

SMALL BUSINESS ADMINISTRATION'S FY 2023 BUDGET

HEARING BEFORE THE COMMITTEE ON SMALL BUSINESS UNITED STATES HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTEENTH CONGRESS SECOND SESSION

HEARING HELD
APRIL 27, 2022



Small Business Committee Document Number 117-053
Available via the GPO Website: www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

47-393

WASHINGTON : 2022

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CONTENTS

OPENING STATEMENTS

Hon. Nydia Velázquez	Page 1
Hon. Blaine Luetkemeyer	2

WITNESS

Hon. Isabella Casillas Guzman, Administrator, United States Small Business Administration, Washington, DC	4
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APPENDIX

Prepared Statement:	
Hon. Isabella Casillas Guzman, Administrator, United States Small Business Administration, Washington, DC	46
Questions and Answers for the Record:	
Questions from Hon. Velázquez to Hon. Guzman and Answers from Hon. Guzman	55
Questions from Hon. Golden to Hon. Guzman and Answers from Hon. Guzman	56
Questions from Hon. Phillips to Hon. Guzman and Answers from Hon. Guzman	57
Questions from Hon. Houlahan to Hon. Guzman and Answers from Hon. Guzman	58
Questions from Hon. Luetkemeyer to Hon. Guzman and Answers from Hon. Guzman	60
Question from Hon. Fitzgerald to Hon. Guzman and Answers from Hon. Guzman	72
Questions from Hon. Van Duyne to Hon. Guzman and Answers from Hon. Guzman	72
Questions from Hon. Salazar to Hon. Guzman and Answers from Hon. Guzman	74
Questions from Hon. Meuser to Hon. Guzman and Answers from Hon. Guzman	77
Additional Material for the Record:	
Credit Union National Association (CUNA)	79
Letter to Hon. Merrick B. Garland, Attorney General, United States Department of Justice from Hon. Blaine Luetkemeyer	81
Letter to Hon. Richard Delmar, Acting Inspector General, United States Department of the Treasury from Hon. Blaine Luetkemeyer	83
National Association of Federally-Insured Credit Unions (NAFCU)	86
U.S. Small Business Administration Office of Advocacy	88

SMALL BUSINESS ADMINISTRATION'S FISCAL YEAR 2023 BUDGET

WEDNESDAY, APRIL 27, 2022

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The committee met, pursuant to call, at 10:00 a.m., in Room 2360, Rayburn House Office Building, Hon. Nydia Velázquez [Chairwoman of the Committee] presiding.

Present: Representatives Velázquez, Golden, Davids, Mfume, Phillips, Newman, Bourdeaux, Carter, Chu, Evans, Delgado, Andy Kim, Craig, Luetkemeyer, Williams, Stauber, Meuser, Tenney, Garbarino, Young Kim, Van Duyne, Donalds, Salazar, and Fitzgerald.

Chairwoman VELÁZQUEZ. Good morning. I call this hearing to order.

Without objection, the Chair is authorized to declare a recess at any time.

I would like to begin by noting some important requirements. Standing House and Committee rules continue to apply during hybrid proceedings. All Members are reminded that they are expected to adhere to these rules, including decorum.

House regulations require Members to be visible through a video connection throughout the proceeding, so please keep your cameras on. Also, remember to remain muted until you are recognized to minimize background noise.

In the event a Member encounters technical issues that prevent them from being recognized for their questioning, I will move to the next available Member of the same party and I will recognize that Member at the next appropriate time slot provided they have returned to the proceeding.

I want to thank Administrator Guzman for appearing before the Committee today. When your tenure began, small businesses were experiencing a once in a lifetime crisis. Since your confirmation, you and the staff at SBA have worked tirelessly to stand up new programs, institute new protections against fraud, and handle unprecedented demand for traditional SBA programs.

Today, the worst of the pandemic is believed to be behind us and there is some good news to report. Since President Biden took office, our economy has added over 7.4 million jobs, unemployment is down to 3.6, and entrepreneurs have started new businesses at record rates. With that said, the deep wounds inflicted by the pandemic and the conflict in Ukraine continue to fester. As small em-

players work towards a full recovery, they will need our utmost support.

Moving forward, we must utilize the SBA to drive success and empower entrepreneurs. That is why SBA programs must have the funding necessary to meet the needs of small business owners. We have an opportunity to discuss the SBA's 2023 budget request and learn how it will help our main streets flourish. The administration's proposed budget lays out the investments needed to build a stronger, better, and more equitable America.

The funding outlined in this plan will help lower costs for families, create good-paying jobs, and drive our recovery forward. The proposal also places a strong emphasis on supporting the needs of entrepreneurs with three overarching goals: ensuring equitable design and delivery of programs, building resilient businesses and a sustainable economy, and implementing strong stewardship of resources.

The pandemic taught us that access to critical resources is often unequal among businesses, particularly those owned by women and people of color. The SBA's focus on equity will help ensure that all firms have access to the resources they need to succeed. I am also pleased to see that the proposal includes funding and investments in key programs, modernization, customer service, and core contracting initiatives.

I am eager to discuss how the money requested in this budget will strengthen and improve initiatives that increase access to capital, improve disaster assistance, and create more government contracting opportunities for small firms.

Administrator Guzman, you have been at the forefront of the recovery effort and your work has kept millions of businesses open and people on the payroll. I look forward to hearing from you about the specifics of this request and the agency's top priorities for the upcoming year.

I would now like to yield to the Ranking Member, Mr. Luetkemeyer, for his opening statement.

Mr. LUETKEMEYER. Thank you, Madam Chair, and thank you, Administrator Guzman, for joining us in person this morning to discuss the Biden administration's Fiscal Year 2023 budget request.

The SBA has played an outside role in assisting the American economy recovery from the COVID-19 pandemic. As the nation moves away from the emergency period of the pandemic and into recovery, it is critical that we evaluate SBA's role moving forward. To do so requires a full and complete evaluation of the agency's performance, including the critical pandemic relief programs.

Unfortunately, a full evaluation of one of the largest pandemic relief programs, the Paycheck Protection Program, continues to be hindered by Secretary Yellen's failure to appear before this Committee. In the CARES Act, the Department of Treasury was charged with onboarding new lenders into the program. Yesterday, on the 1-year anniversary of Secretary Yellen missing her first deadline to testify before this Committee, and thus America's small businesses, I sent two letters requesting follow-up investigations in this matter. The first letter I sent was to Attorney General Garland asking for a Department of Justice Investigation into whether Sec-

retary Yellen remains in violation of the law by failing to appear before this Committee. The second letter I sent was to the Department of Treasury's Acting Inspector General, Richard Delmar, requesting an investigation into the department and Secretary Yellen.

I ask unanimous consent to enter into the record these letters, Madam Chair.

Chairwoman VELÁZQUEZ. Without objection, so ordered.

Mr. LUETKEMEYER. Thank you.

It has been just over a year since you assumed the role of administrator and you have faced no small task, Administrator Guzman, from unprecedented state and local shutdown orders that forced small businesses to either operate at a reduced capacity or close their doors entirely to rising inflation, labor shortages, and supply chain disruptions. The SBA has its work cut out for it. So if there is ever a time for the agency to rise to the occasion, this is it.

Despite the country moving toward recovery, American small businesses continue to feel repercussions thanks in no small part to the actions and failures of this administration. Headwinds are blowing stronger by the day, and if that sounds familiar, it is because economic indicators were bad the last time you were here in November and since then have only continued to go in the wrong direction. Prices are now rising at the highest rate in 40 years. Job openings continue to rise, even in just a few months since you last testified, and creating staffing headaches for small business owners across the nation.

If it is not the labor shortage, it is a supply chain issue as more and more small businesses are finding it nearly impossible to obtain goods and products. Add to that the concern among small business owners when they hear of tax increases this administration is routinely proposing, and it is no wonder so many small business owners have begun to question who is supposed to be standing up for small business?

I can answer that question, Madam Administrator. It is you. You are the one who should be advocating for small businesses in this administration. If a policy or regulation creates red tape or a cost for small businesses, it is you who should be pointing this out to the president.

The American Action Forum has studied the regulatory costs associated with the Biden administration's first year in office. Unfortunately, those costs come to a staggering \$201 billion. Let me repeat that, \$201 billion in just 1 year of compliatory costs. This is unacceptable.

If the Biden administration continues to impose tax increases, you should be pointing out that no matter how they spin that increase, the impact on small businesses is, in fact, going to be hurting them. Now more than ever, we need a Small Business Administration that is responsive to the nation's 32 million small businesses, entrepreneurs, and startups. Yet, we continue to see the same thing.

This hearing is scheduled, and magically, our letters and inquiries start to receive responses. The speed at which our concerns are being addressed is improving but more work needs to be done. With \$1.2 trillion flowing through the agency's doors, the American

public needs accountability and transparency. Plain and simple, the SBA needs to be improved and I have a plan to do it.

Now, more than ever, small businesses need an SBA that is responsible and fulfills the statutory mission day in and day out. The core responsibilities that are outlined in law need to drive the agency's decision making. Anything else is irresponsible. Unfortunately, that is what we see with your budget, more spending without outcomes for main street USA.

Moreover, fraud is fraud, Madam Administrator. As Republican leader of this Committee, I do not care when it happened, it needs to be addressed. The integrity of the SBA's programs need to be restored fully and comprehensively. I stand ready to work with anyone and everyone to ensure the SBA has the oversight and metrics in place to deter and catch bad actors. The agency must be cleaned up.

And that brings us to voting. There is no place in the Constitution that supports the SBA getting involved in elections. That is squarely in the state's purview. With a 30 percent fraud rate on one of your loan programs, and having to close two of your women's business centers because of dubious activities, what makes you think the SBA would be able to protect the integrity of voting? It is a question we are going to have to answer.

With that, Madam Chair, I look forward to today's conversation, and I yield back.

Chairwoman VELÁZQUEZ. The Ranking Member yields back.

With that, I will now introduce our distinguished witness, The Honorable Isabella Casillas Guzman. Administrator Guzman is currently serving as the 27th Administrator of the Small Business Administration. Her previous experience includes serving as Director of the California Office of the Small Business Advocate and Deputy Chief of Staff at SBA. Outside of her time in government, Administrator Guzman has advised entrepreneurs and owned her own small business, giving her extensive insight into the needs of entrepreneurs. Administrator Guzman earned a Bachelor of Science from the University of Pennsylvania Wharton School of Business.

Welcome, Ms. Guzman. Ms. Guzman, you are now recognized for 5 minutes.

STATEMENT OF THE HONORABLE ISABELLA CASILLAS GUZMAN, ADMINISTRATOR, UNITED STATES SMALL BUSINESS ADMINISTRATION

Ms. GUZMAN. Thank you, and good morning, Chairwoman Velázquez, Ranking Member Luetkemeyer, and distinguished Members of the Committee. Thank you for the opportunity to appear before you today to discuss President Biden's Fiscal Year 2023 budget request for the U.S. Small Business Administration.

The president's budget requests a total of \$1.06 billion to foster growth and opportunity across America's economy by supporting the SBA's critical small businesses programs and disaster assistance. This funding level generates practical investments in economic progress, and with your support, allows us to continue delivering crucial programs and services for a surging wave of new American entrepreneurs.

Over the past year, I have visited small businesses across 28 states and Puerto Rico. I have had the opportunity to visit many of the communities you represent and witness the strength and resilience of American entrepreneurship firsthand.

Despite hardships from the pandemic, America's small businesses and innovative startups are creating new jobs, powering our economy, strengthening our global competitiveness, and supporting working families.

And Americans are launching businesses at record rates. Business applications have risen more than 30 percent from pre-pandemic levels, and in 2021 alone, 5.4 million Americans applied to start a business.

One of this administration's top priorities is making sure the opportunities of this growing economy are reaching all Americans. President Biden often says that ability is spread evenly but opportunity is not, and that is important because building equity, ensuring access and opportunity are open to all, is not just the right thing to do, it is good for business.

Thanks to historic legislation passed by Congress, the SBA has been able to deliver critical relief and help millions of small businesses, especially in the hardest hit communities, survive the pandemic.

In Fiscal Year 2021, the SBA distributed more than \$450 billion in financial relief through the Paycheck Protection Program, the COVID Economic Injury Disaster Loan and Advance programs, the Restaurant Revitalization Fund program, and the Shuttered Venue Operators Grant program. Those vital relief funds saved jobs in every community in the country.

Now, we are delivering on the promise of PPP forgiveness. To date, 87 percent of all eligible PPP recipients have submitted forgiveness applications, and nearly all, 99.4 percent of qualified applicants have had their loans partially or fully forgiven.

SBA has not only delivered on pandemic relief, but our core capital programs, which support hundreds of thousands of jobs are also breaking records. Demand for SBA capital support is outpacing the resources available with a 62 percent increase in 7(a) loans and a 41 percent increase in 504 loans approved.

Given the high demand for SBA's capital programs and their effectiveness for our small businesses, President Biden is requesting a 13 percent increase over our core programs for a total of \$71 billion.

In addition, the budget recognizes that SBA needs additional support to service those \$361 billion in COVID-EIDL. The budget requests authority to reprogram existing balances in targeted COVID-EIDL funding to advance to support and service loans for the 3.9 million borrowers.

A large percentage of these borrowers will start making payments in the months ahead, requiring SBA to shift from origination to servicing. As we enter this new phase of recovery, SBA must provide borrowers with needed resources and the quality customer service that they deserve.

While my written testimony outlines other budget priorities, one additional key area I want to highlight is our efforts to upgrade our systems and processes to detect and prevent fraud. During this ad-

ministration, the SBA has acted quickly to protect taxpayer dollars, first by restoring controls and deploying new technology to mitigate fraud. Our work to implement or enhance fraud control has been recognized by federal accountability agencies and watchdogs.

I also recently announced the creation of a new Fraud Risk Management Board to replace the Fraud Risk Management Council. This new board provides the oversight and agency-wide coordination recommended by the GAO. Additionally, I designated a Special Counsel for Enterprise Risk to work directly in my office to further limit fraud and risk across the agency in coordination with our established fraud management framework. To recover taxpayer funds, we are working closely with the Office of Inspector General and other federal authorities to refer suspected fraud to law enforcement. Effective stewardship is necessary for the SBA to achieve our mission. I am committed to working with stakeholders, including Congress, to protect SBA's programs from abuse and ensure that legitimate businesses have a clear path to access the financial resources Congress has created for them.

Thank you again, Chairwoman Velázquez and Ranking Member Luetkemeyer, and distinguished Members of the Committee for the opportunity to appear before you today. And I look forward to the questions.

Chairwoman VELÁZQUEZ. Thank you, Administrator Guzman. I will begin by recognizing myself for 5 minutes.

Ms. Guzman, access to capital, as you know, is critical to small businesses and the SBA loan programs have had a banner year. How will you continue this success and also expand to employee-owned businesses and cooperatives as mandated by statute?

Ms. GUZMAN. Our capital access team is positioning and their whole agency is positioning to make sure that we can serve not only those new 5.4 million entrepreneurs but all of our firms across the country. And we know that access to capital remains a really important issue for so many of them to overcome. In particular, around the Main Street Act, we are really committed to making sure that all businesses have pathways to accessing capital, including those that are employee-owned and those ESOPS. And so we have worked with the advocates in the industry to see what we can do to assess and adapt our programs to fit their needs and we have made some important changes. And we will continue to assess those programs as we move forward and as we see more loan volume coming through so that we can work with ESOPs and work with cooperatives. We know that as small businesses exit, employee ownership is a good pathway in many cases to transition and exit their firms successfully. And we would like to make sure that capital is available.

Chairwoman VELÁZQUEZ. How is SBA using new technology to streamline loan processes and focus outreach to promote the programs, particularly to the undeserved?

Ms. GUZMAN. Across all of our loan programs we, of course, rely on our 68 district offices, our over 1,300 resource partners, and now our newly established community navigators to really reach out to more small businesses to get them capital ready. In addition, we have a strong network of lenders and have looked to expand that with the Community Advantage pilot program that we recently

overhauled, as well as opening it up so that we can allow new licensees to come into the program, especially those mission lenders.

Chairwoman VELAZQUEZ. Thank you.

Fraud controls previously removed in 2020 to expedite relief were reinstituted under your leadership. At our hearing in January, the IG commended SBA for its action implementing his recommendations. Can you expand on your efforts to prevent fraud and abuse related to the agency's COVID and relief programs?

Ms. GUZMAN. President Biden is really committed to making sure funds get into the hands of those businesses it was intended to serve, and the administration early on, we ensured that we could put in those controls, some of those across our COVID-EIDL program, of course, in which that was a unique case, a tale of 2 years, truly. We have also leveraged technology so that we can assess our portfolios and make sure that fraud is indicated. And created strong partnerships in collaboration and transparency with the IG, as well as the GAO. We want to make sure that we are implementing fraud detection at inception of design and that is what we have committed to do.

Chairwoman VELAZQUEZ. How often are you meeting with the IG?

Ms. GUZMAN. I meet with the IG biweekly to make sure that we are coordinated on all of the reports and that we are ahead of the game because obviously fraud is an iterative process and we need to continue to evolve. And then with the GAO, I meet on a quarterly basis and just recently met with Comptroller General Dodaro to discuss the SBA.

Chairwoman VELAZQUEZ. Thank you.

SBA is requesting \$20 million to implement the VA-SBA Act, which mandated SBA to become the sole provider of formal certifications for all veteran-owned small businesses. What is SBA's plan to stand up this certification program and why is this funding critical?

Ms. GUZMAN. Within our funding request, our budget, we are requesting \$20 million in 2023 to continue our efforts. We have been collaborating with the VA on this transition and we are looking forward to it. In talking to the veteran stakeholders across the country, we have found that they are looking forward to the transition and that SBA has a host of services and offerings that they can access. Going to a one stop shop in essence will be beneficial to them. Working closely with the VA, we have made sure that we are aligned on transitioning personnel, technology, and that we can have a seamless transition so there is no interruption of service for veterans and we can expand it to more veterans across the government.

Chairwoman VELÁZQUEZ. Thank you.

Now, my time basically has expired even though I have other questions.

The Ranking Member, Mr. Luetkemeyer, is now recognized for 5 minutes.

Mr. LUETKEMEYER. Thank you, Madam Chair.

I would like to begin with something that I mentioned earlier in my opening statement, Ms. Guzman. The SBA has just come through 2 years of unprecedented activity. The attention on SBA

has been heightened and with that your actions should carry a lot of weight with this administration. I want to focus on this.

When reports come out by groups that identify over \$200 billion in regulatory costs that were added by President Biden's first year in office, what has been your response? Have you discussed these numbers and their impact with the White House?

Ms. GUZMAN. I continue to track, especially through our Office of Advocacy, as you know, which tracks all regulation, any impact on small business and continue to travel around the country to make sure that I am——

Mr. LUETKEMEYER. The question, I am sorry to interrupt, but the question is, have you discussed the impact with the White House?

Ms. GUZMAN. We continue to, you know, share learnings about small business with our partners across the whole of government, including the White House.

Mr. LUETKEMEYER. What has been their response when you tell them that \$200 billion worth of increased compliance costs is crushing small business? What has been their response?

Ms. GUZMAN. I cannot speak to that specifically, that number, but I can share with you——

Mr. LUETKEMEYER. That number is the administration's number. We pulled that from each agency when they propose a rule, it also has to give the cost of that. When you total those things up it is \$201 billion last year, Ms. Guzman. That is devastating to small businesses.

Ms. GUZMAN. What I can share with you, Ranking Member, is that, of course, we have our Ombudsman office that works with all small businesses that have to navigate regulatory issues so that we can continue to support them on the back end on the front end of the Office of Advocacy.

Mr. LUETKEMEYER. My point of the question, let me claim my time, my point of the question is that you should be advocating for small businesses and tell the administration stop the onslaught of rules and regulations. It is killing small businesses. If you truly have been to 28 states I think you said a while ago——

Ms. GUZMAN. Correct.

Mr. LUETKEMEYER.—over the last year, and you have talked to small businesses, you have got to come back with a sense that rules and regulations are one of the top things that they are concerned about. The costs of those things are enormous. I can tell you in my district this is a concern of it. Inflation is the next one. Are you talking at all with the administration about the effects of inflation and high energy costs on our small business community?

Ms. GUZMAN. Yes. The president is, of course, very sensitive to the fact that the inflationary pressures and cost pressures impact American families as well as small businesses. And I continue to track what those impacts are.

Mr. LUETKEMEYER. Have you talked to them about the impact of this? Have you advocated and offered solutions to this problem?

Ms. GUZMAN. The president's actions speak for themselves. He is trying to address these costs——

Mr. LUETKEMEYER. Oh, my gosh, ma'am.

Ms. GUZMAN.—for our small businesses and their families.

Mr. LUETKEMEYER. They speak for themselves? They're devastating. He adds more fuel to the fire. He continues to allow energy prices to go through the roof. He adds \$200 billion worth of regulatory costs. He adds more money to the money supply, which is extremely important when it comes to inflation. That is one of the drivers of inflation. Are you talking at all about those things with him and say, please, Mr. President, stop the onslaught of these nonsensical things that are under your control?

Ms. GUZMAN. It is important to note that there are multiple impacts on our small businesses and we continue to track and share them and make sure that our small businesses get the support that they need.

Mr. LUETKEMEYER. I assume the answer is no. I cannot get a yes or no from you this morning, ma'am, Ms. Guzman, so I assume the answer is no, you have not talked to the president about this. You are an advocate for small business. You should be standing in front of his office once a week. Say, Mr. President, the businesses that I oversee are struggling. Please help me to help them by stopping the nonsense of your office continuing to support and enhance inflation in this country through all the things that they are doing. If you are not doing that, then you are not doing your job, Ms. Guzman.

One more quick thing here. The last 2 years have seen the agency has gone under stress and there is no question what agency is under stress. You can also see some of the problems and weakness of that agency. Fraud and oversight metrics are a weakness of this agency. You mentioned a minute ago that you are trying to work on fixing them. But fraud is fraud. It has got to be addressed somehow, some way. And I know that, it would appear to me that with regard to the PPP loan program and with regard to the EIDL program, there seems to be a difference in the ability of those two programs to operate. Would you agree that the private sector lenders that initiated the PPP loans were more efficient at delivering these dollars and deterring fraud than the SBA's direct EIDL program?

Ms. GUZMAN. Our lending partners on PPP have been very effective. In the COVID-EIDL instance, it is a tale of 2 years. As I had said earlier, COVID-EIDL, in 2020 when the majority of the loans were through and where you see the IG and GAO reports on, had no controls. And so in 2021, we have reinstituted the controls. We have leveraged technology to ensure—

Mr. LUETKEMEYER. So your answer is yes. The private sector did a really good job of getting the money out the door, almost three times as much money as what the EIDL program did with probably one-sixth of the fraud rate.

Ms. GUZMAN. I would add that PPP3, which was implemented in 2021, had the loan volume higher than in 2020, also had controls and speed in place and thanks to the administration's actions to put those controls in place. And so my answer was not yes but that we are implementing controls—

Mr. LUETKEMEYER. If it cannot be yes, you are not doing your job if that is the case. You are totally misunderstanding the question or you are misunderstanding how your agency runs if your answer is not yes, unfortunately.

Ms. GUZMAN. What I am saying is that—

Mr. LUETKEMEYER. My time is up. I yield.

Ms. GUZMAN. Thank you.

Chairwoman VELAZQUEZ. Now the Chair recognizes the Chairman of the Subcommittee on Oversight, Investigations, and Regulations, Mr. Phillips.

Mr. PHILLIPS. Thank you, Madam Chair. Welcome, Ms. Guzman.

I am sorry for how you were treated with disrespect by certain Members of this Committee.

I am a small business owner. I know what it takes to build a business. I know how tough it is, especially recently. I have traveled the world in the business world. There is no place in the world in which small businesses can thrive like the United States. Are we perfect? No. Is there a lot we all can do? Yes. I hope we can do it together.

I actually admire what you have done and your team in extraordinary time with little preparation, and frankly, little experience amongst any of us to face the circumstances that we have. And I want to thank you, and I hope you extend our gratitude to everybody that works at the SBA for doing the best with what we had with the time we had. And frankly, saving millions of jobs and hundreds of thousands of small businesses. Thank goodness. And we did so in a bipartisan fashion and we should continue to do so.

As Chairman of the Subcommittee on Oversight, I also applaud the creation of the Fraud Risk Management Board. I think it is a great step. We have to use taxpayer dollars well. Every dollar that we have lost to fraud is a dollar that has not gone to the very businesses that you look out for and all of us want to see succeed.

I want to also applaud the increased funding for the Entrepreneurial Development program. By the way, I hope that is something that we can all talk about bringing into high schools in this country to teach entrepreneurship at some point, but perhaps that is for another day.

Our nation's small businesses and owners deserve the best opportunity to access financing and counsel from their government and support so that we can ensure that the American dream is accessible to everybody, whether they live in Brooklyn, New York or Brooklyn Park, Minnesota that I represent, or even little tiny Brooklyn, Texas.

So with that in mind, many of us believe deeply in economic equity and racial equity. I do not think we talk enough about geographic equity. What can the SBA do to ensure that the programs that we support, that we discuss, that we provide oversight for can serve entrepreneurs in the tiniest parts of this country that are often overlooked?

Ms. GUZMAN. Thank you so much for your comments and your question.

I could not agree with you more. During the pandemic, we found that connection was key, and being able to be aware of resources and prepare to access those resources was really critical. And so that is why you see within our budget request an increase within our Entrepreneurial Development programs and why in addition we launched the Community Navigator pilot program so that we

can better reach the 32.5 million small businesses and the newly created firms that are being birthed every year.

Rural communities, geographic equity is really important to me, and I continue to ask that we distribute our resources and make sure that we are reaching into those communities. I think we will go a long way with broadband being built up in communities so that every community can have high-speed Internet. More micro entrepreneurship occurs when there is high-speed Internet according to studies. And so I was pleased that nearly half of the Community Navigators are focusing on rural communities and making sure that they have services to deliver and connect to those communities. And as we expanded our women's business centers, as well as focused on our SBDCs, we commit to making sure that we can serve those communities.

Mr. PHILLIPS. Terrific. Also, I am a deep believer in employee ownership. I think that also is a bipartisan notion. That is the American dream, in fact.

What can the SBA do better to reduce barriers, to employee ownership, to promote the concept, to educate small business owners especially as it relates to succession planning? How can we do better in that area with the resources available to you?

Ms. GUZMAN. In my home state of California, we actually looked at this issue quite extensively as communities were finding with a lot of retiring small businesses, they wanted to be able to retain those businesses and look at employee ownership as an option. There are folks focused especially on manufacturing where we do not want to see businesses close down. We want to see businesses take over, and some are focusing on ESOPs in particular. I think we can highlight those activities to show small businesses a path forward for exists through ESOPS or employee ownership. Our SBDCs actually have expertise around the country that are focusing on this and so we need to continue to cultivate that, build best practices, and share them across the country.

Mr. PHILLIPS. And what can we do in Congress to support that?

Ms. GUZMAN. And I would look forward to partnering more with you on that to try to identify some of those best practices on training because it does take quite a bit to transition a business to employee ownership and we need to help and support the owner. So funding that additional entrepreneurial development support will help us expand that type of technical assistance. But in addition, on the capital front, we are continuing to monitor the additional changes that we have made on our capital programs in compliance with the Main Street Act and we look forward to continuing to have discuss about that with those borrowers to see what we can do to do more for them.

Mr. PHILLIPS. Thanks, Ms. Guzman.

I yield back the balance of my time.

Chairwoman VELAZQUEZ. The gentleman's time has expired.

Now we recognize the gentleman from Texas, Mr. Williams, Vice Ranking Member of the Committee.

Mr. WILLIAMS. Thank you, Ms. Guzman, for being here.

I want to say for the record I have been to Brooklyn, Texas. You need to go to Brooklyn, Texas, and find out what they think about the SBA.

Ms. GUZMAN. I would love to.

Mr. WILLIAMS. You need to go talk to those people.

Also, I think that the head of the SBA, regardless of party preference or whoever the president is, should always be for less taxes and less government. You should always stand for that regardless of who nominated you.

I am a small business owners. Have been for 51 years. Hundreds of employees today I employ. And so I feel like I am Main Street America.

So, I have a few questions to start. It will be simple. Keep your answers to a quick yes or no.

First of all, the rollout of the Save Our Stages program which you mentioned, it was disastrous. The delays and dysfunctions your agency faced during the implementation prolonged critical aid to small businesses. Indeed, many of them could not stay in business waiting for you. This is unacceptable, and main street businesses want answers.

So quickly, yes or no, have you held anyone accountable for the failed rollout of the Save Our Stages program that delayed billions of dollars in emergency aid?

Ms. GUZMAN. I was not happy with——

Mr. WILLIAMS. Yes or no.

Ms. GUZMAN. Yes, I transitioned the program.

Mr. WILLIAMS. Okay. Thank you.

Ms. GUZMAN. Thank you.

Mr. WILLIAMS. While our economy faces a looming recession, you still publicly support the Biden administration's tax hikes saying it will clearly affect large corporations.

So yes or no, would you support raising taxes on small businesses or individuals earning less than \$400,000 per year?

Ms. GUZMAN. President Biden's plan——

Mr. WILLIAMS. Yes or no.

Ms. GUZMAN.—will not affect any businesses under \$400,000.

Mr. WILLIAMS. Yes or no. Do you believe in raising taxes to small businesses? It is a simple question.

Ms. GUZMAN. I agree with the president. Yes.

Mr. WILLIAMS. Okay. You will raise taxes. Let the record show——

Ms. GUZMAN. No, that President Biden will not raise taxes under \$400,000.

Mr. WILLIAMS. Okay. Well, that is not true. And then do not forget inflation. He has already raised taxes. Okay? And done nothing about that.

So we are here today to discuss the Biden administration's SBA budget request of \$1 billion, a \$135 million increase from Fiscal Year 2021. However, this proposal outlines initiatives that go beyond your agency's core responsibilities. You must want to get into everybody's business.

The SBA is tasked with aiding, assisting, and advising small businesses across the country; correct?

Ms. GUZMAN. Correct.

Mr. WILLIAMS. Which is why it is unclear to me and many others why you would request more taxpayer dollars for climate change within the SBA.

So in lieu of directing more money to actually small businesses' aid, this request is further proof that President Biden's SBA is completely out of touch with main street.

Businesses in my district are concerned about their ability to compete in the future and are looking at the SBA to be a non-partisan, which we do not have, resource that has their best efforts to be looked at in mind.

Administrator Guzman, why should Congress increase funding for your agency without first addressing underlying problems such as your failure to rollout business saving aid, the significant fraud we have talked about with the SBA programs, and general under-performance? Why should we give you more money to just continue to do that?

Ms. GUZMAN. SBA has successfully scaled to meet the needs and really helped millions of businesses, over 8 million unique businesses during COVID relief. Done a remarkable job in your districts, across our 68 field offices to support small businesses.

Mr. WILLIAMS. Well, not in my district and not in Brooklyn, Texas.

Ms. GUZMAN. And in addition, we have implemented fraud controls so that we can better get the funds into the hands of the businesses it was intended to serve.

Mr. WILLIAMS. Well, okay.

Ms. GUZMAN. And we are committed to making sure that they have the capital that they need, the market access they need, and the technical assistance that they need. That funding for climate is about making sure that businesses can prepare and mitigate—

Mr. WILLIAMS. But you do not control that. You have no business being—

Ms. GUZMAN. It is not for me to engage in climate but for me to give loans—

Mr. WILLIAMS. Well, that is fine.

Ms. GUZMAN.—to help mitigate.

Mr. WILLIAMS. I am running out of time. Let me move on.

Ms. GUZMAN. Thank you.

Mr. WILLIAMS. But you do not need to be in everybody's business. Take care of the people that you are required to take care of—the small business owner; the guy trying to make the payroll; the guy that signs the front of the check, not the back of the check; the guy who is drawing a line of credit. Help him. He needs help. He does not need to worry about the climate change which is not even part of what you are staffed to do.

So small businesses across the United States are still desperate to fill job openings. These labor shortages are hindering business operations and they are a driving factor in the supply chain model and inflation issue. I can tell you all about that.

A recent report by the Jobs Opening and Labor Turnover Survey found that President Biden's worker shortage remains at historic highs with more than 11 million job openings.

So Administrator Guzman, that is nearly a 4 percent increase since the last time you testified before this Committee. Main street businesses are bearing the weight of this unsustainable worker shortage and their optimism is very, very low. So, real quick, what

recommendations are you making to small business owners, like me, who have open jobs that they cannot fill?

Ms. GUZMAN. When SBA provides services to support small businesses—

Mr. WILLIAMS. But you can tell me. I am a small business owner.

Ms. GUZMAN. I appreciate that.

Mr. WILLIAMS. So I would like to know what to do.

Ms. GUZMAN. I appreciate that, Congressman. And I appreciate your expertise having run and successfully built a business with hundreds of employees. The small businesses that we serve, obviously, are facing workforce shortages and challenges and have had to compete in this marketplace, this tight labor market. We are prepared by providing them with technical assistance. About half of our time of our small business development centers and our women business centers is often spent on workforce development issues, as well as strategic planning for the businesses.

Mr. WILLIAMS. I believe my time is up.

Ms. GUZMAN. So we are committed to helping those businesses survive.

Chairwoman VELÁZQUEZ. Time has expired.

I would ask the Members, please, stop badgering the witness. Treat her with the respect that she deserves. Allow her to answer your questions. We never got into this when we were in the minority. We always treated the witnesses with respect with Ranking Member Mr. Chabot.

Mr. LUETKEMEYER. Madam Chair—

Chairwoman VELÁZQUEZ. Let's have a decent, respectful discussion.

Mr. LUETKEMEYER. Madam Chair, the reason that we are having to interrupt her responses is she is not responsive. She is taking a page out of the Secretary Yellen, the Federal Reserve folks who sit there and tap dance around every single question. We cannot get a straight answer. So the only way to talk to her is to request our time back and then redo the question. If she will give us a straight answer, we will be glad to continue to have a dialogue with her. But we cannot have a dialogue when she will not answer the question.

Chairwoman VELÁZQUEZ. She is answering the questions.

Mr. LUETKEMEYER. She is not answering the questions. With all due respect, Madam Chair—

Chairwoman VELÁZQUEZ. When it comes to fraud and abuse, fraud happened because fraud controls were taken away from the previous administration. She reinstituted that and now you continue to raise the issue of fraud while the IG and the Office of the Comptroller has stated for the record that they have access to the administration, that they have been implementing their recommendations, and you just continue to bring the same talking points.

Mr. LUETKEMEYER. If you want to talk about the Inspector General report, let's talk about the entire report. The entire report when he was here, we asked the question, okay, are those changes being implemented? He said yes. Why are we not seeing a drop in

the problem with fraud? Because the employees are not adhering to the new principles, the new protocols in place. That is a problem.

Chairwoman VELAZQUEZ. Okay.

Mr. LUETKEMEYER. That goes back to leadership. That is what we are trying to get at.

Chairwoman VELAZQUEZ. The Chair recognizes the congresswoman from Georgia, Ms. Bourdeaux, for 5 minutes.

Ms. BOURDEAUX. Thank you, Chairwoman Velázquez, and thank you for holding this hearing. And thank you, Administrator Guzman, for your continued work as SBA administrator and for joining us here today.

The president's budget request of Fiscal Year 2023 includes a 21 percent increase in SBA funding levels for a total of \$914 million in discretionary funding. And much of this funding is aimed at increasing access to SBA resources and services in communities like mine which have historically had difficulty accessing some of the critical tools that the SBA provides to entrepreneurs and would-be entrepreneurs.

The budget also includes several indications about the SBA's priorities for Fiscal Year 2023 and areas for potential collaboration with Congress. The administration's Fiscal Year 2023 budget in particular says that SBA is establishing an agency priority goal to increase the number of community financial institutions in SBA's lender match portal, something I am very pleased to see. Each of the federal bank regulators, however, have offices dedicated to CDFI and MDI engagement and have initiatives to support their activities.

So my first question is, do you think a similar office at the SBA would help the SBA get more community-based lenders into programs like the 7(a) program? And what else is being done concretely to really engage the CDFI and MDI community?

Ms. GUZMAN. Thank you so much for that question as we know that access to capital is a big issue. Forty-four percent of small businesses get their funding through a bank and we would like to leverage SBA's programs to expand that.

Within our Office of Capital Access, we do have an office dedicated to working with mission-based lenders through our Micro-lending program, as well as our Community Advantage program. And so we feel that we are well prepared to be able to expand with this group of lenders who serve underbanked, as well as unbanked and underserved small businesses.

We are currently making efforts to streamline our programs. We have launched with the Community Advantage overhaul which included an expansion of licenses that we will be able to extend to CDFIs and CDCs to expand our Community Advantage program and really focus on small dollar lending and ensuring that we can fill those gaps as that has been in decline as well. So we look forward to working with you and your offices as well as all of the Members to make sure that we can expand the number of lenders who participate and can reach into communities and geographies that are not served.

Ms. BOURDEAUX. Wonderful. We are very excited about this initiative.

One other question. SBA data shows that most PPP borrowers who have not yet applied for forgiveness are the smallest of businesses. And these are borrowers with loans of \$50,000 or less. In my district, I know this includes many minority immigrants, women-owned small businesses, and I just wanted to touch bases with you again about what the SBA is doing to address this gap in forgiveness of these applications.

Ms. GUZMAN. We definitely want to deliver on the forgiveness of PPP to all the communities and borrowers. We have done a couple things. First and foremost, of course, we wanted to make sure that our lenders were equipped to deal with this next phase of PPP and we set up a streamlined offering of technology for them to be able to utilize over 1,000 banks, and lenders have signed up to use our technology to process forgiveness. And we have also, of course, streamlined for \$150,000 and under as per the statute. So we are working hard to make sure that all of our borrowers can access these programs through the lenders.

However, we know that some of that requires technical assistance. Our Community Navigators are working hard, many of them to work with PPP borrowers to make sure that they can access forgiveness, as are all of our centers.

Ms. BOURDEAUX. Thank you. Thank you so much. And thank you for your service to our small business community and for your service to the country.

I yield back.

Chairwoman VELÁZQUEZ. The gentlelady yields back.

Now we recognize the gentleman from Pennsylvania, Mr. Meuser, Ranking Member of the Subcommittee on Economic Growth, Tax, and Capital Access.

Mr. MEUSER. Thank you, Madam Chairwoman, very much. Administrator, thank you very much for being with us again. We appreciate it.

Clearly, there is maybe some misunderstanding of the frustrations that exist because I spend a lot of time with my small businesses in my district. I do tours probably twice a week when we are in district and visit with five, six, seven, or eight in a row. And it is usually the same feedback. The feedback is that they are struggling. Their sales might be up. Their margins are weaker, are constricted, and they cannot get people to work. And they are concerned about inflation. They are concerned about gasoline price spikes. They are concerned about the deliveries that do not come in because of the supply chain issues. And they are concerned about the added regulations. And I think when speaking with you since you are the advocate for the small business, if we are not hearing that these issues are being addressed, we are the voice of those businesses. We represent them and advocate for them. So we have got to provide the oversight and ask these questions for them. That is the purpose of this hearing and that is why I very much appreciate you being here.

Now, with the budget plan, inflation is rising as we stated at record paces, 1991 paces. Right? Labor shortages, supply chains. I went through it. Many plagues of small business. Yet, in the budget that we saw for the SBA, we are not seeing any solutions to these very serious issues that are not going away anytime soon, by

the way. Okay? But we do see a lot of climate change. Okay? Which is terrific, but not the issue that people are bringing up when we are visiting them and what is keeping them perhaps from going out of business.

We are also stating that you want to be the first federal agency to get the designation as a voter agency. Okay? This is just off the grid of what truly is important on main street.

So do you believe that these requests and initiatives illustrate a sufficient focus on your mission, on the advocacy, on finding solutions for the small businesses that make up 75 percent of the employment throughout my district and most districts throughout the country? If you would not mind answering that question.

Ms. GUZMAN. Thank you. Thank you for the question. And I agree with you that our small businesses are facing those inflationary pressures, workforce shortages. They tell me about the individual prices that they are paying higher within their product mix. And so they have had to adapt and pivot and change their model and access capital in order to survive during this time. So I appreciate what the SBA can do specifically on these issues. We know that for small businesses, they need that advisory service to make sure that their financial management, their supply chain management, their strategic sourcing and strategic planning overall is really strong during this time because those businesses recognize that the only constant for them is going to be change and they need to be very adaptive. And so our technical assistance and that request for increases is supportive of small businesses to help them. I will speak to the—

Mr. MEUSER. But it is not in the budget. I do not want to interrupt you but let's just focus on inflation if we would. Okay?

Ms. GUZMAN. Sure.

Mr. MEUSER. What are some of the solutions to help small businesses and help America reduce inflation? Because the only thing that comes up in the budget regarding inflation is how wages need to stay up with inflation. That is the only time it is mentioned.

So what are we doing about the high gasoline prices, and heating prices, and increase of delivery costs, and so much manufacturing that goes up because of the high fossil fuel, domestic fossil fuel increases? What are we doing about that?

Ms. GUZMAN. Well, the president's budget really tries to address and create a more productive economy to improve our supply of goods here in the United States which will help in the long term as we look towards supply. He is also trying to address some of those pocketbook issues, like childcare, and that is where SBA also has a role. We are trying to train up more childcare facilities around the country. Those entrepreneurs. We offer bootcamps for childcare entrepreneurs so that they can start those businesses. Those costs are meaningful to our small businesses, to families across the country.

And the president, consistently, is trying to address energy costs as well. But when we go to what the SBA authority is and what we can do, you know, obviously, we are the agency that provides capital and technical assistance and tries to give market access. So we are also working to try to increase the revenue side of the equation.

Mr. MEUSER. And I believe childcare is important. Most private businesses tend to deal with that and that is a story in itself.

I am running out of time but I would like to get from you later on the 504 lenders getting to the Express program, why has that been delayed?

Madam Chair, I know I am over my time but administrator, if I can get an answer on that, because that would be really helpful for many small businesses if that Express program could be finalized and created ASAP.

Thank you. I yield back.

Chairwoman VELAZQUEZ. The gentleman yields back.

Now we recognize the gentleman from Pennsylvania, Mr. Evans, for 5 minutes.

Mr. EVANS. Thank you, Madam Chair.

I am dedicated to increasing minority entrepreneurship, especially Black entrepreneurship. Small business ownership is a tool in the economic toolbox to help lift communities out of poverty.

Early this month, SBA released its Equity Action Plan in conjunction with the Executive Order to advance racial equity and support for underserved communities through the federal government.

Can you expand on some of the details of this plan? And how can Congress support these efforts?

Ms. GUZMAN. Thank you so much for that question on equity, congressman.

Obviously, we know that the face of entrepreneurship is changing. That women and people of color are starting businesses at the highest rates, and that is across the country. And so we want to make sure that our programs are accessible and available to all. So that is underlying everything we do. And our equity plan is focused on ensuring that we can get capital distributed to all of our entrepreneurs. And you saw the increase in our focus on the Community Advantage program to focus on small dollar loans where our small businesses are facing the largest gaps in the financial services marketplace.

In addition, we want to focus on the revenue side of the equation because we think that, you know, of course, small businesses need to grow their revenues and be able to compete in order to deliver the products and services that we all depend on. And so with that, we are focusing in on the federal contracting space. We are the largest buyer in the world and making sure that there is equity in government contracting and that all small businesses can access contracts. We have seen a 40 percent decline in the number of small businesses doing business with the federal government and that is not good for our industrial base or innovation. And so we are focused on making sure that emerging entrepreneurs and all entrepreneurs can access contracting. As well as the technical assistance. And obviously, the Community Navigators pilot program has enabled us to level up our outreach into more communities, build bridges to underserved communities across the country so that they can better access the resources of the federal government, in particular, the SBA and the capital programs and the contracting and other market access programs we provide.

So with those actions, we hope to continue to expand our reach, and beyond that though. Of course, this is a moment for the SBA to step into a broader role in entrepreneurship. We are seeing increased rates of entrepreneurship. We want to leverage the attention through the Paycheck Protection program and all of our relief programs to now better reach and serve and build trust in communities that we have seen come into the SBA's programs. I said over 8 million unique small businesses have tapped into those relief programs. More sole proprietors and mom and pops where we know people of color are over indexed and we want to make sure that we are serving them with the products and services that meet their needs and meet them where they are.

Mr. EVANS. Community development financial institutions were critical to getting PPP loans to small businesses in my home city of Philadelphia. During the pandemic, several minority-owned were turned away from larger banks. The budget says SBA is establishing an aging priority call to increase the number of community financial institutions in SBA. Each of the federal banks where they have offices dedicated to CDFIs and Minority Depository Institutions. Do you think a similar office would help SBA get more community-based lenders into the 7(a) program?

Ms. GUZMAN. We have within the Office of Capital Access, a team dedicated to growing lenders in our communities starting with the Microlending Intermediary program and then as well with our Community Advantage attracting CDFIs and CDCs. We have increased and strengthened our relationship with the key CDFI organizations to ensure that they have access to our programs and are familiar. We also offer technical assistance across to all lenders, community banks, and CDFIs and others to make sure that they can access our programs. And we know that the most important thing is to simplify our programs across our portfolio. We have started with the Community Advantage program in trying to simplify eligibility in underwriting to make sure that we can support the lending institutions with these small dollar loans that are just as expensive as doing larger dollar loans.

And so we want to enable the industry to better support small businesses through our programs and we believe that the existing structure that we have in place will allow us to do so.

Mr. EVANS. I want to thank you sincerely for coming to Philadelphia and walking down 52nd Street. I really appreciate your leadership and the way that you are operating. And I thank the Chairperson who also was in Philadelphia and spent time with us. So again, I thank this collective leadership. Us, working together collectively, it is in our interest for the sake of small businesses being Small Business National Week. I thank you again.

And I yield back to you, Madam Chair.

Chairwoman VELAZQUEZ. The gentleman yields back.

Now we recognize the gentlelady from California, Ms. Kim, Ranking Member of the Subcommittee on Innovation, Entrepreneurship, and Workforce Development, for 5 minutes.

Ms. YOUNG KIM. Thank you, Chairwoman Velázquez. And I want to thank Administrator Guzman for joining us today to discuss the administration's Fiscal Year 2023 budget request for SBA.

Small businesses that you represent are facing many economic headwinds with supply chain disruptions, record-setting inflation numbers, and increase in gas prices. I am sure you saw the report from NFIB that reports that the number of small business owners expecting business conditions to improve in the near future has fallen to the lowest level in nearly 5 decades. And that is a troubling report considering small business owners are some of the most optimistic people that we know.

Back in my district in Orange County, the average gas price is close to \$6 now. That is \$2 more than what it was a year ago. So, Administrator Guzman, my question to you is, can you tell us if there is anything in the budget request for SBA that specifically helps small business owners overcome some of the issues that they are facing with high inflation, labor shortages, and energy costs? And what are you and your department, SBA, doing to regain the confidence from small business owners moving forward?

Ms. GUZMAN. I thank you so much for that question. As I know, I share that empathy with small businesses and the challenges they are facing, and I am hearing from small businesses that they have these issues. I know that within the SBA's budget specifically, you know, we try to make sure that we are offering support for our small businesses for all the impacts to their bottom line and helping them to ensure that they are strategically positioned around their pricing strategies, around ways that they can improve operational efficiency, their staffing strategies, so that they can navigate any challenges that come their way.

And so within our budget, we are expanding entrepreneurial development across our key program offices. And importantly, within some of our grant programs that hope to improve their revenue creation as well. The 7(j) grant program is about making sure that our businesses are contract ready and can grow their businesses, bring in the revenue through federal contracting, as well as fast grants which, of course, support innovation to strengthen economies locally. So I do believe that those are really core to helping small businesses and our advisor network around the country do work daily with small businesses, helping them to ensure that their business models are strong to navigate and to connect them to capital when that is a solution for them.

Ms. YOUNG KIM. Glad to hear that. But are you deploying any SBC resources such as SBDC, women business centers, the veteran business centers, as well as SCORE mentors, how are you deploying those?

Ms. GUZMAN. So what we have asked them to do is to come up with specialized programming. One of the SBDCs has a specialized program on supply chain and they are trying to share those best practices around the country so that they can better train businesses on supply chain management. Others, there is a veterans focused center that is working with local military spouses to connect them to businesses for employment so that we can help with those wage pressures. So there are specific programs within our centers that focus targeted on these issues.

Ms. YOUNG KIM. Thank you.

I want to talk about the recent report of the Office of the Inspector General that some loans totaling \$66.4 billion that SBA did not

meet the 90-day statutory requirement to remit the forgiveness payments to lenders. Additionally, the report states that SBA did not meet the 90-day requirement for over 98 percent of those loans over \$2 million.

So can you talk about why is it that SBA is failing to meet that 90-day statutory requirement? What is your plan to develop a plan to ensure that the forgiveness reviews and remittances are completed within the 90 days as required by the law?

Ms. GUZMAN. The Office of Capital Access continues to work with the lending institutions to make sure that they get the technical assistance they need to follow through on all the forgiveness requirements. We continue to support our lending institutions on that front as well as on the backend try to help with the small business preparedness. And so we will—

Ms. YOUNG KIM. Can you give us a little more specifics on that?

Ms. GUZMAN. I can have my team follow up with your staff, as I know, to make sure that we give you the full plan on forgiveness.

Ms. YOUNG KIM. Okay. Well, thank you very much. My time is up.

Chairwoman VELÁZQUEZ. The gentlelady yields back.

Now we recognize the gentleman from Maine, Mr. Golden, Chairman of the Subcommittee on Underserved, Agricultural, and Rural Business Development for 5 minutes.

Mr. GOLDEN. Thank you, Madam Chair.

One thing I want to ask about is the Office of Advocacy. You talked about that office a little earlier. Earlier this year, the Office of Advocacy actually put out a recommendation that the Department of Correction—not Department of Correction, Department of Commerce, revisit the timeline for implementation of some regulations that were first announced under the previous Administration but this administration is still moving forward with. This has to do with right whale regulations and our fisheries in New England, and specifically, in Maine.

So, I wanted to ask, the Office of Advocacy does not frequently just put out these positions. I think they cross their Ts and dot there is and in this instance what they have said is the market really does not have the equipment necessary to comply and therefore, the Department of Commerce should delay the deadline. We have yet to see that recommendation adhered to or really had any engagement from Commerce about it.

So what role does SBA play working with the Office of Advocacy to make sure that when they put out a recommendation that it is consumed and hopefully acted upon?

Ms. GUZMAN. The Office of Advocacy is an independent office that reports directly to Congress, as well as me and the president. As they track these regulations that are being promulgated by the different agencies, they flag when there are small business concerns so that they can take into account those issues and final rule. On this specific issue, I would need to follow up with my chief advocate, acting chief advocate, Major Clark, to understand a little bit more and see if there is something that the SBA can do to support.

Mr. GOLDEN. Thank you. I appreciate that very much. And the suspense on that is pretty tight. I think it is a May 15 deadline.

Ms. GUZMAN. Thank you. My team will follow up for sure with your staff.

Mr. GOLDEN. Thank you.

I really appreciate the focus on trying to identify fraud where it is taking place through some of these programs, particularly the ones related to COVID programs. Obviously, very important to put in good, new standards to prevent that from being an ongoing problem in the future. But I think finding the right balance is really important, too. And I am thinking specifically about a constituent back home who has an EIDL loan that is pending and it has been quite a long time now. Small businesses really I think need a timely response as much as they also need it to be adjudicated correctly.

So how do you see the SBA finding the right balance between doing what we need to do to prevent the fraud and make sure we identify any that has taken place and hopefully pursue working with the other partners? How do you find the right balance to make sure that you are going to be able to process these loan applications quickly enough for them to be helpful?

Ms. GUZMAN. Thank you so much.

We believe that you do have to have speed and certainty, and so a balance of both. We want to make sure that the customer service experience is also really strong. And with the programs that I have been able to control for the full environment, like the Restaurant Revitalization Fund program or after we have made changes on Shuttered Venues, you know, we feel that we have tried to put the customer experiences at the forefront as much as possible. With COVID-EIDL, regrettably, although we have been putting out still an average of \$700 million a day through June when I made all the significant changes to overhaul the process and move it to my Office of Capital Access, we put out \$1 billion a day, as high as \$3 billion a day. The largest banks in America put out \$1 to \$2 billion a month on all loans, including credit cards. And so, our scale and the amount of support that we have been able to give to small businesses has been large. But I know that there are still a few thousand businesses that remain. On average, it is taking 2 to 3 weeks to process every loan under \$500,000. Above \$500,000, up to a month. Most of the cases for those who are remaining are through their second or third request for reconsideration. And so we are taking all of those reconsideration requests seriously. But it is important to note that a lot of the borrowers that were processed in 2020 without any controls have now had to come back to the table and provide tax documentation and clear some of the fraud controls.

We are happy to work with your team on specific constituent requests to see if we can help shepherd any issues that they might be having.

Mr. GOLDEN. Thank you. I appreciate that very much. And we will follow up.

Ms. GUZMAN. Thank you.

Chairwoman VELAZQUEZ. The gentleman yields back.

Now we recognize the gentleman from Wisconsin, Mr. Fitzgerald, for 5 minutes.

Mr. FITZGERALD. Thank you, Administrator Guzman, for being here today.

On April 7, the House passed H.R. 3807, which I will be kind, I think it was a disingenuous piece of legislation. I will be kind and not call it an all-out fraud on the restaurant industry, the relief for restaurants and some of the other small businesses that were directly affected. And basically, I think you are probably well aware, it provided \$44 billion in appropriations for restaurant revitalization. An additional \$13 billion to stand up some of the brand new grant programs, I guess, is the best way to describe them. And then it was sold as, you know, this was going to be paid for with EIDL and PPP fraud monies recovery.

And so I think the most recent estimate is, and this is from Secret Services, that \$1.1 billion in the fraudulent pandemic loans has been recovered. So with the total estimated \$84 billion in fraudulent payments, I mean, I hope we can agree that there is not enough time or money or personnel to possibly get that number to match up and recover the \$57 billion.

So let me ask you this. Is it fair to say the SBA does not currently have the capability to recover the \$57 billion needed to pay for the bill that the House has already passed?

Ms. GUZMAN. My understanding is that that bill would rescind funds from COVID-EIDL targeted advance and advance that were remaining, not on the fraud side. It is remaining funds from those unused programs as well as, you know, Shuttered Venues and EIDL.

Mr. FITZGERALD. Yeah. Well, let me interrupt you. Because the ENTREE Act is what was introduced by my colleagues here on the Committee. And in fact, you know, the Committee for Responsible Government is saying there is still \$884 billion out there that could be recovered, that could be brought back. But that does not seem to be happening at all. And I think what we are frustrated by is that there is this idea that this product is being sold out on the street as, hey, no problem. We are going to do the due diligence on this and the fraud and we are going to recovery all these funds and then it is going to be readily available for the restaurants. But the math does not add up at this point and I am wondering what your comment is on that.

Ms. GUZMAN. What I would also share is that the SBA works closely with the IG and other federal authorities who actually recover funds. We report fraud. We collaborate with them.

Mr. FITZGERALD. That is great. That is great. I am asking you more about the numbers though. It is just not going to happen though, is it? Can you admit that it is not going to happen?

Ms. GUZMAN. They are going to be working really hard to investigate all of this potential fraud and actually prosecute their final—

Mr. FITZGERALD. Well, that is awesome but like I said, I do not think that gets the job done. And this is the frustration I think. It is like some of my colleagues said earlier, we have got to go back to the district. And when you talk to these restaurateurs, they are like, well, I just read in the paper yesterday that the money is coming. But the fact of the matter is there is no way to get these two figures to match up. The recovery, the amount of fraud and abuse

recovery that is happening out there does not match up with what restaurants are being told throughout this nation is going to be available to them.

Ms. GUZMAN. Well, I know that the IG himself has not completely estimated how much would be recovered. I know they work hard every day to ensure that that happens. Our budget request actually requests a nearly 30 percent increase for the IG budget so that they can continue to manage to those resource constraints.

Mr. FITZGERALD. So I am just going to make the assumption that it is not going to happen. That you are not going to be able to recover those funds at a rate that is going to fund H.R. 3807.

So what would the strategy be from this point moving forward? How would we address that once it is obvious that there is a shortfall and that the wheels fall off of this entire thing?

Ms. GUZMAN. The SBA stands ready to implement the program if it is moved forward by Congress. And in terms of the decisions from any remaining funding or any other sources of capital, I would not be able to speak further about that.

Mr. FITZGERALD. I mean, you know, clearly, I think that the speaker put the Bill 3807 on the floor to develop some political cover for her Members. And I think there are even a few Republicans who have voted for it. Shame on them. Because it is disingenuous. It is not going to happen. And the restaurants of this nation need to hear that and need to find that out. And I would hope that the SBA be part of not only disseminating that but lowering the expectations that this bailout is coming any time soon.

Ms. GUZMAN. What we are trying to do is continue to support our restaurants. We know, we agree with you, they have been impacted and continue to struggle and face challenges. And we would stand ready to implement anything Congress decides on.

Mr. FITZGERALD. Thank you, Madam Chair. I yield back.

Chairwoman VELAZQUEZ. Time has expired.

Now we recognize the gentlelady from Illinois, Ms. Newman.

Ms. NEWMAN. Thank you, Madam Chair. And good morning to everyone.

So first of all, Administrator Guzman, thank you so much for your tremendous work. I know you were handed a proverbial hot mess and you have done a really good job. So thank you from this Committee, but all of Congress.

A couple of other clarifying comments. You know, I hated taxes when I was a small business owner as well. Absolutely hated it. I thought it was unfair and all of that. But as we know, and as you articulated very clearly, that largely small businesses will not be affected by President Biden's new tax model. So I just want to be clear and reiterate that again for the record that that is not true that small businesses will be affected adversely. In fact, what it does do is will make large businesses pay at a fair rate and do their job and be good patriots and Americans in this country.

So a couple of other clarifying comments before I get to my question about access to capital and a few other things.

So, you know, I am very certain you are talking to the president all the time about advocating. So thank you for your advocacy on behalf of small business. I truly appreciate it.

I do want to make a comment about climate. Climate change is everybody's business. It is small business's business. It is my business. It is everybody's business. So, the fact that you are supporting green entrepreneurs, I am introducing a green incubator act pretty soon that will coordinate with the SBA. And it is critically important that we all engage. So thank you for your advocacy there.

So my question. Staying consistent with the topic of capital access, I would like to segue into poor climate decisions. How does the SBA intend to update policy on addressing small business capital access needs on climate crisis issues within the existing 504 program or the Microloan program?

Ms. GUZMAN. Thank you so much for your comments and the question. I will agree that small businesses, according to the Treasury 97 percent of them would be not impacted by the taxes.

With the climate, specifically, the request that was made, we would hope to shore up our lending specifically. We know that small businesses and communities that are increasingly impacted by disasters are the ones that are hardest hit and they have the hardest time recovering. They need to mitigate for future disasters, especially when you look at communities that have been hit time and time again and continue to have to draw disaster assistance. They need to mitigate so that they can have less damage. So that funding would go a long way towards helping small businesses mitigate. I have repositioned my Office of Disaster Assistance to focus on resilience and really make sure that small businesses are aware of these resources, and communities. Because, obviously, we do homeowners and renters as well within our disaster programs. So, we would definitely want to lean in on supporting small businesses in that effort.

As well as across our 504 program. It is a perfect example as well. As we are funding, we would want to level up and allow them to make those mitigation changes as they develop property to make sure that they are prepared for any natural disasters on the horizon. And of course, within the 504 program, it is a really critical asset-building resource for small businesses as they expand in property.

I think within the programs that SBA offers on innovation, that is why there is also quite a bit of excitement around climate. We are funding technologies overall within the federal government on the SBIR-STTR program and SBA is the one that channels those funding supports to small businesses and helps with education. We will continue to lean in on that and all the issues that are challenging our nation and the world, whether it is health, agtech, or climate, or any other issue.

Ms. NEWMAN. And then I have one final question I am going to sneak in at the end here. Anti-trust related.

In light of President Biden's most recent executive order, do you feel like the SBA has enough money to fund, study, and report on the federal government's effort to protect small business competition through anti-trust enforcement?

Ms. GUZMAN. Well, the SBA, obviously, we have requested an increase in our budget of 2.5 percent just to support all of our activities around entrepreneur development and capital access. We

continue to just provide advisory services and support to small businesses. And that is the purpose of our focus around the entrepreneurial support and continue to try to position them to compete and expand our productive capacity within this country.

Ms. NEWMAN. And just very quickly, Administrator, because it is important to note, and that is terrific and I so appreciate that, but there is no specific money identified to really reckon with the fact that large businesses are always first in line for business in general. So, we are not studying that right now?

Ms. GUZMAN. Not within the core SBA budget funding. So we are, of course, always working with small businesses to better compete in government contracting and better position them. And that is the extent of our work.

Ms. NEWMAN. So we have work to do and I yield back.

Chairwoman VELÁZQUEZ. The gentlelady yields back.

Now we recognize the gentlelady from Texas, Ms. Van Duyne, Ranking Member of the Subcommittee on Oversight, Investigations, and Regulations.

Ms. VAN DUYNE. Thank you very much, Madam Chair, and to the Ranking Member for holding this hearing today. And thank you, Administrator Guzman, for appearing before us.

This has been interesting and entertaining comments that I have heard from some of my colleagues. But to say that the president's proposed tax plan does not negatively affect small businesses is just completely not only disingenuous but dishonest. To believe that small businesses do not get a pass-through cost from large businesses or that small businesses are not paying more as a direct result of this administration's war on the oil and gas industry, it is not only naive but it is completely dishonest and it is completely wrong. But again, it has been entertaining.

Before I begin, I wanted to thank you, Administrator Guzman, for coming to visit Texas 24 earlier this year to hear directly from our businesses and their current challenges. If you recall, one of the restaurant owners, she highlighted exactly how difficult it was right now. And I think you heard from almost everybody at that table to find labor. Labor that was willing to work and not just leave after a few days on the job or demand a wage that would bankrupt them. I think you also heard from one of our local homebuilders who discussed just how costly the skyrocketing energy costs have been as they disrupt every single aspect of business.

So again, to say that somehow this administration's policies are not affecting small businesses is completely dishonest. But I think we both know that these concerns continue to consist today. And I am really hoping that you benefitted from your time down in District 24 and that you heard these things directly from those business owners.

I do want to talk to you about the EIDL program and some of the fraud and direct lending issues that we have seen from SBA. SBA gave out approximately \$369 billion in the EIDL program. Within the EIDL program, the OIG identified approximately \$84 billion in potentially fraudulent activity associated with direct loans and direct grants from within the program. So almost one out of four of the loans were considered fraudulent.

And based on that fraud rate, do you think it is best that SBA expand direct lending in other programs?

Ms. GUZMAN. Thank you so much, Congresswoman, and I appreciated visiting with your businesses and learning about their challenges. So, I really appreciate that time that you took with me.

With the COVID-EIDL program, it is a tale of 2 years in terms of implementation as well. And the 2020 EIDL without controls limited the agency's ability to control for fraud completely. In 2021, thanks to the Economic Aid Act, we were able to then reinstitute reviewing tax documentation from all these businesses. And that is, of course, help to the Agency limit fraud as well as we now again checked the Treasury's do not pay list.

Ms. VAN DUYNE. I just have a question since you brought it up. Between 2020 and 2021, can you tell me how much money was fraudulently released in 2021?

Ms. GUZMAN. The IG and GAO reports largely address the 2020 funding. And so—

Ms. VAN DUYNE. Do we know how much money was fraudulently released in 2021?

Ms. GUZMAN. The IG is still monitoring and assessing—

Ms. VAN DUYNE. I mean, your statement that all these things happened in 2020 and then you had controls in 2021, how do you know how to compare if we do not have the 2021 numbers yet?

Ms. GUZMAN. What I have is that the IG and GAO have been pleased by the controls that we have implemented and agree that that will go a long way towards addressing fraud and—

Ms. VAN DUYNE. So the idea is that when we get those numbers that they are going to be considerably, substantially lower than in 2020?

Ms. GUZMAN. That is the expectation from the watch dogs as well as the agency based on what we are seeing. And keep in mind that—

Ms. VAN DUYNE. Do you know when we can expect those numbers to come out?

Ms. GUZMAN. No, I do not have any assessment on that. So, we continue to work with the IG very closely and as I know he does with you as well to make sure that you receive that information in a timely manner. But with the EIDL program—

Ms. VAN DUYNE. And I know I have only got 45 seconds left. Since you are talking about fraud, I also want to mention that there is over \$100 billion of fraud estimated in various small business relief programs. One hundred billion going overseas, to put it plainly, our federal government dollars literally to billions of taxpayer dollars and handed it over to fraudsters who put in minimal effort to obtain those funds. And as you know, this fraud limited the amount of access that well-deserving businesses had to relief. This is all unacceptable.

But Administrator, how does the SBA relieve fraud—how do you estimate that will end to sending money outside of the U.S.? I mean, it seems like we have already had a quarter of the money going out illegally for the EIDL program, and now we are sending hundreds, you know, billions of dollars overseas fraudulently.

Tell me how the SBA is going to be handling that in the future.

Ms. GUZMAN. We have implemented the super robust fraud controls, as well as mitigation. And recently, I announced a Fraud Risk Management Board to replace the Fraud Risk Management Council to ensure that across the whole of agency, across all of our key program offices, we are putting in fraud at the design of programs, as well as ensuring that the controls are strong across the agency. So, we feel with these added measures, we can have strong controls for all the funding to be controlled.

Ms. VAN DUYNE. Well, I look forward to getting those numbers for 2021. Thank you very much.

I yield back.

Chairwoman VELÁZQUEZ. Time has expired.

Now we recognize the gentlelady from Kansas, Ms. Davids, Chairwoman of the Subcommittee on Economic Growth, Tax and Capital Access.

Ms. DAVIDS. Thank you, Chairwoman. Thank you again, Administrator Guzman, for joining us here today to talk about our Fiscal Year 2023 SBA Budget proposal. The SBA is requesting \$4 million for the manufacturing hub proposal, which is a new initiative to address supply chain deficiencies that have been both exacerbated and made more visible during the COVID-19 pandemic. I am really interested to hear more about this effort on expanding and strengthening our small business manufacturing bases. It is going to be incredibly important as part of our diversification of and building up of our supply chains. That is something I have been particularly focused on. I am very fortunate to have been named a conferee alongside Chairwoman Velázquez as we look at the supply chain and manufacturing legislation that we are hoping is going to actually address some of this stuff.

I am curious if you could elaborate a bit on the scope of the manufacturing hub proposal and how that will work or the intention behind it. And then, you know, what the proposal will involve in terms of the resources being requested.

Ms. GUZMAN. Thank you, congresswoman. And this is SBA's effort and contribution in trying to expand the productive capacity in the United States. We know that 75 percent of manufacturers are 20 and under employees. Still over 90 percent small overall. And so, we want to make sure that we support them and give them access to especially government contracting.

We focused this initiative within the government contracting business development space because we want to make sure that the government is buying from Made in America, and so we are hoping to expand our outreach, our training, as well as technical assistance to more manufacturers to engage in government contracting. But in addition, beyond that, we want to make sure that we are deploying resources to help more businesses interested in manufacturing in the United States.

Just recently, I met with a small business owner who was specifically wanting help in trying to manufacture her products here in the United States as she is having to deal with supply chain global issues in her business currently. And so, these are the types of businesses that we want to support by giving them the technical assistance around manufacturing in the United States.

Ms. DAVIDS. Thank you. And I am sure our office will be in touch as that program gets stood up and starts moving forward. There are a lot of smaller, like 75 percent of manufacturers being under 20 employees. There certainly are a lot in the Kansas 3rd that fit into that criterion.

I wanted to switch over really quickly to the Fraud Risk Management Board that we have heard a bit about this morning. I think getting those guardrails in place, making sure that moving forward we are addressing and preventing fraud.

Can you talk a little bit about what kind of structures are being implemented through the board? And then kind of what they are replacing?

Ms. GUZMAN. With the Fraud Risk Management Board, I hoped to integrate a more holistic approach to fraud risk management so that all of our program offices would be engaged. All of them have a role in setting up programs and making sure that they design them with good controls.

And so, the management of the Fraud Risk Management Board includes all my key program office leads, as well as it is chaired by my CFO. So that is an important addition. We want to make sure that controls are guided by the organizations that deliver our capital access programs, our disaster assistance programs, our government contracting, and entrepreneurial development.

But in addition to that, as well as building a more collaborative effort across the agency, I wanted to make sure that the framework complied with the GAO standard. And this new Fraud Risk Management Board does that and ensures that we satisfy that requirement of the GAO. The structure itself, it will report in through the Enterprise Risk Management Board that was established back in 2015 and reports directly to me. In addition, my Special Counsel for Enterprise Risk will sit as an advisor on the Fraud Risk Management Board to ensure that there is a constant tracking of their activities. And importantly, we embedded fraud risk management into the performance of all the key members of the Fraud Risk Management Board, which I think also goes a long way to ensuring that they know that the agency takes this seriously.

Ms. DAVIDS. Thank you.

Chairwoman VELAZQUEZ. Time has expired.

Ms. DAVIDS. I yield back.

Chairwoman VELAZQUEZ. The gentleman from New York, Mr. Garbarino, is recognized for 5 minutes.

Mr. GARBARINO. Thank you, Madam Chair. Administrator Guzman, thank you for being here today.

We have already heard a lot of questions about the fraud, dealing with the EIDL. And when they say possibly \$86 billion, that was the last report, and I think a new report is going to come out which is probably going to raise that number. I do not think you can talk about it enough, about how bad this fraud was with these programs, with the COVID-programs.

I am hearing in my office people who have still had applications in over a year. We have had to deal with a couple of cases where people have had EIDL applications in for COVID over a year and you said before you are getting some applications done with another program with maybe 2 weeks to a month. Why is it taking

over a year for some of these applications to be processed? I understand that not everyone is back to work yet? Career employees are still working from home or have the option. Could that be leading to it? I mean, why are these taking over a year to get them?

Ms. GUZMAN. Actually, the COVID-EIDL program is the program I was referencing in which the average turnaround time is 2 to 3 weeks for \$500,000 and under. And it is about a month for those above. And that is the one that we are processing about \$700 million a day and have been on average since the summer, a billion dollars a day. Within COVID EIDL, I was not happy with the way it was and I actually moved it to my Office of Capital Access to streamline processes. In the fall, we also changed the customer service contractor so that we could improve customer service to the small businesses.

With those borrowers that you are finding, who have been in the system for that long, they are under multiple reconsiderations. In other words, they have been denied and have come back for further reconsideration. In many cases, the majority of their cases, they did not have their 2019 taxes filed or reported or needed a modification. And so that adds some additional time but it should not be a full year.

So, what our district offices are doing, we have also empowered them to access the information about the EIDL program. We are happy to work with you and your team to investigate any specific cases that we can unstick in the process.

Mr. GARBARINO. I would appreciate that.

The teams have been helpful when we reach out but everybody does not call their congressman every time, so it moves once we call but small businesses are dealing with a lot of other things that having to get in touch with us.

Ms. GUZMAN. If I could add, we have added a lot of resources to those pending applications so that we can continue to get them down as we close out this program.

Mr. GARBARINO. I appreciate that. Thank you.

Now, are all the SBA employees back to work or are you still having people work from home?

Ms. GUZMAN. We have had a return to work stance in February and we are still transitioning with our union employees but we are, you know, a majority of our headquarters have returned to work. But that has not impacted. Obviously, we have scaled to put out \$1.2 trillion in relief and have been very productive over these past 2 years.

Mr. GARBARINO. What would you say a majority is, 51 percent? How many people are back to work and not working from home anymore?

Ms. GUZMAN. In the headquarters area, it is over 70 percent.

Mr. GARBARINO. Okay. Thank you.

I notice as part of the budget, also, the administration is requesting authority to transfer \$320 million from the targeted COVID-EIDL Advance account to support loan servicing and other related programs. I think there has already been over \$4 billion has been used for salaries and whatnot for servicing. Why do you need another \$320 million?

Ms. GUZMAN. The COVID-EIDL program is, of course a 30-year loan. And so, we will now be servicing \$3.9 borrowers. And the SBA anticipates needing additional funding to continue to manage this portfolio into the future and make sure that they have the resources and the customer service that is expected.

Mr. GARBARINO. How much has been put, I mean, it has been over \$4 billion though, has it not, that has been put towards the program already and you are transferring another \$320 million?

Ms. GUZMAN. The program has disbursed nearly \$4 billion in funding correct loans to small businesses.

Mr. GARBARINO. I am just going to switch to one more question since I have a little bit of time left. From small business, what is the top issue that you are hearing? What is their biggest concern?

Ms. GUZMAN. Across the board, we need small businesses. And note that we have also had a surge of new entrepreneurs as well.

Mr. GARBARINO. Just top issue. I have got 20 seconds.

Ms. GUZMAN. The top issues are multiple though. So Capital Access is always one of the top issues. And in addition, when managing their business—

Mr. GARBARINO. Anybody talking, sorry to interrupt, but anybody—

Ms. GUZMAN.—supply chain, inflation—

Mr. GARBARINO. Inflation. That is what I am hearing.

Ms. GUZMAN.—and workforce issues across the board.

Mr. GARBARINO. Inflation.

Ms. GUZMAN. So I would put all of those four.

Mr. GARBARINO. But inflation is what I am hearing a lot from all different businesses. And I am running out of time but what does this budget do to address inflation?

Ms. GUZMAN. for SBA in particular or broadly? The president—

Mr. GARBARINO. SBA.

Ms. GUZMAN. For SBA, specifically, we are leaning in to entrepreneurial support, to help small businesses navigate the issues that they have had to face. Obviously, we look towards helping them with strategic planning, and financial management, supply chain management, and our centers offer specific targeted support and technical assistance in those areas.

Mr. GARBARINO. I am out of time. Thank you very much.

Chairwoman VELAZQUEZ. The gentleman's time has expired.

The gentleman from Louisiana, Mr. Carter, is recognized for 5 minutes.

Mr. CARTER. Madam Chair, thank you very much for the opportunity to address, and Administrator Guzman, I would like to personally thank you for touring my district and having the kind of attention to deal that my constituents certainly deserve and certainly appreciate that you undoubtedly provide, and the care that you give. We know that you have a very tough job but we certainly appreciate the hard work that you and the Members of your team are providing for the people of American.

One observation and two questions. First observation is that there were comments that were made earlier that suggest that somehow climate change was not a part of SBA and it should not

be a part of the discussion. I would like to very respectfully challenge that premise.

In my district, we have had substantial impacts from climate, whether it is hurricanes, floods, or tornadoes that have incredibly impacted our small businesses to the tune of people having to borrow money. To only have to come back and borrow money again from SBA because of natural disasters that were no doing of their own. So, climate change is very much a part of the world that SBA plays in helping businesses, particularly small businesses, stand back up after these horrific natural disasters.

So, I thank you. I thank your administration. The administration, the Biden administration, and certainly your administration, Ms. Guzman, for being very attentive.

So, one quick question. Is a real life issue that happened in my district. There was an individual that applied for an EIDL grant, received notice that she had been approved, and that money had been transmitted to her account.

Now, I have been in communication with a number of your staff people. But I want to bring this to your attention because we have not gotten a positive result yet, but I think one should be in order. She applied for an EIDL grant. Was approved for the EIDL grant, was notified by SBA that the funds were being transferred to her account.

Several days go by. She realized the money has not. It was determined by SBA that there was a glitch and that the money was supposed to have been transferred but never made it to her account. By the time she brought that to their attention to the time that they attempted to correct the glitch, meaning to then send the money to the proper account, she was told that, oh, the program rules have changed and you are no longer eligible for the funds that you previously, only a week earlier, had been approved for.

Well, listen, that seems terribly wrong. If the person was approved and then somewhere in the process there was a rule change, I think it is only reasonable that some exception be made to assist this individual. I will not give her name or any of that information on an open line, but your staff is well aware of this and I will share it again to your office.

Can you talk about that very briefly? And I suspect that this is not a one-off. This may have happened to other people throughout the country, but certainly, it is a travesty and it is no fault of the applicant but they should be made whole.

Ms. GUZMAN. Thank you so much for the time that you spent with me in your district. It was very informative, especially with the businesses impacted by repeat natural disasters.

I will say on the COVID-EIDL program, as well as the Advance program, we obviously, you know, those programs closed December 31. We continue to administer funding on any modifications for the EIDL program. I am happy to explore this further. My team will follow up immediately with your staff on this constituent request in particular. I am not pleased with the EIDL program overall and obviously made some significant changes over the summer to move it, reposition it, add new processes and procedures, and in the fall, changed the customer service support.

Mr. CARTER. And I am sorry to cut you off, Madam, because my time is going to go up. I want to be very clear and complimentary of your staff. The Region 6 administrator has gone as far as he could with trying to explore this. Your people have looked at it and have been extremely helpful, albeit not getting it over the goal post. So, your extra attention to this would be critically important, particularly to my constituent in Louisiana who has been very patient but has clearly been wronged.

And with my final 10 seconds, I want to just once again make a play for something that I have spoken to you before and others, and again, I want to thank you. And that is individuals who have had to apply for SBA loan each time there is another natural disaster. I would ask again that you would consider some loan forgiveness.

Chairwoman VELÁZQUEZ. Time has expired.

Mr. CARTER. And I thank you.

I apologize for overrunning.

Could she at least answer that, ma'am, speak to that?

Chairwoman VELAZQUEZ. Time has expired so if you could answer in 5 seconds.

Ms. GUZMAN. We do not have forgiveness authority on the disaster programs so we will continue to follow up with your office on any specific requests.

Mr. CARTER. Thank you.

Chairwoman VELAZQUEZ. Now we recognize the gentleman from Florida, Mr. Donalds, for 5 minutes.

Mr. DONALDS. Madam Administrator, it is good to have you back. Thank you for being here. I will say in all honesty, Administrator Guzman, I do appreciate you coming. We are still waiting for Secretary Yellen to materialize in the halls of Congress. Not quite sure where she is. I see her on CNBC. I see her on TV randomly. She somehow finds her way to the Senate but she has not appeared in this Committee, which she actually has responsibility to do. But I do appreciate you taking this responsibility being here, answering questions from the Committee.

I want to start here. Obviously, the president's entire budget has come out. Yes, we are focused on the small business budget. But the small portion of the president's budget obviously impacts businesses, large and small, Americans, whether they are rich, whether they are middle income, whether they are poor. Under the president's tax proposals, he is calling for rises in the top marginal tax rate back to, I believe, 39.6. He is calling for tax rate increases from 21 to 28 percent on the corporate income tax side. Essentially, undoing the Tax Cut and Jobs Act. Is it the opinion of the Small Business administration that these tax increases are going to be to the betterment of small businesses in the United States.

Ms. GUZMAN. Thank you so much for your comments and question. I will say that we know from Treasury's analysis that 97 percent of small businesses would not be affected by any tax increases. And the president has been committed to ensuring that nobody under 400,000 would be impacted. And so, we continue to try to support our small businesses with all their bottom line impacts at the SBA and providing the technical assistance and capital access and market access to help them thrive in any economy.

Mr. DONALDS. I am glad you mentioned Treasury because once again I will say, where is Secretary Yellen? Because this actually falls right into her wheelhouse. It will be great to have this dialogue with her, somebody with an economic mind. We can have that jujitsu, if you will. But what I would ask is, obviously, maybe small businesses, they incorporate many different ways. Some of them are C corporations. Obviously, they would be directly hit by a raise in the corporate income tax rate. A lot of them are S corporations. Or they are sole proprietorships. So, the business income actually falls to their personal income taxes. So, I go back to my time in banking. A lot of small business owners, their business income actually flows through their personal income taxes which would put them in the window of paying higher taxes because the top marginal rate would increase.

The only other thing I would add to that is even under the president's budget, the \$400,000 number is for a couple. But if it is individuals, you are talking more than \$215,000. If you are somebody who is single and runs a small business and you are earning more than \$300,000, your taxes are going up. And typically, if you are earning over \$300,000, you are probably employing maybe less than 10 people. So, we are talking about the smallest of the small businesses who operate a sole proprietorship, maybe partnerships, that are going to be hit by rising taxes. Do you think that is problematic?

Ms. GUZMAN. Well, again, I mean, those 3 percent of the businesses that would be affected, 4 percent are C corps, and of course, those pass-through entities as well. But again, only 3 percent would be impacted, and my position is to continue to try to support small businesses with the programs that SBA has available for them—capital access, as well as market access, and technical assistance.

Mr. DONALDS. Well, I think it is important to understand that we can quibble on what the percentages are. I think it is obviously more than 3 percent. I would love for Secretary Yellen to actually dig into this a lot more for us. But let's be also very clear. Some of those businesses in that 3 percent, I am going to use your number, they employ the vast majority of people in the United States.

I am going to move on.

Obviously, inflation is a big issue dealing with everybody, whether you want to talk about individuals or the fact that the producer price index, the thing that does not get talked as nearly as much about is up around 12 percent year over year which is catastrophic for businesses across the United States. Have you and your administration had a conversation with President Biden, Chief of Staff Klain, VP Harris, or the Council of Economic Advisors? Have you had conversations with them about the impact inflation is having on small businesses in the United States and on the ability for businesses to repay the EIDL loans that have been actually executed by SBA?

Ms. GUZMAN. Whenever I engage with those individuals, as well as the White House, we continue to share insights on small businesses and the impacts that they are having around inflation and supply chain. That is why we focus on—

Mr. DONALDS. I have got 23 seconds left. I do not mean to cut you off. But let me ask you this question. This is a better question. What do they say? What do they say the remedies are? What do they say they are going to do to help small businesses? I would like to know what the president's opinion is on this.

Ms. GUZMAN. The president has expressed concern with the rising costs on American families, as well as small businesses, and he is taking actions to try to address those pocketbook issues, as well as supply chain—

Mr. DONALDS. What actions?

Ms. GUZMAN.—to expand our productive capacity with—

Chairwoman VELÁZQUEZ. The gentleman's time has expired.

Mr. DONALDS. All right. Thank you again, ambassador—Administrator. I gave you another promotion. Thank you, Administrator Guzman.

Chairwoman VELÁZQUEZ. The gentlelady from California, Ms. Chu, is recognized for 5 minutes.

Ms. CHU. Administrator Guzman, I would like to make a statement about the 504 program and then ask a question about SBICs and then Community Advantage.

We know that SBA's 504 loan program is so critical to helping small businesses with startup costs like purchasing commercial buildings or expensive equipment. And in fact, last year, SBA saw a 41 percent increase from the previous year. Unfortunately, that same year the program exceeded its \$ 7.5 billion lending authority in September and was forced to pause lending for the remainder of the year, meaning that eligible small businesses were left without funding.

This year, the 504 program is again going to run out of funds by summer. And that is why I strongly support the president's budget for 2023, which includes a \$1.5 billion in lending authority. And SBA's request for flexibility and the authority to raise the 504 program's cap by up to 15 percent, which is the same flexible authority for SBA's 7(a) loan program. I think it is so important to make sure that everyone can get the loans that they need and that there is not a disruption in dispensing them.

And then my question about SBIC. I am a big supporter of the Small Business Investment Company. I am proud that my legislation to allow more capital to be invested in SBICs, the Invest in main street passed the house in December and that this Committee included these provisions in the reconciliation package that passed the House in December.

Certified SBICs are one of the government's lowest risks, highest impact tools to grow the businesses, but it is not doing enough to reach our most underserved small businesses. In 2021, in fact, only 6.9 percent of the companies receiving SBIC financing were women, minority, or veteran owned.

So, could you talk about how the 2023 budget request would diversify the SBIC so that there would be greater representation?

Ms. GUZMAN. Thank you, congresswoman. And I agree with your earlier statements on 504. It is an important program that we continue to try to focus. And to an earlier question that was asked as well, we are looking to promulgate rules on the Express 504. We have implemented that already.

On the SBIC program, I agree wholeheartedly that we want to make sure that that capital is accessible across the country, whether that is rural communities, diverse communities, as well as veterans. We want to see capital spread equally across the nation. The SBIC program, we are looking at from an outreach perspective, as well as the actual rules and regulations and the SBICs themselves to diversify and ensure that they are diversifying across not only the types of borrowers that they are supporting across the country but as well in the types of funding. We want to make sure that at all stages of a business's development, that they are able to access capital.

And so, we have been working closely with the industry to make sure that we can support an expansion of the servicing and offerings to the SBICs across the country.

Ms. CHU. Well, if I may, I also wanted to ask about Community Advantage, which has been very powerful in reaching significantly more female and minority small businesses than traditional lending programs. So, I introduced legislation to make this program one of SBA's core lending program which the House passed last year.

Earlier this month, SBA noticed that it would be extending the pilot for another 2 years, opening up the program to new lenders and making some reforms to the program. However, there is currently still no official notice or new Community Advantage participant guidance reflecting these changes.

So, can you tell us when Community Advantage lenders should expect to see reviewed participant guide and what the content would be?

Ms. GUZMAN. That is in process. Of course, we put the federal registered notice about, you know, less than 30 days ago and we will be putting out those rules so that we can expand the program as soon as possible.

Ms. CHU. Do you know when that will be?

Ms. GUZMAN. That is in the coming weeks. We are working on that and prioritizing that now.

Ms. CHU. And how about there was also an evaluation on whether the program should remain permanent. And I thought that the program had proven itself

Ms. GUZMAN. I know that there was a statutory proposal to make it permanent. We have extended it within the priority of the pilot.

Chairwoman VELÁZQUEZ. The gentlelady's time has expired.

Now, we recognize the gentlelady from New York, Ms. Tenney.

Ms. TENNEY. Thank you, Madam Chairwoman and Ranking Member Luetkemeyer. We are grateful, Administrator. Thank you for being here in person.

As a small business owner for many years, I know what I hear from my own employees, from my own colleagues, and from other small business owners. Inflation, labor shortages, subsidies by big government to other big companies, high regulations, high taxes, particularly coming from a state like New York are what we see as small business owners really hurting us. And so, when we see these items coming from government and this huge spending and we look to the Small Business Administration for help to rescue us because we cannot afford compliance costs. We cannot afford to

manage the big business advantages that they have. We look to the Small Business Administration, and sometimes I hear today in this meeting things that look like mission creep away from small businesses and helping large businesses, and businesses that may not even be considered a small business. And I worry about that because of how vitally important it is as you, as an administrator, and all of us to really be careful in how we spend taxpayer dollars, particularly in inflation and small businesses have to scrimp and save for every penny, just to survive in this situation.

So, administrator, I want to jump to something really important right now in terms of a small business looking at a big business, gaming and getting advantage in the system. Would you say that Planned Parenthood affiliates are in the same category as a hotel or a restaurant?

Ms. GUZMAN. You know, with Planned Parenthood, I am assuming you are talking about the Paycheck Protection Program.

Ms. TENNEY. Right. Would you say that a Planned Parenthood operation, an affiliate, is in the same business and same relationship as a hotel or a restaurant?

Ms. GUZMAN. My understanding is that Planned Parenthood affiliates are independent and are individual entities within that community.

Ms. TENNEY. Right. And you know why I am asking this question because obviously we sent you a letter in February. Thank you, we got it yesterday, so we appreciate at least finally getting an answer. Because, as you know, under the Paycheck Protection Plan created by the CARES Act, Congress specifically stated that companies could not, particularly SBA, could not issue forgiveness for PPP loans to any entity with over 500 employees unless that affiliate was a hotel or a restaurant. So that is why I asked you the question. So, I think we can agree that Planned Parenthood is not a hotel or restaurant. And the question is whether or not they are considered an affiliate. But 34 individual loans, totaling over \$67 million, were given to affiliates of Planned Parenthood, the Planned Parenthood Federation of America. And as you know, Planned Parenthood is not just an innocent bystander. They are the nation's largest abortion provider with over 16,000 employees, well beyond the 500 employee threshold established by Congress for this PPP eligibility.

So, I wanted to clarify that assessment that you have about Planned Parenthood because they clearly are not an affiliate like a hotel or restaurant. They do not fit within that exception. And so, you sent me a letter indicating, it was very vague, actually, about whether or not this affiliation status indicated that there was control by the national affiliate for Planned Parenthood. And so, Planned Parenthood did have exercise and control over its affiliates. And let me give you a couple of examples.

First, becoming a Planned Parenthood Federation of America affiliate requires a certification by the PPFA corporate board. That is the national affiliate controlling the 16,000 jobs. Second, each affiliate is governed by written bylaws which must conform to the PPFA's corporate policies nationally. That looks like control to me. And finally, the PPFA's corporate headquarters imposes affiliation mandates on local affiliates.

Anyone who is looking at this control statute, and I have it in front of me, clearly talks about the power to control has to exist. It does not necessarily mean that it exists but there are numerous examples of this happening with Planned Parenthood and its affiliation where they exert that control, not just that the control exists, where they exert it.

So, would you not agree that it is inappropriate for the SBA to issue these exemptions and forgiveness for loans for the Planned Parenthood Federation affiliates?

Ms. GUZMAN. I can share with you that the Trump administration issued a preliminary determination letter. Any of those borrowers, there were multiple, beyond Planned Parenthood, only Planned Parenthood received that specific attention. Anyone within that hold code, I put back into the normal processing. And so, of course, our review teams thoroughly reviewed all of those loans with those specific hold codes, not just Planned Parenthood, all of them in order to—

Ms. TENNEY. Right. This is my time. You are mincing words. I mean, this looks like we are doing an end run around a law to fit a political agenda, not actually good stewardship of taxpayer dollars. And specifically, prohibiting a law in place that prohibits the ability of these types of national entities with 16,000 employees to be able to take precedence over small business community members who were left without the resources because we prioritized a political agenda.

Chairwoman VELÁZQUEZ. The gentlelady's time has expired.

Ms. TENNEY. Thank you.

Ms. GUZMAN. I will be happy to follow up with your office.

Ms. TENNEY. Thank you. I would appreciate that.

Thank you. I yield back.

Chairwoman VELÁZQUEZ. The gentlelady from Minnesota, Ms. Craig, is recognized for 5 minutes.

Ms. CRAIG. Thank you so much, Madam Chair. And thank you in particular to Administrator Guzman for your testimony today and for your dedication to America's small businesses.

I would be remiss if I did not mention how proud I am of the work of several Members of this Committee in long overdue passage of the Relief for Restaurants and Other Hard-Hit Small Businesses Act. I hope to see the Senate act in short order on this necessary bill.

Administrator Guzman, I have been hearing from several of my constituents who have been waiting for months, some nearly a year, to see their COVID-EIDL applications approved. These are everyday small business owners like Donald Wineland of DRW, Inc., an Air Force Veteran from Prior Lake, and John Huseth of Clay View Dairy from Dennison. In total, my constituents are waiting on nearly \$2.2 million worth of decisions from the SBA. Can you give us a little bit of an update as to when COVID-EIDL funds may run out? And how many applications remain under review? These are vital dollars to my constituents, their businesses, and the communities that they serve.

Ms. GUZMAN. Thank you so much for that question. We have on COVID-EIDL, obviously, it is a program that we are heightened, our attention is on as we round out this funding. There still is

funding remaining that we are using for loan modification requests as well as any reconsiderations. It sounds like the constituents are in the fold of reconsideration. We have just a few thousand that remain in that bucket of reconsideration that we are working through urgently every day just to make sure that funding gets into the hands of the businesses that are eligible for this funding. And we are happy to follow up with your office on the specific constituent requests to make sure that we are tracking them.

Ms. CRAIG. Thank you. I really appreciate that. And again, anything you and your staff can do to help expedite these applications I would be grateful.

As a Member of the Oversight Subcommittee, I would also appreciate if you could provide the Committee with an update on SBA's current anti-fraud efforts, especially with respect to PPP and EIDL. All of us here have deserting constituents and businesses in our district in need of these loans. And of course, we all need to know that our taxpayer dollars are not going to bad actors.

Ms. GUZMAN. Yes, I am happy to do so. From day one, we have implemented strong controls in the Biden-Harris administration to make sure that we could avert fraud. We have been working collaboratively with the IG and the GAO to ensure that their recommendations are implemented and that we continue to track best practices as our response to fraud is iterative.

With the framework that we have recently solidified, strengthened by replacing the Fraud Management Council with the Fraud Risk Management Board, we have launched a strong leadership approach to fraud for the years ahead. We are ensuring that our senior leaders within our program offices have accountability as well as can share insights, as well as implement best practices across the agency. I really value the leadership of my career team that has been working on this issue for the past year and ensuring that we have been implementing the strongest controls, as well as leveraging technology to assess our platform and continually report fraud to the IG and collaborate with them to ensure that we can support their recovery.

Ms. CRAIG. Madam Administrator, I just want to end my comments by saying thank you. I know that the SBA has been asked to step up and perform under enormous pressure during a public health crisis. And as much as we sit here and we say let's make sure there is no fraud, absolutely, let's make sure that our taxpayer dollars are being used appropriately, absolutely, I do not want any of us to not think about every single day just the extraordinary effort your team over the last couple of years has gone to starting in the previous administration, into this administration, we have asked a lot of you in a short amount of time, and I, for one, as I travel my district and I see so many of my small businesses that would otherwise be out of business still going strong and expanding and creating jobs, I just could not be more proud. So, I want to say thank you for the work that your team has done, especially here locally. I want to call out Brian McDonald here from our region who has just been an extraordinary partner during a very difficult time.

And with that, Madam Chair, I yield back.

Chairwoman VELAZQUEZ. The gentlelady yields back.

Now we recognize Ms. Salazar from Florida, Ranking Member of the Subcommittee on Contracting and Infrastructure.

Ms. SALAZAR. Thank you. And wonderful to see you again, Isabelle Guzman. And thank you for your visit to my District No. 27, City of Miami. It was a highly productive visit I should say and I am sure that from now on my small business owners are going to be enjoying the best service that SBA can provide. So, thank you for that. Thank you for taking the time and catching a plan and going to Miami. Very grateful.

I just want to share a few small glitches that we have. One of them, for instance, is \$140 billion problem. And what is that? It is the COVID testing. Every time someone comes to this country, an international tourist, that person needs to get tested 24 hours before getting on that plane and that measure is killing the tourism industry in Florida. Specifically, in Miami. And you know, Miami is the hub of international tourism in Florida.

So, could you please tell the president next time you see him in one of those Cabinet meetings that we need to do away with that measure? Will you be able to do that?

Ms. GUZMAN. I will definitely relay your concerns to the White House and our team will continue to flag this issue and work with you to see what we can do to help better support our travel and industry small businesses which we know have been so impacted by so many factors.

Ms. SALAZAR. Because, you know, Florida is open for business and my small business community is eager to be selling those services. But if you do not have people, then you cannot make the payroll at the end of the month. So, you understand that. So, since you are there with the president, I would very much appreciate it if you can tell him that this is killing us.

Ms. GUZMAN. I continue to advocate for our small businesses and I appreciate that in particular.

Ms. NEWMAN. But will you do that? Could you, will you able to tell the president in one of those cabinet meetings that this is happening and it is crushing our small business entrepreneurs?

Ms. GUZMAN. I will definitely flag for the White House the issue.

Ms. NEWMAN. Thank you. All right.

So, you have a pretty good budget, over \$1 billion, and it is getting bigger probably next year. But we discovered something that is troubling, Madam Guzman, is that the budget assigned for salaries, for regional and district offices is going down, not up. But in the meantime, your decision has been to increase the money in the hands of the Washington bureaucrats.

I believe that someone who is sitting in D.C. cannot serve, understand, or care as one of your guys sitting in one of those district offices that the budget is getting cut for the salaries in those. And even more, I am going to share with you what is happening in Miami, or in Tampa, is that we only have one district office in South Florida for 2 million small businesses. We do not even have a permanent district director.

So, any reasoning behind cutting money at the regional level and giving it to D.C.?

Ms. GUZMAN. Over time as we have had to increase salaries and benefits and decrease some of these positions, you know, I understand that all of our offices have been impacted. This budget would allow us to retain some of those positions across the agency, and we have continued to try to empower the field to make sure that we gather those key insights that our team on the ground can share with us.

Ms. NEWMAN. But you empowered them by hiring more people and paying them good salaries. But right now, you know, you are cutting those budgets.

Ms. GUZMAN. We are, you know, committed to making sure that we can help improve our staffing plan across the field. And that includes trying to ensure that their positions are maintained and that they are receiving the benefit of our expansion.

Ms. NEWMAN. Finally, I have 1 more minute. I just want to ask you a personal question. You are one of the most prominent Latinas in this administration so we have the same cultural code. Your parents are Mexicans. You understand the border. You know what is happening down there. Are you not concerned? That is the concern that I have. That what is happening at the border is giving a very bad rap to the Hispanics, to the Latinos, because we do not have any type of legality down there. And my concern is that it could be changing the favorable perception that other groups have of us, the largest minority in the country. So, when you sit with the president, do you not express that from a very personal point of view because your parents are of Mexican descent? Mine are Cuban. So, we belong to the same minority. Please give me your personal thoughts if you want to share them with us.

Ms. GUZMAN. Well, what I would share is that I continually advocate and make clear that the face of entrepreneurship is changing and I would like to portray Latinos as the ones who are leading on that because they are starting businesses at the highest rates and across most states according to McKinsey studies. And so that entrepreneurship and that face of entrepreneurship is what needs to be important.

Ms. NEWMAN. And we know that. But we create, probably we are the highest creators of jobs. But when it comes to the border, that could be harming the rest of our plans and wanting to live the American dream. Yes or no, do you not think that that is happening right now?

Chairwoman VELÁZQUEZ. The gentlelady's time has expired.

Ms. GUZMAN. I agree that I would want everyone to know that small businesses, the face of the Latino community is entrepreneurship.

Chairwoman VELÁZQUEZ. The gentleman from New Jersey, Mr. Kim, is recognized for 5 minutes.

Mr. ANDY KIM. Thank you, Madam Chair. And thank you, administrator, for taking the time to be able to come before us.

As we had a conversation before in previous hearings about the path and the trajectory of SBA, coming out from this pandemic and talking through what comes next, one thing that I wanted to relay is as I have talked to different businesses that engaged in the Paycheck Protection Program, and honestly, that was their first time engaging with the SBA, engaging with government services when

it comes to small businesses, I have asked them, are you going to be able to continue with SBIR? Are there other types of support that you need? Have you been able to learn about some of the other offerings? And many of them said that they still do not know too much about what SBA has to offer about different avenues that they might be able to benefit going forward beyond just the Paycheck Protection Program.

So, I guess I wanted to ask you as we are coming out from this pandemic, SBA has been in touch and connected and helped so many more businesses than ever before, has there been a formal process in following up with those businesses that engage in the Paycheck Protection program or EIDL and others in terms of informing and educating and working with them, if there are other needs that they might have that might be serviced by other aspects of what SBA does?

Ms. GUZMAN. Yes. And on the eve basically of National Small Business week which starts next week, I want to say that the SBA has tried to leverage this moment to better serve small businesses, that awareness of SBA and its offerings is higher than any other time in history. And I think that we do need to leverage this moment. So, across our resource partners, our Community Navigators, as well, we have charged them with trying to make sure that the small businesses are aware of the capital programs, the technical assistance, and the market access resources that we have at the SBA to support businesses. And I would welcome the opportunity to partner with you on that to ensure that more businesses in your district are aware of SBA resources and it is critical that they build awareness. Of course, we do not have a CMO or huge funding for that type of outreach, but we can leverage our district office, leverage our partners, leverage our lenders to better connect to those small businesses. And we have started to systematically focus on these new businesses that we have served through PPP and COVID-EIDL.

Mr. ANDY KIM. So I am glad that that kind of outreach is happening and that, you know, if there is additional funds or resources needed for that, please let me know. I would like to work with you on that.

But just more specific, I did want to just follow up. So, there has been formal follow up, like has there been an email or what to businesses that had the Paycheck Protection program about like laying out some of the other aspects? I am just trying to get a sense if there has been something of that nature so I can flag it for these businesses in case they missed it?

Ms. GUZMAN. Within the EIDL program, which is our direct program, of course, we have had extensive outreach to our businesses. Our new portfolio on PPP, we work with our lenders on a regular basis to make sure that they are providing all of SBA insights. They are familiar with our programs but PPP was administered through the lending network. And so, our direct contact is not there. So, as we do forgiveness and support those businesses, of course, we have those contacts and will reach out.

Mr. ANDY KIM. Okay. That is helpful context in terms of understanding. And like I said, I would like to try to see if there are some creative solutions for this, especially for those paycheck pro-

tection plan ones dealing with lenders and maybe getting towards the businesses.

But that raises the other aspect of this, is that, you know, I saw recently a really extraordinary statistic about how prior to the pandemic there were about 1,900 different lenders participating in different SBA programs but that during the pandemic, over 5,000 lenders were participating in the Paycheck Protection Program.

I guess I wanted to ask a similar type of question. When it comes to the lender side, has there been ability to grow the number of lenders participating in more formal SBA programs? Drawing from that pool that was working on the Paycheck Protection program. I am curious if this has been sort of a forced multiplier and whether or not there has been a sizeable increase already in terms of the lenders that are at the disposal of the SBA.

Ms. GUZMAN. Our goal across our network is to increase the number of lenders. We have seen a decline in small dollar lending. We want to expand the number of lenders in our network to make sure that we can get more capital to businesses. And so formally, of course, we are expanding to the Community Advantage lenders, so more CDFIs who participated in PPP can participate in SBA's programs. Those new to SBA lenders, we want to try to bring in and provide technical assistance. But more importantly, we need to simplify our capital access programs so that it is easy for a lender to come in and access SBA guarantees. And so that is what we are aiming to do is to replicate the successes of PPP and the simplicity.

Mr. STAUBER. Time has expired.

Chairwoman VELAZQUEZ. Now we recognize the gentleman from Minnesota, Mr. Stauber, for 5 minutes.

Mr. STAUBER. Thank you, Madam Chair. Thank you to Ranking Member Luetkemeyer for holding this hearing. And I know this hearing is about the budget. But I would like to use my time to talk about WOTUS, the Waters of the United States.

As everyone well knows, small business owners, farmers and ranchers, were very negatively impacted by the Obama Waters of the United States rule. It expanded federal jurisdiction far beyond what was authorized by Congress and resolved it in the burdensome requirements and widespread concern for Americans across this nation and small businesses.

The Trump administration rightly chose to heed the concerns of these small businesses and entities and created the Navigable Waters Protection Rule.

Unfortunately, the EPA is back to interpreting the waters rule and actually announce their intention to revise the waters rule and make it even worse.

Administrator Guzman, given that you are supposed to be the leading champion for small business, can you give me specific examples of what you have done to speak with small businesses on this topic. And furthermore, can you give me an example, of an incidence where you have heard a comment from a small business owner and actually conveyed that concern to another agency like the EPA in this case as they look to review their role?

Ms. GUZMAN. Thank you. We do have our ombudsman office that works regularly with small businesses through regulatory fair-

ness boards across the country. And they have received concerns about this and continue to work with small businesses. So not directly. I have not spoken to any of those businesses directly.

Mr. STAUBER. Madam Administrator, so you cannot give me an example?

Ms. GUZMAN. I have not spoken directly to a business on this issue but know that my ombudsman office has connected with small businesses. In addition, as you know, the Office of Advocacy tracks our regulations.

Mr. STAUBER. Have you reviewed the small business Office of Advocacy's numerous concerns with the EPA's handing of the Waters Rule?

Ms. GUZMAN. I am familiar with Office of Advocacy's work and have seen some of their statements and have spoken to our acting advocate, Major Clark.

Mr. STAUBER. And are you aware that they have yet to convene an official small business panel in accordance with the Regulatory Flexibility Act?

Ms. GUZMAN. I am not aware that he has not yet done that but we connect regularly with the Office of Advocacy. I have a regular meeting and so I will make sure that I can relay your concerns.

Mr. STAUBER. And then you will have them hold an official business panel?

Ms. GUZMAN. I will talk to them about that. Yes. And follow up with your team as well to find out that timing.

Mr. STAUBER. I appreciate that.

And then can you explain for the Committee, as Mr. Clark from the Office of Advocacy did for our Subcommittee a few weeks ago, why going through an official SBREFA panel is so important to understanding the significant economic impacts the Waters Rule will have on small businesses and small entities?

Ms. GUZMAN. I can follow up with you on that and provide more specifics but I would not be able to comment further on it.

Mr. STAUBER. Do you believe that a SBREFA panel is important to recognize the small business concerns?

Ms. GUZMAN. I am not familiar. I need to follow up with you on that. And I definitely will.

Mr. STAUBER. Okay. Will you commit to working with the EPA to ensure the SBREFA panel is held?

Ms. GUZMAN. On this issue specifically, now that you have flagged it for me and I know it is an issue that Advocacy continues to track and it is a significant one for small businesses, I will definitely follow up as well.

Mr. STAUBER. Thank you.

And then, Madam Chair, I would like to enter into the record the comments of the Office of Advocacy submitted to the EPA regarding the proposed rule revisions to Waters.

Chairwoman VELAZQUEZ. Without objection, so ordered.

Mr. STAUBER. Thank you very much.

I have a little over a minute yet. Congressman Donalds asked you a question and he ran out of time so I will just ask it again. What has the Biden administration taken to help the middle class and small businesses reference the inflation?

Ms. GUZMAN. The president has taken action on energy costs, as well as trying to focus on pocketbook issues within this budget.

Mr. STAUBER. Tell me what energy costs.

Ms. GUZMAN. He has made available the million dollars a day to try to control some of the gas costs which we know are affecting our small businesses.

Mr. STAUBER. Right.

Ms. GUZMAN. But there is also pocketbook issues, and the budget directly addresses some of those such as child care.

Mr. STAUBER. Is strategic petroleum reserve what you are referring to?

Ms. GUZMAN. Correct.

Mr. STAUBER. One hundred eighty million barrels?

Ms. GUZMAN. A million barrels a day, I believe, through June.

Mr. STAUBER. One hundred eighty days?

Ms. GUZMAN. Correct.

The strategic petroleum reserve really should be held for national emergencies, not failed policies. I think you recognize that.

So my concern right now is the administration is not acting quick enough with the inflationary costs going up on small businesses. And I think that we need to, we are really looking for your leadership when you are in the meetings with President Biden and his cabinet to really support small businesses. So I look forward to the hearing.

Mr. STAUBER. And my time is up, Madam Chair. Thank you.

Ms. GUZMAN. Thank you.

Chairwoman VELAZQUEZ. I want to thank Administrator Guzman for appearing before the Committee again today, and for all the work you do every day for our nation's small business community.

Small firms are the backbone of the economy and the communities they operate in. By empowering the SBA, we empower entrepreneurs to thrive and grow.

Without objection, Members have 5 legislative days to submit statements and supporting materials for the record.

If there is no further business to come before the Committee, without objection, we are adjourned.

[Whereupon, at 12:16 p.m., the committee was adjourned.]

A P P E N D I X



Testimony of

Isabella Casillas Guzman
Administrator
U.S. Small Business Administration

Before the

Committee on Small Business
U.S. House of Representatives

Hearing on

"Small Business Administration's FY 2023 Budget"

April 27, 2022

Testimony of Isabella Casillas Guzman
Administrator
U.S. Small Business Administration

Good morning, Chairwoman Velazquez, Ranking Member Luetkemeyer, and distinguished members of the committee. Thank you for the opportunity to appear before you today to discuss President Biden's Fiscal Year 2023 budget request for the U.S. Small Business Administration—and our intent to apply the resources and leadership provided by Congress to continue supporting our small business economy and delivering for a surging wave of new American entrepreneurs.

The President's budget requests \$1.06 billion—\$914 million to support the SBA's critical small business programs that foster growth and opportunity along with \$143 million for major disasters under the Stafford Act. Collectively, this funding level represents practical investments in economic progress that will help lower the federal deficit, cutting costs for families, and advancing the President's bipartisan Unity Agenda.

I have seen for myself how these investments will help uplift America's growing population of small business owners and entrepreneurs. Over the past year, I've visited hundreds of small businesses across 28 states and Puerto Rico. I've had the opportunity to visit many of the communities you represent and witness the strength and resilience of American entrepreneurship firsthand.

Despite hardships from the pandemic, America's small businesses and innovative startups are creating new jobs, powering our economy, strengthening our global competitiveness, and supporting working families and communities across the nation.

America's global economic leadership and strength depend on the health of our nation's small business economy and the entrepreneurs contributing to it.

Americans are launching businesses at record rates. Business applications have risen more than 30% from pre-pandemic levels, and in 2021 alone, 5.4 million Americans applied to start a business.

One of this Administration's top priorities is making sure the opportunities of this surging economy are reaching all Americans. President Biden often says that ability is spread evenly but opportunity is not. And that's important because building equity—ensuring America's doors of access and opportunity are open to all—isn't just the right thing to do, it's good for business.

Investing in equity helps ensure more of our nation's extraordinary talent and creativity can be fully leveraged to create products and services that make our lives better and confront global challenges.

President Biden's fiscal year 2023 budget builds on the agency's successes, honing our programs to make it easier for small businesses to grow—especially in communities and areas of our economy where they are needed most: expanding the supply of affordable childcare, constructing new renewable energy capacity, building generational wealth in underserved communities,

positioning small businesses to serve as contractors in the buildout of modern infrastructure, and inventing—and bringing to market—powerful new technologies to address climate, cybersecurity, and so much more.

COVID RELIEF

To put the President's fiscal year 2023 budget in context, we need to consider how we got here—and how far we have come in America's economic recovery from COVID.

Facing a once-in-a-generation pandemic, Congress worked with President Biden to deliver the American Rescue Plan, historic legislation that built on the CARES Act and the Economic Aid Act to strengthen financial safety nets and ensure millions of American small businesses could survive the pandemic.

In Fiscal Year 2021, the SBA distributed more than \$450 billion in financial relief through the Paycheck Protection Program, the COVID Economic Injury Disaster Loan and Advance programs, the Restaurant Revitalization Fund, and the Shuttered Venue Operators Grant program. Those vital relief funds saved jobs in every community in the country.

As a result of Congressional leadership, we have helped millions of small businesses and nonprofits keep their doors open and expanded our reach to serve the smallest of small businesses, underserved entrepreneurs, main street restaurants and live entertainment venues.

After making key programmatic changes that protected the integrity of the Paycheck Protection Program (PPP) and COVID EIDL programs from fraud, we served more sole proprietors and mom and pop businesses than ever before. Now, we're continuing to deliver on the promise of forgiveness. To date, 87 percent of all eligible PPP recipients have submitted forgiveness applications and 86 percent have had their loans partially or fully forgiven.

SBA staff also worked carefully to expand access to small business lending for our core customers. For example, the agency developed new rules to make it easier for projects to use 504 refinancing with or without expansion funding.

Over the past year, we also redesigned COVID EIDL, our Economic Injury Disaster Loan program, to meet our customers' needs with an improved user experience including a mobile-friendly application, as well as making several impactful policy changes including more flexible use of funds, loan payment deferment, and a more streamlined process for speed and certainty.

As a result of these improvements, our COVID EIDL program distributed vital emergency relief that reached as much as \$2.8 billion per day, and we're continuing to distribute around \$750 million per day through the program to finalize reconsiderations and loan increase requests.

CAPITAL ACCESS

The SBA's core capital programs delivered at impressive, record-setting levels in Fiscal Year 2021—another reflection of the historic surge in American entrepreneurship and further evidence

that demand for SBA capital support is outpacing available resources, with the unprecedented approval of more than 51,850 7(a) loans totaling \$37 billion, a 62 percent increase from the previous year.

In the 504 loan program, the SBA approved more than 9,670 loans, totaling \$8.2 billion. That is also a record and a 41 percent increase from last year, utilizing the entire \$7.5 billion authorization for the core 504 program.

The Microloan Program delivered more than 4,500 loans to small businesses in underserved communities, totaling nearly \$75 million.

The SBA also exceeded its Lender Match Agency Priority Goal target of 86,000 businesses connected through Lender Match by more than 500 percent, bringing access to SBA loans within reach for 554,000 small businesses—helping to increase the number of lender and small business connections, upgrading user experience and convenience, and improving access to capital overall.

Combined, SBA's capital programs support hundreds of thousands of jobs—and after a careful review, including the high demand for them, President Biden is requesting authorization for a 13% increase in small business capital across these programs above enacted Fiscal Year 2022 levels for a total of \$71 billion.

Specifically, the President's request includes a \$5 billion increase to lending authorized under the 7(a) loan program, a product most often used by small businesses for working capital or business acquisition; a \$2 billion increase in authority for Secondary Market Guarantees for 7(a) loans; and a \$1.5 billion increase to lending authorized under the 504 Loan Program, most often used to finance major purchases with the objective of long-term growth, such as real estate and major equipment.

COVID EIDL TRANSFER AUTHORITY

The Budget request recognizes that we need to make sure COVID EIDL borrowers are supported. SBA is requesting authority to transfer \$320 million in already-appropriated targeted EIDL advance balances to support COVID-EIDL loan servicing and other COVID-related programs.

Transferring this funding is critical since the SBA bears responsibility for servicing more than 3.9 million COVID EIDL loans totaling more than \$361 billion. For comparison, that amounts to nearly half the volume of all credit card debt in the United States today.

A large percentage of these borrowers will start making monthly payments in the months ahead, requiring SBA to shift from COVID EIDL origination to servicing. Our role as an agency should also include providing these borrowers with the necessary education, support, and quality customer service they deserve as they enter this new phase of their recovery.

We believe the \$320 million transfer authority requested in the President's budget is sufficient to provide the necessary support in the coming fiscal year.

BUILDING RESILIENCY FOR SMALL BUSINESS

One of President Biden's top priorities in office has been preparing America's economy and our communities for the growing threats and challenges of a changing global climate. The SBA plays an important role in this work.

As climate change has driven more frequent and devastating natural disasters, the SBA's Office of Disaster Assistance has been an important federal partner over the President's first year, providing lifelines totaling nearly \$2.3 billion to help small businesses, renters, and homeowners recover and rebuild.

That SBA disaster aid included nearly \$100 million in loans to support victims of the Colorado Wildfires and Straight-line Winds and \$1.8 billion in loans to help more than 37,000 individuals and businesses all the way from Louisiana to New York recover and rebuild after Hurricane Ida.

With a more active hurricane season forecast for this year, one of the most effective ways we can help mitigate the disaster costs of climate change is to invest more in resiliency.

The President's budget requests \$179 million in disaster funding—including \$10 million to help address the climate crisis through the SBA's business loan and disaster loan programs—to ensure the agency can deliver its critical support after a disaster and help prevent similar damage in the future by supporting efforts to facilitate access to capital for climate change mitigation investments and resilience efforts to support a more sustainable economy.

VETERANS

One of the most important places where the SBA is working to build our capacity is in support of America's veteran entrepreneurs. Veteran-owned small businesses generate nearly \$1 trillion in revenue annually and they support 4 million jobs.

In Fiscal Year 2023, the SBA is planning to expand the Veterans Business Outreach Center Program significantly—from 22 to 34 locations nationwide, an expansion that will significantly improve the customer experience for veteran entrepreneurs by reducing travel and wait times for appointments and providing additional local training opportunities.

This expansion reflects an expectation that demand for small business startup and scaleup technical assistance among veteran small business owners will continue to grow—in part because of an expanded focus on underserved and underbanked communities as well as continued implementation of the FY 2019 National Defense Authorization Act (NDAA) requirements that increased the number of transitioning service members and military spouses that have access to SBA's popular Boots to Business program.

Another way we're working to improve customer experience and support for veteran entrepreneurs is the ongoing transfer of duties associated with the Center for Verification and Evaluation or CVE, from the U.S. Department of Veterans Affairs to the SBA, as directed by the FY 2021 NDAA.

This center is responsible for verifying veteran eligibility for veteran-owned small businesses and service-disabled veteran-owned small businesses, an important certification that empowers these veteran business owners to participate in set-aside and sole source contracting opportunities. With the transfer of these responsibilities to SBA, the certification will become available to all veteran contractors, not just those doing business with the VA.

Veteran's Small Business certification program and oversight will be the responsibility of the SBA starting January 1, 2023. As a result, the President's Budget requests \$20 million to manage this transition and maintain the CVE program for the duration of the 2023 fiscal year—funding that will provide the resources necessary for information technology infrastructure development, integration, and maintenance.

The SBA also plans to collaborate with the VA to support outreach activities, including marketing and training to assist the veteran small business community to ensure continued operations and support to program participants in the areas of application processing, eligibility, and oversight of continuing eligibility for program participants to ensure their eligibility for contracts.

INVESTMENT AND INNOVATION

SBA's innovation arm delivered significant support last year with Small Business Investment Companies (SBICs) providing more than \$7 billion in long-term funding to more than 1,000 small businesses helping to start, grow, and sustain small businesses and startups across 49 states and Puerto Rico. The budget requests an authorized commitment level of \$5 billion for the SBIC program, consistent with the FY22 authorized level and a \$1 billion increase from FY21.

The President's budget also builds on the FY 2022 request to support the scaling up of SBIR/STTR programs, enabling additional outreach and training efforts targeted to women, underserved geographic locations including rural, and socially or economically disadvantaged entrepreneurs.

This budget also proposes investments that will strengthen America's innovation ecosystem by providing \$10 million to Growth Accelerators, \$10 million to Regional Innovation Clusters (RICs), and \$10 million to our Federal and State Technology (FAST) Partnership Program.

CONTRACTING

America's small business industrial base has seen a long pattern of decline, with the number of small businesses contracting with the federal government dropping by close to 40 percent over

the past decade. New entrants have decreased even more, by as much as 60 percent. We also know that small businesses owned by people of color and women continue to be left out.

Under President Biden's leadership, the SBA has implemented significant reforms to reverse these trends and open the doors of contracting to more small businesses in more communities.

For example, federal agencies will be required to track and publicly report how they're bringing in new contractors. The SBA is managing executive performance metrics to small business goals for socio-economic firms including the President's 15 percent goal for small, disadvantaged businesses by 2025, with a Fiscal Year 2022 goal of 11 percent. We believe the Bipartisan Infrastructure Law and the Made in America Executive Order will provide additional opportunities for small businesses to contract with the government, either directly or as suppliers to other firms.

To improve transparency and accountability, the SBA has also started reporting disaggregated federal contracting data across industries and sectors, including tracking by race and ethnicity, for the first time ever. As a result we can better track contracting disparities—including, for example, knowing that Black-owned firms are awarded less than 2% of contracts but make up 10% of all businesses.

Along with releasing the disaggregated data, agencies will track new entrants alongside small business performance, and we are including contracting goals in the evaluations of senior executives managing procurements. We've also worked closely with the Office of Management and Budget to revise and clarify category management policies and practices to significantly expand opportunities for small business contractors, especially those in underserved communities.

As the agency responsible for directing the federal contracting goals for small businesses, the SBA is committed to closing these gaps and opening doors of federal contracting by working with all our federal buying agencies and offering direct support to more small businesses to get them capital and contract ready.

To that end, the President's fiscal year 2023 budget includes \$9.8 million, an increase of \$6.3 million over FY22 enacted, to scale up training to help an estimated 9,500 small, disadvantaged businesses better prepare for federal contracting opportunities.

With funding increases for the 7(j) Program, the SBA also plans to promote inclusive economic opportunity in government contracting for 7(j) eligible business owners, namely low-income individuals, residents of low-income areas, residents of high unemployment areas, HUBZone eligible firms, 8(a) firms, and economically disadvantaged women-owned small businesses. We know, for example, that 8(a) certified firms that received 7(j) training had a 12 percent higher probability of getting their first contract compared with firms that did not take the training.

ENTREPRENEURIAL DEVELOPMENT

During COVID, we learned that connection and networks were critical for entrepreneurial success. The agency's nationwide network of resource partners has delivered entrepreneurship and small business training and support to more than 1.2 million entrepreneurs, with clients obtaining more than \$7.9 billion in capital and starting nearly 26,000 new businesses in FY 2021.

These networks have expanded to meet the growing demand for their services. For example, the SBA maintains a network of more than 140 Women's Business Centers (WBC). With the opening of our 141st location in Alaska, we now have a WBC in every state, the District of Columbia and Puerto Rico, making it the largest such network in our agency's history focused on the unique strengths and needs of women entrepreneurs.

The President's fiscal year 2023 budget builds on a still-growing demand for these and related services, requesting \$318 million—a 17% increase above the FY 2021 enacted level—for Entrepreneurial Development programs.

SALARIES & EXPENSES

Ultimately, the important mission carried out by the SBA relies on the strength of our talented and dedicated workforce. This budget request invests \$346 million to ensure the SBA can hire and retain the talent needed to provide these critical services and meet the demand for loans, counseling, training, government contracting, and other support during this time of increased entrepreneurship and business formation.

Ensuring strong federal support for this account will ensure that the agency can continue to meet the demand and deliver customer-centric services that America's small businesses need to succeed.

FRAUD REDUCTION

One of my most important missions at the SBA is ensuring good stewardship of our limited federal resources. That is why the SBA has upgraded our systems and processes to detect and prevent fraud.

We recognize that managing fraud risk in agency programs and operations is integral to responsible stewardship of taxpayer resources and effective service delivery to the American public.

During this Administration, the SBA has acted quickly to protect taxpayer dollars, first by restoring controls that mitigate fraud as approved by Congress under the Economic Aid Act. We deployed technology as well as made various other process improvements that not only sped up review times but also automatically routed high-risk loans for closer scrutiny.

As a result, the SBA has been better able to crack down on fraud, substantially reduce application backlogs, and significantly improve SBA customer experiences while still ensuring

legitimate businesses have a clear path to access the emergency financial lifelines Congress created for them.

The SBA's work in the Biden-Harris Administration to enhance fraud controls in pandemic programs has been recognized by federal accountability agencies and watchdogs. And these new fraud prevention measures are just the start.

I recently announced the creation of the SBA's new Fraud Risk Management Board (FRMB). This Board is the agency's designated anti-fraud entity and replaces existing fraud risk structures put in place before the pandemic and will provide the necessary oversight and agency-wide coordination under the standards and framework recommended by the GAO.

I have also designated an SBA Special Counsel for Enterprise Risk to work directly in the Office of the Administrator to limit fraud and risk across the Agency in coordination with our established Enterprise Risk Management Board and the Fraud Risk Management Board.

This work is important which is why the SBA strongly supports the work of the Interagency COVID-19 Fraud Enforcement Taskforce and the Department of Justice Chief Pandemic Prosecutor and Director for COVID-19 Fraud Enforcement—efforts that I am confident will further develop SBA's fraud risk framework and further strengthen our mitigation efforts.

We are working closely with the Office of Inspector General and other federal authorities to refer suspected fraud to the appropriate law enforcement authorities so that they can recover taxpayer funds with our full support. This is a critical part of SBA's mission and I am committed to working with stakeholders—including Congress—to protect SBA's programs from abuse.

CONCLUSION

President Biden's budget request for Fiscal Year 2023 builds on the incredible progress we have made since the start of the Biden-Harris Administration: building bridges of equity and opportunity across America; and, opening doors for more small businesses to grow with access to capital, networks, training, innovation, and government contracting.

We have helped spark a historic resurgence in American entrepreneurship. The President's budget framework taps into the entrepreneurial spirit to position small businesses at the forefront of our nation's rebuilding and as the foundation for America's greatest economy yet.

Thank you again Chairwoman Velazquez, Ranking Member Luetkemeyer, and distinguished members of the committee, for the opportunity to appear before you today. I look forward to your questions.

QUESTIONS FOR THE RECORD

Administrator Guzman's hearing before the House Small Business Committee

April 27, 2022

Questions for the Record from Chairwoman Velázquez to The Honorable Isabella Casillas Guzman, Administrator, United States Small Business Administration, Washington, DC

1. SBA approved nearly \$370 billion in Covid EIDLs, which are 30-year loans. What is the agency's plan to manage the extraordinary volume of loans?

SBA is prepared to begin servicing the approximately 4 million COVID-19 EIDL loans in-house. SBA has been developing a series of new initiatives to increase servicing efficiencies. These include a new e-billing capability that replaces traditional paper billing processes, a borrower self-service portal, and automated transactions for routine transactions.

2. *Follow-up:* Will funding be used to improve customer service?

SBA improved customer service by eliminating backlogs, improving processing times, and revamping the customer call center function to provide a higher quality, more informative response.

SBA is already investing in the necessary technology infrastructure and customer service capacity for the COVID EIDL loan portfolio. The technology investment will reduce the number of personnel required per loan and will save the federal government significant resources over the lifespan of the portfolio. However, there are tasks that pose compliance challenges and where human support is important to the borrower experience, and accordingly must be performed by servicing agents. These tasks include extending maturity or changing the payment amount of a loan, releasing or substituting collateral, loan subordinations or assumptions, releasing insurance checks, and granting extended deferment.

SBA is developing a series of new initiatives to increase servicing efficiencies. These include a new e-billing capability, a borrower self-service portal, automated charge offs, and a new liquidation process.

3. *Follow-up:* We still hear complaints about long response times. Do you believe customer service has improved since moving the administration of Covid EIDLs from ODA to OCA?

Yes, customer service improved after COVID EIDL was transferred to OCA. OCA overhauled the customer service by changing management, changing contractors, streamlined the process for adding customer service agents, added performance and quality metrics, and improved call scripts and customer service guidelines. By way of example, as of the week of October 4, 2021, of the 106,592 calls handled, the average answer rate was 94.4% and the average wait time was 25 minutes. By the week of May 9, 2022, of the 141,073 calls

handled, the average answer rate was nearly perfect at 99.1% and the average wait time was 1.6 minutes.

Questions for the Record from Rep. Golden to The Honorable Isabella Casillas Guzman, Administrator, United States Small Business Administration, Washington, DC

4. SBA's FY 2023 Congressional Budget Justification requests \$136 million, \$2 million less than the FY22 enacted level and \$894,000 less than the FY21 enacted level, for SBDCs. I am concerned that such a decrease in funding would cause SBDCs to cut services at a time when demand is high. How did SBA come to the decision to cut SBDC funding while requesting large funding increases for other programs?

The Administration has not included a "cut" to SBDC funding in its FY 2023 Request. SBA's FY 2023 Request is level with its FY 2022 Request, which importantly mirrors the appropriations enacted for FY 2021. The Administration developed the FY 2023 Request prior to Congress enacting appropriations for FY 2022.

The Office of Rural Affairs is important to districts like mine, given that the easiest thing for federal agencies to do is focus on the urban and suburban areas where their offices are generally located. After being dormant for many years, the Office restarted under the Trump Administration, following bipartisan advocacy by members of this committee and others. I was glad to hear from you previously that SBA plans to continue to operate this office under the Biden-Harris Administration.

5. Can you update us on the office's current staffing level and whether it has a full-time director?

The Office of Rural Affairs has a full-time, career head. The head of the office is a deputy director within the Office of Field Operations. That official is the only SBA staffer formally designated as a full-time member of the Office of Rural Affairs; however, the work of Rural Affairs is supported by an OFO Senior Advisor and an intra-agency Rural Council made up of District Office staff in rural areas across the country with at least one representative from each region.

6. It is important that the office focus outward on rural communities. Does the office have any plans for direct outreach to rural small businesses?

SBA's Office of Rural Affairs is partnering with other federal agencies like USDA and FDIC for a series of regional "Path to Prosperity" webinars focusing on local challenges and solutions business owners face in rural areas across the U.S. Recruitment is underway for a national training pilot program comprised of rural women-owned small businesses to assist with starting and growing their small businesses. In coordination with the USDA, a second cohort is being planned for small businesses within a specific rural locale such as the Hawaii and the US Pacific Territories.

SBA's Office of Rural Affairs is a participant in the Rural Partners Network (RPN), a whole-of-government effort led by USDA and is providing support and outreach to the

selected rural community networks in the RPN pilot, as well as contributing to new tools for all rural communities such as rural.gov. The Path to Prosperity series that was held for the Northeast U.S. included Maine.

7. The salaries and expenses account has remained relatively level over the years. A couple of years ago, the Committee held a hearing on SBA's field operations, and learned that the funding in this account was being shifted away from district office operations to technology improvements. What is the current level of staffing in district offices, compared to previous years, and will an increase to the salaries and expenses account allow the SBA to improve its field operations?

In FY22, Congress approved a \$4.5M transfer to help support SBA's ability to continue hiring, and support in enacting the FY23 President's Budget request provides the SBA funds needed to keep up with the increasing workforce costs. There are currently 624 staff in the district offices. In FY21 we had 710, in FY20 it was 800 (this does not include OFO's COVID funded staff).

Questions for the Record from Rep. Phillips to The Honorable Isabella Casillas Guzman, Administrator, United States Small Business Administration, Washington, DC

8. The FY22 Omnibus passed language directing SBA to assist small business owners with succession planning, including considering the development of an online toolkit for SBA and its partners. How does SBA plan to encourage the wider use of succession planning and what do you need from Congress to accomplish this goal?

SBA is committed to promoting employee ownership as a succession path. SBA's Office of Entrepreneurial Development and Small Business Development Centers will work together to provide counseling on employee ownership as a succession planning tool.

9. Employee-owned businesses are more productive, more resilient during economic downturns, and build more wealth for their workers than traditional businesses. Importantly, employee ownership transactions keep businesses in the hands of their employees and in their local communities. This aligns well with SBA's goal of "building resilient businesses and a sustainable economy" as outlined in your Mission Statement. Do you view employee ownership transactions as a component of small business succession planning?

Yes, employee ownership is one avenue that a business owner may consider in succession planning.

10. *Follow-Up:* Employee ownership transactions are often complex and require specialized knowledge. To what extent should employee ownership be a part of the effort to produce "guidance, training, best practices and workshops" as stipulated in report language?

SBA supports expansion of educational opportunities that fully inform employees of the benefits, responsibilities, and risks of an ESOP structure as a path to business ownership. These can include entrepreneurial development and SBDC counseling.

Questions for the Record from Rep. Houlihan to The Honorable Isabella Casillas Guzman, Administrator, United States Small Business Administration, Washington, D.C.

11. The SBA has told the Committee over 300,000 PPP borrowers have good faith miscalculations made by either borrowers or lenders that will impose unexpected debt on borrowers, despite the loan amounts being spent on forgivable uses. We must deliver on our promise to borrowers that these loans would be turned into grants if the funds were spent on forgivable uses. Will you commit to making good on this promise and helping these borrowers get full forgiveness?

SBA is committed to helping borrowers obtain full forgiveness on loan proceeds used consistent with program guidance. To that end, SBA is implementing a new process to allow PPP borrowers to request an SBA loan review of partial approval forgiveness decisions issued by their PPP Lenders (Procedural Notice 5000-827666, SBA Loan Reviews of Paycheck Protection Program Lender Partial Approval Forgiveness Decisions, issued 1/17/22). If SBA determines that the borrower is entitled to forgiveness in an amount greater than previously remitted, SBA will remit an additional forgiveness payment to the lender to make up the difference.

My community and its small business owners experienced firsthand how devastating natural disasters can be when Hurricane Ida struck last year. I appreciate the agency's commitment to build on lessons learned from past disasters and reevaluate its processes to meet changing needs, especially with the increasing frequency of extreme weather events. In the FY23 Budget Request, SBA requested authority to permanently increase the unsecured threshold on physical damage loans in Agency declarations from \$14,000 to \$25,000.

12. Can you describe how this change would improve the efficiency of the Disaster Assistance Program?

The change would eliminate the different treatment of disaster victims' unsecured loan amounts simply because the declaration was Administrative vs. Presidential/Major. Generally, disaster loans that are below the unsecured threshold are processed and funded more quickly because there is less documentation and paperwork (no lien recordation) resulting in reduced costs for the disaster victim and SBA. An increase in the unsecured threshold increases the efficiency and timing for a larger percentage of disaster victims to receive much needed funds. In addition, the \$14,000 threshold does not consider any associated inflationary adjustments over the time since the current limits were established. Having the changes made permanent in lieu of temporary statutory changes reduces programming changes and administrative costs involved in Congressional changes for specific disasters.

13. Aside from this request for permanent authority and providing the program with full funding, what other legislative changes are needed to improve the efficiency and effectiveness of the Disaster Assistance Program?

SBA is evaluating the following legislative proposals and other requested legislative changes related to improving the Disaster Assistance Program:

- Increase Unsecured threshold - (S.4299)

To expand on the discussion in the prior question, SBA is recommending a permanent increase to the threshold for requiring collateral to \$25,000 (or higher, as determined by the Administrator) to reduce time, costs, and administrative burden for a greater percentage of disaster victims applying for loans. The current threshold, established in the Recovery Improvements for Small Entities After Disaster Act of 2015 (RISE Act), expires in November 2022, and the secured threshold will revert back to \$14,000 on Agency declarations, without the authority to administratively increase that threshold for Agency declarations. Consistent with the President's Budget, SBA supports S.4299 to make the changes implemented by the RISE Act permanent.

- Rural Communities -

SBA is evaluating means to address Rural Communities, such as those noted by Senate Bill S.1617 which gives SBA authority to declare disasters for rural counties that receive a major presidential disaster declaration but where Individual Assistance was not granted by FEMA. Currently SBA is only authorized to provide economic injury loans in contiguous counties when there is a major presidential disaster declaration, while in Agency declarations, SBA provides both physical loans and economic injury loan in contiguous counties.

Disaster Mitigation –SBA is evaluating ways to improve disaster mitigation assistance that will increase homeowner and business resilience and reduce the impacts of future disasters.

As you know, the FY22 Omnibus was signed into law and included report language for the SBA related to employee ownership. Specifically, this report language referenced the Main Street Employee Ownership Act (MSEOA) which "required the SBA to make structural changes in SBA lending programs to ease the challenges faced by employee-owned business in accessing financing." One of the key areas for change envisioned by the MSEOA is the SBA's 7A Lending Program – lenders are currently unable to approve loans for ESOPs under the Preferred Lender's Program, so their loans must still go through the SBA's Loan Guaranty Processing Center for approval. I've heard that this can slow the process down substantially and add a layer of uncertainty.

14. Is the SBA currently planning to "fully implement these requirements" as the report language instructs? What is the expected timeframe for this full implementation?

SBA published changes to its existing regulations on ESOP loans at 13 CFR 120.350 and 120.352 to incorporate the changes to ESOP loans contained in the MSEOA in February 2020, as part of the SBA Express and Affiliation Standards Interim Final Rule (85 FR 7622), which were subsequently rescinded by the CARES Act. The process and procedures were retained in SOP 50 10 6, which permit the back-to-back loan structure

provided for in the MSEO. Because of the cost, complexity and ongoing IRS rules, SBA thought it prudent to have these loans processed through LGPC at the start.

15. Specifically, is the SBA considering moving the lending decisions for ESOPs out of the Washington office (LGPC) and out into the local lenders (the Preferred Lender's Program)?

Yes, we are reviewing the policy on delegated processing for these transactions.

16. Considering all agencies, including the SBA, are seeking to save funds and reduce costs, would moving the lending decisions in this manner provide a cost savings?

SBA would expect minimal cost savings from allowing ESOP deals to be approved under a 7(a) lender's delegated authority.

Questions for the Record from Ranking Member Blaine Luetkemeyer (MO-03):

- In January 2022, The Small Business Administration (SBA) issued a press release highlighting the agency's request to be designated as a "voter agency." "As the first federal agency to request designation as a voter agency, through the SBA's district offices, small business owners and others will have the services they need to ensure their voices are heard at the ballot box and fair representation for their communities."

17. Please explain exactly what the SBA will be doing when it comes to voting, what resources will be required to perform these tasks, and where these resources are coming from?

SBA is exploring the possibility of designation as a Voter Registration Agency in Michigan. Operational details are being researched by SBA Headquarters staff in consultation with the Michigan Bureau of Elections.

18. Will the SBA's resource partners, such as the Small Business Development Centers, Women's Business Centers, Veterans Business Outreach Centers, SCORE mentors, or Community Navigators, be used to register voters? Will they, or the data they collect from small businesses, be involved in the SBA's efforts as a "voter agency"?

That is not currently under consideration.

In response to questions for the record from the November 2021 hearing, you stated that inflation would be moderating as disruptions to supply-chains improve and as the service sector continues to improve. However, you then noted the Russian invasion of Ukraine is expected to accelerate inflationary pressures.

19. Does the administration still believe the record inflation Americans are facing is only temporary and transitory?

As stated in the November 2021 response referenced in the prelude to this question, inflation is expected to moderate over the course of 2022 and 2023. Tackling inflation is the top economic policy priority of the Biden Administration, and the SBA is contributing to that effort, as explained elsewhere in this document.

20. If inflation is no longer caused by the singular action you originally attributed it to, but rather multiple factors, at what point will the administration take responsibility for this record level inflation?

Addressing inflation is the top domestic policy priority of President Biden. As reflected in the November 2021 QFR response cited in the prelude to this question, inflation was attributed not to a singular action, but to multiple causes, including the recovery in demand for services, supply chain disruptions, and the Russia-Ukraine war.

21. What action is SBA taking to address the record level inflation?

Across SBA programs, the Agency is working to help small businesses thrive in the current economic environment, which is characterized by steady growth, rising wages, low unemployment, high consumer demand, and rising prices. Some examples of how SBA is helping small businesses with inflation include:

- Supporting innovative startups that have the potential to increase competition within their industries.
- Providing training on supply chain management through SBA resource partners, particularly Small Business Development Centers
- Extending more credit through SBA core lending programs than ever before, including through the 504 Loan Program, which offers a 25-year fixed-rate loan, a particularly useful tool in a rising-interest-rate environment.
- Training and supporting government contractors and subcontractors, to support the construction of modern infrastructure under the Bipartisan Infrastructure Law.

22. During the hearing, when asked if you held anyone responsible for the disastrous rollout of the Shuttered Venue Operators program (SVOG), you responded yes. Who did you hold accountable for the failed rollout? Please detail any and all changes in FTE and contractors within the rollout of the SVOG program.

After the technology failure of the SVOG rollout in early April 2021, the technology vendor took full accountability for the problem. The SVOG team worked with the vendor to ensure SBA and the government were not charged for erroneous work or the work conducted to correct the vendor's mistake, which accounted for hundreds of staff hours. We also required the vendor to institute new practices to ensure a similar technology failure did not occur again, such as "smoke testing" in the production environment before launching a new technical feature.

I am proud of the work the SVOG team conducted on this program, which was a first-of-its-kind complex grant program. The technology failure caused by the vendor mentioned

above contributed greatly to the slow roll-out, as did several legacy decisions made in the prior administration and during the transition. However, I also recognized the initial pace of SVOG awards did not meet the need for this emergency funding program. SBA adjusted our approach to processing SVOG applications on June 11, 2021, which included changing program management, surging personnel resources from the front office to directly support the program, and incorporating best practices from the Restaurants Revitalization Fund program. The SVOG team piloted the new approach immediately thereafter over the weekend of June 11-13, 2021 with the 500+ members of the SVOG operations team working mandatory overtime. The pace of awards increased significantly after these changes.

23. In the Office of Inspector General's (OIG) most recent report on the Paycheck Protection Program (PPP), the IG notes the SBA exceeded the 90-day statutory requirement for 107,168 loans totaling \$66.4 billion dollars. I know you've previously noted this is a small percentage but what is concerning is the response SBA provided to the IG as to the reason for missing a statutorily required deadline. The SBA cited "the need to redirect resources to competing priorities." What were the competing priorities that pulled resources away from the Office of Capital Access completing loan review in the statutorily required period?

OIG's report was based on 2021 data and SBA has been processing the forgiveness requests within 90 days of receipt of a lender decision, with the exception of cases needing further supporting information from the borrowers for eligibility determinations and cases with indicia of fraud. SBA responded to the report and stated that it designed a loan review process to maximize program integrity and optimize use of SBA's loan review resources, considering the challenges posed by the volume of PPP loans and the statutory timeframe for reviews. SBA was also responsible for designing, implementing and administering other COVID-19 relief programs legislated by Congress, including the RRF Program and the COVID EIDL program.

24. How did the SBA's efforts on pandemic fraud recovery change after the appointment of the Department of Justice's Chief Pandemic Prosecutor and Director for COVID Enforcement?

Since the announcement in March 2022 of the Justice Department's efforts, SBA has further enhanced its efforts to prevent, detect and respond to fraud risks in its COVID-19 relief programs. In particular, SBA has elevated its response by designating a Special Counsel for Enterprise Risk to directly support the Administrator on the development of strategies for mitigating the dynamic risks facing the agency, focusing on potential fraud exposure as a top priority, as well as the development of plans to reduce risks to SBA operations. In addition, SBA created a team of career executives, primarily members of the SES corps who are responsible for the agency's largest programs and most sensitive functions. This team (known as the Fraud Risk Management Board) will be tasked with preventing fraud across the agency, taking lessons from the SBA's dramatic scale-up during the pandemic and ensuring that future programs are well-protected from fraud risk. SBA looks forward to working with its Office of Inspector General and partnering

with the Justice Department to develop strategies to assist in the recovery of funds acquired fraudulently from COVID-19 relief programs.

25. In your written testimony for the hearing, you discussed the travel you conduct to select states and territories. Have you ever received guidance or directions from the White House as to where you should be traveling or deploying agency resources? What measures are taken within SBA to ensure political considerations don't play a role in your travel schedule?

It is standard practice for the White House's Office of Cabinet Affairs to help coordinate travel of cabinet members. Administrator travel involving visits with Members of Congress is partly determined by which Members invite the Administrator to travel to their states and districts. The SBA has also proactively sought out destinations that provide geographic diversity to the Administrator's travel schedule, including by reaching out to Members of this committee from both parties.

In a recent response letter, you outlined the roles of the Enterprise Risk Management Board (ERMB), the Fraud Risk Management Board (FRMB), the former Fraud Risk Management Council (FRMC), and the former Compliance Oversight and Reporting Team (CORT). You listed the General Counsel as a member of the ERMB and noted the ERMB reports directly to the Administrator. The FRMB appears to be comprised of senior level career officials. With the FRMB reporting to the ERMB my understanding is the career fraud board reports to the political fraud board which then reports to the Administrator. You recently created a new role, Special Counsel for Enterprise Risk, for which you appointed then General Counsel Hamilton to this position.

26. If then General Counsel Hamilton already served on the ERMB which reported directly to the Administrator, please explain how the creation of the new role of Special Counsel will deliver better outcomes than were possible in her previous position.

The ERMB ensures that the greatest risks to the agency are regularly identified, assessed, monitored and addressed. Fraud risk in the COVID-19 Relief programs is only one of the Agency risks that the ERMB oversees. The General Counsel, as a member of the ERMB, worked within the ERMB to fulfill the requirements of OMB Circular A-123 to ensure enterprise risk management principles are integrated throughout the Agency. As Special Counsel for Enterprise Risk, SBA has created a dedicated resource in the Office of the Administrator to further enhance the Agency's ability to manage enterprise risks with a focus on fraud risks as a top priority. The duties of General Counsel are currently being performed by another SBA senior official.

27. You also noted in your response that "the Special Counsel position participates in the FRMB." Since the FRMB is comprised of career officials, how does the addition of a political appointee like Ms. Hamilton, impact the FRMB's work?

The Special Counsel for Enterprise Risk is best positioned to communicate to the FRMB the priorities of the Office of the Administrator. Consistent with GAO's best practices

identified in A Framework for Managing Fraud Risks in Federal Programs (2015), agencies are encouraged to demonstrate a senior-level commitment to integrity and combatting fraud. The Administrator has made combatting fraud a top priority of the Agency.

28. In a previous OIG report on identity theft within the EIDL program, the IG notes that when there is an identity theft claim, the SBA places a hold to prevent funding. But if the loan is already funded and disbursed, the SBA will not proactively contact the banks and request a return of funds. Why does the SBA not proactively notify the banks when there is an identity theft claim?

SBA refers the matter to SBA OIG and provides the complainant with instructions on how to address the outstanding debt. SBA works with the OIG and law enforcement resources who have asset seizure authority to recapture the funds.

29. Please outline the SBA's telework policy including temporary COVID measures as well as union agreements which allow telework.

It is the policy of SBA to authorize, to the maximum extent possible, telework which enhances the Agency's ability to achieve its mission. SBA recommends all employees meeting eligibility and suitability criteria have, at a minimum, an ad-hoc (situational) Telework Agreement to ensure optimum efficiency and employee safety in the case of an emergency affecting normal operations.

Currently, all SBA leaders, including supervisors and managers, are in a hybrid telework model where they are in the office a minimum of 3 days per pay period. All non-bargaining unit staff report to the office a minimum of 2 days a pay period and telework the remainder of the days. As during the pandemic, all employees and leaders work in the office if their jobs require in-office presence. The Agency is currently engaged in negotiations on the reentry of all remaining bargaining unit staff.

30. Outside of the SBA's direct actions and responsibilities, please describe what impact the SBA has had within the Administration's agenda at large that led to a positive result for small businesses.

The SBA has supported two of the largest legislative accomplishments of the Biden Administration: the American Rescue Plan, which invested more than \$50 billion in the small business recovery, and the Bipartisan Infrastructure Law, which will improve the economic competitiveness of small businesses across the country. For example, rural businesses stand to gain access to broadband and e-commerce, small government contractors will win contracts to build new roads and bridges, and small manufacturers and retailers will benefit from more efficient transportation and shipping infrastructure and a more reliable energy grid.

In addition to infrastructure, the SBA advocates for economic policies that enhance U.S. competitiveness, level the playing field for small businesses, foster innovation and

entrepreneurship, and promote fairness for workers and American families. These goals are reflected in President Biden's agenda, including his FY 2023 Budget. The positive results are evident in the topline economic data. In 2022, for the first time in nearly half a century, the U.S. economy is projected to grow at a faster pace than the Chinese economy. Between January 2021 and June 2022, U.S. employers have added 9.0 million jobs. Last year alone, Americans started 5.4 million new businesses, 20% more than any year on record. This business and job growth has driven unemployment down to an historically low level of 3.6%.

31. How much of the Restaurant Revitalization Fund set asides were used prior to program closing? Please detail the amounts for the following set asides:

- \$5 billion for applicants with 2019 gross receipts of not more than \$500,000.

\$5,176,968,959

- \$4 billion for applicants with 2019 gross receipts from \$500,001 to \$1,500,000.

\$7,918,955,939

- \$500 million for applicants with 2019 gross receipts of not more than \$50,000

\$1,228,765,679

32. For those Planned Parenthood affiliates which received PPP funds, please provide the documentation SBA received from each Planned Parenthood Affiliate that identifies why each affiliate believes it is legally eligible to receive PPP funds.

All documentation SBA received from any Planned Parenthood entity is information that is privileged and confidential and cannot be disclosed outside of SBA. The documentation being requested includes confidential commercial and financial information, marked accordingly by Planned Parenthood entities, which cannot be released absent the express approval of those entities.

33. How long does it take for a small business to receive a disbursement of dollars through the 504/CDC Loan Program? In your opinion, do you believe the approval process could be streamlined?

The amount of time an Applicant works with a Certified Development Company (CDC) and/or Third Party Lender before an application is formally submitted to SBA varies, based on the complexity of the project and the length of time it takes the applicant to gather all required information. Due to the volume increases during the pandemic and the subsequent rising interest rate market, 504 loan application volume remains higher than normal, resulting in approval within 3 to 4 weeks. Immediately after SBA approval, a Third Party Lender provides an interim loan to cover the period between SBA approval of the project and the debenture sale. This gives the borrower full access to the approved loan proceeds. 504 loans must be disbursed within 4 years from the date of approval. For

504 Debt Refinance without Expansion, the loan must be disbursed within 9 months from the date of approval.

34. It is the Committee's understanding that you are still drafting program rules for the 504 Express program which was enacted into law in a bipartisan manner within the Consolidated Appropriations Act of 2021. When do you anticipate this rule being published, and please comment on whether there have been any delays in producing this rule?

SBA implemented the temporary 504 (ALP) Express program with the publishing of the Interim Final Rule on June 27, 2022.

35. How does the SBA's Office of Credit Risk Management oversee the SBA's Credit Elsewhere Test?

The Office of Credit Risk Management (OCRM) performs multiple oversight activities to ensure SBA Lenders are compliant with the requirements for determining that a small business applicant demonstrates the need for the desired credit. For example, during various OCRM lender reviews, OCRM will review lender loan files for compliance with SBA Loan Program Requirements, including but not limited to, Credit Elsewhere.

SBA Lenders are largely compliant with the requirement. When deficiencies are identified, the subject loan is flagged for additional review if SBA is requested to honor the guaranty and the SBA Lender is subject to additional review activities to ensure that behavior is modified to meet the requirements (e.g., additional reviews in the same fiscal year or in the next fiscal year).

36. What criteria is used by the SBA to evaluate applications to become a Small Business Lending Company (SBLC) and Non-Federally Regulated Lender (NFRL)?

Information and documentation required as part of the SBLC and NFRL application allow SBA to compare the applicant's proposal to the performance of previous and current SBLCs and NFRLs. Lender approval requires the Director of Financial Assistance consult with the Director of Credit Risk Management which ensures that applications are decisioned to promote growth and integrity of the 7(a) Loan Program. The criteria include all regulatory requirements, such as those related to capital and management and restrictions, such as those that restrict the issuance of the SBA lending authority to operate as an SBLC to 14 entities. Entities that wish to participate in the 7(a) Loan Program as an SBLC must acquire the license from an existing participant that is exiting the program. Please note that SBA does not participate in facilitating the transfer of an SBLC's SBA lending authority.

When assessing an application, program requirements are applied to ensure that the applicant has (1) the ability to lend; (2) demonstrated experience in small business lending; (3) a qualified management team of good character with a defined level of authority and responsibility; (4) a written business plan that focuses on the applicant's

proposed SBA lending area and secondary market activities, and (5) the entity type and ownership structure that are acceptable.

In answers for the record from Associate Director Mark Madrid, he stated:

“While our Resource Partner network is strong, 20.7% of the more than 7.9 million small business establishments (<500 employees) are in counties without any type of SBA-funded service centers.”

37. Does the SBA believe we need a resource partner in every county? Does the SBA have a goal percentage of small business establishments utilizing SBA-funded service centers? Does the SBA believe all small businesses need to utilize the federal government’s services to be successful?

The SBA believes that all small business types should have access to the resources that they need to start, build, and grow their businesses. The SBA does not have a goal percentage of small business establishments utilizing SBA-funded service centers. The SBA does not believe that all small businesses need to utilize the federal government’s services to be successful, however, we must keep striving to be more accessible to the smallest of the small businesses and those who are interested in SBA products and services.

The FY 2023 Congressional Budget Justification requests \$8.6 million dollars for the Community Navigator Pilot Program and states that the community navigators “conduct proactive, targeted outreach including door knocking, phone canvassing, webinars, and other approaches.”

38. How many doors have they knocked on so far?

As of May 27th, 2022, our Navigators have counseled 4,273 unique clients and trained tens of thousands more. Grantees do describe their outreach methods and those methods are consistent with the FY2023 Congressional Budget Justification.

39. How many small businesses have reopened their business or expanded because of their services?

Reopening businesses is not a Community Navigator Pilot Program metric. The program metrics are outlined in the Notice of Funding Opportunity documents. The metric most indicative of business expansion is *funding received*. In the first quarter of the program, 556 program clients reported back that they had successfully obtained a grant or loan, for a cumulative value of \$13.07 million. These totals do not reflect funding the businesses may not have reported, and they do not reflect business growth attributable to increased sales.

40. Are there any metrics you can share to show us that Community Navigators are delivering results to small businesses that existing resource partners are unable to deliver?

In Q1, compared to our Resource Partner Networks, Navigators served a greater diversity of small business owners (percentage of clients served reporting demographic data). For example, in Q1, 36% of Navigators clients were black, compared to 22% for Resource Partners over the same period. Similarly, 11% of Navigators clients in Q1 were Asian American compared to 6% for the Resource Partner networks. Finally, 5% of Navigators clients in Q1 were Native American compared to 3% for the Resource Partner networks.

The SBA administered a \$18.6 million grant to resource partner centers to establish a single centralized hub for COVID-19 information. The Inspector General found that \$14.8 million in costs that either did not adhere to procurement requirements or were not properly supported. Within the first year of the pandemic and implementation only about 13,000 (less than 1 percent) of the approximate 30 million eligible small business concerns used the portal and 62 of 14,000 (less than half a percent) counselors and mentors completed any of the training modules.

41. Who or what office was responsible for the failure to adhere to the procurement requirements?

Office of Entrepreneurial Development leadership made the decision to pivot from asynchronous trainings to live trainings based on the need to deliver services immediately as part of the overall disaster relief plan. The Resource Partners asked to use an existing contractor they had a relationship with rather having to put a formal solicitation out and request bids because that would greatly slow down the process and hinder the aims of the legislation. The Office of Entrepreneurial Development's leadership at the time then agreed to that request as an emergency measure.

42. Was anyone responsible for establishing performance metrics to determine the success of this initiative? If so, would the SBA categorize this initiative as a success?

The Office of Entrepreneurial Development established performance metrics for the project but did not assign goals to the performance metrics. The Office of Entrepreneurial Development met with OIG indicating that the goals would have been baseline data from when the portal originally launched because the project was new.

43. The SBA is required to report annually to Congress on the SBIR and STTR programs. Congress received the Fiscal Year 2019 report in October 2021. Failure to produce these reports on a timely basis impedes this committee of its oversight responsibility. Can you please explain why the SBA is so delayed in producing these annual reports to Congress?

Providing Annual Reports within a timely manner remains a priority for SBA and the OII team has worked closely and individually with agencies to support Annual Reporting and

minimize delays to the greatest extent feasible. For the Fiscal Year 2020 report, complete data was not received until August 2021—five months after the due date—creating the current delay. For the Fiscal Year 2021 report, numerous system and process modifications were made. With the funding agencies' commitments, all agencies submitted data by the March 15, 2022 deadline for the first time. SBA is now working to complete both reports. In the interim, it is important to note that the underlying award information, including all recipients and award amounts, is made publicly available on SBIR.gov once received from the participating agencies.

44. In 2011, to address Congress's concerns, the SBA created a commercialization benchmark to better determine eligibility for multiple SBIR and STTR award winners. However, according to the Government Accountability Office (GAO), "SBA and the participating agencies assessed small businesses against the commercialization benchmark only once, in 2014, because of challenges in collecting and verifying the accuracy of data". Why did it take over 10 years for the SBA to implement the commercialization benchmark?

The commercialization benchmark was established following a public comment period in November 2013. As the GAO study shared, the 2014 assessment raised concerns around data validity. Through a series of system modifications and close engagement with the participating agencies, SBA was able to begin capturing commercialization reporting in September 2020, reinstated the commercialization benchmark in April 2021, and is currently concluding the 2022 assessment.

45. In April 2021, DoD conducted a report on SBIR and Chinese influence. In the report DoD reviewed more than 10,000 SBIR awards for analysis and found that **nearly all** of the cases show that the People's Republic of China is the ultimate beneficiary of DoD and U.S. government research investments. I am extremely concerned with this report and the national and economic security risks it revealed. What is the SBA doing to combat Chinese influence in small business programs?

The SBIR and STTR programs are domestic programs that greatly benefit American citizens, U.S. taxpayers, and our national economy. The DOD report examined 10,000 SBIR awards and identified eight cases of potential concern (0.0008%). The case studies in the report illustrate the challenges more broadly. For example, the report primarily discussed actions that occurred after businesses received SBIR and STTR awards. In addition, most case studies showed that individuals began their careers in academia before working for industry – for both large and small firms. Therefore, comprehensive solutions that address academia and industry, large and small, are required. SBA collaborates with funding agencies to make available training, education, awareness, and resources tailored to help innovative small businesses in addressing export controls, cybersecurity standards, and intellectual property protections, including those participating in the SBIR/STTR programs, to complement broader national security solutions.

46. How does the Equity Action Plan differ from the Office of Diversity, Inclusion & Civil Rights?

- Is this office not adequately addressing inequity?

The SBA's Office of Diversity, Inclusion & Civil Rights (ODICR) serves as the equal opportunity arm for the Small Business Administration and represents the Administration's interest in the formation and interpretation of statutes, regulations and policies governing Federal Equal Opportunity issues. The team also provides leadership, direction, and guidance in carrying out the Administration's equal opportunity (EO), diversity and civil rights responsibilities; provides oversight of the Administration's statutory EEO complaint program, including alternative dispute resolution programs; and adjudicates complaints of discrimination for all SBA employees and applicant for employment. Additionally, the Civil Rights Compliance staff advances EO among SBA grants and loan recipients through evaluating the recipients EO compliance and reports on the recipient's practices and procedures through desk audits and on-sites reviews. The Administration is assisted in these efforts by the U.S. Department of Justice Civil Rights Division and other Federal civil rights agencies.

SBA's Equity Action Plan is a document that lays out goals regarding equitable outcomes in the SBA's programs, including access to capital, procurement and contracting opportunities, disaster assistance, and counseling. The Equity Action Plan also includes a discussion of the ODICR and the Administrator's work to create a more proactive diversity and inclusion component to ODICR, among other improvements to the office.

47. How did the SBA decide to partner with Business Forward? This nonprofit appears to have deep connections to the Democratic party and is more focused on social impacts rather than the ever-growing economic issues that small business owners are facing. Can you please explain why you choose this specific non-profit and how you plan to keep politics out of a small business initiative?

Administrator Guzman has challenged the SBA and all of its partners to do more to meet small businesses where they are, and while PPP grew the agency and its customers tremendously there was still more work to do. The Agency chose to partner with Business Forward because of its prior work engaging with small businesses its ability to assist the SBA in increasing our reach to businesses across the country. Politics plays no role in the agency's programming nor our work through the SBDA to provide tools and utilities to small business owners. The Agency vets all companies that are involved in the co-sponsorship, and ANY entity that provides no cost trainings and utilities is able to become a member of the SBDA.

48. In February, the SBA created the Small Business Digital Alliance which partners with numerous big tech companies. How did the SBA evaluate which companies to partner with for this initiative?

See response to #47 above.

49. This year, SBA has announced numerous new plans and initiatives without any notifications or briefings to this committee. Why is the SBA no longer notifying Congress?

Congressional Affairs sends this committee a weekly digest of news and updates, as well as additional notifications as necessary. Administrator Guzman speaks regularly with both the Chairwoman and Ranking Member. The SBA also invites committee staff to participate in regular briefings and discussions. This year, the briefings your staff have been invited to attend include:

- Jan. 21: Briefing on the 504 Loan Program
- Feb. 11: Briefing on the SBIC program
- Mar. 8: Briefing on CVE transfer
- Mar. 10: Discussion on the nonmanufacturing rule
- Mar. 30: Discussion on the SBIR and STTR programs
- Apr. 4: Briefing on the SBA budget
- May 6: Discussion on OIG STEP report
- May 25: Briefing on CVE transfer
- June 14: Briefing on disaster program reorganization
- July 12: Discussion on the SBIR and STTR programs
- July 20: Briefing on Community Navigator Pilot Program

We are always happy to consider briefing requests that you may have.

50. In the President's budget request, the SBA is seeking an increase in the secondary market fee of .05 percent. Please explain this request in more detail and whether this request indicates problems associated with the secondary market.

The SBA requests authority to introduce an annual fee not to exceed 0.05 percent per year to provide the SBA with additional flexibility to manage expected costs of the 7(a) Secondary Market Guarantee Program. The fee authority offsets the cost to the Agency of the timely payment guaranty, and permits SBA to standardize 7(a) pooling criteria. The fee would be assessed to pool investors and is not indicative of a problem associated with the secondary market.

51. At the hearing you stated you were not familiar with Small Business Regulatory Enforcement Fairness Act (SBREFA) panels. Having had the time to review what these panels are, does the SBA see value in conducting these panels?

Small Business Regulatory Enforcement Fairness Act (SBREFA) panels are conducted by the Office of Advocacy, an independent office within SBA. Yes, there is value in the

panels. Please send specific questions directly to the Office of Advocacy.

52. Currently, only 3 agencies are required to convene SBREFA panels. Assuming you recognize the value for the small business community in SBREFA panels being conducted, does the SBA believe other agencies could benefit from required SBREFA panels?

Please direct this question to the specific agencies of concern.

53. Do you believe you are required by law to testify before the House Small Business Committee? If so, can you explain what law requires your testimony?

I believe it is an important part of my duties as Administrator of the SBA to testify before the relevant committees of jurisdiction on programs or policies that fall under my purview at the SBA.

Questions for the Record from Rep. Scott Fitzgerald (WI-05):

54. There has been a lot of debate in Congress about ensuring small businesses can compete on a level playing field with dominant businesses. We saw this during the pandemic when large box stores were allowed to stay open while small businesses were forced to close their doors. Has the Office of Advocacy, or other offices within the SBA, dedicated resources to study business practices of market dominant firms on small businesses that end in harm to consumers, rather than through price, quality, quantity, or innovation? If not, do you agree it's a worthy area of study?

A study on this topic has not been recently completed by Advocacy or elsewhere within SBA. It is a worthy topic for consideration. The Office of Advocacy is independent. Please reach out to the Office of Advocacy directly with any research topic suggestions.

Questions for the Record from Rep. Beth Van Duyne (TX-24):

55. A few weeks ago, I was proud to introduce with every Republican on this committee, the *Small Business Regulatory Reduction Act* which would set a neutral regulatory budget for SBA to limit the cost of regulations the federal government can force on small business owners. As we've learned over the last two years, a bill like this would be critical in stopping harmful government regulations. One example of major government harm is this Administration's effort through OSHA to mandate employers with 100 employees to enforce a vaccine and testing policy. This rule would have covered about 84 million workers and cost employers close to \$3 billion over just six months. What I want to know is: Did you advocate to the President against this staggering burden on behalf of small businesses owners who are already dealing with small margins and tough labor conditions?

I agree with the President that vaccines are the best way to make our communities safe and have been critical to helping small businesses back to normal. The more we can obtain higher vaccination rates, the safer workplaces will be and the more successful

small businesses will be. Also, it is important to note that OSHA has withdrawn its Vaccine and Testing ETS.

56. There is over \$100 billion dollars of fraud estimated in the various small business relief programs. To put it plainly, our federal government literally took billions of taxpayer dollars and handed it over to fraudsters who put in minimal effort to obtain funds. As we know, this fraud limited the amount of access that well deserving businesses had to relief. This is all unacceptable. Administrator, how much SBA relief fraud do you estimate ended up going outside of the United States?

The SBA Office of Inspector General has reported on the potential for fraud, but has not completed a document-by-document review of files to confirm or resolve suspicious activity. The Department of Justice and the OIG periodically report on confirmed cases of fraud. In connection with its annual audited financial statements, SBA is scheduled to conduct improper payments analysis for the loans disbursed in PPP and COVID-EIDL. The analysis would estimate the percentage of loans disbursed to ineligible recipients, were used for an ineligible good or services or disbursed in an incorrect amount.

58. The President's budget provides \$10 million for small businesses to become more resilient to climate change or to support the clean energy economy. Did you advocate to the President or his Administration on the need for this small business climate change investment? Have you also advocated to them on the negative effects of increasing taxes on small businesses?

I support and advocate for the \$10 million in climate-related investments at SBA outlined in the President's budget. These funds will support efforts to facilitate access to capital for climate change mitigation investments and resilience efforts to support a greener economy. Per the Congressional Budget Justification, "The SBA will add industry expert staff to update policy on addressing small business access to capital needs due to climate crisis issues (e.g., including energy efficiency, flooding due to coastal changes, redesign or relocation needs). The SBA will also consider program incentives within current programs for small businesses with product lines or services that offer solutions towards climate crisis issue (e.g., solar cells, energy efficient equipment, products with reduced emissions). The additional resources will enable the SBA to increase focused outreach, training, and awareness campaigns of our existing 7(a), 504, and Microloan programs as well as provide updates on program enhancements identified by the energy focused policy team in conjunction with industry associations whose clients have a special emphasis area in climate crisis issues."

On tax policy, I advocate for policy changes that level the playing field for small businesses relative to their large competitors. When it comes to the federal tax code, large multinational corporations utilize tax planning and avoidance to drive their tax rates to or near zero. Imposing a global minimum tax on multinational profits, along with other modest changes, will help level the playing field, increase competition, and reduce the deficit.

59. Considering SBA failed to stop \$100 billion dollars from wrongly going to fraudsters during COVID, what makes the SBA qualified to fix climate change for small businesses?

SBA is best positioned to meet the needs of small businesses. SBA has begun to implement all of the OIG's recommendations related to potential fraud and has closed (fully implemented) 50% of the recommendations. The prevention, detection and response to fraud risk is a top priority of the Administration. The SBA is not attempting to "fix" climate change but to, through the agency's existing disaster programming, help small businesses and homeowners prepare for natural disasters, which are increasing in frequency and impact as a result of climate change. These efforts will result in more resilient small businesses that can reduce their carbon footprint, provide climate-related services and products that the public can use, and/or better withstand and adapt to climate change.

60. SBA gave out approximately \$369 billion in the EIDL program. Within the EIDL programs, the OIG identified approximately \$84 billion in potentially fraudulent activity associated direct loans and direct grants within the program. That's almost ¼ of the loans considered fraudulent. Based on that fraud rate, do you think it is best SBA expands direct lending into other programs?

This Administration successfully implemented a variety of measures to strengthen the COVID EIDL risk control framework to help limit and prevent fraud within the program. Small business access to capital remains a top priority for this Administration. SBA is evaluating existing programs to ensure they are accessible to borrowers, particularly underserved borrowers and communities, and will continue to explore additional solutions to address access to capital inequities.

The comparison between the direct lending proposals, such as the one passed by this committee last year, and COVID EIDL should not be drawn, because a direct lending program would enable SBA to adopt a comprehensive risk control framework that was not present for the 2020 COVID EIDL loans due to statutory limitations, such as inability to use tax return (IRS 4506 transcript) information. A direct lending program would utilize IRS data as well as numerous other data sources such as Do Not Pay.

61. A simple yes or no to this question will do – Do you think it is important that Secretary Yellen fulfill her legal obligation to appear before the Small Business Committee?

Please submit any questions about the Treasury Secretary to the Treasury Department.

Questions for the Record from Rep. Maria Elvira Salazar (FL-27):

As you probably know, the FY22 Omnibus was signed into law and included report language for the SBA related to employee ownership. Specifically, this report language referenced the Main Street Employee Ownership Act (MSEOA, PL 115-232) which

“required the SBA to make structural changes in SBA lending programs to ease the challenges faced by employee-owned business in accessing financing”.

Among other things, one of the key areas for change envisioned by the MSEO is the SBA’s 7A lending program – lenders are currently unable to approve the loans under the Preferred Lender’s Program, so their loans must still go through the SBA’s Loan Guaranty Processing Center for approval. This slows the process down substantially and adds a layer of uncertainty.

62. Is the SBA currently planning to “fully implement these requirements” as the report language instructs? What is the expected timeframe for this full implementation?

See responses to questions 14-16.

63. Specifically, is the SBA considering moving the lending decisions for ESOPs out of the Washington office (LGPC) and out into the local lenders (the Preferred Lender’s Program)?

See responses to questions 14-16.

64. Considering all agencies, including the SBA, are seeking to save funds and reduce costs, would moving the lending decisions in this manner provide a cost savings?

See responses to questions 14-16.

The FY22 Omnibus report language also “requires SBA to use Small Business Development Centers (SBDCs) to establish an employee-owned business promotion program to provide assistance on structures, business succession, and planning.”

65. Does the SBA’s budgetary request include funding for this effort?

The SBA’s budgetary request provides funding for the SBDC networks to perform the statutorily required services.

66. What is a reasonable timeframe for this effort to be undertaken by SBA?

The SBA’s Office of Small Business Development Centers included language in the 2020, 2021, and 2022 Notices of SBDC Program Funding Opportunity in §5.1.4 Statutorily Required Services, requiring SBDCs to provide access to information and resources on employee ownership through cooperatives or qualified employee trusts as a business succession strategy in accordance with the John S. McCain National Defense Authorization Act for Fiscal Year 2019. The SBA has taken additional steps to strengthen the requirements around SBDCs implementing employee-ownership education by including language in a draft proposed rule that codifies the changes.

The language included in the FY22 Omnibus directs the SBA “to work with the Departments of Agriculture, Labor, and Commerce to provide education and outreach to

businesses, employees, and financial institutions about employee-ownership, including cooperatives and employee stock ownership plans; provide technical assistance to assist employees' efforts to become businesses; and assist in accessing capital sources."

67. Knowing this directive is relatively new, what is the status of these efforts and where do you see this effort residing in the SBA? What is a reasonable timeframe for establishing counterparts at these other Departments to secure the necessary coordination?

Succession planning is critical for small business at every stage of their lifecycle, many units in the SBA have touchpoints on this topic. To provide small business owners with counseling on succession planning, our Resource Partners have invested in providing education around Employee Stock Ownership Plan (ESOPs) and succession planning. To bolster these education resources, there was an SBDC-Employee Ownership working group that strived to build the capacity of university-based SBDCs to incorporate shared-equity business models into their business advising practice.

A number of SBDCs now offer education on ESOPs and succession planning. Notably, SBDCs are coordinating with the cooperative development centers of the U.S. Department of Agriculture, the Manufacturing Extension Partnership, community development financial institutions (CDFIs), employee ownership associations and service providers, and local, regional and national cooperative associations.

68. What sort of estimated budgetary need is required to fulfil this congressional directive? Does the SBA's budgetary request include funding for this effort?

The SBA's budgetary request provides funding for the SBDC networks to perform the statutorily required services.

Our nation is facing a significant and growing issue with small business succession. By some estimates, there are 2.9 million privately held firms, representing 32 million employees and \$6.5 trillion in revenue that are held by members of the baby boom generation. Many businesses do not have a succession plan – some studies showing up to 58% lack one. Yet the generational shift of business ownership is happening all the time. In the Omnibus for FY22, language was included that "encouraged the SBA to work with its resource partners to develop guidance, training, best practices, workshops and other resources to assist small business owners and entrepreneurs in establishing and executing a business succession plan." The language goes on to recommend the SBA consider an online toolkit for use by SBA and its resource partners to guide small businesses in this regard.

69. Can you describe any plans the SBA is preparing in this area, including the budgetary needs to accomplish this directive?

Resource Partners have invested in providing education around succession planning, particularly employee ownership is a succession planning route. To bolster these education resources, the America's Small Business Development Centers established an

SBDC-Employee Ownership working group that strives to build the capacity of university-based SBDCs to incorporate shared-equity business models into their business advising practice. Their ongoing efforts have paid off, as a number of our SBDCs now offer education on succession planning.

70. What is the timing of this effort, considering that business succession planning is ongoing and an increasingly important issue as generational shifts occur?

The SBA's Office of Small Business Development Centers included language in the 2020, 2021, and 2022 Notices of SBDC Program Funding Opportunity in §5.1.4 Statutorily Required Services, requiring SBDCs to provide access to information and resources business succession strategies in accordance with the John S. McCain National Defense Authorization Act for Fiscal Year 2019.

Regarding the language in the FY22 Omnibus about Small Business Succession Planning, there are several options for business succession that could be considered, including employee ownership. Selling a business to its employees brings a lot of benefits – not just the greater potential retirement security that comes with ESOPs, but also the greater workplace satisfaction, productivity, and stability that employee ownership provides. Employee ownership also is shown to decrease wage and wealth inequality, and businesses that are employee owned are less likely to leave the communities they are part of.

71. Considering the benefits to workers, businesses, and communities, to what extent should employee ownership be part of this effort to produce “guidance, training, best practices and workshops” that addresses business succession plans?

Employee ownership should be an integral part of this effort to produce “guidance, training, best practices and workshops” that addresses business succession plans, and in fact, it already is. For example, this year our SBDC network launched the Employee Ownership and Business Transition Interest Section. This group is a center of excellence within our SBDC network that regularly hosts educational sessions for SBDC stakeholders on ESOPs. ASBDC established the initiative group on its mobilized platform the week of January 17, 2022, to facilitate national communications with SBDC networks.

Questions for the Record from Rep. Dan Meuser (PA-09):

72. Do you know what the number one concern of small businesses today?

Recent surveys indicate that small businesses most frequently identify inflation as a top concern.

73. Have you discussed the impacts of inflation on small businesses with President Biden?

Inflation has been a priority topic of discussion for the Cabinet as it is President Biden's top economic policy priority.

74. What are you doing to ensure that the SBA better reaches rural markets with its investment and lending tools?

SBA's Office of Rural Affairs is partnering with other federal agencies like USDA and FDIC for a series of regional webinars focusing on local challenges in rural areas including access to capital. SBA is collaborating with the Rural Prosperity IPC members to ensure that SBA's programs and tools are included on rural.gov.

75. How does the SBA plan to staff the proposed direct lending programs? Will you be hiring new staff or augmenting the duties of current staff members at the SBA?

The legislation passed by the House of Representatives containing a direct lending program included \$484 million for administrative expenses covering a 10-year period. SBA has not made any determination about whether it would increase staffing if such legislation were to become law.



Jim Nussle
President & CEO

Phone: 202-508-6745
jnussle@cuna.coop

99 M Street SE
Suite 300
Washington, DC 20003-3799

April 26, 2022

The Honorable Nydia M. Velázquez
Chairwoman
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

The Honorable Blaine Luetkemeyer
Ranking Member
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Velázquez and Ranking Member Luetkemeyer,

On behalf of the Credit Union National Association (CUNA) and America's credit unions, I am writing in advance of the Committee's hearing entitled, "Small Business Administration's FY 2023 Budget." CUNA represents America's credit unions and their more than 130 million members.

Credit unions recognize that financial inclusion and access to capital for entrepreneurs are critical to ensuring the growth and development of vibrant small businesses. As not-for-profit, consumer-owned financial cooperatives, credit unions have a laser focus on our mission of financial inclusion and serving our members. Establishing and retaining a relationship with a credit union is the best way for a small business entrepreneur to partner with a provider of essential financial services.

The Small Business Administration (SBA) government guaranteed lending programs epitomizes a successful public-private partnership, and it's one that leverages private sector expertise. Generally, the SBA does not function as a direct lender, but guarantees the repayment of loans made by a lender such as a credit union. SBA's lending programs, such as the 7(a) Loan Program, allow small businesses to work with local lenders or other lenders of a business's choice throughout the loan process. The SBA guarantees these loans ensuring that financial institutions are made whole in an instance of default by the borrower.

This public private partnership works as borrowers can obtain loans from financial institutions that they know well and that have vested interests in their borrowers' success. Furthermore, when working with local lenders, small businesses are likely to benefit from guidance and experience from a lender with a stake in helping the borrowing business succeed. By becoming a direct lender to small businesses, the SBA is likely to harm local financial institutions' relationships with businesses and possibly hamper these businesses from establishing important banking relationships that can only help their business survive and flourish.

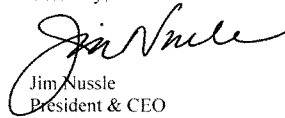
As such, we strongly support legislation - such as H.R. 6037 and S. 3382 - that would prohibit the SBA from directly making loans under the 7(a) Loan Program and oppose any efforts in the FY 2023 Budget to fund a direct lending program. Furthermore, we encourage the Committee to hold a hearing on legislative efforts that would convert SBA disaster lending into the public private partnership model that has proven successful.

cuna.org

Credit unions recognize that financial inclusion and access to capital for entrepreneurs are critical to ensuring the growth and development of vibrant small businesses. As not-for-profit, consumer-owned financial cooperatives, credit unions have a laser focus on our mission of financial inclusion and serving our members. Establishing and retaining a relationship with a credit union is the best way for a small business entrepreneur to partner with a provider of essential financial services.

On behalf of America's credit unions and their 130 million members, thank you for the opportunity to share our views.

Sincerely,



Jim Nussle
President & CEO

NYDIA M. VELAZQUEZ, NEW YORK
CHAIRWOMAN

BLAINE LUETKEMEYER, MISSOURI
RANKING MEMBER

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2501 Rayburn House Office Building
Washington, DC 20515-0515

April 26, 2022

The Honorable Merrick B. Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Garland:

I am conducting oversight over the implementation and administration of the COVID-19 relief programs, specifically the Paycheck Protection Program (PPP). Crafted by Congress, in consultation with the Department of the Treasury and the Small Business Administration, the PPP served as an immediate source of relief for small businesses in the early days of the pandemic.¹ As Ranking Member of the House Committee on Small Business, it is my responsibility to provide critical and effective oversight of this crucial taxpayer funded program. To that end, I write to you with concerns that Treasury Secretary Yellen may be impeding Congress' ability to conduct this oversight and in turn, acting in violation of the law.

Under the Consolidated Appropriations Act of 2021, the Secretary of the Treasury and the Administrator of the Small Business Administration are required to testify before the House Committee on Small Business. The section reads:

Not later than the date that is 120 days after the date of enactment of this Act, and not less than twice each year thereafter until the date that is 2 years after the date of enactment of this Act, the Administrator and the Secretary of the Treasury shall testify before the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding implementation of this Act and the amendments made by this Act.²

The Consolidated Appropriations Act of 2021 was signed into law on December 27, 2020.³ One month after the 120-day testimony deadline had lapsed, in May of 2021, I communicated my concerns in writing to Secretary Yellen and requested her availability to testify before the Committee as soon as possible. Having received no response, I once again communicated my concerns in writing on July 6, 2021, July 28, 2021, March

¹ Pub. L. No. 116-136 (2020).

² Pub. L. No. 116-260 §321(b) (2020).

³ *Id.*

1, 2022. As other Committees of jurisdiction chose to waive Secretary Yellen's testimony, this Committee has in the past, in a bipartisan manner, insisted on her critical testimony.⁴

Adding insult to injury, the Department of the Treasury has not once provided any response to inquiries regarding the Secretary's testimony. As the nation grapples with what is now being referred to as the "[b]iggest fraud in a generation," the Department of the Treasury's refusal to engage with this Committee limits Congress' ability to conduct effective oversight over taxpayer funded programs.⁵

In addition to Secretary's Yellen's failure to appear before this Committee, I am similarly concerned with the lack of response from any individuals within the U.S. Department of the Treasury. As you are well aware, The Lloyd-La Follette Act of 1912, guarantees that "the right of employees individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or member thereof, may not be interfered with or denied."⁶ Myself and my colleagues in Congress have written to the Department of the Treasury multiple times requesting the Secretary's availability to testify. It is one matter for the Secretary to refuse to engage with Congress, but I am concerned that the Department is preventing our career civil servants from responding to a legitimate request from Congress. As I have never once received any response from the Department of the Treasury, I am worried the Department is interfering with the right of career civil servants to respond to a Congressional request in violation of the law.

I recognize you serve alongside Secretary Yellen in President Biden's administration. I would remind you though of President Biden's comments when he announced your nomination: "You won't work for me... Your loyalty is not to me. It's to the law, the Constitution, the people of this nation, to guarantee justice."⁷ As a duly elected member of Congress, the Ranking Member of the House Committee on Small Business, and a representative for the American people in my district, it is my duty to provide responsible oversight of the Executive Branch and to ensure American taxpayer dollars are spent responsibly. As I work to continue my oversight efforts, I ask that you take these concerns seriously and thoroughly investigate the Department of the Treasury and Treasury Secretary Yellen. I would appreciate a response to this letter.

If you have any questions, please contact David Planning of the Committee Staff at (202) 225-5821. Thank you for your attention to this matter.

Sincerely,



Blaine Luetkemeyer
Ranking Member
House Committee on Small Business

⁴ *An Examination of the SBA's COVID-19 Programs Before the H. Comm. on Small Business*, 117th Cong. 2 (2021) (Opening statement of Comm. Chairwoman Velazquez).

⁵ Ken Dilanian & Laura Strickler, *Biggest Fraud In a Generation: The looting of the Covid relief plan known as PPP*, NBC News (Mar. 28, 2022, 3:59 PM), <https://www.nbcnews.com/politics/justice-department/biggest-fraud-generation-looting-covid-relief-program-known-ppp-n1279664>.

⁶ 5 U.S.C. § 7211.

⁷ President Joseph Biden, Nomination Announcement for Merrick Garland as U.S. Attorney General (Jan. 7, 2021, 12:05).

NYDIA M. VELAZQUEZ, NEW YORK
CHAIRWOMAN

BLAINE LUETKEMEYER, MISSOURI
RANKING MEMBER

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2501 Rayburn House Office Building
Washington, DC 20515-6515

April 26, 2022

The Honorable Richard Delmar
Acting Inspector General
United States Department of the Treasury
1500 Pennsylvania Ave, N.W. Room 4436
Washington, D.C. 20220

Dear Acting Inspector General Delmar:

I am conducting oversight over the implementation and administration of the COVID-19 relief programs, specifically the Paycheck Protection Program (PPP). Crafted by Congress, in consultation with the Department of the Treasury and the Small Business Administration, the PPP served as an immediate source of relief for small businesses in the early days of the pandemic.¹ As Ranking Member of the House Committee on Small Business, it is my responsibility to provide critical and effective oversight of this crucial taxpayer funded program. In that respect, I write to you with concerns that Treasury Secretary Yellen may be impeding Congress' ability to conduct this oversight and in turn, acting in violation of the law.

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¹ Pub. L. No. 116-136 (2020).

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³ *Id.*

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In addition to Secretary's Yellen's failure to appear before this Committee, I am similarly concerned with the lack of response from any individuals within the U.S. Department of the Treasury. As you are well aware, The Lloyd-La Follette Act of 1912, guarantees that "the right of employees individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or member thereof, may not be interfered with or denied."⁶ Myself and my colleagues in Congress have written to the Department of the Treasury multiple times requesting the Secretary's availability to testify. It is one matter for the Secretary to refuse to engage with Congress, but I am concerned that the Department is preventing our career civil servants from responding to a legitimate request from Congress. As I have never once received any response from the Department of the Treasury, I am worried the Department is interfering with the right of career civil servants to respond to a Congressional request in violation of the law.

As a duly elected member of Congress, the Ranking Member of the House Committee on Small Business, and a representative for the American people in my district, it is my duty to provide responsible oversight of the Executive Branch and to ensure American taxpayer dollars are spent responsibly. To assist in my oversight efforts, I request that the Department of the Treasury's Office of the Inspector General (OIG) investigate these matters. The OIG should, at a minimum, include and consider the following questions as part of its investigation:

1. Is the Secretary of the Treasury required, by law, to testify before the House Committee on Small Business?
2. May the Secretary of the Treasury delegate the testimony requirement, as outlined in the Consolidated Appropriations Act of 2021, to another Department official?
3. Has Treasury Secretary Yellen violated the law and/or any Department policy by failing to testify before the House Committee on Small Business?

⁴ *An Examination of the SBA's COVID-19 Programs Before the H. Comm. on Small Business*, 117th Cong. 2 (2021) (Opening statement of Comm. Chairwoman Velazquez).

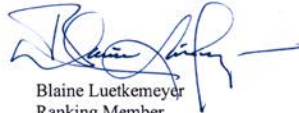
⁵ Ken Dilanian & Laura Strickler, *Biggest Fraud In a Generation: The looting of the Covid relief plan known as PPP*, NBC News (Mar. 28, 2022, 3:59 PM), <https://www.nbcnews.com/politics/justice-department/biggest-fraud-generation-looting-covid-relief-program-known-ppp-n1279664>.

⁶ 5 U.S.C. § 7211.

4. Who has advised Treasury Secretary Yellen that she need not testify before the House Committee on Small Business?
5. Are there any policies in place within the Department prohibiting career employees from responding to a member of Congress?
6. Are there any policies in place within the Department that would delay, limit, or censor, in any way, any communications from career employees to members of Congress?
7. Who, within the Department, made the decision not to respond to my requests for the Secretary's availability to testify?

Thank you for your consideration of this important matter and I look forward to your response. If you have any questions, please contact David Planning of the Committee Staff at (202) 225-5821. Thank you in advance for your cooperation with this inquiry.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Blaine Luetkemeyer', with a long horizontal flourish extending to the right.

Blaine Luetkemeyer
Ranking Member
House Committee on Small Business



3138 10th Street North
Arlington, VA 22201-2148
703.522.4770 | 800.336.4644
t: 703.524.1082
nafcu@nafcu.org | nafcu.org

National Association of Federally-Insured Credit Unions

April 26, 2022

The Honorable Nydia Velázquez
Chairwoman
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

The Honorable Blaine Luetkemeyer
Ranking Member
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Re: Tomorrow's Hearing on the Small Business Administration's FY 2023 Budget

Dear Chairwoman Velázquez and Ranking Member Luetkemeyer:

I am writing on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's Committee hearing on the Small Business Administration's (SBA) FY 2023 Budget. As you are aware, NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 130 million consumers with personal and small business financial service products.

NAFCU shares the Committee's and SBA's goal of strengthening small businesses in America and we support efforts to fully fund the SBA. While we support full funding for the SBA, we do not support any effort to provide new authority or expand direct lending at the SBA. Even though the SBA has authority to make direct loans now, the agency has not exercised this authority, with the exception of disaster loans and loans to Microloan program intermediaries, since 1998 due to a history of higher rates of fraud and defaults. These problems with direct lending programs have even been recognized by the SBA's Office of Inspector General (OIG), which included concerns with direct lending in its report to the Committee earlier this year. This is a prime example of why the Committee should not support efforts to restart SBA direct lending.

In recent years, NAFCU members have worked to increase the number of SBA lending partners despite statutory limitations imposed on credit union's ability to provide small business loans. Moreover, credit unions continue to focus on providing credit to our nation's small businesses, regardless of size. Over the past five years, 57 percent of business loans made by credit unions were under \$150,000, compared to 46 percent of loans under \$150,000 for other lenders. Early in the pandemic, 70 percent of NAFCU members that were not already involved in SBA lending, but did participate in the PPP, expressed an interest in becoming a regular SBA lender. Given this increased interest in SBA lending programs and the expected demand for small business lending, it is imperative that credit unions have all options available to provide capital for small business members.

NAFCU recognizes the need for smaller loans for small businesses, and that is why we have supported legislation such as H.R. 5189, the *Member Business Loan Expansion Act*, which would make it easier for credit unions to offer smaller business loans under \$100,000 by ensuring these loans do not count toward the arbitrary credit union member business lending (MBL) cap. We believe bipartisan

The Honorable Nydia Velázquez, The Honorable Blaine Luetkemeyer
April 26, 2022
Page 2 of 2

approaches such as this legislation provide small businesses a better alternative to get the support they need in a timely manner. Allowing lenders that have relationships with small businesses, such as credit unions, to do more to help is a better approach to addressing this need than direct lending by the SBA.

It is with these thoughts in mind that we continue to oppose giving the SBA the authority or any funding for a new direct lending program. An SBA direct lending program could serve to reduce the level of lending partners at a time when business lending is greatly needed. NAFCU believes that there are better ways to encourage the SBA to work with existing lenders to address the stated need of access to smaller loans to small businesses and we stand ready to work with you to achieve that goal.

We thank you for the opportunity to share our concerns on this important topic. Should you have any questions or require any additional information, please contact me or Lewis Plush, NAFCU's Associate Director of Legislative Affairs, at lplush@nafcuh.org.

Sincerely,



Brad Thaler
Vice President of Legislative Affairs

cc: Members of the House Committee on Small Business



February 7, 2022

VIA ELECTRONIC SUBMISSION

The Honorable Michael S. Regan, Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

The Honorable Michael L. Connor, Assistant Secretary of the Army (Civil Works)
Department of the Army
108 Army Pentagon
Washington, D.C. 20310

Re: Comments on EPA and Army's proposed rule defining "the waters of the United States" under the Clean Water Act (EPA Docket EPA-HQ-OW-2021-0602 and Army Docket COE-2021-0001-0016).

Dear Administrator Regan and Assistant Secretary Connor:

On December 7, 2021, the Environmental Protection Agency (EPA) and the Department of the Army (Army; collectively, the Agencies) published a notice of proposed rulemaking defining "the waters of the United States" (WOTUS) under the Clean Water Act (CWA).¹ This letter constitutes the Office of Advocacy's (Advocacy) public comments on the proposed rule. Advocacy believes that the Agencies have improperly certified the proposed rule under the Regulatory Flexibility Act (RFA) because it would likely have direct significant impacts on a substantial number of small entities. Although the Agencies have characterized the proposed rule as codifying the Agencies' current implementation of WOTUS under the 1986 and 1988 regulations as well as the Agencies' Rapanos Guidance and SWANCC Guidance, the Agencies' proposed definition expands the scope of "the waters of the United States" beyond what is stated in either the 1986 and 1988 regulations or the Rapanos and SWANCC Guidance documents. Because the proposed rule will likely impose a significant impact on a substantial number of small entities, Advocacy recommends the Agencies hold the proposed rule in abeyance for further development as the Agencies consider alternative approaches for small entities by convening a Small Business Advocacy Review (SBAR) panel in accordance with the Regulatory Flexibility Act prior to promulgating any further rule on this issue.

¹ 86 Fed. Reg. 69372 (Dec. 7, 2021).

The Office of Advocacy

Advocacy was established pursuant to Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA), so the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. The Regulatory Flexibility Act (RFA)², as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA)³, gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, federal agencies are required by the RFA to assess the impact of the proposed rule on small entities and to consider less burdensome alternatives.

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy.⁴ The agency must include a response to these written comments in any explanation or discussion accompanying the final rule's publication in the *Federal Register*, unless the agency certifies that the public interest is not served by doing so.⁵

Advocacy's comments are consistent with Congressional intent underlying the RFA, that "[w]hen adopting regulations to protect the health, safety, and economic welfare of the nation, federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public."⁶

Background

The CWA was enacted in 1972 to "restore and maintain the chemical, physical and biological integrity of the Nation's waters."⁷ The CWA accomplishes this by regulating the "discharge of pollutants into the navigable waters."⁸ The CWA defines "navigable waters" as "the waters of the United States, including the territorial seas."⁹ The CWA requires a permit in order to discharge pollutants, dredged, or fill materials into any body of water deemed to be a "water of the United States."¹⁰ EPA generally administers these permits, but EPA and the Army Corps of Engineers jointly administer and enforce certain permit programs under the Act.¹¹

Supreme Court Precedent on Definition of "the Waters of the United States"

The extent of the Act's jurisdiction has been the subject of much litigation and regulatory action, including three Supreme Court decisions. Actions of the Court have expanded and contracted the definition, especially regarding wetlands and smaller bodies of water. First, in 1985, the Supreme

² 5 U.S.C. § 601 et seq.

³ Pub. L. 104-121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C. § 601 et seq.).

⁴ Small Business Jobs Act of 2010 (Pub. L. No. 111-240) § 1601.

⁵ *Id.*

⁶ 5 U.S.C. § 601 note.

⁷ 33 U.S.C. § 1251(a) (1987).

⁸ 33 U.S.C. § 1251(a)(1) (1987).

⁹ 33 U.S.C. § 1362(7) (2019).

¹⁰ 33 U.S.C. § 1341 et. seq. (2019).

¹¹ 33 U.S.C. Section 1344 (1987).

Court determined that adjacent wetlands may be included in the regulatory definition of “the waters of the United States.”¹²

In 2001, the Court next held that migratory birds’ use of isolated “non-navigable” intrastate ponds was not sufficient cause to extend federal jurisdiction under the CWA.¹³ In response to this decision, the Agencies issued regulatory guidance (SWANCC Guidance),¹⁴ which attempted to provide clarification to the regulated community that “waters of the United States” did not include isolated, intrastate, and non-navigable waters where the sole basis for asserting jurisdiction was based upon the use of such waters by migratory birds.¹⁵

In 2006, the Supreme Court next considered whether wetlands near ditches or manmade drains that eventually empty into traditional navigable waters were considered “waters of the United States.”¹⁶ Justice Scalia, writing for the plurality, determined that “only those wetlands with a continuous surface connection to bodies that are ‘waters of the United States’ [. . .] are ‘adjacent to’ such waters and covered by the Act.”¹⁷ Justice Kennedy concurred in the judgment, but concluded that the Corps must establish the existence of a “significant nexus” when it asserted jurisdiction over wetlands adjacent to non-navigable tributaries.¹⁸

In response, the Agencies issued regulatory guidance (Rapanos Guidance), which again attempted to provide additional clarification to the regulated community that “waters of the United States” include those “tributaries and their adjacent wetlands . . . that have a significant nexus to a traditional navigable water” as well as “similarly situated wetlands” that significantly affect the chemical, physical, and biological integrity of traditional navigable waters. Per the Rapanos Guidance, similarly situated wetlands are only those that are “adjacent to the same tributary.”¹⁹

Recent Rulemakings by the Agencies

In 1986, Army promulgated the first attempt at a regulation defining “the waters of the United States.” The regulation defined a “water of the United States” as “[a]ll waters which are currently used, were used in the past, or may be susceptible to us[e] in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide,” “[a]ll interstate waters including interstate wetlands,” “[a]ll other waters, such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which would or

¹² *United States v. Riverside Bayview Homes*, 474 U.S. 121, 134-135 (1985).

¹³ *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC)*, 531 U.S. 159, 174 (2001).

¹⁴ 68 Fed. Reg. 1991 (Jan. 15, 2003).

¹⁵ *Id.*

¹⁶ *Rapanos v. United States*, 547 U.S. 715, 729 (2006).

¹⁷ *Rapanos v. United States*, 547 U.S. 715, 742 (2006).

¹⁸ *Id.* at 779 (Kennedy, J., concurring).

¹⁹ U.S. Environmental Protection Agency and U.S. Department of Army, *Clean Water Act Jurisdiction Following the U.S. Supreme Court’s Decision in Rapanos v. United States & Carabell v. United States*, https://www.epa.gov/sites/default/files/2016-02/documents/cwa_jurisdiction_following_rapanos120208.prd (last visited Jan. 31, 2022).

could affect interstate or foreign commerce including any such waters: [w]hich are or could be used by interstate or foreign travelers for recreational or other purposes; or [f]rom which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or [w]hich are used or could be used for industrial purposes by industries in interstate commerce,” “impoundments of waters otherwise defined as waters of the United States,” “[t]ributaries of waters identified [elsewhere in this section],” “territorial sea,” and “[w]etlands adjacent to waters (other than those waters that are themselves wetlands).”²⁰ Following Army’s lead, EPA promulgated its own regulations in 1988 mirroring the Army’s 1986 regulations.²¹ The 1986 and 1988 regulations were in effect until 2015.

In 2015, the Agencies attempted to clarify the definition of “the waters of the United States” through the Clean Water Rule.²² However, the Clean Water Rule was enjoined by the United States District Court for the District of North Dakota on August 27, 2015, the day before the rule was to become effective.²³ On October 9, 2015, the Sixth Circuit stayed the Clean Water Rule nationwide, reasoning that procedural and constitutional deficiencies existed.²⁴ The Clean Water Rule was repealed by the Agencies on October 22, 2019.²⁵

Not only was the Clean Water Rule repealed on October 22, 2019, the 1986/1988 regulations were recodified with minor modifications, including creating a uniform definition of “navigable waters” and “the waters of the United States” applicable to all sections of the Clean Water Act (the Repeal Rule).²⁶ Six months later, on April 21, 2020, the Navigable Waters Protection Rule (NWPR) was finalized with an effective date of June 22, 2020, replacing the Repeal Rule.²⁷ The Navigable Waters Protection Rule modified the 2019 regulation and concluded that “the waters of the United States” included only “territorial seas and traditional navigable waters; perennial and intermittent tributaries that contribute surface water flow to such waters; certain lakes, ponds, and impoundments of jurisdictional waters; and wetlands adjacent to other jurisdictional waters.”²⁸

The Navigable Waters Protection Rule was vacated by the United States District Court for the District of Arizona on August 30, 2021.²⁹ Beginning in September 2021, both EPA and the Army Corps of Engineers stopped implementation of the Navigable Waters Protection Rule

²⁰ 51 Fed. Reg. 41206 (Nov. 13, 1986).

²¹ 53 Fed. Reg. 20764 (June 6, 1988).

²² 80 Fed. Reg. 37054 (June 29, 2015).

²³ See *North Dakota v. EPA*, 127 F. Supp. 3d 1047 (D.N.D. 2015).

²⁴ *Murray Energy Corp. v. United States DOD*, 817 F.3d 261 (6th Cir., Feb. 22, 2016).

²⁵ 84 Fed. Reg. 566626 (October 22, 2019).

²⁶ See *id.*

²⁷ 85 Fed. Reg. 22250 (April 21, 2020).

²⁸ *Id.*

²⁹ *Pascua Yaqui Tribe v. EPA*, 2021 U.S. Dist. LEXIS 163921 (2021).

nationwide.³⁰ The Agencies are currently implementing the 1986 and 1988 regulations as well as the SWANCC Guidance and the Rapanos Guidance.³¹

Proposed Rule

To address the uncertainties that remain as the result of multiple court decisions and frequent regulatory changes, the Agencies proposed this rule which would revise the regulatory definition of “the waters of the United States.”³²

The proposed definition contains seven categories of “the waters of the United States,” four of which are identical or nearly identical to the regulatory text of the 1986 and 1988 regulations. These four unchanged categories include: (1) waters that have been used, are used, or could be used for either interstate or foreign commerce,³³ (2) interstate waters,³⁴ (3) impoundments of waters otherwise considered “waters of the United States,”³⁵ and (4) territorial seas.³⁶

Three categories are not identical to the 1986 and 1988 rules. First, the rule proposes that a “water of the United States” would now include all other waters that either have relatively permanent flow with a surface connection to traditional navigable waters, or significantly affects the chemical, biological, or physical integrity of traditional navigable waters.³⁷

Second, a “water of the United States” under the proposed rule would now include tributaries of

1. traditional navigable waters;
2. interstate waters and wetlands;
3. impoundments; and
4. territorial seas

that are either relatively permanent, standing or continuously flowing bodies of water or that alone, or with other similarly situated waters in the region, significantly affect the chemical, biological, or physical integrity of traditional navigable waters, interstate waters and wetlands, or territorial seas.³⁸

³⁰ See U.S. Environmental Protection Agency, Current Implementation of Waters of the United States, <https://www.epa.gov/wotus/current-implementation-waters-united-states> (last visited Jan. 31, 2022).

³¹ See U.S. Environmental Protection Agency, Current Implementation of Waters of the United States, <https://www.epa.gov/wotus/current-implementation-watrs-united-states> (last visited Jan. 31, 2022).

³² 86 Fed. Reg. 69372 (Dec. 7, 2021).

³³ Id. See U.S. Environmental Protection Agency, Current Implementation of Waters of the United States, <https://www.epa.gov/wotus/current-implementation-watrs-united-states> (last visited Jan. 31, 2022).

³⁴ 86 Fed. Reg. 69372 (Dec. 7, 2021). See U.S. Environmental Protection Agency, Current Implementation of Waters of the United States, <https://www.epa.gov/wotus/current-implementation-watrs-united-states> (last visited Jan. 31, 2022).

³⁵ 86 Fed. Reg. 69372 (Dec. 7, 2021). See U.S. Environmental Protection Agency, Current Implementation of Waters of the United States, <https://www.epa.gov/wotus/current-implementation-watrs-united-states> (last visited Jan. 31, 2022).

³⁶ 86 Fed. Reg. 69372 (Dec. 7, 2021). See U.S. Environmental Protection Agency, Current Implementation of Waters of the United States, <https://www.epa.gov/wotus/current-implementation-watrs-united-states> (last visited Jan. 31, 2022).

³⁷ 86 Fed. Reg. 69372 (Dec. 7, 2021).

³⁸ 86 Fed. Reg. 69372 (Dec. 7, 2021).

Third, under the proposed rule, a “water of the United States” would now include wetlands that are adjacent to

1. Traditional navigable waters;
2. interstate waters or interstate wetlands;
3. territorial seas;
4. impoundments with a relatively permanent, standing, or continuous flow;
5. impoundments where the adjacent wetland, either alone or in combination with similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of (a) traditional navigable waters, (b) interstate waters or interstate wetlands, or (c) territorial seas;
6. tributaries with a relatively permanent, standing, or continuous flow; or
7. tributaries that, either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of (a) traditional navigable waters, (b) interstate waters or interstate wetlands, or (c) territorial seas.³⁹

In the economic analysis of the rule, the Agencies have compared the costs of the proposed rule to both (1) the 1986/1988 regulations paired with the SWANCC Guidance and Rapanos Guidance (the Primary Baseline), and (2) the Navigable Waters Protection Rule (the Secondary Baseline). Comparing the proposed rule to the Primary Baseline, the Agencies conclude there are no additional annualized costs to small entities.⁴⁰ Comparing the proposed rule to the Secondary Baseline, the Agencies conclude the total national annualized Sec. 404 permit costs range from \$23.0 million to \$74.8 million and the total national annualized Sec. 404 mitigation costs range from \$85.3 million to \$190.0 million.⁴¹ These estimated costs by the Agencies are only for twenty-six States, and the Agencies did not provide any additional cost estimate for the remaining States or other jurisdictions subject to CWA jurisdiction.⁴²

Regulatory Flexibility Act Requirements

The RFA states that “[w]henver an agency is required by section 553 of this title, or any other law, to publish general notice of proposed rulemaking for any proposed rule, or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis [IRFA]. Such analysis shall describe the impact of the proposed rule on small entities.”⁴³ Under Section 609(b) of the RFA, EPA is required to conduct small business advocacy review panels, often referred to as SBREFA panels, when it is unable to certify that a rule will not have a significant economic impact on a substantial number of small businesses. SBREFA panels consist of representatives of the rulemaking agency, the Office of Management and Budget’s Office of Information and Regulatory Affairs (OIRA), and the Chief

³⁹ Id.

⁴⁰ United States Environmental Protection Agency, Economic Analysis for the Proposed, Revised Definition of Waters of the United States, Rule, available at <https://www.regulations.gov/document/EPA-HQ-OW-2021-0602-0083> (last visited Jan. 31, 2022).

⁴¹ Id.

⁴² Id.

⁴³ 5 U.S.C. § 603 (2010).

Counsel for Advocacy. SBREFA panels give small entity representatives (SERs) a chance to understand an upcoming proposed rule and provide meaningful input to help the agency comply with the RFA. SERs help the panel understand the ramifications of and significant alternatives to the proposed rule. Section 605(b) of the RFA allows an agency to certify that a rule will not have a significant economic impact on a substantial number of small entities in lieu of preparing an IRFA.⁴⁴ When certifying, the agency must provide a factual basis for the certification.⁴⁵ In the current case, the Agencies have certified that revising the definition of “waters of the United States” will not have a significant economic impact on a substantial number of small entities.

The Proposed Rule Has Been Improperly Certified

Advocacy believes that the Agencies have improperly certified this proposed rule. Advocacy, and the small entities we have spoken to, believe that the Agencies have failed to state a factual basis for its certification that the rule will not have a significant economic impact on a substantial number of small entities. The proposed rule imposes costs directly on small entities, and those costs will be significant for a substantial number of them.

The Agencies attempted an economic comparison of the proposed rule with the 1986/1988 regulations as well as the SWANCC Guidance and the Rapanos Guidance (the Primary Baseline), and the Navigable Waters Protection Rule (the Secondary Baseline).⁴⁶ Although the Agencies have certified that the proposed rule would not have a significant impact on a substantial number of small entities using either baseline, Advocacy finds that certification under either baseline is unavailable.

A. The Agencies Failed to State a Factual Basis for its Certification Using the Primary Baseline

Advocacy believes that the Agencies failed to state a factual basis in its RFA certification for the Primary Baseline used by the Agencies. In certifying the rule, the Agencies state that, “This rule would codify a regulatory regime generally comparable to the one currently being implemented nationwide due to the vacatur of the [Navigable Waters Protection Rule].”⁴⁷ On this basis, the Agencies conclude that, “the proposed rule would not impose any requirements on small entities.”⁴⁸

However, the Agencies admit that the proposed rule and the rule currently being enforced by the Agencies are not identical. The Agencies state the current and the proposed rule are “generally comparable” and “very similar,” but the Agencies fail to identify what the differences between

⁴⁴ 5 U.S.C. § 605 (1996).

⁴⁵ *Id.*

⁴⁶ See 86 Fed. Reg. 69372 (Dec. 7, 2021). See United States Environmental Protection Agency, Economic Analysis for the Proposed, Revised Definition of Waters of the United States, Rule, available at <https://www.regulations.gov/document/EPA-HQ-OW-2021-0602-0083> (last visited Jan. 31, 2022).

⁴⁷ 86 Fed. Reg. 69372 (Dec. 7, 2021).

⁴⁸ *Id.*

the two are.⁴⁹ The Agencies are required to state what the specific differences are to be able to use a factual basis to support whether certification is proper or not. Advocacy has concluded that the two regulatory regimes are not “generally comparable” or “very similar.” Rather, the two regulatory regimes have several differences, and, specifically, the proposed rule expands the jurisdiction of the CWA substantially to waters that, under the current regulatory regime being implemented by the Agencies, would not be deemed a “water of the United States.”

The proposed rule, unlike the regulatory regime currently being implemented by the Agencies, deems a water to be a “water of the United States” if it affects any one of the chemical, physical, or biological integrities of a traditional navigable water. The current regulatory implementation only deems a water to be a “water of the United States” if it affects all three components. Similarly, the proposed rule, unlike the regulatory regime currently being implemented by the Agencies, expands “other waters” deemed to be a “water of the United States” from those that are used only for interstate or foreign commerce to those that either have relatively permanent, standing, or continuous flow or that have a significant nexus to a traditional navigable water even if the subject water has not, is not, and cannot be used in interstate or foreign commerce.

In addition, the proposed rule expands the definition of a “water of the United States” to include certain tributaries of territorial seas, wetlands adjacent to additional types of impoundments, and wetlands adjacent to additional types of tributaries. Importantly, the proposed rule allows, unlike the current regulatory regime being implemented which only allowed “aggregating” of wetlands directly adjacent to the same traditional navigable water “aggregating” of all types of waters and allows the “aggregating” of waters that are not directly adjacent to a traditional navigable water by expanding the definition of “similarly situated” from those that are directly adjacent to a traditional navigable water to those that are “within the same region.”⁵⁰

With these clear expansions of what will be deemed a “water of the United States” under the proposed rule, more small entities and small entity projects will be impacted by this proposed rule by becoming subject to CWA jurisdiction and, thus, permitting, mitigation and other CWA obligations.

B. The Agencies Cannot Certify Using the Secondary Baseline

The Agencies concluded that “the NWPR would result in an increase in non-jurisdictional findings in jurisdictional determinations compared to prior regulations and practice, and that compared to the NWPR, the proposed rule would define more waters as within the scope of the Clean Water Act.”⁵¹ Failing to adequately analyze the costs to small entities, the Agencies simply conclude that the proposed rule – compared to NWPR – would result in “benefits between \$375.8 and \$590.1 million” and “total social costs ranging from \$108.6 million to \$275.9 million.”⁵² The Agencies define “total social costs” as “cost of compliance (404

⁴⁹ See *id.*

⁵⁰ See generally *id.*

⁵¹ 86 Fed. Reg. 69372 (Dec. 7, 2021).

⁵² United States Environmental Protection Agency, Economic Analysis for the Proposed, Revised Definition of Waters of the United States, Rule, available at <https://www.regulations.gov/document/EPA-HQ-OW-2021-0602-0083> (last visited Jan. 31, 2022).

permitting and mitigation costs) and state costs from an increased section 401 reviews.” The Agencies do not define “benefits” although it is implied that “benefits” include “social benefits” to the public.⁵³

The Agencies’ attempt to show the existence of a “net benefit” to the public at large of moving away from NWPR to the proposed rule has failed to comply with the RFA, which mandates agencies only consider the economic impact that small entities will directly bear.⁵⁴ Furthermore, the Agencies have failed to capture in their economic analysis all direct costs to small entities of moving from NWPR to the proposed rule. The Agencies only cite certain Section 404 permitting and mitigation costs, but fail to account for other permitting, mitigation, and other costs to small entities under the entirety of the CWA such as Section 402 permitting or Section 311 oil spill prevention plans. The Agencies similarly fail to account for additional costs related to any of the administration of the rule by small entities, jurisdictional determinations sought by small entities, or project delays borne by small entities.

Because the Agencies have not properly quantified the full direct costs to small entities in transitioning from the NWPR to the proposed rule, the Agencies cannot certify under the RFA, and the Agencies must conduct an IRFA. If EPA is unable to conclude that the proposed rule would not have a significant impact on a substantial number of small entities after completing its IRFA, EPA must convene a SBAR panel before proceeding further.

C. The Rule Imposes Costs Directly on Small Businesses

The second basis for certification under the RFA used by the Agencies — whether the Primary or the Secondary Baseline is applicable — is that the impact on small entities will be indirect, hence not requiring an IRFA or a SBAR panel.⁵⁵ EPA cites *Mid-Tex Electric Cooperative, Inc., v. Federal Energy Regulatory Commission*⁵⁶ and *American Trucking Associations, Inc., v. EPA*⁵⁷ in support of their certification.⁵⁸ Advocacy believes that the Agencies’ reliance on *Mid-Tex* and *American Trucking* is misplaced because the proposed rule will have direct effects on small entities.

In *Mid-Tex*, the Federal Energy Regulatory Commission (FERC) issued regulations instructing generating utilities how to include costs of construction work in their rates. Although the generating utilities were large businesses, their customers included small entities, to whom they may or may not have been able to pass on these costs through any rate changes. The issue raised in this case was whether the agency had improperly certified the rule because it failed to consider the impact on small business customers. The court noted that an agency is required to produce an IRFA only in cases where a regulation directly affects small businesses. If it does not, an agency may properly certify. In *Mid-Tex*, the proposed regulation applied directly to the generating

⁵³ See *Id.*

⁵⁴ See 5 U.S.C. § 601 et seq.

⁵⁵ 86 Fed. Reg. 69372 (Dec. 7, 2021).

⁵⁶ See 86 Fed. Reg. 69372 (Dec. 7, 2021). *Mid-Tex Electric Cooperative, Inc. v. Federal Energy Regulatory Commission* (FERC), 773 F.2d 327, 342 (D.C. Cir. 1985).

⁵⁷ 86 Fed. Reg. 69372 (Dec. 7, 2021). *American Trucking Associations v. EPA*, 175 F.3d 1027 (D.C. Cir. 1999).

⁵⁸ 86 Fed. Reg. 69372 (Dec. 7, 2021).

utilities themselves, not their customers. Generating utilities were an intervening actor between the regulatory agency and the small business customers. The utilities had a substantial amount of discretion as to whether they would pass on their construction costs to their small entity customers and, if so, how much of those costs they would pass on. Such is not the case with this rule.

First, there is no intervening actor. The CWA and the revised definition proposed in this rule directly determine permitting requirements and other obligations. It is unquestionable that small businesses and other small entities will continue to seek permits under the CWA. Therefore, they will be subject to the application of the proposed definition and the impacts arising from its application. Second, the rule defines the scope of jurisdiction of the CWA without any discretion left to any entity or intermediary. The rule does not, for example, set a goal for which types or how many waters must be included in jurisdiction, leaving the Corps or states to determine the exact definition of waters of the United States in particular instances. This rule establishes the definition, and all small entities are bound by it.

In *American Trucking*, the EPA's certification of rules to establish a primary national ambient air quality standard (NAAQS) for ozone was challenged. The basis of the EPA's certification was that the NAAQS regulated small entities only indirectly through state implementation plans. The rules gave states broad discretion to determine how to achieve compliance with the NAAQS. The rules required EPA to approve any state plan that met the standards, but it could not reject a plan based upon its view of the wisdom of a state's choices. Under these circumstances, the court concluded that EPA had properly certified because any impacts to small entities would flow from the individual states' actions and thus be indirect.

Here, the Agencies are not defining a goal nor are they authorizing any third party to determine the means and methods for reaching the goal. To the contrary, the Agencies are defining the term governing the applicability of their own CWA programs. An increase in the scope of the definition of "waters of the United States" necessarily leads to an increase in the scope and impact of the CWA since the programs thereunder only apply to waters that fall within this definition. The Agencies, not a third party, determine whether a given body of water is within the jurisdiction of the requirements of the CWA and is therefore subject to it.

These examples, as well as comments that Advocacy has received from small entities in various industries, demonstrate that the impact of the proposed rule will be direct. Therefore, the Agencies are required to measure the impacts of the rule and to determine whether those impacts are significant for a substantial number of small entities.

D. The Rule Will Have a Significant Economic Impact on Small Entities

The Agencies' economic analysis clearly, although incompletely, indicates that this rule is likely to have a significant economic impact on small entities. In the analysis, the Agencies examine the anticipated changes to permitting under CWA Section 404 (development projects that

discharge dredge or fill materials into waters of the United States).⁵⁹ The Agencies estimate that CWA Sec. 404 permit costs would increase between \$108.6 million to \$275.9 million for projects based in 26 States in transitioning from the NWPR to the proposed rule.⁶⁰ These amounts do not reflect costs for Sec. 404 projects in the remaining States and other jurisdictions subject to CWA jurisdiction, nor do they reflect additional cost increases associated with other CWA programs, such as Section 402 permitting or Section 311 oil spill prevention plans.

In addition, Advocacy is very concerned by the Agencies' failure to include exemptions into the proposed rule that would have codified long-standing practice by the Agencies as well as confirmation of certain exclusions stated or alluded to within the statutory text. These include exemptions for stormwater control features, farm and stock watering ponds, puddles, and certain ditches. The Agencies have previously stated that it is "[t]he agencies] long-standing practice . . . to view stormwater control features that are not built in 'waters of the United States' as non-jurisdictional."⁶¹ Similarly, the Agencies have previously stated that "[a]rtificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds" "are not 'waters of the United States.'"⁶² Lastly, the Agencies previously stated that ditches along roadways, airports, and rail lines as well as certain agricultural ditches are not "waters of the United States."⁶³ Despite these statements and actions confirming the Agencies' position regarding these exemptions for decades, the Agencies have failed – whether intentionally or unintentionally – to codify this existing practice.

In light of the Agencies' failure to include these long-accepted exemptions, it must be concluded that the Agencies will claim some of these features are "waters of the United States," thus increasing the jurisdiction and therefore the direct permitting, mitigation, and other compliance costs to any entity that owns, operates, or desires to construct a stormwater control feature, a farm or stock watering pond, a puddle, or a ditch. Although the Agencies have failed to quantify the costs related to such activities, it is fair to say the cost to small entities if such features are jurisdictional under the CWA has risen by hundreds of millions of dollars in the aggregate. If it is the Agencies' intent to codify the current regulatory practice, the Agencies' must also include the long-accepted exclusions for stormwater controls, farm and stock watering ponds, puddles, and most ditches.

The Agencies have obligations under OMB guidance and the RFA to measure and communicate these cost increases. Their certification of no small entity impact is inappropriate in light of the foregoing. Because the Agencies have failed to analyze the impacts of the proposed rule on small

⁵⁹ See United States Environmental Protection Agency, Economic Analysis for the Proposed, Revised Definition of Waters of the United States, Rule, available at <https://www.regulations.gov/document/EPA-HQ-OW-2021-0602-0083> (last visited Jan. 31, 2022).

⁶⁰ *Id.*

⁶¹ U.S. Environmental Protection Agency, The Clean Water Rule Fact Check, https://archive.epa.gov/epa/sites/production/files/2015-05/documents/fact_sheet_fact_check_clean_water_rule.pdf#:~:text=Rule%20text%20%20230.3%28s%29%282%29%28vi%29%3A%20%20The%20following%20are%20not,in%20waters%20of%20the%20United%20States%20as%20non-jurisdictional. (last visited Jan. 31, 2022).

⁶² *Id.*


⁶³ *Id.*

entities and because it is likely there will be a significant impact on a substantial number of small entities the RFA requires the Agencies to consider alternative approaches that would accomplish the aims of the statute while minimizing the costs. EPA can best satisfy their RFA obligations by convening a SBAR panel to assist in the consideration of alternatives and then publishing an IRFA for notice and comment.

Conclusion

The rule will have a direct and potentially costly impact on small entities. Because of the limited economic analysis which the Agencies submitted with the proposed rule and the lack of data on the impacts to small entities, Advocacy advises the Agencies to hold the proposed rule in abeyance for the purpose of convening a SBAR panel prior to promulgating any further rule on this issue. If we can be of any further assistance, please contact Astrika Adams, Assistant Chief Counsel, at astrika.adams@sba.gov. Thank you for your attention to this matter.

Sincerely,


Major L. Clark, III
Deputy Chief Counsel
Office of Advocacy
Small Business Administration

/s/
Astrika W. Adams
Assistant Chief Counsel
Office of Advocacy
Small Business Administration