site: www.gao.gov/fraudnet/fraudnet.htm E-mail: fraudnet@gao.gov Automated answering system: (800) 424-5454 or (202) 512-7470
Congressional Relations	Ralph Dawn, Managing Director, dawnr@gao.gov, (202) 512-4400 U.S. Government Accountability Office, 441 G Street NW, Room 7125 Washington, DC 20548
Public Affairs	Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800 U.S. Government Accountability Office, 441 G Street NW, Room 7149 Washington, DC 20548

Please Print on Recycled Paper

WILLIAM B. SHEAR

Bill Shear is Director of Financial Markets and Community Investment at the U.S. Government Accountability Office. Bill has directed substantial bodies of work addressing the Small Business Administration (SBA), the Federal Housing Administration (FHA), regulation of the housing GSEs, the Rural Housing Service, and community and economic development programs.

Chair LANDRIEU. Thank you very much.

Ms. Bergeron.

STATEMENT OF JAIMIE BERGERON, OWNER, FLEUR–DE–LIS CAR CARE CENTER

Ms. BERGERON. Thank you for inviting me to speak here, Senator Landrieu and Senator Snowe and other members of the Committee.

My husband, Ray Bergeron, and I have operated Fleur-de-Lis Car Care Center in the Lakeview neighborhood of New Orleans since 1988, and I would like to speak on behalf of Senator Bill 2986.

We are a family business that, prior to Hurricane Katrina, employed 9 people. On August 29th, my husband and I enjoyed a measure of financial security. We owned an unencumbered home and a successful business.

By August 29th, we were homeless, jobless and in debt. In a few hours, the flooding caused by the levee failures wiped out over 20 years of work and savings.

In early 2005, we were negotiating for the sale of the business, and my husband, who turned 70 years old a few weeks after the flood, was looking forward to retirement. Today, there are no purchase offers. We are working 12-hour days, and the SBA holds a $250,000 mortgage on our home which we will be force to sell if the business fails.

Prior to the flood, we served an average of 250 customers a day. Our business was one of the few in the city to offer full-service gasoline. We were the largest tire dealer in the neighborhood, and we offered a full range of mechanical services.

As soon as the flood waters receded, we began to clean up and plan to reopen. Many businesses held off, waiting to see if residents would return before they made that commitment. We believed it was up to businesses to provide essential services, so residents could come back. And they have, but not in the numbers required for us to keep our doors open.

Today, our business is about half of what it was, averaging less than 100 customers a day. We have cut hours and eliminated many of the services we used to provide because we cannot cover the necessary payroll. We had hoped to be fully staffed by now, but since the recession we have been forced to lay off three employees. We have only two left, and our SBA funds have run out. We cannot afford to borrow more.

We applied for an SBA disaster loan in September, 2005. After approving our loan, SBA sent us to closing in December, 2005, without providing us with the necessary mortgage documents. When we asked for a new closing date, we were told that that would delay the process, and we were encouraged to sign the loan agreement. We did so with the understanding the funds would be disbursed as soon as the mortgage documents were returned to SBA; that did not happen.

SBA advanced us $10,000 in January, 2006. We received no additional funds until April of that year, and then only after we agreed to take less money than we had been approved for and to pay 2 different title companies $305 each for title searches on the same piece of property.

SBA based our payments on the amount approved rather than the amount borrowed, but later agreed to reduce our payments by $200 per month. However, we were forced to begin paying the loan back on the anniversary of the closing date, December, 2006. As a result, we barely had eight months to restart the business before we were required to begin making payments on the loan.

Although individual SBA employees I dealt with worked hard for us, there seemed to be no sense of urgency and no system in place to process disaster loans efficiently.

Recently, the streets surrounding our business were closed for repairs. New roads mean better access, and we hope more customers. In the meantime, two of the three points of entry are blocked. We are told that repairs will not be complete until December, 2010 at the earliest.

In February, we received a six-month deferment from SBA to help us deal with this major business interruption. We are grateful for the assistance, although we know that interest continues to accrue and there will be a large balloon payment due at the end of the term of the loan. That is a bridge we will have to cross when we come to it.

A few months, Senator Landrieu and SBA Administrator Karen Mills visited our business, and I had an opportunity to tell them how much the small businesses affected by Hurricane Katrina need loan relief to stay in business and create more jobs. Even in our current situation, we need one more employee. As things improve, we hope to add more jobs, but as of now the debt service does not leave us with enough funds to hire even that one employee and be confident we can make our payroll. The bill before this Committee could help us do that.

Small businesses in our area are dealing with the twin burdens of a prolonged recovery and the effects of the worst recession in decades, and now South Louisiana has been hit with another disaster off our coast. Nearly five years later, our business and others like it are still in need of the relief this bill will provide, and I ask you to support it.

[The prepared statement of Ms. Bergeron follows:]

SBA Disaster Assistance Hearing-Jaimie Bergeron-Fleur de Lis Car Care Center

On August 28, 2005, my family enjoyed a measure of financial security. We owned an unencumbered home and a successful business. By August 29th, we were homeless, jobless and in debt. In a few hours, the flooding caused by the failure of the levee at the 17th Street Canal wiped out over twenty years of work and saving.

My husband Ray and I have operated Fleur de Lis Car Care Center in the Lakeview neighborhood of New Orleans since 1988. We are a family business that, prior to August 2005, employed nine people including myself, my husband and his son.

By early 2005, we'd received several good offers to purchase our business and my husband, who turned seventy years old a few weeks after the flood, was contemplating retirement. Nearly five years later, there are no purchase offers, Ray is working twelve hour days and the SBA holds a $250,000 mortgage on our home

In October, 2005, as soon as we were cleared to re-enter the area, we began the clean up, making plans to reopen even thought there was no one on the street besides news photographers, the NOPD and the National Guard. Back then, many businesses held off, preferring to see if residents would return before they made the commitment to reopen. We looked at it differently. We believed it was up to the business owners to show their confidence in the area and provide essential services so residents felt comfortable coming back. And they have come back—but, so far, not in the numbers we need to stay in business.

Prior to the flood, we served an average of two hundred and fifty customers a day. Our business was one of the few in the city to offer full service gasoline, a labor intensive effort that was much appreciated by our customers. We were the largest tire dealer in the neighborhood and we offered a full range of mechanical services. At one time we employed two mechanics along with a helper.

Our daily customer count has dropped to about one hundred—on a good day. We now have only two employees besides Ray and me. We are doing our best to provide the same level of service we used to, but it is impossible because of the limited staff. We've cut hours and eliminated some of the services we used to provide because we simply do not have the manpower. We'd hoped to be operating with a full staff by now, but since the recession we have been forced to lay off three employees. Our SBA funds have run out.

We submitted our original application for an SBA loan on September 28, 2005 and received notice of approval by phone in late November 2005, with a closing date scheduled for December 21, 2005.

Because we lease the land on which our business is located, our home was used as collateral for both the business loan and the small personal loan we also obtained from SBA. The SBA representative told me to bring a copy of our ownership papers as well as proof of flood and homeowners insurance on the property along with voided checks to allow direct deposit of funds. He assured me these were the only documents we needed to close.

However, at the closing, the SBA representative there informed us that we also needed proof of insurance on the business as well as "mortgages documents" which were supposed to be provided to us by SBA prior to closing. When we asked about rescheduling the closing so that we could obtain the proper documents, she told us that doing that would only slow the process and that we should go ahead sign the closing papers. We were told that, once we actually

SBA Disaster Assistance Hearing-Jaimie Bergeron-Fleur de Lis Car Care Center

received the documents from SBA, we could take them, along with proof of additional insurance, to one of the SBA Disaster Centers and the funds would be disbursed. That did not happen.

By January 2006, we had obtained the necessary insurance information but, despite several requests, SBA still had not sent us the mortgage documents. We went to a local SBA Disaster Center and spoke with a representative of their legal department who informed us that, since we had been approved, SBA could provide an immediate advance of $10,000 with the remainder of the proceeds being paid once they received the mortgage document. On January18, 2006 we received that $10,000 disbursement and still no documents from SBA. Soon after we did receive the documents and with the help of Carmen Sunda with the Louisiana Small Business Development Center we completed them and returned them to SBA. Contrary to what we had been promised, it was not enough.

Between January and March 2006, I engaged in repeated phone conversations with the SBA Legal department in an effort to determine exactly what documents SBA required before giving us a final disbursement. The requirements changed with every conversation. In addition, SBA forced us to pay $305.00 to two different title companies for separate title searches on the same piece of property. When I questioned this, I was told that this business is given out to contractors on a strict rotational basis every time a loan comes up. I asked for an exception since the collateral for both the business loan and the home loan was the same piece of property. I was told that there could be no exceptions to this policy and we were forced to pay twice for the exact same work.

In March 2006, because of the long delays involved and the confusion about SBA's ever changing requirements, we chose to reduce the amount of the loan to speed up the process of getting the needed funds, reduce our indebtedness and avoid the additional expense and delay of obtaining a title policy, which SBA had recently decided it needed. We were now three months past closing and only a few weeks from the planned opening of our business. Our employees wanted to come back to work and we were doing our best to reopen. But there was no money for inventory or equipment. Filling our tanks with fuel costs in excess of $20,000.

In April, 2006 we received a final disbursement on our loan with the first payment due in December, 2006. On May 8, 2006, I requested that the date of first payment be adjusted along with the amount of the monthly payment, since the payment amounts were based on approved amounts—not the amounts actually borrowed. And, although we received no substantial disbursement until April 2006, because we signed the note in December 2005 we were being held to that date as the one year anniversary of the loan.

While SBA undoubtedly took credit for "closing" our loan in December 2005, we did not receive more than a token amount for four months. Had we known this, we would not have closed without having all of the documents in hand. We trusted that SBA would deal fairly with us. Needless to say, we felt as though we'd been duped.

On July 27, 2006, after much discussion with their legal department, SBA agreed to reduce the monthly loan payments by $200 to $1123.00 per month. Our request for an extension of the repayment date was denied and they forced us to begin repayment one year from the date of the supposed closing.

I have no complaints about any of the individual SBA employees I dealt with. Each of them worked hard for us. Even when we were given incorrect information, I'm confident they told us what they believed to be the truth. The problems went higher up. There seemed to be no system in place and no direction.

SBA Disaster Assistance Hearing-Jaimie Bergeron-Fleur de Lis Car Care Center

Now, nearly five years later, the recovery seems to be underway. Recently the streets surrounding our business were closed for repairs. New roads mean better access and, we hope, more customers. In the meantime two of the three points of entry to our business are blocked and we're told that repairs will not be complete until December 2010 at the earliest.

Because of that, we asked for and received a six month deferment from SBA to help us deal with this major business interruption. We are very grateful for the assistance although we know that interest continues to accrue and there will be a large balloon payment due at the end of the term of the loan. That's a bridge we will have to cross when we come to it.

Recently, Senator Landrieu and SBA Administrator Karen Mills visited our business and I had an opportunity to tell them both how much the small businesses affected by Hurricane Katrina need loan relief to keep their doors open and create more jobs. Even in our current situation, we need at least one more employee. And as things improve we hope to again be fully staffed. But as of now, the debt service does not leave us with enough secure funds to hire even one employee and feel certain we can make that payroll. The bill before this committee could give us the confidence to do that.

Small businesses in our areas are dealing with the twin burdens of disaster recovery and the effects of the worst recession in decades. Just last week we were notified that United Fire Group is cancelling our garage liability policy because of an "*overall reduction in exposure in the insured's region of the country*". And now South Louisiana has been hit with another disaster off our coast. We are being attacked from all sides.

Still, we are survivors. Many cities would have become ghost towns after suffering a disaster such as the one that hit New Orleans. Instead we are coming back though citizen-sponsored recovery and the hard work of small business. We're doing what we have to do, but we need help.

Jaimie Bergeron is President of Fleur de Lis Car Care Center Inc., a family business she operates with her husband, C. Ray Bergeron. They have been married for twenty-eight years and have one daughter. Jaimie is a native of New Orleans and a graduate of the University of New Orleans and Delgado Community College. She is a member of the Lakeview Civic Improvement Association, a resident of Lakeview since 1983 and a business owner in that neighborhood since 1988.

Chair LANDRIEU. Thank you, Ms. Bergeron. Let me just begin with you because it is important I think to put, as I said, a face and texture on what this Committee deals with, so that the administrators here understand that Ms. Bergeron is speaking for at least 12,000 small businesses on the Gulf Coast that have loans similar to her loans and similar situations. And we are trying to desperately to provide some relief to these current 12,000 disaster loan holders, in addition, understanding the new pressures that have come to bear on this particular region because of the unfolding disaster.

Ms. Bergeron, when you and your husband, Ray, decided to go back into Lakeview, would you just take 30 seconds or a minute to describe what Lakeview and your neighborhood looked like, how it felt and who was there?

Ms. BERGERON. There was no one there.

Chair LANDRIEU. This was six months after?

Ms. BERGERON. Yes.

Chair LANDRIEU. Could you describe what it looked like?

Ms. BERGERON. When we first came back, we started cleaning up in October of 2005, and there was no one there, literally. There were no birds. There were no—it was unbelievable. It was very, very unbelievable. It was us, the National Guard, the NOPD and the Associated Press, and there was not much else.

We just felt like the neighborhood would come back. We just really believed people—if you are not familiar with New Orleans or the Lakeview neighborhood, people have very, very deep roots. A disaster like that happening some place else might have turned it into a ghost town. But in New Orleans, and particularly in Lakeview, people have lived there, generation after generation, and they come back. And they have, but right at first, no.

And we were the only business on the block for a very long time. We stayed in business initially with the funds that we got, obviously, from SBA and also because of the cleanup, the contractors, with the trucks. We began selling diesel, something we had not done before because there was no demand for it, but we switched that around because we could see what was coming.

Chair LANDRIEU. Can you tell me what some of the neighbors said when they drove up to your gas station in those first few months or even the first year, what they shared with you?

Ms. BERGERON. Oh, it was amazing. We have pictures on the wall of our first customer that came back, pictures of the first full-serve customer and the first self-serve customer. People were just like, we are so glad you came back. We are so glad that you are here.

It did give a lot of people confidence. We had people tell us that, where they said if you are coming back, I am coming back. And that was something that we heard often.

Chair LANDRIEU. Let me ask you this. There was almost one million people displaced by the storm, and many of them were in Baton Rouge which is 90 miles away from the city, and some of them were in Houston, and some of them were in other parts of the Country. Was there any other gas station that you knew of in that first couple or six months to a year that was open within 20 miles of your station?

Ms. BERGERON. Not too many. No, not very many. I know there were none in Lakeview for quite some time. We were pretty much it. There may have been a few in Jefferson Parish adjacent, where they had some flooding, but it was not of the severity that we had in our neighborhood.

But we did. We had people coming from all over the city, people we had never seen before, people coming from further east, from Gentilly and from New Orleans East and places like that, where they had nobody that had yet reopened.

Chair LANDRIEU. I would just end this line of questioning. I have one more question to each, and then I am going to turn it over to my colleagues.

This is true of many neighborhoods in the Gulf Coast, but basically the routine would be people would drive in for hours, fill up their gas tank at this one gas station that was open, stand outside under an oak tree and have mass on Sunday, to see their neighbors, and then the next week would start all again. Without churches conducting services and these pioneer businesses opened, I do not know how this city and this region would have come back.

And that is the purpose of this hearing is to see what we can do to help them expedite their openings, relieve their burden and give them the support because they are actually leading the recovery. Not the Federal Government, not the State government, it is the small businesses that start to breathe immediate life back into the community that has been so devastated.

So, Mr. Rivera, what would you like add just to this testimony briefly? I have some other follow-up questions I can submit in the record. But what have you done or what are reviewing that can help Ms. Bergeron?

And are you all supporting the loan relief that I have requested, along with Senator Cochran and others, for this current group of holders of this debt?

Mr. RIVERA. Regarding the loan relief, we have the servicing office that has worked pretty effectively with the Bergerons. They provided a six-month deferment. My understanding of the discussion was if there is a need at the end of the six-month period—we clearly understand her situation—we can take a look at doing another six-month deferment and just working with. We work with all our disaster borrowers. I mean there is no doubt about it.

One of the things that I would like to just comment on, we were well aware of the fact of the numerous contacts that the borrowers had to make once they received a loan from us, and we have actually reengineered that entire legal department, the account department. We actually have a case manager now, one person that is a point of contact for all the SBA borrowers. So anytime that your loan is approved, you only deal with that one case manager from the time you get your initial disbursement, from the loan closing documents to your initial disbursement until it is fully closed. That seems to have been a much more effective process instead of having to deal with different individuals through that process. We hope that that is a successful improvement.

Chair LANDRIEU. All right, Mr. Shear, just one for you. In your testimony, you indicated that 26 of the requirements that this Committee has put in the reform legislation which was, as Senator

Snowe said, inserted in the 2008 Farm bill. In your testimony, you said the SBA has met 15, partially addressed 6.

Could you talk about the top three that have not been yet implemented, why they have not in your mind and what we need to do, either additional deadlines to be submitted or additional legislation that needs to be passed, or is it a rule, expediting the rule process?

Mr. SHEAR. The 3 I would put at the top as the most challenging for SBA, among the 26 provisions, are the ones dealing with lending through private lenders, and those are the 3 that stand out. We understand that by September there will be a pilot with one of the programs which is probably the simplest of the three to roll out, and we strongly encourage pilots when going into a new activity like this.

As far as legislative proposals, I think the best thing that can happen now is to make sure that SBA moves forward judiciously, at least on the two where they plan to have pilots, and to assess the results of those pilots, so that there are some lessons learned, so that these programs can be tailored and delivered on a timely basis. So I think it is an oversight issue.

Chair LANDRIEU. Thank you.

Senator Snowe.

Senator SNOWE. Thank you, Chair Landrieu.

Ms. Bergeron, I am so sorry for all that you have endured and experienced. I mean I can see across the board the pain and the hardship that you have had to confront, you and your husband, in such a horrendous ordeal and for so long. We truly appreciate the fact that you are here today to share your experiences.

Hopefully, there is some way that we can help to make this better. I know there are some things beyond your control and our control when we have these types of disasters, but hopefully we can get you through, you and your husband through, in this terrible ordeal.

One of the issues I wanted to ask you about, have you requested a deferment from the SBA with respect to your payments, they are allowed to do up to 12 months?

Ms. BERGERON. We received a six-month deferment because of the business interruption issue when they—our business is located on a corner. Because with the stimulus package and part of it is the Submerged Roads Program, they worked on both roads at the same time. So we had a period of time there where there was no access at all. You could not get in and out. Now three of the four, I am sorry, two of the three access points are closed, but one is open now.

We did request a six-month deferment. We requested and received a six-month deferment back in February. We have to resume payments in August with a balloon note at the end. However, Mr. Rivera was mentioned re-looking, looking at it again.

I do not have it with me, but as I recall from reading the letter I received from SBA, it said this is one time only. You can have a six-month deferment, but please understand that we will not do this again. So the idea that it will be looked at again is something I have not heard before, and I appreciate that. That would be wonderful, but it is not something that I was aware was even a possibility based on what they sent me.

Senator SNOWE. I am going to ask a question in a moment to why it was not 12 in her circumstance. I mean it seems to me that every hurdle, I mean every impediment, had been thrown your way, certainly over a protracted period of time.

I know the State of Louisiana, I know that through Chair Landrieu and Senator Vitter that it has borne the brunt of unprecedented disasters in such a short period of time. So we have to do everything we can to extend assistance to you.

So, Mr. Rivera, why would it not be 12 months in her case, and why is it a 1-time only situation?

Mr. RIVERA. The initial request, it is my understanding, predated obviously the oil spill, and the time her request was six months. Had she requested 12 months, I am sure we would have taken a look at a 12-month deferment because of the dynamics of the road closures and stuff. But we will definitely take a look as a result of the recent BP oil spill. We will take a look if she wants a further deferment after the six months expires.

Senator SNOWE. Yes, we ought to decide, certainly for our purposes too, what we need to do to change the law in that regard, to make sure that that is an option under extenuating circumstances and the contingencies that arise from these kinds of events. That is hard to determine. When you make a 6-month request, how do you know it is going to be 6 months or up to 12? You should have the options depending on the circumstances.

Mr. RIVERA. Okay. We understand.

Senator SNOWE. Does that require a statutory change?

Mr. RIVERA. No, ma'am.

Senator SNOWE. It does not, okay. But it is certainly something that we would want to incorporate into law at some point, to make sure that that flexibility is available.

See, something positive happened when you came to Washington.

[Laughter.]

Senator SNOWE. See how quickly that happened?

Ms. BERGERON. I see how quickly that happened.

Senator SNOWE. You just have to endure a hearing. In any event, we get things done.

[Laughter.]

Senator SNOWE. See what you did, Chair Landrieu, instantaneously?

So your interaction with SBA, has it been generally positive or negative, any difficulties?

Ms. BERGERON. My interaction with the individuals at SBA was positive. They really, the people that I spoke with all seemed like they wanted to help, with the exception of the people who were initially at the Disaster Assistance Office. But beyond that, the people that I spoke with in the legal department, whatever, they were all very, very helpful.

They tried, but it was a constantly changing requirement. They would say: Yes, this is all we need; yes, this is it. And two weeks later I would get the phone call: Well, we need this now; we need that now.

We reached a point where we were getting ready to open. It was several months past when we had closed.

Senator SNOWE. So what year would this be?

Ms. BERGERON. 2006.

Senator SNOWE. 2006, okay.

Ms. BERGERON. 2006. We were trying to get open. So finally, we had to reduce the amount of money we had been approved for in order to get the loan because they came back and said we want you to buy a title policy, which would have cost several thousand dollars, and they had already made me pay twice for a title search.

We just said we have got equipment coming. We have no way to pay for it. How much can we borrow that you do not need a title policy? They told us, and that is what we did.

Senator SNOWE. I see. So has that all improved, Mr. Rivera and Mr. Shear, that process that she just described?

Mr. RIVERA. We have completely reengineered the legal aspect of it. I mean as I mentioned earlier, one of the challenges we had is a disaster borrower would contact a bank of 20 attorneys, and the possibility of dealing with a different response when you deal with those individuals goes up exponentially.

So what we have done is again we have a case manager. Once your loan is approved, you go to one individual from the loan closing documents to the initial disbursement. If you have any questions, you call the processing center and the disbursement center, and you will deal with that one individual.

We have seen it much more. It has made it a much more effective process since we have gone at this new approach. We heard a lot of those stories, and obviously I mean we empathize with the situation, and that is why we went to this reengineering effort.

Senator SNOWE. Mr. Shear, do you have anything to say in that regard?

Mr. SHEAR. Yes, not to the legal requirement itself. While we acknowledge that the Agency has become more responsive to the needs of victims of disasters over time, we are still looking for a more structured approach to react to problems that are reported, from work that we have done and have reported, information coming to SBA, information coming to SBA from its customer satisfaction survey. A more structured or formal process is needed to try to improve difficulties in just the day-to-day dealings with victims of disaster.

Senator SNOWE. Mr. Rivera, I just want to ask one question in your coordination with BP on assistance to small businesses, and I know Senator Vitter raised the fisheries issue as well. In order to get funding for fisheries, you have to go through a disaster declaration, though I gather in this instance assistance could be given through the Oil Spill Trust Fund. What are you doing, the SBA specifically, to coordinate with BP to make sure they are receiving assistance and also through the Economic Disaster Loan Program?

Mr. RIVERA. Yes, ma'am. We have, Administrator Mills has, the authority under the SBA Act to do a governor's certification, to declare a governor's certification. Five small businesses have to sustain substantial economic injury in that case.

In the State of Louisiana, we received the first request from the governor there, and we started with 6 primary parishes, and then we expanded it to 12 primary parishes. Then we received subsequent requests. And we received the requests on a Monday or Tuesday as a result of the fisheries closure on Sunday, and then

we turned around and were able to declare the disaster area on Wednesday. So we had a 24-hour turnaround.

We had the same situation for Mississippi, Alabama and Florida as a result of the BP oil spill.

The way we are responding to this event, if there is a business that has had a direct impact as a result of this disaster, they can go ahead and file an Economic Injury Disaster Loan application with us. As another condition in our loan agreement, we will say in the event that there is a like kind claim that they file with BP, that we will use those that. We will use those proceeds to pay down the loan.

But there is no requirement that they go to BP first. I mean we are being very proactive, and we are leaning forward as much as we can.

We have received about 100 applications so far in the State of Louisiana, and we started processing those loans, and then we have some approvals already.

Senator SNOWE. We are going to make sure that BP repays all that assistance, correct?

Mr. RIVERA. Absolutely, but they have other types of assistance for physical damage that we may not loan out in this specific case to. But correct, they will.

Senator SNOWE. Thank you.

Chair LANDRIEU. Well, I wanted to follow up with that because I think this is very, very important for the businesses that are being stressed with this current situation in the Gulf Coast. Specifically, does the SBA have authority to use the assignment of a BP claim as collateral?

And let me just finish the question. And if not, what are you requiring for collateral for these loans to be made, and what are your limits?

Mr. RIVERA. Right. The Economic Injury Disaster Program will not change in its substance. What we will do is we will make a loan as we always do. We will take best available collateral in this case.

We are not going to take an assignment of insurance for the BP claim. What we are going to do is we are going to put another condition in the loan document. It is an easier, simpler process. There is not filing that has to occur. So, once they get the claim, they will just use that claim to pay down the loan.

Chair LANDRIEU. Okay. But let me be clear. You are requiring collateral. You are requiring collateral for the loan.

Mr. RIVERA. Yes, ma'am.

Chair LANDRIEU. And give us some specifics about options. People could put up what? Their house?

Mr. RIVERA. We take best available collateral.

Chair LANDRIEU. Which means what in English?

Mr. RIVERA. If you have a chattel, we can take a chattel mortgage on your boat. It does not matter if it is a first or second lien position. We can take a second or third lien position on somebody's home. We will take whatever collateral is available.

Chair LANDRIEU. And suppose no collateral is available?

Mr. RIVERA. Then we just do not secure the loan. I mean that is what we do.

Chair LANDRIEU. You do not make the loan or you do not secure the loan?

Mr. RIVERA. No, we do not secure the loan. What we will do is we will just——

Chair LANDRIEU. You will make an unsecured loan.

Mr. RIVERA. Well, we will put a lien on—we will just put a blanket lien on available assets, but there is no real security. We will just do a public filing.

Chair LANDRIEU. The idea would be to create, Senator, some kind of avenue for this loan to be paid in full according to the law, which is BP's obligation to these individuals. In other words, if we cannot get funding advanced directly from BP, if we do this correctly, there is a way that these loans can be made, but no principal and interest paid, hopefully for a while until BP can make this whole.

Now I want to ask you, Mr. Shear, do we have to change any laws to allow that to happen in your opinion, or can it be done administratively?

Mr. SHEAR. We have not examined that situation. We would be glad to talk to Committee staff about it and see what we could do to try to answer your question and to look into it, but we have not addressed that question.

Chair LANDRIEU. Okay, because I do think that this is sort of the most important issue right before this Committee right now—the fishermen and other businesses. It could be hotels, tourism, restaurants, seafood processors. I mean there are a number of businesses that are more directly, more immediately affected than others in this region. And depending on how long this situation goes on and how grave the environmental impacts have been, which have not yet been determined, this could be a very serious situation for businesses along the Gulf Coast, from Texas all the way to parts of Florida.

We want to make sure that the laws are adhered to, and one of the laws overriding this is that BP is responsible under the Oil Pollution Act to pay for economic injury to individuals, to businesses, to governments, both local, State and Federal. They are even picking up the tab, I understand, for the National Guard that is on the coast right now. So what we want to make sure is that we eliminate any possibility that businesses in the Gulf Coast would go belly-up either waiting for the SBA to process or BP.

And I will turn this over to you. I know you have to go.

Senator SNOWE. I just want to raise a question that you raised, to address that, the question of collateral. There has to be some way for BP to assume the responsibilities for that because if the business is going to SBA and does not have the necessary collateral to back up that loan, I mean this is the difficulty that they are going to, the individual owner is going to, have to assume for a crisis that they did not create. And BP is responsible for it. So it seems to me that we have to get some clarity on those issues because the person should or the business owner should be made whole.

And if they have to go to SBA to get the loan because they are not getting that immediate reimbursement from BP, and they have to put up collateral, and they may not have adequate collateral, then clearly there has got to be some responsibility on the part of

BP to make that, correct that situation, to mitigate that, because why should they be in the position—the small business owner to be in a position of not being able to access a loan immediately, to rectify the situation.

Chair LANDRIEU. Well, one of the things we are going to do, and our time has run out today, but I do plan to have a hearing on this, more directly on this subject, probably next week. The date has not yet been set, but we are pulling the panel together because it is very, very important.

And just for the record, I wanted to state, Senator Snowe, that there are currently 11,745 disaster loans, business loans outstanding relative to Gustav, Ike, Katrina and Rita, from Louisiana, Mississippi and Texas. The bulk of course being in Louisiana, over 7,000 loans currently outstanding, not for this current disaster but for past.

I am also going to submit for the record that these are not insignificant sums for some of these fishing communities. Calcasieu, on the western part of our State, has 263 loans outstanding for a total of $21 million.

In Orleans, one of the parishes, not right on the coast but sort of the hub of the southeast region, there are 3,000 business owners that currently have loans outstanding, these same kinds of businesses—restaurants, seafood processors, small mom and pop hotels, maybe seeing some cancellation, marine operators, boat captains, $26 million outstanding.

In Saint Bernard Parish, which you have seen all over the news, Saint Bernard and Plaquemines, there are 682 current loans for $78 million, outstanding.

My fishermen and my constituents are telling me: "We are loaned up to the hilt on the Gulf Coast. We have got everything we ever owned, mortgaged, from the last disasters, and now we are facing a potentially significant slowdown in business." Some people are actually completely out of business because they are fishing and their fishing waters have been closed.

So I appreciate, in conclusion, the progress that we have made over the last couple of years, but the Ranking Member and I are going to be very focused in the next weeks to make sure that we are expediting, streamlining every process and proposing any new legislation necessary to make sure we do not have hundreds, dozens, hundreds of thousands of businesses collapse, waiting for help to come either from us or from BP.

Does anybody want to give a 30-second answer or response?

Mr. Rivera, just 30 seconds of anything you would like to add to the record before we close?

Mr. RIVERA. From the perspective of looking at the disaster operation of the Agency a couple years ago, compared to today, we have really done a lot of process improvements. We continue to strive hard. Customer service is very key from that perspective. And we will continue to keep you and your staff informed as we go through all these developments.

Chair LANDRIEU. Mr. Shear.

Mr. SHEAR. As you know, at the request of you and Senator Snowe, we are looking at basically the 5-year anniversary of the

2005 hurricanes, and we are writing that report. We are nearing completion on that.

But on these issues, and obviously the oil spill is a huge issue, we really would welcome any interaction with you and Committee staff, if you wanted to us to kind of like act to that body of work.

Chair LANDRIEU. Well, I most certainly do, and if you could that would be extremely helpful.

Ms. Bergeron.

Ms. BERGERON. I think I would just say with respect to the SBA disaster loans in particular, since that is kind of about what I know about this, it is just to think about it in terms of the individuals. In our particular case, we could be homeless if this business fails. It is not just oh, well, my business failed; I guess I have to go get a job.

I told Administrator Mills, you probably remember. In 2005, I owned my house. You own it now.

It is a very, very difficult thing when you are speaking about collateral for these fishermen, taking their boats and mortgaging their boats. Some of them already have tons of loans and mortgages and whatever. They cannot pay it. They just cannot pay it.

It just seems like there must be a more creative way to come up with collateral for a disaster loan. For a regular SBA loan, of course, it is different. But for collateral, it just seems like there has got to be a better way.

Chair LANDRIEU. Thank you. We are going to look for one, Ms. Bergeron.

Thank you very much. Meeting adjourned.

[Whereupon, at 12:06 p.m., the Committee was adjourned.]

APPENDIX MATERIAL SUBMITTED

Chair Mary L. Landrieu
Small Business Committee Hearing: "Oversight on the Small Business Administration Disaster Assistance Program"

Questions for James Rivera, U.S. Small Business Administration

Question #1 -- SBA Disaster Loan Funding

It is my understanding that as of January 31st, the SBA had $131 million in disaster loan administrative expenses – enough to last through FY2010 if there are no catastrophic disasters. The Agency also had $846 million in disaster loan authority, sufficient to make approximately $7.8 billion in disaster loans.

- What are the current levels of disaster administrative expenses and disaster loan authority?

- The President's Budget request includes $203 million for disaster loan administrative expenses but no funding for disaster loan authority. There also was no disaster-related SBA funding requested as part of the Administration's Supplemental request. Does SBA require additional appropriations for disaster loan authority at this time? (Yes/No)

Agency Response: For FY 2010, the SBA disaster loan program had $815 million in loan subsidy resulting in $7.5 billion in loan authority. The disaster loan program was authorized $170.8 million for administrative expenses and has spent $101.3 million as of May 31, 2010, with $69.6 million remaining.

SBA will not require additional appropriations for disaster loan authority at this time. We believe that we have sufficient funding at $203 million for administrative expenses and with $7.5 billion in loan authority.

Question #2 – SBA Coordination with FEMA, IRS

One of the major issues post-Katrina was a lack of SBA coordination with FEMA and the IRS. For example, business owners were asked for three years of tax returns, although they had signed an IRS authorization form (for SBA to get tax return information directly from IRS). FEMA and SBA also lacked a coordinated application process – often 'bouncing' disaster victims back and forth between agencies as they sought assistance. The 2008 disaster reforms included two provisions to fix these coordination issues.

- Can you update the committee on SBA's implementation of the requirement from the Farm Bill to improve SBA-IRS coordination on tax records?

- Can you also update the committee on the recent regulations issued on FEMA-SBA coordination?

Agency Response: SBA and IRS have been working together to provide federal income tax transcripts in a faster and more cost effective manner for several years now. When the process first started SBA would manually fax each request for tax transcripts to IRS and IRS would have to fax each individual tax transcript back to SBA. The paper transcripts would have to be sorted and filed in each physical loan file. When SBA went to the current paperless file, the tax transcripts would have to be manually scanned and the scanned documents attached to the appropriate case file. The process was labor intensive for both parties. Today SBA faxes the request for tax transcripts to IRS and IRS sends an image of the tax transcript back to SBA to be attached to the case file. This process has reduced the strain on both SBA and IRS. SBA and IRS continue to improve the flow of documents and information between the agencies with a goal of being able to electronically transfer data from SBA to IRS and IRS back to SBA.

The recent regulation issued on FEMA-SBA coordination formalizes the flow of data between the FEMA's NEMIS system and SBA's DCMS system. It also formalizes the process to identify and correct exception generated by either system. FEMA/DHS and SBA recently published a computer matching agreement (CMA) in the Federal Register (75 Federal Register 120 (23 June 2010), pp. 35847 - 35851) used between NEMIS, DAIP and DCMS to identify possible issues such as duplication of benefits. SBA continues to work closely with FEMA to ensure the flow of information between agencies improves the delivery of assistance to disaster victims.

Question #3 – FY11 Budget Request and Disaster Preparedness

- Do you believe that the disaster reforms to date, as well as the disaster funding included in the President's Budget request, will allow SBA to effectively respond to disasters which may occur during Fiscal Year 2011? (Yes/No)
    - If so, please elaborate on some of the key changes and funding areas.

Agency Response: Yes, we believe that the disaster reforms to date, as well as the disaster funding included in the President's Budget request, will allow SBA to effectively respond to disasters which may occur during Fiscal Year 2011.

We have seen a great deal of success in our disaster program. While we fortunately had a light 2009 hurricane season, in fiscal year 2009 we had the highest disaster loan approval level in five years (SBA had 21,780 Disaster Loan Applications Approved for $1.1 Billion) primarily responding to the 2008 hurricanes (Ike and Gustav). As of May 31, 2010, we have approved over $265.8 million in loans.

SBA is reaching out to communities to minimize the need for disaster loans.

- SBA has begun a very aggressive marketing and outreach plan to reach all potential applicants in an area before a disaster strikes. We concentrate on areas that are subject to recurring similar disasters and provide expanded outreach efforts before a disaster strikes.

- We have provided all SBA employees with access to an online Disaster Tool Kit that provides detailed information on the agency's role in disaster assistance and preparedness outreach, along with resources to help them carry out that role.
- We have also instituted annual disaster training for SBA's Regional Administrators, District Directors, and Disaster Public Information Officers on disaster assistance responsibilities.

Outreach efforts with National League of Cities (NLC)

The NLC, along with participation from SBA has been conducting an emergency training program titled "Crisis Leadership for Local Officials." The program is intended to educate local leaders about their role in emergency management and support the National Preparedness Goal of meeting specific national priorities of expanded regional collaboration, strengthening information sharing and collaboration, and inter-operability communications. Included in the training is a module about the SBA and how it plays a role in recovery. SBA has collaborated with NLC to develop and present this training course.

The training effectively addresses the four missions of emergency management: prevention, protection, response and recovery. The course helps improve intra and intergovernmental coordination, communication and mutual/automatic aid during and after a disaster. A series of pilot seminars began in 2009, including Washington, DC on March 14 and 15, Chicago on May 8 and 9 and Mobile, AL on September 21 and 22. Forty additional training classes have been scheduled and training will be conducted throughout the country.

Local, State, Tribal, and Federal preparedness task force

SBA is a key participant in this task force. The task force is charged with making recommendations for all levels regarding: disaster and emergency guidance and policy; federal grants; and federal requirements, including measuring efforts.

Among other things, the focus of the task force is to evaluate where a program can be improved, which policies and guidance need updating, and the most appropriate process by which to update them.

Electronic Loan Application

One of the Office of Disaster Assistance's (ODA) Strategic Management Goals is to offer disaster victims accessible, easy-to-use and time-saving services through the electronic filing of applications.

- SBA has leveraged the power of technology and the Internet, and has transformed loan-making into a virtual process that provides efficient and timely filing of loan applications and subsequent loan decisions to disaster victims.
- The Electronic Loan Application (ELA) is the on-line version of the paper disaster loan application which was process-modeled based on industry and government best practices.

- This e-application facilitates the immediate transfer of disaster victim data into ODA's loan processing system, prevents most applicant entry errors and reduces application completion time and effort by the disaster victim.
- The sooner SBA can collect accurate information from disaster victims on their needs and loan eligibility, the faster SBA can respond.
- Reliance on paper-only loans applications and mail distribution as well as unclear hand-offs and service agreements with other federal agencies *(specifically FEMA and IRS)*, delays the capture of information necessary for loan processing, create information security risks and potential backlogs of applications for system entry.

Auto and Pre LV declines

- SBA raised the minimum credit reports scores for loan decision processing to reflect industry and SBA historical experience. This change reduced processing of applications that statistically do not meet loan eligibility requirements, resulting in a faster notification to disaster victims and referral to other assistance sources and better utilization of ODA loan officers. Since implementation this has enabled ODA to automate the decision processing.

Post-approval process

- We have improved the processes and tools for loan closings and funding disbursements by creating case management teams with staff from each key area, such as loan processing and legal. The emphasis is on customer service and accountability, with each approved loan assigned to a team and an individual case manager.

Question #4 – Guaranteed Disaster Loan Pilot Programs

The 2008 Farm Bill included two new SBA bridge loan programs – a $25,000 Immediate Disaster Assistance Program and a $150,000 Expedited Disaster Loan Program. Congress provided necessary funds last year for SBA to test these programs this year with local lenders.

- How is SBA progressing with piloting and issuing regulations on these two programs?
- Will this process be completed before the end of the calendar year?

Agency Response: Progress on § 12083, § 12084, § 12085 since budget authority was granted -

A cross functional work group has been established in line with the successful model developed in the Recovery Act Implementation. The work group is co-chaired by senior executives from Office of Capital Access and Office of Disaster Assistance.

- Process flow maps have been made for each product
- Draft regulations have been completed (currently being cleared in-house)
- Legal issues affecting implementation strategies have been researched
- Initial credit models have been completed and are in the process of being refined based on various implementation scenarios

- Initial outreach to lenders have been conducted to discuss proof of concept
- Preliminary discussions have been held with a potential national lending partner for the $25,000 loan program

Possible Impediments

- § 12083 Private Disaster Loans ($2,000,000 max)
  - ✓ No statutory authority to conduct a pilot unless catastrophic disaster declared
- § 12084 Immediate Disaster Assistance Program ($25,000 max)
  - ✓ Limited number of loans available through pilot may discourage broad bank participation
  - ✓ The level of fees and interest rates to make it worthwhile may be substantially higher than regular disaster loans
- § 12085 Expedited Disaster Assistance Loan Program ($150,000 max)
  - ✓ No statutory authority to conduct a pilot unless a catastrophic disaster is declared
  - ✓ Interest rate (Fed Funds plus 300bps) may be below minimum for bank participation

Next Steps

- Finalize project timelines
- Refine subsidy models
- Conduct lender roundtable to inform operating requirements
- Recruit lenders to participate in $25,0000 loan program in high disaster prone areas
- Issue regulations for all three programs
- Target launch of pilot – By September, to coincide with the majority of the hurricane season

Question #5 – USDA/SBA Disaster Coordination

Following the 2005 and 2008 hurricanes, there were many complaints from Gulf Coast small businesses regarding USDA-SBA disaster coordination. In particular, I believe that there are some major gaps between USDA and SBA disaster programs. Congress is partly to blame for not addressing sooner disparities in eligibility requirements in these programs. For example, the Small Business Act specifically excludes aquaculture businesses from receiving SBA economic injury loans, although there is no other Federal disaster program, at USDA or elsewhere, that assists these businesses.

- Can you comment on SBA disaster eligibility requirements versus USDA eligibility requirements and whether legislation may be needed to correct these issues?
- If practicable, can SBA provide our committee with legislative language to remedy this situation?

Agency Response: ODA suggests that the definition of agricultural enterprises (§18(b)(1)) be amended to allow disaster loan eligibility for more of those agricultural enterprises not eligible for USDA disaster assistance. Statutory language and implementation should be developed in consultation with USDA.

Question #6 – SBA Implementation of 2008 Reforms

In GAO's testimony they indicate that, out of 26 requirements in the 2008 Farm Bill, SBA has met 15 and partially addressed six. Five provisions either require additional appropriations or are discretionary (so require no action at this time).

- Is SBA on track to address these six remaining requirements? (Yes/No)
  - Does SBA have a schedule for implementing remaining requirements?
  - If so, will SBA provide the committee with this schedule or a date certain for meeting these final requirements?

Agency Response: Yes, SBA has continued to address the remaining requirements of the 2008 Small Business Disaster Response and Loan Improvement Act.

Section 12063 – Marketing and Outreach Requirements

- As stated above, we have begun a very aggressive marketing and outreach plan to reach all potential applicants in an area before a disaster strikes. We have concentrated our outreach efforts on areas that are subject to recurring similar disasters and we provide expanded outreach efforts before disaster strikes.

- We have also expanded our outreach efforts through our participation with the NLC in conducting emergency training program titled "Crisis Leadership for Local Officials." The training effectively addresses the four missions of emergency management: prevention, protection, response and recovery. The course helps improve intra and intergovernmental coordination, communication and mutual/automatic aid during and after a disaster. Through this training, we clarify expected roles and responsibilities in disaster response efforts as well as information on SBA's disaster loan program. Over 40 training classes were scheduled and conducted throughout the country.

Section 12066 - Private contractors and coordination with IRS

- The SBA has awarded contracts to 3 Service Providers capable of processing and closing SBA disaster loans. The aim was to award a contract to a Service Provider(s) who would seamlessly augment ODA's processing staff. As a result, ODA now has the capability of using 3 Service Providers during normal disaster activity to prevent backlogs, but more importantly in the event of a surge.
- As stated above, SBA and IRS have been working together to provide federal income tax transcripts in a faster and more cost effective manner by continued improvement of the flow of documents and information between the agencies. Our goal is to be able to electronically transfer data from SBA to IRS and IRS back to SBA.

Sections 12083, 12084, and 12085

- As stated above, a cross functional work group has been established. We are in the process of finalizing timelines to refine subsidy models, conduct lender roundtable to inform

operating requirements, recruit lenders to participate in $25,000 loan program in high disaster prone areas and issue regulations for all three programs.

Section 12091 - Annual Report to Congress

The Annual report will be submitted by November, 2010.

○