

**OPERATING OR RULEMAKING? A REVIEW OF
SBA'S OPAQUE STANDARD OPERATING PROCE-
DURES PROCESS**

HEARING
BEFORE THE
SUBCOMMITTEE ON INVESTIGATIONS,
OVERSIGHT, AND REGULATIONS
OF THE
COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES
ONE HUNDRED FIFTEENTH CONGRESS
FIRST SESSION

HEARING HELD
NOVEMBER 2, 2017



Small Business Committee Document Number 115-045
Available via the GPO Website: www.fdsys.gov

U.S. GOVERNMENT PUBLISHING OFFICE

27-321

WASHINGTON : 2018

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OPERATING OR RULEMAKING? A REVIEW OF SBA'S OPAQUE STANDARD OPERATING PRO- CEDURES PROCESS

THURSDAY, NOVEMBER 2, 2017

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON INVESTIGATIONS, OVERSIGHT, AND
REGULATIONS,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:33 a.m., in Room 2360, Rayburn House Office Building, Hon. Trent Kelly [chairman of the Subcommittee] presiding.

Present: Representatives Kelly, Blum, Bacon, Norman, and Adams.

Also Present: Representative Chabot.

Chairman KELLY. I call this hearing to order.

We are here today to examine the Small Business Administration's standard operating procedure process.

According to SBA, standard operating procedures are permanent directives that set forth the policies or procedures relating to SBA programs or activities. What does this actually mean? It means that SOPs instruct SBA employees how to do their jobs; they help program participants understand their responsibilities; they clarify laws and regulations.

But this Committee has been concerned for some time that the agency's SOPs are doing more than just that. Specifically, we are concerned that SBA is making legislative binding rules outside of the rulemaking process.

The rulemaking process is governed by the Administrative Procedure Act, or APA, which sets forth the requirements agencies must meet when making rules and regulations. For example, agencies must provide notice to the public and allow time for public to comment. Agencies must then take into account these comments before finalizing a rule.

But SBA is not required to go through these steps when developing its SOPs, and neither is any other agency. They are not required to solicit public input. And that is okay if what SBA or any other agency is developing are, in fact, standard operating procedures. But are they? Or are they developing rules that are binding on regulated entities?

This Committee has been trying to find out. For the past several months, the Committee has attempted to get a briefing on the SBA's SOP process. We're still waiting.

And then, just recently, SBA issued an information notice announcing the agency's intent to issue a revised SOP for lender and development company loan programs. The notice was issued on October 13th. This Committee was not alerted until a few days later even though the Committee had been asking for months about whether SBA was revising its SOP for lender and development company loan programs.

During the Committee's hearing on May 17th this year, Mr. William Manger, the Associate Administrator for the Office of Capital Access, testified about the SOP rewrite that his office was currently undertaking. When the Committee followed up with the agency about this rewrite, it received little insight or explanation, which is problematic.

And this is why the Committee has been seeking answers all year, answers to questions such as: What prompts a decision to revise or write a new SOP? Who makes that decision? Does SBA consult with industry when revising or developing a new SOP? In what way and to what extent? If it is, does industry know that its input is considered? Does SBA ever consult with Congress on the SOP process? How long does the revision process take, on average? And how does SBA ensure that it is not engaging in rulemaking when revising or developing new SOPs?

The Committee is hoping today's witness, SBA's Chief Operating Officer, Joseph Loddo, will be able to answer some of these questions.

On the front end, the Committee requests that the SBA provide a briefing within the next 2 weeks on the current revision of the SOP 50, the Lending Program SOP. So we would make a formal request that we have a briefing in the next 2 weeks on that.

And, with that, I would like to thank Mr. Loddo for being willing to testify today on this topic.

And I now yield to the ranking member, Ms. Adams.

Ms. ADAMS. Thank you, Chairman Kelly, for convening today's hearing on this important issue.

And, Mr. Loddo, thank you very much for being here.

As the only agency in the Federal Government charged specifically with helping small businesses grow and succeed, the Small Business Administration is critical to our Nation's overall economic health. All of its functions serve to strengthen and preserve the entrepreneurial foundation of our economy.

For small businesses to fully reap the benefits from these programs, it is important that SBA operate efficiently and effectively and invest taxpayer dollars wisely. As such, one of the most important roles of this Committee is conducting vigorous oversight of SBA and its activities so that we know that the agency is serving small businesses well.

With those goals in mind, today's hearing will focus on the process that SBA uses for implementing its standard operating procedures. Considering that these documents set forth the policies and procedures related to the agency's programs and activities, it is critical that Congress be aware of how they are developed.

Further, concerns have been raised from industry and by this Committee that SOPs have been issued in place of formal rulemaking. Following the Administrative Procedures Act by complying

with the regulatory rulemaking process gives all stakeholders a chance to partake in important legal decisions. And so it is our duty to guarantee them that right and prevent the agency from bypassing important opportunities for comments from stakeholders and from the public.

For example, SBA recently issued a Notice of Significant Changes to its SOP on the 7(a) and 504 programs; however, no formal notice or comment process took place. Similarly, the process for interaction and input from Congress on creation and revisions to SOPs remain in question.

So today's hearing seeks to provide this Committee with clarity on SBA's SOP process and identify ways that it can be improved. So I look forward to hearing from our witness, and I thank you for your participation today.

And, Mr. Chair, I yield back.

Chairman KELLY. Thank you, Ms. Adams.

And, as you can see, bipartisan. We just want a lot of transparency.

And if the Committee members have an opening statement prepared, I ask that they be submitted for the record.

I would like to take a moment to explain the timing lights to you. You will have 5 minutes to deliver your testimony. We will be a little lenient with that today since you are the only witness. The light will start out as green. When you have 1 minute remaining, the light will turn yellow. Finally, at the end of your 5 minutes, it will turn red. I ask that you try to adhere to it as close as possible, but understanding you are the only witness.

I would now like to formally introduce our witness today. Mr. Joseph Loddo is the Chief Operating Officer at the Small Business Administration. In this role, Mr. Loddo works to improve overall agency performance by implementing innovative, effective, and more efficient processes through the agency. Mr. Loddo is a member of the Senior Executive Service, with 30 years of experience in the Federal Government. Mr. Loddo also served as a captain in the United States Army.

We welcome you today. I thank you for your service both to the Federal Government and in our military. And we look forward to your testimony as well. Thank you.

**STATEMENT OF JOSEPH LODDO, CHIEF OPERATING OFFICER,
UNITED STATES SMALL BUSINESS ADMINISTRATION, WASHINGTON, D.C.**

Mr. LODDO. Thank you, Chairman Kelly and Ranking Member Adams, for the opportunity to testify today.

First, let me say I understand the Committee's oversight role. As the Chief Operating Officer for the Small Business Administration, I share your interest in making sure that we operate as effectively and as efficiently as possible and that we examine our operational procedures to make sure we are achieving our collective goals.

Today's hearing focuses on the agency's process for updating and revising standard operating procedures. These SOPs help to implement our program regulations and govern the operations of our respective program offices.

Since becoming the Chief Operating Officer in January, I have enforced a consistent process for our SOPs. That process requires the head of each program office to annually review and certify the status of their SOPs.

All new or revised SOPs must follow the SBA's clearance processes. First, program offices engage our Office of General Counsel. This step helps to determine if a revision or a change is best achieved through the SOP chain or through regulatory action. Next, we have a robust internal clearance process which involves all the programs and supporting offices. The internal clearance process provides an opportunity for thoughtful review of the documents and for discussions on any issues. As a last step, Administrator McMahon will approve all new or significantly revised SOPs.

SBA's October update of the SOP for our business loan program provides a good example of this. We began an internal review process. We included and involved all the appropriate clearing offices. We performed a final check. Then we presented it to the Administrator for signature.

On October 13, we released the information notice, which was also distributed through stakeholders and shared with this Committee. We are now in a period of receiving public comment and input through the end of this year. If any technical or other changes to the SOP are necessary in light of the comments we receive, we will revise the document before it becomes effective.

Along those lines, our program offices in general solicit and receive input from program participants on an ongoing basis. We have an ongoing dialogue with our lenders and our external stakeholders. Our SOP updates are continually informed by this kind of engagement.

Before turning to your questions, Mr. Chairman, let me wrap up by thanking you and members of the Committee for your commitment to the small-business community. On behalf of Administrator McMahon, we appreciate your support of our agency, and we look forward to continuing to work with you to fulfill our mission.

Thank you.

Chairman KELLY. Thank you very much for your testimony.

I want to start out again and just say how important it is—we really want you guys to give us a briefing within the next 2 weeks on your new lending program SOP and the SOP 50.

I come from a background, probably a little bit similar to yours, in the military, and we are SOP-driven. And that hasn't changed probably since we were captains, maybe at the same time.

But SOP sometimes do much more than that. And I just want to make sure that we are not confusing regulations with SOPs. Because there is an outside influence. Even if it is intended only for internal, it also influences external. And just want to make sure that we are doing that.

What is the purpose of the agency's SOP, and why do you have them?

Mr. LODDO. Well, the purpose of the SOP is to provide guidance to the staff in terms of the day-to-day operations of that particular program area. It represents our official permanent policies and procedures for each of the agency programs. Program participants use

the SOP to better understand their responsibilities under the program, and the SOP provides that guidance.

Chairman KELLY. Now, how does the SBA, specifically under you—how do you ensure that you are not engaging in rulemaking when you revise an SOP or develop a new one?

Mr. LODDO. When a program office is prepared to make a presentation in terms of a new SOP, we strongly suggest that it goes to the Office of General Counsel, where they make a determination as to whether this is an SOP or a regulatory change. If it is an SOP, then we have a clearance process that it would go through. If it is a regulatory change, it would follow the traditional regulatory process. So it is a decision made by the Office of General Counsel.

Chairman KELLY. That is very good. So you basically have an external audit proceeding that General Counsel looks at that, as opposed to you guys determining what is a rule and what is an SOP.

Mr. LODDO. Right. That decision rests was the Office of General Counsel.

Chairman KELLY. Very good.

And do regulations trump SOPs?

Mr. LODDO. Absolutely.

Chairman KELLY. Okay.

Now, going back, what prompts a decision to revise or rewrite an SOP, and who makes that decision?

Mr. LODDO. Well, the program office is responsible for the standard operating procedures for that program. So the program official would make that decision as to if it is necessary for a revision to the standard operating procedures, then approach the Office of General Counsel.

Chairman KELLY. And, on average, how long does it take to revise or rewrite an SOP?

Mr. LODDO. Thank you for that question.

What we strongly encourage is that the program office do some pre-vetting with the Office of General Counsel and any impacted office with a particular SOP. Once they have arrived then it is following the path for standard operating procedures, the process is at maximum 30 days, unless requesting for an extension.

The hope is, as a result of the pre-vetting of the proposed SOP, that it can go through the different offices that are required for concurrence or non-concurrence on that particular SOP. It can be done and usually is done dynamically, not sequentially. So it is not one office, then the next office. It is all offices get the clearance document, they get to review it, and they have within 30 days to respond back to our ExecSec, in terms of their comments.

Chairman KELLY. And I just want to—we want to work with the SBA. I understand we are oversight, but we want to work with you. And the more transparent you guys are and the more accessible and easy to access and the more information you provide, generally that becomes better. I know that from the military and serving with soldiers. When you are hiding something, even it is not bad, I think it is bad.

It is the same way with any organization. I worked in retail, and my boss, the general merchandising manager, when he would come

walk through my area, he would say, “You know, always make sure your aisles, all the clothes are aligned and they look good, because if it pops on the aisle, I am not going to walk inside and see the clearance rack. But if it is messed up on the aisle, I am going to dig in every clearance rack you have because I assume everything else is messed up.”

And it is the same way with this, Mr. Loddó. And I think you all can do a whole lot better job of making sure that when we send requests, whether it is from staff or the actual Members, that you comply with that. And I think it will make our relationship that much better.

And, with that, I yield to Ms. Adams.

Mr. LODDO. I would just like to make an observation.

First, you bring back fond memories.

But, in addition to that, it is really important for us to have strong communications, and certainly with this Committee. With that strong communication, we can get the coordination and the commitment to be able really to produce some desired results that we both want.

Ms. ADAMS. Great. Well, thank you very much.

Mr. Loddó, we have heard from the 7(a) lending industry that, often, key guidance for the program is implemented by SOP rather than by regulation. So how would you respond to that?

Mr. LODDO. Well, I would suggest that we have reached out to the industry in several different ways.

On August 21, 2017, we had a 66-page document that outlined the response from all of the lenders. We did the informational notice on October 13.

And, we are giving lenders, as well as the Committee, the opportunity to comment up until January 1, with the idea that these are the changes we are proposing and, if there are any technical changes that we need to make, we are certainly willing to do that.

We all have the same interest, which is to be fair to all concerned. And we want to make sure this program continues to be highlighted as one of the best programs at the Small Business Administration.

Ms. ADAMS. Okay. So did you say that these 66 pages constitute the changes—all of the changes? Do you have that many?

Mr. LODDO. These represent changes in parts 109, 115, and 120 that have been incorporated into the issuance of the SOP that is out for comment right now.

We actually believe that this is a good way to go, in terms of asking the community and the stakeholders to comment, build out what we have learned from those comments, build out the SOP, put it back out to the community and to the stakeholders as to, “Here is what we are proposing for the SOP. We are asking for your comments from October, November, to the end of December so we can make any additional modifications.”

Ms. ADAMS. Okay. So that is, like, 90 days to—

Mr. LODDO. Yes.

Ms. ADAMS. Okay.

So how, if at all, does SBA engage congressional committees as it develops or updates SOPs and other agency guidance? And what improvements do you think could be made to this process?

Mr. LODDO. Well, certainly, any communications would go to our Office of Congressional and Legislative Affairs. I think all of our program offices are willing to meet with the Committee at the earliest possible time in order to be able to increase the communication, the cooperation, and the coordination that we need both from the Committee as well as from SBA to improve our programs.

Ms. ADAMS. Okay.

So, during the annual certification, you noted in your testimony that 44 SOPs had either been revised or retired since the end of the fiscal year 2016.

Have you completed the certification for 2017? And to what extent do you expect further significant changes in the status of SOPs? And you may have answered some of that.

Mr. LODDO. Well, we did the certification process in January of 2017. We had all the program offices give us the date when they expected a revision or if there was not to be a revision.

It is a dynamic process. Thirteen have been revised since then; two have been deleted. And others are what I would call in process, because any change to the SOP has to go through this process. And it is a very dynamic process, given what we do and how we do it.

Ms. ADAMS. Thank you, sir.

Mr. Chair, I yield back.

Chairman KELLY. I thank the ranking member from North Carolina, Ms. Adams.

It is great to be on this Committee. I can tell you, we work well together on Subcommittees and full Committee as a whole, both in a bipartisan way. And so I thank her again.

And, with that, I yield to the gentleman from South Carolina, Mr. Norman.

Mr. NORMAN. Thank you, Mr. Loddo. I appreciate you coming today.

I am in the real estate business. We have dealt with the SBA. And I guess some of the complaints or comments that I heard from lenders were that changes were made midstream. A company would get a loan going, and then the requirements changed. How would you answer that?

Mr. LODDO. Well, first, I don't want to pick an argument that the lenders that you were talking with, but on August 21 we sent, through the Federal Register, all the comments that we received from our external stakeholders, to include lenders, as to the changes that related to SOP 50-10. So we have that communication going on.

I would urge that lender to work with SBA so that they are fully informed about what we are doing, when we are doing it, and our plans in terms of going forward. It is really important that we get the feedback from all of our lenders, our external stakeholders, so that we make a better product for our Nation's small-business community.

Mr. NORMAN. A lot of them are reluctant—and you could see—they are reluctant to, not criticize, but offer, I guess, constructive criticism, because in their minds it could make it harder as they go down the line as another project comes up.

Walk me through the process on when those comments are sent in. How do you answer those comments, the ones that are adopted versus the ones that are not adopted?

Mr. LODDO. In the notice that was in the——

Mr. NORMAN. Yes.

Mr. LODDO.—Federal Register, we state what the comment was and we state what the response was.

I can assure you that if somebody is making a negative comment we are not holding that individual in terms of reprisal in any sort. That is not who we are; that is not how we operate. So the idea is that we want the input, both positive and negative. That is the only way we can improve this program or any of the programs that we have.

And it is upon us to review what is being suggested, understand what is being suggested; if we don't understand it, ask; and come up with, in light of all the different responses we have, a better program. That is our intent. We welcome the entire participation from the lending communities and the associations attached to those lenders.

Mr. NORMAN. Well, that is encouraging. And I urge you to keep that going, because you all provide a vital service. And a lot of times, those that you are serving and making the loan to are not that well-versed in the regulations, and it is almost a process, you have to walk them through it.

Are all of these posted online after the fact?

Mr. LODDO. Yes. All of the SOPs are posted online.

Mr. NORMAN. Okay.

Mr. LODDO. And the comments, obviously, are in the Federal Register. They are available for anyone to see.

Mr. NORMAN. Well, you provide a valuable service, so I encourage you to keep the transparency, as Congressman Kelly mentioned, because it is a vital service that you—you provide a good need.

One other question. When you make a loan, does the SBA take a first or a second position?

Mr. LODDO. Well, in the 7(a) program, we actually don't make a loan. We guarantee the loan. The lender makes the loan——

Mr. NORMAN. Right.

Mr. LODDO.—and we guarantee the loan.

As it relates to collateral, the bank is traditionally making those requirements. We do not make a loan because of collateral. We are really a cash-flow lender, so we are really looking at the management and the cash flow of the business and less about the collateral. The lender is looking to us for our guarantee, because that is gold in terms of worst-case scenarios.

Mr. NORMAN. And your guarantee percentages are what?

Mr. LODDO. Oh, they are different depending on what program. From 50 percent up to 85 percent, I believe.

Mr. NORMAN. Is 85 the max?

Mr. LODDO. No. I think in the International Trade Program we go up to 90 percent.

Mr. NORMAN. Ninety. Okay. Thank you, sir.

Mr. LODDO. You are welcome. And thank you for your kind words about the Small Business Administration and its importance.

Chairman KELLY. Does the gentleman yield back?

Mr. NORMAN. Yes, I yield back.

Chairman KELLY. I now recognize the gentleman from Iowa, Mr. Blum, for 5 minutes.

Mr. BLUM. Thank you, Mr. Chairman.

And thank you, Mr.—is it “Loddo”?

Mr. LODDO. “Loddo,” yes.

Mr. BLUM.—Loddo, for being here today.

How long have you been the Chief Operating Officer? Is that correct?

Mr. LODDO. Yes, I am the Chief Operating Officer.

Mr. BLUM. And how long has that been?

Mr. LODDO. January of 2017. Prior to that, I was the Deputy Chief Operating Officer.

Mr. BLUM. And how long was that?

Mr. LODDO. About 2 years.

Mr. BLUM. As I have been on this Committee now for almost a year, it seems to be a recurring theme that SBA—and I will say in the past—has been mismanaged. I am not sure if that is true or not. I would just like to—I know it is not exactly on topic with standard operating procedures, but give me your thoughts on that. There has been issues, let’s put it that way.

Mr. LODDO. Yeah.

Mr. BLUM. And just give me your thoughts.

Mr. LODDO. Well, I think the Office of Inspector General is the one that gives a very insightful view in terms of the management challenges facing the agency, the most serious management challenges. I think we have eight that they have identified last year. We have made major progress.

In terms of the management, as you know, we have had a change of administration, so that always creates a little bit of apprehension and turmoil. But our work, in terms of that transition, it has been viewed as a model in terms of the other Federal agencies, because one of the things that we were able to do was rely very heavily on the Senior Executive Service to work with the beachhead team that was arriving to make the transition very successful for the Small Business Administration.

Mr. BLUM. What is the Senior Executive Service, you said?

Mr. LODDO. Yes.

Mr. BLUM. What is that?

Mr. LODDO. That is what I believe to be, and I think most would believe to be, the elite group of senior leaders in the Small Business Administration. Normally, grade levels go grades basically 1 through 15. Above that is the Senior Executive Service.

And I am not sure of the amount of senior executives across the Federal Government. Inside SBA, we have two groups: career and political. The career group totals about 26 individuals, and the political group can only be 25 percent of that group.

But it is the senior-most people knowledgeable about the program areas within the Small Business Administration.

Mr. BLUM. You mentioned the biggest management challenges. You referenced that. What are those? Give me the top two or three, in your estimation.

Mr. LODDO. Well, first our CIO office, has made tremendous progress in terms of where we are, which lends itself to the question you originally raised, to where we are now. For example, we had eight CIOs in about 5 years, which—that type of continuance management is havoc. We have Maria Roat, who has testified before this Committee and has shown that she has built the foundation for us to really have an enterprise solution.

That is one of the management challenges. Another, of course, is the Office of Human Resources, Office of Capital Access. Certainly, the Office of Government Contracting and Business Development.

In particular, we have had one management challenge that has been red forever, red being no progress, and that is a definition of “economic disadvantage.” Fortunately, at the end of last year, we were able to enter into a contract for an independent assessment as to what constitutes economic disadvantage. We should have the results of that contract midyear, which will redefine the bottom level for economic disadvantage for programs like the 8(a) Business Development Program.

Mr. BLUM. Do we measure a lot of things in the SBA? I am a businessman. I know that which you measure will improve on.

Mr. LODDO. Exactly. And we measure almost——

Mr. BLUM. We have measurements in——

Mr. LODDO. In fact, one of the projects——

Mr. BLUM. I am speaking relative to the performance of managers in their departments.

Mr. LODDO. Well, two parts to that answer. One is that we have the Administrator’s priorities, and they cascade all the way down to the individual person in terms of their performance plan.

And in their performance plan, we have what is called results-driven, and we outline what a level 5 is, what a level 4, what a level 3, or a 2, or a 1. Level 5 means that you are outstanding in your work, so we outline exactly what you have to do in order to be a level 5 performer, level 4, level 3.

And we also require supervisors to meet with their staff on a quarterly basis, and not do it by email but face-to-face when possible, to explain where they should be applauded and where they need some reinforcement, in order to—we are trying to get everybody to be a level 5 but based off of the criteria, not a pass-through, with a 5 or a 4.

Mr. BLUM. What grade would you give the overall management of SBA?

Mr. LODDO. The current management of the Small Business Administration?

Mr. BLUM. Yeah. What grade would you give it?

Mr. LODDO. Pardon me?

Mr. BLUM. What grade would you give it, A to F?

Mr. LODDO. I would give Administrator McMahon grade level 5—outstanding, holding everybody accountable, particularly on the performance side. She has told——

Mr. BLUM. I have confidence in her. How about everyone—how about management below her?

Mr. LODDO. Well, that is why I am the chair of the Performance Review Board. All those senior executives, their performance statement is in front of us, along with their statement of accomplishment, along with their rating official. And we, as an independent body, view the grade level being given by the rating official and the comments made by the individual senior executive as well as the comments made by the reviewing official. And we determine the recommendation to the Administrator in terms of the grade level that that person should get, whether it is a 5 or downgraded to a 4 or downgraded to a 3 or a 2 or a 1.

Mr. BLUM. I am sure Administrator McMahon will be happy you gave her a 5.

I yield back the time I do not have.

Chairman KELLY. The gentleman's time has expired.

I now recognize the ranking member, Ms. Adams, again for 5 minutes or a little longer if she needs.

Ms. ADAMS. Thank you, Mr. Chair. I don't think I will need that much time. But, as a former teacher of 40 years, a professor, it seems like your whole class passed, did well, huh? That is good.

So let me ask you, you know, we have heard concerns from 7(a) lenders regarding the requirement for a 10-percent equity injection for some small-business borrowers, as well as, spelled out in a newly issued SOP, we understand lenders may request a carveout, such as for low- to moderate-income small-business borrowers.

So do you anticipate authorizing these kinds of requests? And how would a decision be made regarding them?

Mr. LODDO. As I mentioned before, the bank is the lender, and we guarantee the loan program. From our point of view, each individual loan is viewed separately in terms of its cash flow and its management. So I would have to defer to the program manager in terms of anything that would be macro, and that may require an SOP or a regulatory change.

Ms. ADAMS. So do you have situations where, if certain requirements aren't met, that you give them an opportunity to do that? Or how does that work?

Mr. LODDO. Well, for example—

Ms. ADAMS. Is it one shot?

Mr. LODDO. I think we are very fortunate, the Small Business Administration, to have the entire economic toolbox to offer the Nation's small-business community. For example, our entrepreneurial development offers counseling through the Small Business Development Center, SCORE, Women's Business Center, online, 24/7.

Here is an example of how it works in our Disaster Loan Program, where disaster survivors are under stress when they are seeking a loan. Whether we approve it or not, they are under stress, given the environment that they have inherited because of that particular disaster. Whether we approve the loan or whether we decline the loan, we provide to them local technical assistance in terms of their business plan or whatever help that they may need. So, if they were not approved for a loan, we are telling them to go to the SBDC, to SCORE, to the Women's Business Center, work out what we said was a shortfall, and come back to us with reapplying.

Many times, many times, we are able to approve the loan because of the technical assistance we have provided through our resource partners. That is how the synergy works with our programs. We all have something to offer, together, to the Nation's small-business community.

Ms. ADAMS. Okay. Well, that sounds like a pretty good process. And so you have a pretty good return rate? In other words, they come back, and then they may even get the loan. Do you do any kind of followup to see, I mean, that you may have lost some folks? In other words, you sent them—

Mr. LODDO. Yeah. Well, unlike the 7(a)—

Ms. ADAMS.—to talk to the Small Business Center or wherever, and they did not come back. Do you do any followup or—

Mr. LODDO. Well, thank you for that question because that is really important, because there is a big difference between, for example, the disaster program and the 7(a) and 504. Remember I talked about guaranteeing the loan in the 7(a)?

Ms. ADAMS. Uh-huh.

Mr. LODDO. In the disaster program, we are the Nation's bank. We are the banker. And we are making a direct loan to the disaster survivor. And once that loan is made, and then we are responsible for servicing that loan as well as, worst-case scenario, the liquidation of the loan. So we are monitoring that loan from the very day that it is approved for its life.

Ms. ADAMS. Okay. All right. Thank you, sir.

I yield back, Mr. Chair.

Chairman KELLY. Mr. Loddo, I thank you again for your time here in front of the Committee. I thank you for being forthwith with this.

I go back—I can't remember if it was law school or somewhere I worked somewhere—but I remember reading a book about getting to "yes," you know. And our SBA ought to kind of be driven by that. And I don't remember all the details of the book, but it means we shouldn't look for reasons to turn people down. We should look for either getting them in that program or, if that is not the right program because they don't qualify, letting them know what is available.

And I think we in government need to do that a whole lot better, especially the more bureaucratic you get, we need to get to "yes" instead of looking for reasons not to do as much work. I think that we've got the right attitude with the SBA. I encourage the SBA, as an overall business, to be more transparent. That is why we are asking for these things, because we want to be your partner and we want to be helpful.

I thank our ranking member, Ms. Adams, for her insight.

And as this hearing comes to an end, I want to again thank you for your testimony.

This Committee works hard to find ways to ease the burden of regulations on small businesses across industries and across our country. That is why this issue is important to us. We want to make sure SBA and other agencies are not rulemaking through their standard operating procedures.

The Committee expects SBA to keep us informed of the SOP process as well as any future SOP rewrites and revisions.

I thank you again for your testimony.
And, with that, this hearing is adjourned.
[Whereupon, at 11:10 a.m., the subcommittee was adjourned.]

APPENDIX



U.S. Small Business Administration

TESTIMONY of

JOSEPH LODDO

Chief Operating Officer
U.S. Small Business Administration

House Small Business Committee

Subcommittee on Investigations, Oversight, and Regulations

Chairman Kelly, Ranking Member Adams, and other distinguished members of this Committee. Thank you for inviting me here to speak with you today. My name is Joe Loddio. I am the Chief Operating Officer of the US Small Business Administration (SBA). I am here to today to discuss the SBA's process for writing, reviewing, and updating Standard Operating Procedures (SOPs). SOPs are used to issue Agency policy, the procedures for carrying out Agency policy, the assignment of responsibility for duties, and other purposes.

SOPs are official written communications that initiate or govern action, conduct, procedure or policy, or relay information to multiple parties, inside or outside the Agency. As the COO, the responsibility for maintaining Agency records, including SOPs, falls under my purview. SBA has a strong Directive Management system, which controls the issuance, revision and cancellation of all Agency SOPs.

SOPs are essential guiding documents at the SBA. The SOPs serve as the policies and procedures for both customer facing and internal operations. They provide the guidance necessary to make decisions and ensure compliance with relevant regulations and statutes. The Administrator approves and signs all SOPs.

In FY 2015, GAO recommended that SBA should set time frames for periodically reviewing and updating its SOPs as appropriate. Further, GAO found that a number of our SOPs were outdated and did not reflect program and operational changes. At the time, SBA noted that 74 of our 165 SOPs needed to be revised; 31 needed to be cancelled; and 60 required no revision. An additional 9 new SOPs needed to be issued.

To be responsive to GAO, and to comply with our internal annual SOP certification requirement, SBA program offices have undertaken a complete review of all SOPs and we have implemented a process to ensure that all are updated in a timely fashion. A cross-sectional team was created to review and revise our written procedures (known as our "SOP on SOPs") for issuing and maintaining agency directives, including SOPs. The Office of Inspector General reviewed the revision, as did all SBA program offices. The revised procedures were issued on August 26, 2016.

Since becoming COO in January 2017, I have mandated a consistent process for updating, revising, or cancelling SOPs. In the past 10 months, 13 SOPs have been revised, 1 has been canceled, and 4 new ones have been created. We continue to work to ensure that our guidance documents are always up to date, and I am committed to meeting that objective.

Currently, the head of each office is required to annually certify in writing as to the status of current SOPs issued by his/her office. The office head is required to review the relevant SOPs and certify to me, for each SOP, that the SOP: (a) does not require any revision; (b) is currently being revised; or (c) is being canceled. If the SOP is to be revised or canceled, the office head must provide an expected completion date. I hold each office accountable to this timeline.

During the annual certification in January 2016, program offices identified 19 SOPs that were obsolete and 25 SOPs that needed significant revisions. All 44 have been either revised or retired since the end of FY 2016. Going forward, program offices that identify SOPs as needing revision will be required to report on the status of that revision. Either through revision, consolidation or cancellation, SBA has reduced its number of SOPs from the GAO reported 165 to the current 148.

All new or revised SOPs must follow the SBA's clearance procedures—with the Administrator approving all new or significantly revised SOPs. Prior to presentation to the Administrator, all such documents are cleared concurrently by at least five mandatory clearing offices (including the Office of General Counsel, the Office of the Chief Financial Officer and my office) and any affected program offices. We encourage pre-vetting among the affected program offices and the Office of General Counsel. It is through the pre-vetting and clearance processes that authorities for the SOPs are identified and compliance³ ensured.

SBA takes its records management and SOP process very seriously. Efficient and effective program delivery cannot happen without an organized method of documenting policies and procedures. Administrator McMahon is holding every senior manager accountable for results and expects to see them. I fully support and share her view. Thank you very much for the invitation to testify and I welcome your questions.

