

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2501 Rayburn House Office Building
Washington, DC 20515-6315

MEMORANDUM

TO: Members, House Committee on Small Business
FROM: Rep. Nydia M. Velázquez, Chairwoman
RE: Full Committee Hybrid Hearing: “An Examination of the SBA’s Covid-19 Programs.”
DATE: May 26, 2021

The Committee on Small Business will meet for a remote hearing entitled “An Examination of SBA’s Covid-19 Programs. **This hearing is scheduled to begin at 10:00 A.M. on Wednesday, May 26, 2021, virtually via the Zoom platform.**

In response to the pandemic, Congress created a number of programs to provide economic relief to small businesses. Isabella Casillas Guzman, who was confirmed as the Administrator of the Small Business Administration (SBA) on March 16, 2021, is now responsible for overseeing these programs, which include the Paycheck Protection Program (PPP), Restaurant Revitalization Fund (RRF), Shuttered Venues Operating Grant (SVOG), the Economic Injury Disaster Loan Programs (EIDL), among others. The hearing will give members an opportunity to hear directly from Administrator Guzman about the unprecedented challenges facing small business and the implementation and effectiveness of the economic relief programs.

Panel

- Hon. Isabella Casillas Guzman, Administrator, Small Business Administration

Background

For more than a year, our nation’s 30 million small businesses have suffered through a crisis of epic proportion. The pandemic closed more businesses in 2020 than any other year on record and left countless other small businesses teetering on the brink of closure. To assist small businesses, six bills were enacted into law in the 116th Congress and two more in the 117th Congress, providing much-needed relief. In sum, these bills provided more than one trillion dollars in federal assistance to small businesses.

Paycheck Protection Program

The PPP was established in the Coronavirus Aid, Relief, and Economic Security (CARES) Act.¹ Under PPP, banks and other private lenders make fully guaranteed SBA loans to small businesses

¹ P.L. 116-136.

negatively impacted by the COVID-19 pandemic. The loans are intended to assist small businesses with meeting payroll costs and other expenses and offer full loan forgiveness if loan proceeds are spent on such purposes. Following the CARES Act and SBA's implementation of the PPP, Congress made multiple refinements to PPP designed to improve its ability to reach underserved businesses and make loans easier to use.²

In December 2020, Congress passed the Economic Aid Act,³ which improved the PPP based on feedback received from borrowers and lenders alike. The Economic Aid Act reopened the program through March 31, 2021 and added over \$284 billion in funding with set-asides for small lenders, community financial institutions, microbusinesses, and businesses in low-income areas. It also expanded eligibility and allowed small firms most impacted by the pandemic to apply for a "Second Draw" PPP loan. Among other things, it made additional expenses, such as operations/worker protection expenses, property damage costs, and supplier costs forgivable. It established a simplified forgiveness application for loans under \$150,000, and permitted farmers and ranchers operating as sole proprietors or independent contractors to access higher loan amounts based on gross income instead of net income.

The American Rescue Plan expanded PPP eligibility to qualifying non-profits and provided an additional \$7.25 billion. In sum, more than \$800 billion in PPP funds were appropriated. The PPP Extension Act extended the deadline from March 31 to May 31, 2021 and gave SBA an additional month to process applications.

As of May 13, 2021, SBA is only accepting PPP applications originated by participating community financial institutions (CFIs), including Community Development Financial Institutions (CDFIs), Community Development Corporations (CDC), SBA Microlenders, and Minority Depository Institution (MDI), including.⁴ According to SBA's public data, as of May 17, 2021, the current round of PPP has approved more than 6,047 million loans for a total of nearly \$266 billion, with an average loan size of approximately \$44,000.⁵ On May 17, 2021, SBA reported approximately \$5.2 billion remained in the community financial institution (CFI) set-aside and \$6.9 billion for hold codes.⁶

² The PPP and Health Care Enhancement Act (P.L. 116-139) included set-asides of newly appropriated PPP funds for community lending institutions, intended to maximize PPP lending in traditionally underserved business communities. The PPP Flexibility Act (P.L. 116-142) established a minimum maturity of five years on PPP loans and extended the covered period during which borrowers may use such funds for certain expenses while remaining eligible for forgiveness from eight to 24 weeks. The PPP Flexibility Act also raised the non-payroll portion of a forgivable covered loan amount from the 25 percent to 40 percent. S. 4116 (P.L. 116-147) extended the PPP application deadline to August 8, 2020. The PPP Extension Act (P.L. 117-6) extended the PPP application deadline to May 31, 2021, and provided SBA until June 30 to process all applications received by the May 31 deadline.

³ P.L. 116-260.

⁴ U.S. Small Bus. Admin., *Paycheck Protection Program*, <https://www.sba.gov/funding-programs/loans/covid-19-relief-options/paycheck-protection-program>.

⁵ U.S. Small Bus. Admin., *Paycheck Protection Program (PPP) Report: Approvals through 05/16/21*, (May 16, 2021), https://www.sba.gov/sites/default/files/2021-05/PPP_Report_Public_210516-508.pdf.

⁶ Briefing by U.S. Small Bus. Admin. Office of Cong. and Legislative Affairs, Washington, DC (May 17, 2021).

Current Issues

- Withdrawal of Loans: On May 17, 2021, in a notice to lenders, SBA announced that lenders with PPP loans pending in the “Not Approved or Further Research” status are required to withdraw the loans and notify borrowers they will no longer be able to process these requests.
- Hold Codes for “Unresolved Borrowers”: In response to the reports of fraud, SBA reviewed the entire PPP loan portfolio through an automated screening process comparing loan data with publicly available information and applying eligibility and fraud detection rules. Based on the results of this review, SBA placed hold codes on loans indicating that a borrower may have been ineligible for the First Draw PPP loan, or the amount it received, and preventing these borrowers from receiving a guaranty of a Second Draw PPP loan or loan forgiveness until the hold code is resolved.
- Forgiveness Update: The Economic Aid Act established a simplified forgiveness application for PPP loans under \$150,000. As of May 10, 2021, SBA has forgiven 3.1 million PPP loans made in 2020 or approximately 60 percent of 2020 loans, totaling \$257.5 billion.⁷ SBA has not received lender forgiveness decisions on 1.9 million PPP loans issued in 2020.⁸ If these borrowers do not submit a loan forgiveness application within 10 months after the last day of the loan forgiveness covered period, the loan deferral ends, and the borrowers must begin making payments on the loan.
- Demographic and Jobs Information: The Economic Aid Act requires SBA to include a voluntary demographic information section on the loan origination application for initial PPP loans and second draw PPP loans. All PPP loan applications after enactment must include this section. Currently, the portion of approved PPP loans for which the racial demographic question is unanswered exceeds 70 percent.⁹ The Committee is continuing efforts to analyze the data and work with SBA to examine PPP’s impact in underserved communities to access loans and preserve jobs. As the program expires and the forgiveness phase of PPP advances, Members of the Committee remain committed to learning more about the effectiveness of the program in stabilizing job loss and meeting its core function.
- PPP Fraud Update: While Congress and SBA have worked on continued PPP upgrades, federal and local law enforcement agencies have continued aggressively prosecuting PPP loan fraud in conjunction with SBA’s OIG. The OIG identified the significant fraud risk to SBA’s economic relief programs, including PPP, as the top management and performance challenge

⁷ U.S. Small Bus. Admin., *Paycheck Protection Program: Data as of 05/09/21*, (May 9, 2021), <https://www.sba.gov/sites/default/files/2021-05/2021.05.10%20-%20SBA%20COVID%20Relief%20Program%20Report.pdf>.

⁸ *Id.*

⁹ *Id.*

facing SBA in FY21.¹⁰ As of May 7, 2021, the Department of Justice (DOJ) has filed criminal charges against 195 defendants in connection with PPP loan fraud.¹¹

Section 1112 Principal and Interest Payments

Section 1112 of the CARES Act provided funding for SBA to make principal and interest payments on all existing 7(a), 504, and Microloans. This was extended with modifications under the Economic Aid Act. However, following the enactment of the Economic Aid Act, SBA announced it did not have sufficient funding to fund the extensions provided under the Economic Aid Act, and proportionally reduced the number of months for which relief was provided in each extension. To fully carry out the intent of the CARES Act and the Economic Aid Act, Congress needs to know the amount of funding required to fund the Section 1112 payments.

Economic Injury Disaster Loans

On March 6, 2020, Congress passed the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020,¹² which deemed the COVID-19 outbreak a declarable disaster under the Small Business Act, allowing Economic Injury Disaster Loans (EIDL) to be available to small businesses, and provided SBA with \$20 million for disaster assistance administrative expenses. On March 27, 2020, Congress passed the CARES Act,¹³ which provided \$10 billion for Emergency EIDL grants, a new SBA program providing advance payments of up to \$10,000 that would not need to be repaid, even if borrowers are later denied EIDL loans. On April 24, 2020, Congress passed the PPP and Health Care Enhancement Act (PPHCEA),¹⁴ which provided an additional \$50 billion for EIDL loan subsidy and an additional \$10 billion for Emergency EIDL grants. The law also expanded eligibility for EIDL loans and Emergency EIDL grants to agricultural businesses during the covered period, who were previously shut out of the EIDL programs.

The Economic Aid Act¹⁵ made changes to the EIDL programs, extending the covered period for Emergency EIDL advance payments to December 31, 2021, and providing SBA with 21 days to approve and disburse these funds. The Economic Aid Act also provided \$20 billion for an EIDL Targeted Advance Payment program that provides a \$10,000 advance payment to borrowers located in low-income communities that have suffered a revenue loss greater than 30 percent.¹⁶ The SBA is required to provide first priority in awarding the grants to eligible borrowers located in low-income communities that received an Emergency EIDL advance payment of less than \$10,000 previously, and second priority to eligible first-time applicants located in low-income

¹⁰ U.S. Small Bus. Admin. Office of Inspector Gen., *Top Management and Performance Challenges Facing the Small Business Administration in Fiscal Year 2021*, (Oct. 16, 2020) https://www.sba.gov/sites/default/files/2020-10/SBA%20OIG%20Report%2021-01.508_0.pdf.

¹¹ Arnold & Porter, *CARES Act Fraud Tracker*, (May 7, 2021), <https://www.arnoldporter.com/en/general/cares-act-fraud-tracker>.

¹² P.L. 116-123.

¹³ P.L. 116-136, *supra* note 1.

¹⁴ P.L. 116-139.

¹⁵ P.L. 116-260, *supra* note 3.

¹⁶ *Id.*

communities.¹⁷ The American Rescue Plan provided another \$15 billion for the Targeted Economic Injury Disaster Loan Advance payment program.¹⁸

Current Issues

- Potential Fraud: While millions of America’s small businesses have benefited from the economic relief programs, Government Accountability Office (GAO) and the SBA’s Office of Inspector General (OIG) have repeatedly warned that the speed in which these programs were implemented left the agency with limited safeguards to identify and respond to risks, such as improper payments and potential fraud.¹⁹ The GAO added EIDL and PPP to its “High-Risk List.”²⁰ The Committee remains concerned about reports of fraud and abuse in the economic relief programs.
- Advance Payments: The CARES Act created Emergency EIDL grants, a new SBA program that was intended to provide advance payments of up to \$10,000 that would not need to be repaid. Under the previous administration, the amount of the advance was limited to \$1,000 per employee, in contradiction to the CARES Act. In the Economic Aid Act, Congress created the EIDL Targeted Advance Payment program to ensure that EIDL borrowers located in low-income communities receive up to \$10,000 in advance payments. Entities that have suffered a revenue loss greater than 30 percent are to receive a Targeted Advance Payment in the amount equal to the difference of what the borrower received in an initial EIDL Advance and \$10,000. Those who applied for an EIDL Advance but didn’t receive any support due to lack of funding will receive a full \$10,000 advance if they meet the requirements. The hearing is an opportunity to learn more about the administration of the EIDL Targeted Advance Payments.
- Supplemental Targeted Advance: The Supplemental Targeted Advance provides the smallest and hardest hit eligible businesses with a supplemental payment of \$5,000 that does not need to be repaid.,²¹ This is in addition to the statutorily created EIDL Targeted Advance Payment. To qualify for the Supplemental Targeted Advance, an eligible business entity must be in a low-income community, suffered greater than 50 percent economic loss, and have 10 or fewer employees. The hearing provides the opportunity for the agency to elaborate on its efforts on this program and how Congress can assist.
- Increasing EIDL Cap from \$150,000 to \$500,000: Under the previous administration Congress learned that SBA reduced the maximum amount of the EIDL loan from \$2 million to \$150,000

¹⁷ *Id.*

¹⁸ P.L. 117-2.

¹⁹ GAO, COVID-19: Opportunities to Improve Federal Response and Recovery Efforts, GAO-20-625, June 25, 2020.

²⁰ GAO, High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas, GAO-21-119SP, March 2, 2021.

²¹ U.S. Small Bus. Admin., *SBA Launches Supplemental Targeted Advance for Small Businesses Hardest Hit by COVID-19*, April 23, 2021, <https://www.sba.gov/article/2021/apr/23/sba-launches-supplemental-targeted-advance-small-businesses-hardest-hit-covid-19>.

per small business, only 7.5 percent of the maximum loan size under the EIDL program.²² On March 24, 2021 the SBA announced that starting the week of April 6, 2021, it is raising the loan limit for the COVID-19 EIDL program from 6-months of economic injury with a maximum loan amount of \$150,000 to up to 24-months of economic injury with a maximum loan amount of \$500,000.²³ Per SBA's announcement, businesses that received a loan subject to the previous limits will not need to submit a request for an increase, and SBA will reach out directly via email to provide more details about how businesses can request an increase.

- **EIDL Repayment:** Under current law and regulations, the first SBA EIDL payment is normally due five months after disbursement.²⁴ However, on March 23, 2020, the SBA announced that it would defer payments on existing disaster loans through December 31, 2020, "to help borrowers during this unprecedented time."²⁵ The SBA also announced that payments on new EIDL loans would be deferred for one year (interest does accrue). On March 12, 2021 the SBA announced that it will extend the first payment due date. Disaster loans made in 2020 will be deferred for 24-months, and loans made in 2021 will be deferred for 18-months from the date of the note.²⁶

Shuttered Venue Operator Grant Program

The Economic Aid Act created the Shuttered Venue Operators Grant (SVOG) Program, and provided SBA with \$15 billion for grants to eligible live venue operators or promoters, theatrical producers, live performing arts organization operators, museum operators, motion picture theatre operators, or talent representatives who demonstrate revenue loss.²⁷ The American Rescue Plan provided an additional \$1.25 billion for SVOG and allowed entities to apply for both a second-draw PPP and SVOG, which was previously prohibited by the Economic Aid Act.²⁸ Eligible entities that receive both a PPP loan and SVOG after December 27, 2020, will have the amount of the PPP loan deducted from the total SVOG award.

Unlike many other grant programs, the SBA had to determine how to create an effective program for both for-profit and non-profit eligible entities which often have different revenue generation and accounting systems. The SVOG program has three different priority periods for applicants, depending on the amount of lost revenue. In the first 14-day priority period of the program, funds will be available to eligible entities that suffered at least 90 percent revenue loss in 2020. The

²² The Washington Post, *SBA Slashes Disaster-loan Limit from \$2 million to \$150,000, Shuts Out Nearly All New Applicants*, (May 7, 2020) <https://www.washingtonpost.com/business/2020/05/07/sba-disaster-loans/>.

²³ SBA "SBA to Increase Lending Limit for COVID-19 Economic Injury Disaster Loans", March 24, 2021, at <https://www.sba.gov/article/2021/mar/24/sba-increase-lending-limit-covid-19-economic-injury-disaster-loans>

²⁴ U.S. Small Bus. Admin., Office of Disaster Assistance SOP 50 30 9, May 31, 2018.

²⁵ U.S. Small Bus. Admin. *Carranza Implements Automatic Deferment on Existing SBA Disaster Loans Through End of 2020*, March 23, 2020, <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/carranza-implements-automatic-deferment-existing-sba-disaster-loans-through-end-2020>.

²⁶ U.S. Small Bus. Admin., *SBA Extends Deferment Period for all COVID-19 EIDL and Other Disaster Loans until 2022*, March 12, 2021, <https://www.sba.gov/article/2021/mar/16/sba-extends-deferment-period-all-covid-19-eidl-other-disaster-loans-until-2022>.

²⁷ P.L. 116-260, *supra* note 3.

²⁸ P.L. 117-2, *supra* note 18.

second 14-day priority period will be available to eligible entities that suffered at least 70 percent revenue loss in 2020.²⁹ After these initial 28 days, the program will be open to eligible entities that had at least 25 percent earned revenue loss in 2020. Through this program the SBA can award an initial grant up to 45 percent of gross earned revenue, capped at \$10 million, as well as a supplemental grant should there be remaining funds available.³⁰

Current Issues

- **Timing:** Passed into law in December 2020, the SVOG program was initially set to open on April 8, 2021. Shortly after launching the program, SBA had to suspend the SVOG application portal due to technical difficulties related to the uploading of documents. Due to the prioritization requirements for SVOG funding disbursement, all applicants were required to start over in order to ensure no applicant had any additional advantages when the program re-opened on April 26, 2021. Applicants have not yet received SVOG funds, and many continue to struggle with the uncertainty amidst the ongoing pandemic.
- **Calculations for Priority Periods:** The SBA determined that it will take all financial resources into consideration when the Agency is examining an eligible entity's gross revenue. There is concern over the SBA's use of gross revenue for determining eligibility for first two SVOG priority periods, while the third period uses earned revenue. Some entities with access to capital funds and restricted grants, such as non-profit organizations, have raised concerns that this will exclude them from the first two SVOG priority periods. The hearing will give Members the ability to learn more about the status of SVOG funding, distribution timelines, and challenges SBA faces as it processes applications. .

Restaurant Revitalization Fund

The American Rescue Plan created a Restaurant Revitalization Fund (RRF) and provided SBA with \$28.6 billion for grants to qualifying food and beverage establishments, \$5 billion of which is set aside for businesses with less than \$500,000 in gross receipts in 2019.³¹ It included an initial 21-day priority period where SBA prioritizes grants to women, veterans, and other socially or economically disadvantaged small business concerns. After the 21-day priority period, applications were to be processed on a first-come, first-serve basis. The RRF was launched on May 3, 2021, and the program received more than 147,000 applications from women, veterans, and socially and economically disadvantaged business owners requesting a total of \$29 billion in relief funds, potentially exhausting funds.³² As of May 18, 2021 the RRF disbursed more than \$6 billion in relief funds to nearly 38,000 applicants.

²⁹ P.L. 116-260, *supra* note 3.

³⁰ *Id.*

³¹ P.L. 117-2, *supra* note 18.

³² U.S. Small Bus. Admin., *Recovery for the Smallest Restaurants and Bars: Administrator Guzman Announces Latest Application Data Results for the Restaurant Revitalization Fund*, May 12, 2021, <https://www.sba.gov/article/2021/may/12/recovery-smallest-restaurants-bars-administrator-guzman-announces-latest-application-data-results>

Current Issues

- **Funding:** On May 18, 2021 the SBA announced that the RRF has received more than 303,000 applications, with a total demand of over \$69 billion. This includes: 12,000 application from businesses with less than \$50,000 in pre-pandemic revenue, requesting \$290 million in funds; over 73,000 applications from businesses with less than \$500,000 in pre-pandemic revenue, requesting \$6.1 billion in funds; and over 34,000 applications from businesses with more than \$500,000 but less than \$1.5 million in pre-pandemic revenue, requesting \$8.4 billion in funds.³³ Given this demand, the SBA announced that they will close the RRF application on May 24, 2021.³⁴
- **Priority Period:** The SBA is required to award grants to women, veteran, and other socially or economically disadvantaged small businesses during the priority period. SBA is having applicants self-certify their status within these priority groups. 57 percent of current RRF applications are from women, veterans, and socially and economically disadvantaged business owners, requesting over \$29 billion in relief funds.³⁵ The hearing will provide the opportunity for SBA to update the Committee on how it is ensuring that this program is operating as Congress directed with fairness and equity across the program, with appropriate guardrails in place.
- **Point of Sale Vendors:** Eligible businesses can apply for RRF directly through SBA's online application portal, or through an SBA-recognized Point of Sale (POS) vendors such as Square, Toast, Clover, NCR Corporation (Aloha), and Oracle. Given the volume of applications and demand for RRF, this hearing will provide an opportunity for SBA update the Committee on the use of both government and third-party application platforms.

Entrepreneurial Development

The CARES Act provided \$192 million in additional funding to SBDCs and \$48 million in additional funding to WBCs to help meet demand, pivot to virtual services, and provide training and resources during the pandemic. The Economic Aid Act contained several provisions to continue assistance to SBA's Resource Partners.³⁶ The CARES Act provided a waiver of the non-federal matching funds requirement for WBCs through June 27, 2020, allowing WBCs to focus primarily on counseling and training instead of fundraising. The Economic Aid Act retroactively extended the waiver through June 30, 2021. The Economic Aid Act also provided clarification to SBDCs on the use of CARES Act funding, allowing these funds to complement normal grants.

³³ U.S. Small Bus. Admin., *Last Call: Administrator Guzman Announce Final Push for Restaurant Revitalization Fund Applications*, May 18, 2021, <https://www.sba.gov/article/2021/may/18/last-call-administrator-guzman-announces-final-push-restaurant-revitalization-fund-applications>

³⁴ U.S. Small Bus. Admin., *Last Call: Administrator Guzman Announce Final Push for Restaurant Revitalization Fund Applications*, May 18, 2021, <https://www.sba.gov/article/2021/may/18/last-call-administrator-guzman-announces-final-push-restaurant-revitalization-fund-applications>

³⁵ *Id.*

³⁶ P.L. 116-260, *supra* note 3.

Current Issues

- Oversight of the Community Navigators Program: The American Rescue Plan Act of 2021 authorized \$100 million for grants to organizations to participate in the Community Navigator Pilot Program and \$75 million to support outreach and education. Under the community navigator approach, traditional business assistance organizations like SBDCs, WBCs, SCORE Chapters, and other organizations will engage trusted, culturally knowledgeable partners to conduct targeted outreach to specific sectors of the small business community. As the SBA begins to stand up the Community Navigator Pilot Program on the national level, the Committee will continue to be invested in oversight of the program, ensuring proper internal controls are put in place, and that the program is reaching underserved small businesses.
- WBC and SBDC Grant Disbursement Delays: There have been delays in CARES Act grant disbursements for WBCs, with some centers experiencing delays of multiple fiscal quarters. It is important the Committee continue to monitor grant disbursement to ensure that SBA's Resource Partners receive the funding they need to serve America's small businesses and entrepreneurs.

Conclusion

The Administration is being tasked with creating new COVID-19 relief programs and implementing a number of changes to existing programs. More than \$1 trillion in economic aid – more than 10 times the SBA's annual budget – has been funneled through the agency for small businesses. The hearing will provide members with an opportunity to hear from the Administrator about the challenges small businesses are currently facing and conduct oversight of the implementation of the COVID-19 relief programs.