SBA MANAGEMENT REVIEW: OFFICE OF CAPITAL ACCESS

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

HEARING HELD
MAY 18, 2022

Small Business Committee Document Number 117–056
Available via the GPO Website: www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE
47–535 WASHINGTON : 2022

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SBA MANAGEMENT REVIEW: OFFICE OF CAPITAL ACCESS

WEDNESDAY, MAY 18, 2022

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

The committee met, pursuant to call, at 10:02 a.m., in Room 2360, Rayburn House Office Building, Hon. Nydia Velázquez [Chairwoman of the Committee] presiding.

Present: Representatives Velázquez, Golden, Davids, Phillips, Chu, Evans, Houlahan, Andy Kim, Craig, Luetkemeyer, Williams, Stauber, Meuser, Tenney, Garbarino, Young Kim, Van Duyne, Donalds, 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 will 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.

Our nation's 30 million small businesses come in all shapes and sizes across various industries. Regardless of the product they sell or the number of employees on their payroll, the ability to access capital is crucial to their success. Unfortunately, our committee frequently hears from entrepreneurs about the struggle to obtain an affordable loan on reasonable, nonpredatory terms.

The data supports these anecdotes. The Federal Reserve published its 2022 Small Business Credit Survey that found that almost 60 percent of small employer firms reported not having their capital needs met.

To fill this gap, the Small Business Administration offers a range of lending programs to serve businesses that cannot obtain credit elsewhere.

These initiatives are administered by the Office of Capital Access, also known as OCA.

OCA carries a loan portfolio of over $1 trillion and oversees traditional SBA initiatives and pandemic relief programs. Their work is fundamental to the SBA's mission of helping Americans start, build, and grow small businesses.

Today, I would like to hear from our witness about what is working well at the office and the challenges they face. This is especially important in the wake of an unprecedented increase in demand for SBA's traditional lending offerings.

For example, in FY2022, the 504 loan program experienced record-high demand and reached the authorized lending limit of $7.5 billion, causing the program to pause lending in early September.

This increased demand has persisted in FY2022, and the program was on pace to be forced to shut down in July before a funding level adjustment was enacted. We are grateful for the bipartisan and bicameral cooperation between our Committee and the Appropriations Committee to secure that funding adjustment and keep the 504 program open for lending this fiscal year.

However, we must continue finding ways that the agency and Congress can ensure that SBA programs are equipped to keep pace with demand from small businesses.

I would also like to discuss the steps OCA is taking to help create a more equitable small business economy.

SBA data shows that the number of 7(a) loans of $150,000 or less declined by almost 52 percent since FY2016, and that loans of $50,000 or less fell nearly 58 percent during the same period.

Administrator Guzman stressed the importance of small-dollar loans when she testified before the Committee last month, so I would like to hear more about OCA's work to ensure that all small firms have access to the capital they need to thrive.

With the recent news of the COVID EIDL program closure, this is a very timely hearing for us to discuss the OCA administration of pandemic relief initiatives. On Thursday, May 5th SBA announced that it would no longer accept applications for loan modifications, reconsiderations, and appeals due the exhaustion of program funding. Today, I hope we can provide answers to the many Members and businesses calling us who are awaiting application decisions.

Small employers are leading the way in our pandemic recovery. Since 2021, entrepreneurs have started a record number of small businesses, and small firms have created jobs at a historic pace.

However, their continued success is contingent on their ability to access capital. I look forward to discussing the Office of Capital Access and what Congress can do to help the office better serve American small businesses.

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 for holding this hearing today with Mr. Kelley.

Prior to the COVID-19, the nation's small businesses and our economy in general were operating at full speed. The low tax environment enabled by the 2017 Tax Cuts and Jobs Act and the smart regulatory environment, we were allowing small businesses to grow, compete, and create jobs across America. Unfortunately, the capacity restrictions and shutdown measures of COVID-19 forced small businesses to think and operate differently.

With limited foot traffic and minimal dollars coming through their doors, small businesses were left without any options. They turned to the federal government and the country's COVID-19 relief measures, in particular, the Paycheck Protection Program. Overnight, millions of small businesses became aware of the resources and tools available to them at the Small Business Administration. Additionally, thousands of lenders raced to assist them.

When I am home, I sit and I talk to small businesses and I often hear that the PPP saved their businesses. While the nation continues to recover, our work is not over. Agencies and program offices that ran and played a significant role with these relief measures must continue to talk and work with Members of Congress. That is why I am glad to have Mr. Kelley before us this morning.

In addition to helping administer the PPP, the Office of Capital Access has also in the Biden administration taken the reigns of the fraud-plagued Economic Injury Disaster Loan program, also known as EIDL. And the office was involved with the unconstitutional and underfunded Restaurant Realization Fund where Congress prioritized some restaurant owners over others. To say the least, we have a lot of questions for this office on how they performed over the last 2 years.

For example, the Biden administration continues to defer EIDL payments for small business owners. These loans, which have a maturity of 30 years, now have a deferment payment of over 30 months. That means the American public, Congress, and law enforcement won't know how the program has performed, now will they see the true extent of fraud until payments are required. The SBA's Inspector General has already flagged this program for potentially $80 to $90 billion in fraudulent loan activity. And yet, this office, the administrator, and the Biden administration continues to defer payments.

I would like to remind everyone, the EIDL program was a direct loan and grant program where the SBA qualified small businesses and disbursed funds directly. The SBA Inspector General has documented that an anti-theft was rampant in this program. In fact, follow-up answers to this Committee by the administrator indicate that the number of flagged applications for anti-theft has swelled to over 1 million. This means that criminals go through the SBA's open door and entered the program illegally.

Additionally, and just yesterday, the SBA Inspector General found its independent auditor's report that the SBA Direct Disaster Loan Program continues to be overwhelmed with issues. The report indicates that the program had gross improper payments and an unknown payments rate exceeding 10 percent, which is higher than the statutory amount.

Beyond these very large concerns, this office also administers all of the SBA's government guaranteed lending programs. These programs, which are delivered to small businesses through efficient and responsible public-private partnerships with lenders, assist small businesses when traditional and conventional capital is not available.

Who is accessing these programs? Who is lending within these programs? How is SBA overseeing these lenders? These are major questions that need to be addressed. With all the new interest and focus on SBA, this office's list of statutory required duties is long. We have a lot of work that is mandated in law. New and extraneous projects must not divert attention away from what they must accomplish.

COVID programs must be concluded effectively, efficiently, and responsibly. Traditional programs need to be calibrated and staffed appropriately. Unfettered policymaking and decision making will not stand.

However, I am glad the SBA will be at least here today to testify because I cannot say the same about Secretary Yellen. Even though she is charged with onboarding new PPP lenders and despite being statutorily required to testify, she continues to ignore this Committee and America's small business.

As I said earlier, our work is not done. With soaring inflation, the economic environment for small business is not great. However, despite these challenges, small business owners have the resiliency to drive our nation forward.

With that, Madam Chair, I look forward to today's conversation and the many conversations before us regarding SBA's Office of Capital Access. And I yield back.

Chairwoman VELÁZQUEZ. Thank you, Mr. Luetkemeyer. The gentleman yields back.

With that, I will now introduce our sole witness today, Mr. Patrick Kelley. Mr. Kelley is currently serving as the Associate Administrator of the Small Business Administration Office of Capital Access. This is Mr. Kelley's second tour of duty at SBA. He previously served as Deputy Chief of Staff, Deputy Associate Administrator, and Senior Advisor at SBA during the Obama administration. Prior to his current service at SBA, he was an executive with an active lender in the 7(a) program. His blend of public and private sector experience has been invaluable as he lead the SBA efforts with the third round of PPP funding and now in the critical forgiveness stage. Mr. Kelley is a graduate of Colgate University and Boston College Law School.

Welcome, Mr. Kelley. You are now recognized for 5 minutes.

STATEMENT OF PATRICK KELLEY, ASSOCIATE ADMINISTRATOR, OFFICE OF CAPITAL ACCESS, UNITED STATES SMALL BUSINESS ADMINISTRATION

Mr. KELLEY. Thank you. Good morning to the Committee. Good morning, Chairwoman Velázquez, Ranking Member Luetkemeyer. On behalf of our Administrator, Isabella Guzman, it is my pleasure to be here.

As the Chairwoman noted in my bio, my name is Patrick Kelley. I am the associate administrator for the Office of Capital Access. Since last March 2021, so just over a year, I have had the opportunity to serve alongside some of the greatest civil servants that this country has put forward.

For the last 24 months, civil servants in the Office of Capital Access and cross-office of Disaster Assistance have put forward over a trillion dollars of lending that as was noted by the Ranking Member's remarks, is greatly appreciated all over the country by small businesses. They are dedicated, outstanding, and it is my privilege to work with them.

Over the last 12-plus months, our office has been responsible for the PPP program round three which originated another $6.1 million roughly PPP loans in phase three. The COVID EIDL program we took over in July and that has led to an additional 300,000 more or less, loans made in 2021 until today. Each of those programs is hundreds of billions of dollars.

In addition, as was noted, I had the pleasure of administering the Restaurant Revitalization Program on behalf of Administrator Guzman were we put out $28.6 billion to 101,000 restaurant-related entities more or less in 45 days from the bill's passing. That particular program was an opportunity to work with grant recipients who are near and dear to all of us. You cannot tell the story of your life without a restaurant or related entity, and certainly, that is true for me.

With respect to the core programs, as Chairwoman Velázquez noted, the lending in our core programs in fiscal year 2021 continued at a pace. In addition to the 504 numbers that were cited, the 7(a) program also distributed $35 billion to roughly 50,000 small businesses. So those particular programs will continue to be of use as we move forward for small businesses, most especially to attack the problems that Chairwoman Velázquez spoke about earlier with respect to accessing small dollar loans which continues to be a persistent challenge. And we have recently begun to address that by building off of one of I think the bipartisan successes of the PPP program. As you all know, in round three, community financial institutions were given an exclusivity period at the outset of that program in order to onboard those parts of the community that felt they were underbanked in rounds one and two. That led to 600 community financial institutions making roughly $30 billion of additional PPP loans more or less over that phase three.

As was mentioned, we have 5,000 lenders who participated in the PPP program. They span financial technology companies, which historically are not eligible to lend in the program. Community financial institutions which historically have been limited to the Community Advantage Program, and obviously, banks and credit unions. In a typical 7(a) year, about 1,900 banks make at least one loan, and over a 5-year period it is roughly 4,000.

So one of the tasks that Administrator Guzman has put our office on is ensuring that we build off of the momentum of participation by simplifying the products on behalf of our lending intermediaries so that they might leverage digital tools and take advantage of the secondary market tool which is an excellent resource for SBA 7(a) lenders.

And finally, the 504 program continues to be an outstanding resource. Certainly, as we contemplate a rising interest rate environment, a 25-year-fixed rate note is an incredibly powerful tool. The other great part of that particular program is owner-occupied real estate, so it enables a small business owner to build value in terms of an asset and allows for a third-party lender to participate in the deal.

With that, I will yield back the time.

Chairwoman VELÁZQUEZ. Thank you, Mr. Kelley. I will recognize myself for 5 minutes.

Mr. Kelley, earlier this month, we learned COVID EIDL funds had run out, and I am concerned that the agency did not have a more detailed plan to notify constituents about the changes in the program.

Mr. Kelley, could you please let the Committee know where the breakdown occurred and what do we say to our constituents who have been dealing with this confusion?

Mr. KELLEY. Sure. Thank you, Chairwoman.

First off, it is important to note that there were about 61,000 workable files at the close of business on May 6th and all of those workable files across appeals, reconsiderations, and loan modification requests that are eligible for funding did, in fact, get approved for funding and have funds obligated. And that is as of Monday, May 16th. There is a population, for example, within the reconsideration which was roughly about 9,000 applications for which folks will not be approved, were not approved, and that is the result of issues related to credit criteria, tax information, various issues. But I do want this Committee to know and for the small businesses to know that we did honor all of the applications that were in before the funding expired and came in at the tail on May 5th and 6th.

Second, it is important to understand what this population is. The program has been in wind down since December 31st of 2021 when applications for new borrowers were no longer allowed past that date. So, for example, the 5.4 million startups, businesses that came online in 2021 would not be able to access this particular product. But the 3.6 million borrowers that were made in 2020 are seeking loan modifications or reconsiderations.

It is also important to note that the program does not allow a loan increase past 24 months for the original note. As this Committee knows, 3.6 million loans were originated in roughly 120 days in the spring of 2020 and so that 24-month period is tolling. And so we have exhausted the funding as Chairwoman Velázquez said, and it is also timely because the loan increases were going to toll for 93 percent.

Chairwoman VELÁZQUEZ. Okay. We need a commitment from you to work with all the Members, and not only the Members of this Committee but across the board, to provide transparency and finality to this process. I will ask you to communicate that to the loan officers and district offices so that they are aware that that is a commitment that you make to this Committee.

I understand that SBA plans to transfer all disaster lending to OCA soon. We have seen the Office of Disaster Assistance do good work in response to major disasters, especially in Puerto Rico after Hurricane Maria where ODA provided over $2.2 billion in disaster loans. Can you guarantee this transfer will not compromise the ability of SBA to respond to natural disasters?

Mr. KELLEY. Yes. And it is important to note that the Office of Capital Access will solely be responsible for the lending but the Office of Disaster Assistance will continue and be involved in preparedness which is obviously an important first step in any disaster.

Chairwoman VELÁZQUEZ. Thank you. Congress waived the personal guaranty requirement in the CARES Act to ensure coops and ESOPs could access PPP and EIDL funds. For 7(a) loans, SBA continues to require an unlimited personal or entity guarantee which virtually no co-op can provide based on their business structure. Given the precedent set with PPP to not require a personal guaranty for loans to ESOPs and co-ops, why does SBA continue requiring a personal or entity guaranty for 7(a) loans to co-ops and ESOPs?

Mr. KELLEY. So, as Administrator Guzman has reflected in her public comments and maybe even before the Committee, this is an important opportunity to ensure that employees get ownership in the small businesses, and obviously, to deal with succession planning which I know from my lending experience is acute for the Baby Boomer generation in particular. This is an important tool and we are working, for example, with the USDA which also supports, as you know, loans to small businesses, specifically for coops. And with that guidance, we are working on addressing issues together with the lender.

Chairwoman VELÁZQUEZ. Thank you. My time has expired.

Now I recognize the Ranking Member, Mr. Luetkemeyer, for 5 minutes.

Mr. LUETKEMEYER. Thank you, Madam Chair. Welcome, Mr. Kelley.

In your opening statement, you briefly discussed the SBA's Direct Forgiveness portal. On the morning of August 30, 2021, an email signed by you was sent to PPP lenders. You state, and I quote, "Going forward the SBA will be conducting independent outreach and audits on lenders who have not actively communicated to borrowers on the availability of forgiveness. This outreach will be primarily focused on those lenders who are not participating in direct forgiveness. To avoid these lender audits, we would encourage you to opt in to Direct Forgiveness and maintain an active and aggressive outbound campaign to your PPP borrowers."

Why do you think it is necessary, Mr. Kelley, to threaten the lenders like that?

Mr. KELLEY. I do not believe that I was threatening. What we were responding to was banks communicating directly to the Office of Capital Access personnel that they were withholding starting forgiveness process in order to smooth out earnings across 2021 and 2021. So at the time of that note, what we were trying to help was the small businesses that were also notifying the office that they did not have access to a portal in order to seek forgiveness. The note, I will grant you, if I could rewrite it, I would, but the sentiment was that we have tools that we made available for over 1,500 lenders that have serviced 2.5 million PPP loans.

Mr. LUETKEMEYER. Well, thank you for that but the tone was such that it looks like to me like you were trying to intimidate the lenders there into doing something which begs the question, why do you think it is your job to manage the loan portfolio for the lenders? Do you not think they know their lenders better than you do such that if they felt that this person was eligible for forgiveness that they would probably have contacted them? If it was somebody they did not feel was worthy of forgiveness they probably would not contact them? I mean, I believe that they are the lender, you are the guarantor in the PPP program, why would you want to get in the middle of that relationship?

Mr. KELLEY. We wanted to get into the middle of that relationship because there were direct reports from small businesses that banks were not making forgiveness available for their borrowers. And so what is important——

Mr. LUETKEMEYER. Do you not think it would be better then to send out a reminder to the banks or update them on the fact that, hey, you realize that the forgiveness process has started. You need to be contacting these folks. We think it would be a good idea to go through your portfolio and take a look at it instead of trying to threaten them like that. That is not what SBA should be in the business of. Not managing their portfolio for them, that is up to the lender. That is not in your job description in this PPP program.

Mr. KELLEY. So I agree that we should let the lenders execute forgiveness if they, in fact, are doing that, and we support that. To your point, we do extensive outreach with respect to forgiveness immediately when I joined the agency beginning in March of 2021.

Mr. LUETKEMEYER. Okay. Next question. According to SBA's Inspector General, to date, how much potential fraud was identified within the EIDL program?

Mr. KELLEY. So, I do not believe that the Office of the Inspector General has stated an estimate of exact fraud. What they have done is a series of reports that reflect estimates of improper, ineligible loans. For example, the largest bucket, which reflects the number that you are quoting is the fact that in 2020——

Mr. LUETKEMEYER. I have not quoted a number yet, Mr. Kelley. I was waiting for you to do that. The number in the report is $84 billion that they anticipate could be fraudulently accessed funds.

So, how much was identified in the PPP program?

Mr. KELLEY. So, again, there has not been a definitive number released by any of the auditors. What is true about both of the programs is that there were choices made in 2020 in both programs which created the opportunity for an increased likelihood of fraud. So, for example, in PPP, specifically, one of the audit findings referenced 50,000 duplicate loans. That was the direct result of the decision by the Secretary of the Treasury at the time to make the loan accounting system——

Mr. LUETKEMEYER. I understand the problem. In the report they are talking about roughly 5 percent of the loans to be fraudulently accessed.

In your opinion, when you look at 20 percent versus 5 percent roughly, did the private sector do a better job of getting these loans out and preventing fraud?

Mr. KELLEY. Well, they are two different programs. So, for example——

Mr. LUETKEMEYER. Why are they different then? In what respect do you feel they are different, that they were able to, one not prevent fraud and the other one, at a minimal rate, versus the other one with a 20 percent rate?

Mr. KELLEY. Well, first off, I do not agree that the IG or any of the auditors has identified the percentages that you are speaking to——

Mr. LUETKEMEYER. Well, Mr. Kelley, with all due respect, all you do is you take the amount of money that has gone out the door, you take the amount of money that they think has been fraudulently accessed, and you divide that out and you come up with a percentage. One is roughly 20 percent on EIDL loans, roughly 5 percent on PPP. So my question is, if the direct lending of SBA is resulting in a 20 percent rate versus the private sector is only 5 percent, we have got a problem.

Mr. KELLEY. Yes.

Mr. LUETKEMEYER. And all I want you to do is acknowledge the fact that that is the case. And you have two separate entities here who are direct lending and there is a big difference in the results.

Mr. KELLEY. Yeah.

Mr. LUETKEMEYER. That has to be acknowledged. You cannot deny the facts. It is in the reports.

Mr. KELLEY. Sure. What I can acknowledge is that in the PPP program, for example, the top 25 depository institutions in the United States originated 96 percent of their PPP loans to existing customers. Those existing customers had already, as you know, gone through KYC and were on the books either as depositor or loan borrowers. For community banks that number is 83 percent. The Disaster Loan program is a credit, not available elsewhere, last resort program. As you know, and the Committee reflected in the Economic Aid Act the fact that——

Mr. LUETKEMEYER. So the point though, Mr.——

Mr. KELLEY.—there was a need for folks that had not received funding.

Mr. LUETKEMEYER. With all due respect, Mr. Kelley, the point—I reclaim my time. The point is that there are things in place that help minimize fraud in one situation that are not there in the other that we need to take a look at.

I thank you. I yield back.

Chairwoman VELÁZQUEZ. Time has expired.

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

You are muted, Mr. Evans.

Mr. EVANS. I am muted.

Some of my constituent business owners have been working with the SBA on EIDL reconsideration for a year or more. Several of them have been in the process for so long due to reasons beyond their control such as tax documents expired between SBA loans have been delayed in submitting the document to the IRS. Can you explain the timeline going forward for these cases and those that are either submitted or approved status?

Mr. KELLEY. Yes. So, as I mentioned earlier in the testimony, there were roughly 61,000 outstanding workable or eligible files which meant that they were either seeking an appeal of a previous decline, a reconsideration of a previous decline, or a loan modification which is an increase to their existing loan. One of the persistent challenges in this particular program is the disconnect between the choice that was made in 2020 regarding not validating tax income for 3.6 million borrowers versus the desire in the Economic Aid Act for 2021 to require, again, as is the case historically for natural disaster lending at SBA to verify tax income.

It is important to remember that the tax information that we are seeking for these borrowers is their 2019 filing. It is now May 2022. For the reconsideration requests, in almost all cases the original denial is due to a discrepancy that has been reviewed by a loan officer with respect to an amended tax return. The amendment is seeking a higher increase amount than the borrower is eligible for and not surprisingly, the borrower is not happy with the outcome, which as I know from ending is an unfortunate byproduct of making loans.

The thing that is important about 2022, as I mentioned earlier, is that the opportunity for seeking loan modifications begins to toll because the original notes for 93 percent of the loans were originated in 2020 and the 24-month window will toll.

Mr. EVANS. Has money been set aside for applications that have been approved but not received funding?

Mr. KELLEY. Yes. So there are approved and obligated borrowers who have not executed closing at their own discretion. And they will continue to have the opportunity to close the loan or not close the loan, in which case we will cancel it. But in all cases, we began communicating to the outstanding applicants for loan modifications, reconsiderations, and appeals beginning in February, and notified them directly through email directly to their account and spoke directly through call center and loan officer response to the actual borrowers' request.

Mr. EVANS. Will those in submitted status be able to receive funds?

Mr. KELLEY. So it depends on what you mean in terms of submitted, Congressman Evans. So I apologize. Are you referring to new applications or loan——

Mr. EVANS. Those submitting a status. Those submitting a status. Will they be able to receive funding?

Mr. KELLEY. So, yes. So, all of the submitted eligible reconsideration, appeal, and loan modification requests that were received on or before May 6th, totaling roughly 61,000 requests will have been processed, and those that are eligible for funding in the case of a loan modification increase, which is roughly 40,000 in that bucket, have received notification. And those funds will be obligated for them to close today or at a later date at their discretion.

Mr. EVANS. I thank you, and I yield back, Madam Chair. Thank you very much.

Chairwoman VELÁZQUEZ. The gentleman yields now.

I now recognize the gentleman from Texas, Vice Ranking Member Mr. Williams, for 5 minutes.

Mr. WILLIAMS. Thank you, Madam Chairwoman, and Ranking Member Luetkemeyer.

Mr. Kelley, I have three questions. I have got a bunch of questions. But I would appreciate you keeping your answers to a quick yes or no on these first three questions.

Do you believe the SBA, regardless of who is in the White House, should fight for lower taxes, less regulations, and advocate for Main Street America?

Mr. KELLEY. I absolutely believe that the SBA should fight for small businesses.

Mr. WILLIAMS. Regardless of who is in the White House?

Mr. KELLEY. Correct.

Mr. WILLIAMS. Do small business owners prefer capitalism over socialism?

Mr. KELLEY. I cannot speak for small business owners.

Mr. WILLIAMS. Do you think that capitalism built the country, not socialism that we see today in the Biden administration? Do you think that when you go out and see small business owners like myself that they say we would much rather have capitalism than socialism? I mean, are you a capital?

Mr. KELLEY. Am I capitalist? Yes.

Mr. WILLIAMS. Okay. But do you think Main Street America wants that over socialism?

Mr. KELLEY. I cannot speak for all of Main Street America.

Mr. WILLIAMS. Okay, well, you work for the SBA, but okay, that is fine.

The other question would be, have you ever owned a business? Because we were talking about your private sector experience. The Chairman was talking about that. Have you ever owned a business and started it with your capital and met a weekly payroll?

Mr. KELLEY. No, I have not.

Mr. WILLIAMS. But you still feel like you see the issues that face small business even though you have not had that experience?

Mr. KELLEY. For 6 years between the Obama administration and the Biden-Harris administration I built a lending practice for asset-based lending and business acquisition loans and made a half a billion dollars of loans available for small businesses. Yes, I feel pretty fluent in the issues related to small business.

Mr. WILLIAMS. But it is also different when you have your own capital behind it. And we have some people in this administration who have never owned a business either. That is a problem we have.

So as a small business owner myself, I still own a business in Texas, I have about 300 employees that work for me for over 50 years. I can tell you that President Biden's SBA is out of touch with Main Street America. Inflation continues to skyrocket as Americans struggle with the rising cost of gas and groceries and you see that even from your perch how inflation is choking small business, not to mention that America's labor force participation rate is close to a 45-year high leaving small businesses understaffed and on the verge of shutting down.

Meanwhile, through all this, the administration's fiscal 2023 budget requests millions of dollars under the SBA's lending program to go towards climate initiatives. We have got businesses out there begging to be able to participate, stay open, and you are out there talking about climate initiatives. It is shocking to me that the SBA would request more taxpayer dollars for climate change in lieu of directing money to provide businesses with access to capital. And I can tell you that I know businesses in my district in Texas, they are concerned about their ability to compete in the future and are looking to SBA to be a nonpartisan resource that has their best interest in mind and they are not worried about climate change.

So Mr. Kelley, as you talk with small business owners like me, what is the bigger concern today, climate change or inflation?

Mr. KELLEY. Well, specifically for the Natural Disaster Loan Program which we have talked about here, the fact of the matter is that the number and the impact of natural disasters has been on the rise. And so what the budget refers to is the fact that we are going to continue to need to make both consumer loans for property damage deltas that are not made up by their private insurance to put homeowners back in their homes, as well as small businesses for working capital once they have been leveled by a tornado, an earthquake——

Mr. WILLIAMS. Of course, this is before they have been leveled by a tornado or earthquake. They just want some help.

Mr. KELLEY. Yes.

Mr. WILLIAMS. And you are out there absorbing a budget full of climate change which people are not interested in right now that takes cashflow away from those businesses.

Mr. KELLEY. So for the businesses that are wrecked by the natural disaster, that is an opportunity for them to get back on their feet. And our core programs, for example, during the Obama era, we leveraged the 7(a) program to do a dealer floor plan financing report. So you own an auto dealership. We stood in when the dealers were being closed and shuttered when there was the potential of the auto manufacturers going down and provided 7(a) capital. That was done through community banks to support auto dealers to make sure that they could get access to floor plan financing.

So you are right; we have two programs. One that is an uber credit not available elsewhere, which is to say when a business owner is at the worst moment in their life, we stand in to help them.

Mr. WILLIAMS. Okay.

Mr. KELLEY. And for the core main street businesses, we provide working capital, owner-occupied real estate and business acquisition——

Mr. WILLIAMS. Do not forget small businesses that need operating capital before the big storm as you refer it.

Mr. KELLEY. Absolutely.

Mr. WILLIAMS. That is ready capital they can employ people with and create more jobs.

Chairwoman VELÁZQUEZ. Time has expired.

Mr. WILLIAMS. As opposed to something down the future.

Thank you. I yield my time back.

Chairwoman VELÁZQUEZ. The lady from Kansas, Ms. Davids, is recognized for 5 minutes.

Ms. DAVIDS. Thank you, Chairwoman. I am glad we are having this hearing today. As the Chair on the Subcommittee on Economic Growth, Tax, and Capital Access, I am really glad that we are taking time to work with the Office of Capital Access.

This hearing comes, of course, at a critical time. Just recently, the SBA announced that the COVID EIDL funds have been exhausted leaving a lot of business owners, particularly in the Kansas 3rd frustrated and disappointed. I know my office has been working with a lot of small businesses that have had trouble getting their EIDL applications processed in a timely manner. Whether that is because of the IRS or SBA processing delays, eligible small business owners have been extremely frustrated to discover that after months of paperwork and back and forth with government agencies that there is not funding available for them and that is, of course, not through any fault of their own.

I know Mr. Evans and a couple of other people have touched on this. I want to make sure that I have a clear understanding of the process going forward. When you were responding to Mr. Evans's question, I believe that you said that even in instances of applications being—I guess I will give a hypo. If a business applied and was inappropriately flagged for fraud and then ultimately their application is determined to be eligible, there are funds available for those applicants; is that correct?

Mr. KELLEY. There can be funds made available. There are not currently any funds available for that. What is important to note is that in your hypothetical, that particular borrower had been seeking that particular reconsideration and had over 14 months to seek the loan increase. So what I can say is that for 98 percent of the applicants, we respond to those requests in less than 30 days, and the funding for the loan modification increases, the average size of which is about $100,000 to $200,000 takes place in less than 3 weeks. And for the $2 million loans, it takes about 5 weeks to process. So as of May 6th, the total inventory of those challenges, and I want to say to everyone on the Committee and you, Representative, if there are any individual issues that you want me to chase down, I am happy to do that. But in terms of the workable inventory, we did go through all of those and made sure that those folks were funded.

Ms. DAVIDS. Okay. And is that regardless of whether we are talking about IRS delays or folks being inappropriately flagged for fraud? Going forward, I just want to make sure that everyone has been—because we will definitely follow up with any constituents from the Kansas 3rd who have seen these delays who have been extremely frustrated with the back and forth or lack thereof. I just want to make sure that what you are saying is that your understanding is that you have essentially exhausted all of the applications whether somebody was inappropriately flagged for fraud or went through the delays with the IRS that all of those applications have been processed and anybody who has been approved has already received their funding?

Mr. KELLEY. Yes. And what I am also saying is that when Members send us constituent challenges it falls into two buckets. Either they did not file in 2019 and they are seeking an increase for more than a year because in 2020 they were able to get the advance as well as the loan up to $150,000 without needing to validate taxes, which of course is the subject of all of the audit reports. For the 2021 population, the 300,000 have had the year to seek new applications. New applications ended on 12-31. And for the second predominant reason is amended returns where the increase request that the borrower is seeking is higher than the previously stated taxes. And so in those instances there is interrogation on the part of the loan officer and the team leads as there should be to determine that.

With respect to fraud per se eligibility, those issues are dealt with pretty rapidly with respect to, you know, as soon as the flag fires and it is an automated flag. So it is most likely that the constituent's issue is related to taxes.

Ms. DAVIDS. Okay. All right. Well, thank you. And we will follow up.

Thank you, Chairwoman. 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 very much, Madam Chair. And I thank the Ranking Member, Mr. Kelley. Good to be with you.

So do you think that the expertise and direct community ties for private lenders working with the SBA for the 7(a) loan program is a successful initiative, a successful partnership?

Mr. KELLEY. For $370,000 loans, which is the average loan size for owner-occupied real estate and business acquisitions, which is three-quarters of the loans originated each year, yes, absolutely. The 10-year amortization for business acquisitions, there is not a better product.

Mr. MEUSER. But you actually think SBA is better off doing many of those loans on its own?

Mr. KELLEY. I think that we need to exhaust all distribution channels across the full spectrum of borrower need.

Mr. MEUSER. The EIDL loan had such fraud and PPP had such minimal fraud. You are a private sector guy. Why in the world would you want the SBA that is understaffed. People throughout Pennsylvania anyway are working real hard, doing a decent job with what they have available to them, they do not have the tools to do it a high level of excellence, and you are saying that you want to take on the direct lending? That sounds crazy to me.

Mr. KELLEY. Well, I would point you to the State of North Dakota, which has had a public bank for over 102 years. The Kansas City Fed recognizes that it has the highest consumer and business borrower deposit density amongst——

Mr. MEUSER. I completely disagree. Completely disagree. That does not make any sense. Look at the EIDL funding and the PPP.

Mr. KELLEY. There is a public bank——

Mr. MEUSER. I will reclaim my time. Also, the idea that you are spending millions of dollars as Mr. Williams just brought up for climate change? Well, have you walked through a few small businesses lately?

Mr. KELLEY. Yes.

Mr. MEUSER. All right. They have got a lot of issues taking place.

Mr. KELLEY. Yes.

Mr. MEUSER. Okay? And access to capital is a real important one. And you are focused on the wrong things. I mean, why would you be focused on voter registration? Why did you put your hand up first when President Biden said, hey, let's turn federal agencies into voter registration arenas. Why would you say, hey, we have got nothing else to do. We will do some voter registration for you. Does that make sense to you?

Mr. KELLEY. Allowing people to vote, yes.

Mr. MEUSER. That is not the function of the SBA. Okay? Yeah, it is nice if you hand out ice cream, too, but that is not what your role is. It is absolutely remarkable and it does not make any sense that you would not bring some focus to this important authority that you have and advocacy. But you do not see it that way.

Mr. KELLEY. I definitely bring a focus every day to the access to capital issues. So right now working on the full spectrum of——

Mr. MEUSER. And I can see why you are not in the private sector.

Let me ask you this.

Mr. KELLEY. I spent the bulk of my career in the private sector, Congressman.

Mr. MEUSER. You know, well, then why would you be expanding your duties while the main function is running so poorly? Okay? EIDL loans have run out; right? You are aware of that, the funding for EIDL loans?

Mr. KELLEY. Yes.

Mr. MEUSER. I have got a lot of businesses that were counting on those loans. If we did not have billions, $80 billion in likely fraud, those loans would not have run out. If they were done in partnership with community banks knowing the customer, that would not have happened. Because look at the PPP. So I have small businesses in need of capital, and instead, we sent it to fraudsters, okay, because you took it on yourself and you want to expand that. Okay? Can you understand where I am coming from that I have some difficult in that as this Committee has oversight of your work?

So on to the EIDL funding. Do you have any plans for—what is the plan for bringing some additional funding for the EIDL lenders, for the EIDL loans?

Mr. KELLEY. So we will work with this Committee appropriators and the Office of Management and Budget to properly fund the program. With respect to the EIDL program in particular, there is no doubt that there is going to be continued demand for a 3.75 percent fixed rate loan with a 30-year amortization period, but there are other options in the marketplace as you and other Members have referenced that those borrowers are going to be able to access. And one of the key tools for that will be the 7(a) product for which thousands of lenders——

Mr. MEUSER. Wrong answer. I am just looking for when it is going to be funded so these small businesses can get the loans that they have been counting on.

Just real quick. The 504 Express Pilot program that was supposed to be done December ‘22, I know you guys are busy, but when will that be implemented? When will that finally be created and done?

Mr. KELLEY. Shortly. So the regs will be promulgated in short order.

Mr. MEUSER. I yield back, Madam Chair.

Chairwoman VELÁZQUEZ. Thank you. The gentleman yields back.

We recognize the gentlelady from Pennsylvania, Ms. Houlahan, for 5 minutes.

Ms. HOULAHAN. Thank you, Madam Chair. Just making sure that you can hear me okay?

Chairwoman VELÁZQUEZ. Yes, we can.

Ms. HOULAHAN. Terrific.

And thank you, Mr. Kelley, so much for your testimony.

The SBA, my questions have to do with some inadvertent consequences, unexpected, unintended consequences. The SBA estimates that over 300,000 PPP borrowers have in good faith made miscalculations. That miscalculations have been made either by the borrowers themselves or by the lending organizations. On average, they have ended up with excess loan amounts in errors of around $12,403, which of course poses an unexpected and potentially crippling debt for many of our borrowers despite in many cases the loans being used and spent on what would be considered forgivable uses. So in other words, the SBA's current process had a simple technological inputter error occurred could impact or would impact some of our borrowers for years to come because of that mistake. We really need, I believe, to deliver on our promises to those borrowers that these loans can be turned into grants if funds were spent on forgivable loans or for forgivable reasons.

So my question to you, sir, is will the SBA commit to making good on that promise and to helping these borrowers to get full forgiveness?

Mr. KELLEY. Yes. We will commit to working with you and your staff and the Committee to trying to figure out the right path forward for those particular forgiveness borrowers.

Ms. HOULAHAN. Excellent. I very much look forward to working with you and my staff working with you as well.

Real quick. Do you think that there is a legislative issue here or is there something else that we can understand going on here?

Mr. KELLEY. I would defer to take this offline because while I am a lawyer, I am not a particularly good one and I do not want to speak out of turn on the authorizing statute.

Ms. HOULAHAN. Okay. I look forward to that conversation.

My second question is somewhat related. As the PPP program was also rolled out, the program rule changes were actually quite rapidly changed in some cases because of just the crisis that we were in and making sure that we were being as expedient as possible. The elimination of the agency's grace periods contributed to additional errors such as improper documentation that was submitted by both borrowers and lenders again. So my question again is does the SBA have any plans to be able to retroactively review those kinds of cases where the program rules changes may have also contributed to good faith errors?

Mr. KELLEY. Yes. So, it is important to note that there have been 10.1 million out of the 11.4 million loans forgiven. Roughly 65,000 have been purchased and there are about 4,000 current appeals. The appeals process is for those denials, full denials that you are referencing. And in the case of partial denials, we do have a reconsideration process that we make available for those borrowers.

Ms. HOULAHAN. And is there, again, anything that I can be helpful or this Committee can be helpful in doing to help make sure that we, again, in the case of people who are just operating in good faith with the rules, very flexible and very dynamically changing understandably, is there anything that we can be doing to be helpful there?

Mr. KELLEY. Yeah. I think you have highlighted some areas. I am happy to work with the Committee and any Members on the areas regarding errors and the calculation of the payroll amount. We do see that in terms of overages as you referenced and one of the challenges that creates for the borrower. So absolutely, I am happy to work and try to solve this and get to the bottom. And I think we should all feel good, and I give the Committee and obviously your colleagues in the Senate a lot of credit because we kept the faith with borrowers and lenders. These loans were supposed to be forgiven, and if the lender made them, they would have the option to be forgiven. And by and large that has been executed. But you point out an important group that might be at the margins that we should work on.

Ms. HOULAHAN. Thank you. I appreciate it. I have very limited time left but I would love to take for the record a question that is always pressing on me which is the accessibility of capital to the women-owned small businesses. The businesses that are women-owned have loan sizes that are 41 percent lower than those that are owned by men. Furthermore, on average, the credit score for women-owned businesses tends to be much lower, 14 points lower. I only have 16 seconds left and so probably no opportunity for you to answer but would love for you from the record to be able to talk to us about what we are doing, what your office is doing to level that playing field and what can Congress do to be supportive of those efforts.

And with that, Madam Chair, my time has run out and I yield back.

Chairwoman VELÁZQUEZ. The gentlelady yields back.

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

Mr. DONALDS. Thank you, Madam Chair.

Mr. Kelley, thanks for coming in.

A real quick question. This is to piggyback off the final question from Mr. Meuser dealing with the 504 Express program and when essentially the regs were going to be written for this program. You said shortly. What does that mean?

Mr. KELLEY. It means in the next 30 days or so in terms of being published.

Mr. DONALDS. Okay. So in 30 days that should be out there small businesses can take advantage of this?

Mr. KELLEY. Yes.

Mr. DONALDS. Okay. All right. I wanted to get some more clarification because words have meaning here in our process.

Real quick question. So what is the impact in your view of the rising interest rate environment on the 7(a) program, on the 504 program? Obviously, the Fed is on the move. My view, they are late to the game. They should have done this, should have been doing this earlier considering the inflationary environment. But what is your view of the impact of rising interest rates on those programs?

Mr. KELLEY. Well, it makes the product that much more valuable for the small business borrower that receives it. So, for example, you referenced 504. That is a fixed rate tool. So obviously, borrowing with money today and paying back later is an advantage with a fixed rate note. And while the rate has gone up 50 basis points in the last couple of weeks to a point on the baseline rate, overall, the base rate is still low historically. So the other advantage of these particular products is that they allow for longer amortization periods which lowers the monthly debt service associated with the debt which means that there is less cash going to the debt. And for companies that have to pivot, companies that are looking for growth, owner-occupied, excuse me, business acquisition tool in the 7(a) program for which 30 percent annually loan proceeds go to is an excellent opportunity to buy a business with little to no money down in the particular program.

Mr. DONALDS. Let me ask you this question because you mentioned your private sector experience. I have to go into another hearing. So real quick, just can you give me a quick 15 seconds on what your private sector experience was?

Mr. KELLEY. Sure. I worked for a community bank based on Wilmington, North Carolina that makes loans nationwide to small businesses for about 6 years. Prior to the Obama administration, I worked for Schulte Roth and Zabel, which is a law firm in New York City. Worked mostly on M&A as well as structure finance. Prior to law school, I worked for a for-profit educational company that helped children with ages 4 to 14 with enrichment and remediation. That was a retail store. I ran a P&L for that. And then worked for Chubb Insurance Company, as well as Merrill Lynch in the Muni-bond division in the late ‘90s.

Mr. DONALDS. Okay. So let me ask you this question. So, we have roughly 30 million small businesses in the United States. Capital is basically required by everybody. What is the capability of SBA through direct lending to actually take what part of the market share do you anticipate SBA can actually access?

Mr. KELLEY. So I would reference the previous congresswoman’s point about women-owned borrowers and earlier references to startups.

Mr. DONALDS. Hold on, Mr. Kelley, I have got a minute 33. If you guys are talking about doing direct lending, of all the small businesses that exist that are looking for capital, what percentage of overall small businesses—you guys have had to do some analysis on this—just what is the percentage? Ten percent of small businesses? Twenty-five percent? Thirty percent? What do you think SBA’s real capacity is and capability?

Mr. KELLEY. So, I do not know the total capacity. What I can say based on market demand is that the hardest challenge, and Chairwoman Velázquez referenced this in her opening statement, there has been a dearth or decline in loans particularly under $50,000.

Mr. DONALDS. You do know why that is; right? We have shut down community banking in the United States through Dodd-Frank regulation. In my congressional district we had 75 community banks when I was in community banking. Seventy-five. Now we have five. It is 10 years, 15 years. From 75 to five. That is what Washington has done.

So my question is, and again, because now I am down to 25, 28. My question is very, very simple. If SBA was going to go out and do direct lending, essentially create a federally controlled bank, if you were going to out in the private markets and make your own bank, you would have to have an understanding of what percentage of the market you were going to be able to anticipate counting on as customers. So what percentage of the overall market does SBA have the capacity to actually take on as direct lending customers?

Mr. KELLEY. I assume you are referencing to this Committee's language that was put in the Build Back Better bill with respect to direct lending. If that is the case, in particular what that language called for, and I think it was appropriate, was for funding loans under $150,000. And what the language sought to do is to create parity between the SBA's direct loan for which the agency has direct lending authority today and has had it historically. To make small dollar loans for which there is a gap and there is an efficiency challenge recognized by all——

Mr. DONALDS. The only thing I would argue is——

Chairwoman VELÁZQUEZ. Time has expired.

Mr. DONALDS.—I do not think the SBA really has a clue of what its capacity really is.

Chairwoman VELÁZQUEZ. Time has expired.

Mr. DONALDS. That is my point.

Chairwoman VELÁZQUEZ. The gentleman from Minnesota, Mr. Phillips, is recognized for 5 minutes.

Mr. PHILLIPS. Thank you, Madam Chair.

Let me first associate myself with the remarks of my colleague from Florida relative to community banking. I agree. I do not want to see more erosion. I want to see more propagation. I have seen the great value they bring to our communities and share your concerns.

Mr. Kelley, let me start with you and say thank you. There is a lot you could be doing other than serving the public in this capacity. The SBA in my estimation is a uniquely American institution in supporting entrepreneurship and its ecosystem. And I am grateful. We have an obligation to provide oversight and accountability, and we all have concerns about fraud, about some of the programs, but I want to thank you. A colleague who was so critical of the SBA just moments ago, according to news reports, secured a million dollar plus PPP loan. I want to say thank you on behalf of his enterprise and the hundreds of thousands that you helped save. And say thank you most importantly on every one of those little enterprises' behalf.

With that said, there is a lot SBA could do better. It could do better under Republican administrations and under Democratic administrations I think we would all agree. But let me start by just affording you a few moments and express to us what do you think we could do better, the SBA, you, your associates, relative to the provision of capital to small enterprises?

Mr. KELLEY. Thank you. So, the single most important thing that I think we can do better is build off of what worked universally within the PPP program for our lending intermediaries, which is to support a simplified product that can leverage technology, that can lower the cost of new customer acquisition, as well as the controllable non-interest expense associated with making a loan, and to make available the secondary market so that the guaranteed portion of that loan can help banks lend beyond their lending limit for an important customer or leverage the secondary market for liquidity and quarterly earnings.

So to do that we need to also build off of the expansion of distribution channels. So as I mentioned earlier, 600 community financial institutions supported $30 billion more or less of PPP loans. This is particularly important because the average loan size across that $30 billion was roughly $40,000. That particular amount is going to be absolutely critical when we think about the 5.4 million new startups that happened in 2021. For those new startups, if they go to the bank that I worked for or any other bank, they will obviously be in their first year or two of cashflow. Typically, community banks rely on the trailing 36 months to validate income from tax returns. So, as a result, there is a market externality related to startups and it is one of the most challenging aspects for any lender, whether you are a community financial institution or a large top four depositor institution. So, I think the things that we can do focus on making the rules simple. I commend the Committee across multiple programs for simplifying, for example, some of the eligibility criteria for those programs with respect to affiliation, criminal background checks, those things. I think we should build off of that.

With respect to the credit criteria for PPP, it was a formula. And so it lent itself to speed, and as a result, we saw huge participation within the first $385 billion from community banks.

As I mentioned earlier, it is a fact that the State of North Dakota has a public bank for the last 102 years. It lends $22 billion currently of assets alongside its community banks. And in PPP, the largest lender, community bank lender in the State of North Dakota made 1,000 loans with the same amount of branches as a top four depository institution, same state, but they only made 100 loans. So community banks are thriving as measured by the Kansas City Fed in terms of consumer deposits and business deposits.

So I think that we should think about, and we mentioned it earlier in the Committee, public-private partnership means both halves of those equations. And the reason that community banks are struggling and declining is because of the pressure that is being put on them by the products offered by the top 25 depository institutions which has led to a decline in their deposits and it has made it very difficult to compete in terms of working capital options for small business borrowers that have high average daily deposit account numbers.

So, the opportunity to do what the——

Mr. PHILLIPS. My time is expired.

Mr. KELLEY. I am sorry. I got passionate about that.

Mr. PHILLIPS. No, and I wanted to afford you time, and I hope we can work together with you to help realize that vision.

With that I yield back. Thank you.

Chairwoman VELÁZQUEZ. The gentleman yields back.

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

Mr. FITZGERALD. Thank you, Madam Chair.

Mr. Kelley, so on July 28, 2021, SBA made changes to the PPP forgiveness by establishing the Direct Forgiveness Portal. So there has been discussion already amongst Committee Members on the difference between the PPP loans that obviously were part of the files that were controlled and initiated by local banks compared to the SBA direct loans. So, you know, there was an experience there that I think there was a little bit of talk about. And I get it. We are trying to get the money out the door, get it out as quickly as possible, and there were a couple of different avenues that that could happen under.

But the problem I think now is that there was very little communication between the SBA and the banks and credit unions on the forgiveness part of it. So because I am in the district in the 5th congressional and I still hear about this now, that this is an issue that was kind of hanging out there and had not been dealt with directly. Do you guys still believe that what was put in place and the due diligence or the underwriting related to that is still relevant? Or should this be revisited now and include the credit unions and the banks in this full discussion about forgiveness?

Mr. KELLEY. So I guess could you help me? I am having a hard time. So with respect to forgiveness, so as I mentioned earlier, 10.1 million loans have been forgiven, 65,000 have sought purchase. Currently, we have an inventory of manual reviews of roughly 40,000, of which there are a total of 4,000 that exceed the 90-day window. Ninety percent of that number stays in inventory for less than 15 days. Of the 4,000 over 90 days, all of them have hold code related to eligibility issues that we are interrogating. So I am not aware of challenges with respect to forgiveness.

Mr. FITZGERALD. They are basically making the case that the fraud detection was not significant enough in relationship to the SBA compared to what they were already doing. So right now it has created kind of two different categories of PPP loans that are out there, and I think there are a lot of credit unions and banks that are saying we simply kind of do not know where SBA is going with all this.

Mr. KELLEY. So I am happy to take offline to better understand the issue. My experience with lenders, and we just recently attended the National Association of Guaranteed Lenders, and there were about 800 different community banks represented. There was not a reflection that forgiveness was having problems. With respect to direct forgiveness specifically, we add new banks each week even to this day. We are over 1,500 representing 2.5 million loans under $150,000 that we are processing. And on a daily basis the Direct Forgiveness portal is responsible for roughly 55 percent of the inbound intake. What remains outstanding of the 11.4 million loans is roughly a million loans from the 2021 population for which the 10 months from the end of the forgiveness period is about to toll, and we saw an uptick last summer at this time related to the 2020 population. But I am definitely happy to hear and will talk to any lender that is having a challenge specifically with forgiveness to assist.

Mr. FITZGERALD. Very good. I will follow up with you on that.

Let me just shift gears real quick. So we just introduced H.R. 7678, American Small Business Competition Act. It would increase loan amounts under both 7(a) and the 504. I think this is especially important as kind of the small business costs continue to rise with the goods and services and what we are seeing kind of with the economy right now. Have you guys looked at the 5 million and whether or not that is a sufficient loan max in this environment that we are operating in now as we continue to try and get the economy in a better place than where it is currently?

Mr. KELLEY. Yes, Congressman. I am aware of the bill and the language. And there is a continuum or spectrum of small business capital needs that spans from the tying loans that we were referencing earlier where there is a gap and what the language of your bill references which is, for example, specific to supply chain financing today, small businesses that are seeking to purchase in bulk are often facing a liquidity challenge because they need to front the money to the suppliers. And the increase in the amounts in order to be rank ordered by that supplier is necessary. For the banks, that proposition is not one that they are excited about because they are lending money today in hopes of getting an invoice at a later date. So I do think there are opportunities for us to work together to support working capital. Largely, the 4,500 community banks focus on residential mortgage and commercial mortgage loans and they have stepped out of the line of credit or asset-based lending which is the type of lending that is particularly needed when you are financing growth and supply.

Mr. FITZGERALD. Thank you. I yield back.

Chairwoman VELÁZQUEZ. Thank you. The gentleman's time has expired.

Now we recognize the gentleman from Maine, Mr. Golden, for 5 minutes.

Mr. GOLDEN. Thank you. I quickly want to revisit something that was brought up earlier by one of my colleagues. I believe there was an executive order having to do with agency-side, department-wide working on issues of voter access. And so I think some people were talking about SBA kind of throwing their hand up and I just do not think that is quite the case. I think it is important that people understand that you are appropriately focused on your mission but you do have an obligation to be responsive to executive orders. I am sure you would agree. So totally fair for Congress to voice opinions about perceived bad executive orders no doubt but I think that should be appropriately targeted at the White House and maybe as an associate administrator of your office you are just being responsive in the way that you have to be. But somewhere in the Cabinet there is someone I am sure who was pushing that EO but it would not have been your office. So I just wanted to clarify that for everyone out there. I agree with the sentiment of my colleague though that your office should be focused on capital access. I think you are doing a good job demonstrating your grasp of the work that you do, so thanks for being with us here today.

I want to talk very locally about a constituent that I have back home but I think that their situation is very similar to many others around the country. So my constituent was working on an EIDL application. They had been working with my office for months to get SBA to complete a review of their application. And there were difficulties with midstream changes to the applicant's personnel and then with delays at the IRS. SBA's processes, however, also contributed to delays. So the applicant reported to us several times that responsibility within SBA for their materials changed frequently. And it was evidenced by redundant requests for information that they were asked to provide to a number of different SBA employees. And these requests seemed to stem from confusion about the applicant's organizational structure which they were able to clear up with certain SBA contacts only to then have confusion reappear when they encountered new contacts at SBA. This led to extended periods in which there was little progress made in the review.

As of yesterday, neither the applicant nor my office is able to determine whether their application will meet the criteria for SBA to complete its review as laid out in SBA's May 13th FAQ. We were informed recently that its status in SBA's system was I guess labeled as Not Interested, which is apparently being used as a holding pattern for certain applications. But it is unclear how this status maps to the review stages laid out in the May 13th FAQ. So, while the applicant has finally received an IRS transcript, it is not clear whether there are remaining documentation gaps.

And given all this, including the fact that the application was subject to processing delays by SBA and the IRS, it seems unfair for them to miss the opportunity to at least have a full review of their application. So I would like to work with you and your staff to, first of all, determine whether this application is in one of the stages that would make it eligible for a completed review; and then second, if the application is not on track to receive a full review, is there any way to get this on track? Or are there other ways in which your office can help them get access to the capital that they were looking at and that they clearly need? And of course, in a way that will work for them, similar to the EIDL program. It obviously had some very good loan terms that they were interested in, but if it is not this, are there other opportunities? And I will follow up with your staff to make sure that you get more details on the specifics here.

Could you just speak a little bit about the process for constituents like this across the country? What kind of flexibility is out there and how long is this going to take for your office to figure out?

Mr. KELLEY. Well, specific to the example, yes, I am happy to take that offline and get directly into that. Broadly speaking, it is no doubt the case that the worst thing you can do in a business experience or a customer service experience, excuse me, is to set the wrong expectations on the outset of the relationship. Unfortunately, when the COVID EIDL program was rolled out in 2020, 3.6 million borrowers, 93 percent of the total asset portfolio, were able to obtain $150,000 with none of the credit criteria that is normally applied either commercially or in this public program.

So when they came back in for loan modifications which this administrator made available, the process was by definition going to be more arduous because we were actually underwriting the eligibility you referenced in your remarks as well as the credit criteria. So, it is unfortunate for sure and we have experienced it with those borrowers. So I am happy to work offline to address the issue.

Chairwoman VELÁZQUEZ. The gentleman's time has expired.

Now we recognize the gentleman from New York, Mr. Garbarino, for 5 minutes.

Mr. GARBARINO. Thank you, Madam Chair. Mr. Kelley, thank you very much for being here today.

I wanted to follow up a little bit, build off of actually what the previous Member was asking.

So your office oversaw the COVID EIDL program; correct?

Mr. KELLEY. Yes.

Mr. GARBARINO. The application process?

Mr. KELLEY. Our office took over the program in July of 2021. Yes.

Mr. GARBARINO. And so if something moved from the pending status to I think your office you used something internally, obligated. That means if the loan was obligated that means it was either going to be funded or was being funded. Who determined, is that your staff or your office that determines if something hit the obligated status?

Mr. KELLEY. Yes.

Mr. GARBARINO. so when you announced, or your office announced, or SBA announced that the EIDL money was done, there was no more, if something was not in obligated status at that point, did that mean they could not get any money? There was no more money available for them; right?

Mr. KELLEY. At that particular moment on May 5th, yes. However, as I referenced earlier in my testimony, there were around 61,000 workable files across people seeking appeals to a previous decline, reconsiderations of a previous decline, and then loan modification increases. And we were able to process all of those that were eligible to be approved and be obligated funds. And we have notified those customers directly from the loan officer and then the folks that are obligated have the right at their discretion to close the loan. And they will have sufficient time, 180 days or more to execute that.

Mr. GARBARINO. So they might not have been obligated but they were appealing it or there was reconsideration. Were there any applications that were not being appealed or reconsidered with their new applications that were not obligated that have since become obligated? Like could anything happen through a congressional inquiry or something that would have moved something that was not obligated on that date to obligate it if it was not a reconsideration?

Mr. KELLEY. Yes. So from the period of time from May 5th, May 6th, up until May 16th, your office perhaps and certainly others, have made us aware of folks who were in the statuses that your question refers to. And we have dispositioned each of those instances. And so that might lead to an approval in being obligated. It also can lead to another decline for the reasons that they were previously declined. For example, reconsideration. It is important to note that reconsiderations for the 24-month period, 8 out of 10 times that someone seeks a reconsideration, they are declined. So it is also important to note that because of the delta between what was required for the 3.6 million loans originated in 2020 versus the roughly 300,000 plus originated in 2021 that required tax income verification, that those folks from 2020 seeking a loan increase were denied the increase they were seeking 50 percent of the time. So it is absolutely the case that the experience has been frustrating. But as I mentioned to the previous Member's question, when you set a different set of program expectations and 93 percent of the loans are originated under different expectations, that is, of course, going to create that scenario.

Mr. GARBARINO. Okay. So nothing can be reconsidered now. If an application by May 5th, they were not obligated, everything was pretty much denied; correct?

Mr. KELLEY. Yeah. I think——

Mr. GARBARINO. Well, and the reason I am asking is I have a couple constituents that had applications in. They were not obligated. They never had an original determination. They were now denied because the funding was out but they were sent a letter asking if they would like a reconsideration. So there is no extra money for reconsideration of loans that were denied; correct?

Mr. KELLEY. There can be money through cancelations but it is more likely the case that the limiting factor for a particular borrower seeking an increase at this late stage, and keep in mind that increases have been available for 14 months.

Mr. GARBARINO. But if they were denied, and I am almost out of time, but people are getting reconsideration requests but the program is closed now.

Mr. KELLEY. Yes.

Mr. GARBARINO. So I think there is a disconnect there and it is really confusing a lot of my constituents.

Mr. KELLEY. The challenge is going to be from the date that they signed the note they cannot seek an increase beyond 24 months.

Mr. GARBARINO. Okay. Thank you.

Chairwoman VELÁZQUEZ. The gentleman yields back.

Ms. Chu, the gentlelady from California is recognized for 5 minutes.

Ms. CHU. Yes, Associate Administrator Kelley, I am feeling the distress that some small businesses are experiencing in getting shut out of COVID EIDL funding due to agency errors or delays outside of their control.

A couple of examples from my district. A small business owner in my district applied for a COVID EIDL loan increase well before the May 6th deadline but because the IRS did not send the SBA the required tax transcripts in time, the application was not considered complete and will be rejected.

Another small business owner in my district applied for a loan increase more than 2 weeks before the deadline but experienced a technical issue with the SBA's online portal. They immediately notified SBA and called the agency every day to see if the issue had been resolved but they still have not heard back about the status of their application and are concerned that they will not receive funding.

These are just two of the examples but I am sure that there are thousands more small businesses in similar situations.

How is the SBA going to make all the small businesses like this who had a lag in response from the IRS or who were not able to submit their completed application due to your own agency's errors? Is it possible to extend the deadline for these particular businesses?

Mr. KELLEY. What I would recommend, so what I would say to all the Committee Members, and I would recommend in this case that we address each individual issue. What I have found since July when I took over this program is that there is a lot of detail with each individual inquiry.

With respect to taxes, I agree that we as a nation should prioritize helping the IRS with the 4506T Modernization. There is a bill that was passed for the IRS to make available through API income verification that would not only help us administer these programs but it would be a tremendous tool for the commercial lenders and it would directly impact small business borrowers because they would be able to get a faster quote at a lower rate because of the verification of the income. One of the lessons coming out of the Great Recession and the Residential Mortgage Meltdown was stated income loans, or so-called liar loans create challenges.

It is absolutely the case that borrowers who could get a loan in 2020 with no income verification and are having issues with their 2019 tax filing are frustrated. It is important to note that the largest single request that we deal with from Members or directly through our field offices relates to a disagreement over amended tax filings. This is to say that there was a reported income that justified a lower increase request that the agency did approve and the borrower is seeking reconsideration of that by amending their tax filing. And coincidentally demonstrating that they are now eligible for an increase over and above what they had previously filed. It is important to understand that we are all dealing with a balance of speed and certainty here with the speed to get the emergency relief out and the certainty that we all want and this Committee has prioritized in the Economic Aid Act with respect to safety and soundness and mitigating fraud, waste, and abuse.

Ms. CHU. Well, what about the situation with the portal not being functional? That is the SBA's error.

Mr. KELLEY. So by definition, there were 9,000 reconsideration requests that were pending on May 6th and there were 4 million outstanding loans. So there are, in fact, thousands literally of folks who are frustrated with the process at any one time. But the scale and magnitude of the volume that we are dealing with, which is to say we have been approving roughly 40,000 to 50,000 loans a day since July on the order of magnitude of a half a billion to a billion dollars in some cases means that by definition there will be larger numbers across the board. Our call center response time is less than 42 seconds to pick up the phone. The longest wait time recorded since September is 17 minutes. And the average disposition time is 7 minutes. So, there is opportunity to interact with a human and to dispose of these. And I am happy to work with your Member and the individual borrower offline to try to get to hopefully a positive outcome.

Chairwoman VELÁZQUEZ. The gentlelady's time has expired.

Now we recognize the gentlelady from New York, Ms. Tenney, for 5 minutes.

Ms. TENNEY. Thank you, Chairwoman Velázquez and, also, Ranking Member Luetkemeyer, my Vice Ranking Member next to me, Mr. Williams, another small business owner, and thank you, Mr. Kelley, for being here today.

I know you are going to understand this completely because you are a Colgate graduate. Over the past few decades, too many of our communities have been left behind by manufacturers. Many of the businesses moved to China. You know that as a person who lived in Hamilton, New York, for a few years of your life. My mom's hometown. This has been really exacerbated by the reality that capital today is really hard to get, and we are relying on SBA, many of our businesses. A lot of the money tends to be focused on big city hubs, so Boston, New York, San Francisco. And yet, it is disproportionately not going to areas like Hamilton and rural Upstate New York that I represent that have capital-intensive businesses in the manufacturing sector that have long-term profit horizons but it takes a lot more capital to get them up and running but they have longer term prospects. And also, more job opportunities for people in these communities, especially everyday Americans.

And I introduced a bill called the American Innovation and Manufacturing Act, and that was to address this imbalance. I think there is a place where small business could be really helpful in this. It would provide flexible financing. We have also great people in the audience here today who are working on providing private lending options to our SBA, through SBA, and also to our small business community.

But my first question to you is right now we have got this situation where the PPP and the COVID programs are going to take about a decade to close out, but the SBA and the congressional Democrats are pushing to create new programs for them to direct new lending. And I know you have been tackling questions all morning on this. So even though that is happening, with the SBA's current tissues managing the fraud and difficult loan cases and the PPP and EIDL programs, number one, why should we trust the agency to continue to take on new types of programs that are more diverse and why do you not see a need to move to the private sector using partners like community banks and others to help our underserved in rural communities? I know there is a lot there but if we could address, we are creating all these new programs. Why are we not going and using these private sector type lenders and institutions who are really going to enhance the SBA's role and take a lot of that away from sort of a larger bureaucracy that you are describing today has been very difficult to manage?

Mr. KELLEY. So first I would say that you are absolutely right that the choices made in 2020 with respect to the safety and soundness measures for PPP and COVID EIDL created or increased the likelihood of the challenges that are highlighted in the audit reports that reflect that. What is also true is you would be hard pressed prior to that to find an IG or GAO audit report discussing either natural disaster lending or the core 7(a), and 504 programs with respect to fraud, waste, and abuse. So it is absolutely the case that these extraordinary programs that met an extraordinary plague are outliers. So I believe you should feel very confident in the agency's ability to administer programs without fraud, waste, and abuse, because we have demonstrated that for the bulk of the agency's history with the exception being the choices made in 2020.

Secondly——

Ms. TENNEY. Okay, quickly, because I want to ask one more question.

Mr. KELLEY. Sure. Secondly, with respect to your working capital situation, I completely agree. The Chairwoman, in one of the versions that this Committee voted out with respect to direct venture, and one of the programs that is highlighted in the president's budget goes directly to helping third-party lenders, private lenders, provide working capital solutions through certified development corporations for the type of asset-based financing that you are looking for, specifically for manufacturing. So I would love to work with your staff and the Committee more on that.

Ms. TENNEY. Thank you. The last question I have is when the Paycheck Protection Program was created by the CARES Act, reauthorized in December of 2020, we applied affiliation rules prohibiting SBA from issuing and forgiving PPP loans to entities with more than 500 employees across their affiliates. And it only excluded hotels and restaurants. However, we have since learned with various witnesses before this Committee that the SBA and your office have since forgiven illicit loans from 34 Planned Parenthood affiliates totaling over $65 million. Considering Planned Parenthood has more than 16,000 employees, well beyond the 500 employee threshold, what was the reasoning behind illicitly forgiving these loans?

Chairwoman VELÁZQUEZ. Time has expired.

Ms. TENNEY. I would be happy to take that offline or in person if possible.

Chairwoman VELÁZQUEZ. The gentlelady from California, Ms. Kim, is recognized.

Ms. TENNEY. Can I get that question answered offline?

Ms. YOUNG KIM. Hello?

Chairwoman VELÁZQUEZ. Yes, I can hear you. I can hear you. Give me a second, please. Mr. Kelley, would you provide a written response to the gentlelady's question from New York?

Mr. KELLEY. Sure,

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

Ms. YOUNG KIM. Thank you. Thank you very much, Chairwoman and Ranking Member Luetkemeyer for holding this hearing. And I want to thank our witness.

Mr. Kelley, I really want to thank you for being with us today.

I echo many of the issues my colleagues have raised today, and I am concerned that the administration is moving away from SBA's core mission which is to help small businesses prosper and protect their interests in order to preserve free, competitive enterprise. But instead, the administration and SBA should be focusing and using existing resources to operate more efficiently and improve its responsiveness to small businesses and entrepeneurs.

According to a recent report by the Office of Inspector General found that for some loans totaling $66.4 billion, SBA did not meet the 90-day statutory requirement to remit forgiveness payments to lenders. Additionally, the report states SBA did not meet the 90-day requirement for over 98 percent of loans over $2 million.

So Mr. Kelley, why is the SBA failing to meet the 90-day statutory requirement?

Mr. KELLEY. It is not any longer. The report that you are citing references the forgiveness applications over $2 million that were outstanding as of March of 2021 when I took over the office. At that time there was a population of about 60,000 loans that had not been processed in a timely manner. The previous administration did not begin forgiveness review of manual reviews until November of 2020 despite the forgiveness portal opening August 10th of 2020. From March of 2021——

Ms. YOUNG KIM. Just talk to me about the plan that you are working on and how would it help?

Mr. KELLEY. I am sorry; I did not——

Ms. YOUNG KIM. Or how is SBA meeting the 90-day requirement right now?

Mr. KELLEY. We are meeting the 90-day requirement. In fact, we are actually exceeding the 90-day requirement. Of the current workable inventory with respect to manual reviews of which there are roughly 40,000 at any one time, 90 plus percent of those will be turned in less than 15 days. There is a population of 4,000 that have exceeded 90 days due to hold codes related to fraud, waste, and abuse that we are interrogating which reflects that.

I would also be happy to talk to any of your constituent lenders that participate in the PPP program that have any outstanding issues with any loan greater than 90 days.

Ms. YOUNG KIM. Well, it seems that we have a clear case study on the effectiveness and efficiency of the successful public-private partnership versus direct lending. On one hand, the EIDL program disbursed loans on an average of 49 days during the early days of the pandemic, and they had almost $85 billion of potentially fraudulent activity. On the other hand, the PPP as a public-private partnership took an average 7 days to disburse loans and had approximately $4.6 billion in potentially illegal behavior.

So Mr. Kelley, based on these numbers, in your opinion, which model did a better job at disbursing loans in a timely manner while protecting against fraud?

Mr. KELLEY. So I think both programs as measured by the audit report deserve a lot of improvement based on choices that were made in 2020. Each program is different. The objectives, for example, within the PPP program were to originate a forgivable note where the lender was held harmless, was not required to verify the payroll amount. And as I mentioned earlier, by and large lend the loan to an existing customer versus an uber credit not available elsewhere disaster loan which was a critical lifeline for the population that was widely reported in 2020 as not being able to access PPP due to being underbanked and underrepresented across the banking footprint.

Second, with respect to the number that you all are aggregating with respect to the IG reports for COVID EIDL, the lion's share of the use case that makes up that number refers to the sole proprietors, including employee numbers, on their applications for the advance, which was distributed in 2020. And not having a requisite EIN number.

The IG has classified that not technically as fraud per se but as being ineligible. And their justification is the absence of EIN, which is a requirement for a sole proprietor declaring employees?

Chairwoman VELÁZQUEZ. Time has expired.

The gentleman from Minnesota, Mr. Stauber, is recognized for 5 minutes.

Mr. STAUBER. Thank you, Madam Chair. Thank you, Ranking Member Luetkemeyer, for holding this meeting.

Associate Administrator Kelley, I appreciate you being here today.

In your testimony, you mentioned that 5.4 million Americans filed an application for a new business in 2021. You also state that as the SBA transitions its focus from pandemic to its core mission, the agency has never had more startups to support.

Would you say that adding $201 billion in additional regulatory cost and over $130 million in new compliance hours for small businesses as the Biden Administration has ambivalently done or support actions for these 5.4 million new startups?

Mr. KELLEY. I think the regulations that you are referencing are appropriate for the industries that they are overseeing. And we have seen time and time again that if we do not have the proper rules of the road, it is the small businesses that actually are disadvantaged because the major corporations are able to use their vast resources to a comparative advantage. So I agree with you that 5.4 million small businesses absolutely need fairness across the board. And obviously, Administrator Guzman is, you know, their voice.

Mr. STAUBER. So would you agree that $201 billion of additional regulatory costs for small businesses is not wise?

Mr. KELLEY. I agree that you are citing an aggregation of the PRA citations in the Notice and Comment Rulemaking for which the public will have an opportunity to weigh in on those rules. I am also in agreement that for specific industries we need to have fair rules of the road so that there is a competitive landscape for small businesses to compete.

Mr. STAUBER. You certainly want a competitive landscape in adding—these are the Biden administration's own numbers—adding $201 billion of additional regulatory costs is unacceptable as we look at COVID through our rearview mirror.

From the budget proposal, it is clear that the SBA administrator is looking to promote her own goals and initiatives rather than deal with the follow-up pandemic. The pandemic may be over but the responsibilities of this agency certainly are not. EIDL loan payments are going to begin soon. More fraud than we already know to exist is going to bubble up. Innocent people are going to get hurt.

This leads me to my next question. How is this agency managing its resources? Are you directing money away from incomplete tasks for the administrator's wish list initiatives? Because according to your budget justification, the SBA seems to think it is more prudent to use taxpayer dollars to pay off environmentalists but help small businesses that are facing skyrocketing inflation, a labor shortage, and a continued supply chain crisis.

Mr. KELLEY. I am sorry, I did not catch the end of your question.

Mr. STAUBER. How is the agency managing its resources? Administrator's wish list, it seems like the administrator is putting a wish list forward. I want to know your budget justification. The SBA seems to think it is more prudent to use taxpayer dollars to pay off environmentalists and help small businesses that are facing skyrocketing inflation, labor shortages and a continuing supply chain crisis.

Mr. KELLEY. So, I am not aware of the budget paying off environmentalists. What I am aware of is the increase in the frequency and the aperture of natural disasters nationwide and in the territories. And what is absolutely paramount, as you heard me answer to that Chairwoman earlier and promise, we need to make sure that there is never an instance where someone cannot receive natural disaster lending either on the consumer side to make up for a delta between their property insurance and what the true physical damage is to their home, and for the small business's working capital. We are focused on providing lending and capital for growth. Growth is as important now as ever and fixed rate products are obviously a unique opportunity leveraging the 7(a) and the 504 program.

The last thing I will say is that I believe that this country at this point is truly served by this administrator give her experience, not just in the Biden administration but being on the ground when the pandemic was unfolding in a similar position for the State of California, which is the sixth largest economy.

So I believe that she understands and has a full grasp of the issues and concerns that you have highlighted.

Mr. STAUBER. I expect as the associate administrator you would make those statements about our administrator.

Madam Chair, how much time do I have left?

Chairwoman VELÁZQUEZ. Your time has expired, sir.

Mr. STAUBER. I apologize and I yield back, Madam Chair.

Chairwoman VELÁZQUEZ. The gentleman yields back and now we recognize the gentlelady from Texas, Ms. Van Duyne, for 5 minutes.

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

This hearing comes at a precarious time for small businesses. Over the past few years they have battled and emerged from the pandemic that permanently forced many small businesses to close their doors. Yet, at this moment, small employers are the least optimistic about their future business conditions than they have been in almost 50 years. And how can you blame them? 8.3 percent annual inflation is ripping through the economy without signs of stopping. Every business you talk to cannot find people to hire, and supply chains are still in turmoil. There is no doubt that this administration's fiscal policies have played a hand in overstimulating the economy.

The San Francisco Fed found their fiscal support and countered for over a third of the recent rise in inflation. Fortunately, this Administration's response has been much of the same rhetoric. The president tweeted that the key to bringing inflation was "making sure that the wealthiest corporations pay their fair share." And yet, his new press secretary could not even defend that statement.

In an environment that leaves business owners looking for ways to cut costs, this president still has on his mind increasing taxes. That will be devastating for small businesses.

On this Committee, we have established that tax increases would directly and indirectly impact small employers. But lucky for us, the key to a thriving small business economy and a lower inflation environment lies with less government interference and spending.

And let's be clear. We are nowhere near finished with the oversight of COVID relief. The Washington Post just put out a story about close to $163 billion in unemployment fraud. And combine that with the staggering amount of fraud in small business programs, we are nearly a quarter of a trillion in waste. Imagine what we could do with that money. Maybe we could actually deal with the rapidly approaching expiration dates of Medicare and Social Security Trust Funds.

The message to the American people should be clear. The federal government will not spend any new money while we work to get back the billions of dollars in improper payments.

Mr. Kelley, I have just a couple of questions. Is the SBA and the Office of Capital Access expecting or planning for a recession in the U.S. economy?

Mr. KELLEY. We are not expecting anything related to that. What we are doing every single day is providing credit not available elsewhere. So our——

Ms. VAN DUYNE. Okay. So you are taking no steps at all to plan for a recession?

Mr. KELLEY. Our program with respect to its CORE products is actually a product that will work very well for small businesses and lenders regardless of the economic——

Ms. VAN DUYNE. Oh, that is wonderful, so but are you saying that you are not taking any steps to prepare for a recession?

Mr. KELLEY. No, I am saying that we have loan products that we administer——

Ms. VAN DUYNE. So you are taking steps to prepare for a recession?

Mr. KELLEY. I think I have answered the question which is I am saying——

Ms. VAN DUYNE. It is a yes or a not. Are you not or you are?

Mr. KELLEY. We are administering a program that provides loan products——

Ms. VAN DUYNE. So is it a yes or a no?

Mr. KELLEY. That we are providing loan products, it is a yes.

Ms. VAN DUYNE. That you are preparing or not preparing for a recession?

Mr. KELLEY. We are not currently preparing for a recession. No.

Ms. VAN DUYNE. Okay. So would you agree that the overall economic situation does impact lending cycles? And whether small business owners may seek out SBA loans versus a private lender?

Mr. KELLEY. I am sorry; could you repeat the question?

Ms. VAN DUYNE. Would you agree that the overall economic situation impacts lending cycles?

Mr. KELLEY. Yes.

Ms. VAN DUYNE. And whether or not small business owners can seek out SBA loans versus a private lender?

Mr. KELLEY. Yes. But what happens in a recessionary environment is that the SBA loan products are actually in greater demand. And so——

Ms. VAN DUYNE. Okay, so good to know. So as I am sure you are aware, many financial institutions are starting to anticipate and price in a higher risk of a recession. So I am interested in why private lenders are adjusting to this economy at a higher risk of a recession but the SBA is not thinking about it.

Mr. KELLEY. It is not that we are not thinking about it. Our core products depend on those lending intermediaries that you just referenced. And the core product actually benefits them in the counter cyclical environment. So what I am saying to you is that the particular program that I administer has loan products that are most useful in countercyclical environments. So whether I am in a——

Ms. VAN DUYNE. Okay. I have got to yield back my time because I have only got 17 more seconds.

As you talk with small business owners I am curious, what is a bigger concern for them, climate change or inflation?

Mr. KELLEY. I think that anything that impacts their business is a concern. And both of those——

Ms. VAN DUYNE. But you think they are more concerned with climate change right now or inflation?

Mr. KELLEY. I think with respect to the references to climate change within the specific budget it is in reference to natural disasters that have eviscerated their small business. So I believe——

Ms. VAN DUYNE. Okay. I yield back my time. Thank you very much.

Chairwoman VELÁZQUEZ. Time has expired.

Thank you, Mr. Kelley, for appearing before us today. The work that you and your staff do is fundamental to the success of our main street communities.

We are committed to working together to enhance OCA's program, remove barriers to accessing capital, and support entrepreneurs as they continue to lead our recovery.

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. Thank you.

[Whereupon, at 11:53 a.m., the committee was adjourned.]

APPENDIX

Testimony of

Patrick Kelley
Associate Administrator
Office of Capital Access
U.S. Small Business Administration

Before the

Committee on Small Business
U.S. House of Representatives

Hearing on

"SBA Management Review: Office of Capital Access"

May 18, 2022

Testimony of Patrick Kelley
Associate Administrator, Office of Capital Access
U.S. Small Business Administration

Good morning, Chairwoman Velazquez, Ranking Member Luetkemeyer, and members of the committee. On behalf of our Administrator, Isabella Casillas Guzman, and the entire Agency, I want to start by thanking you for your strong support of the Agency's lending programs and all U.S. Small Business Administration (SBA) programs.

Since March 2021, I have served as the Associate Administrator for the Office of Capital Access (OCA). Previously I served as Deputy Chief of Staff, Deputy Associate Administrator, and Senior Advisor for the SBA. During the first year of the pandemic, my respect and admiration for the civil servants of the SBA only grew, as the Agency served as a lifeline for America's small businesses confronted with a devastating pandemic and economic crisis. I was humbled to help continue this work over the past year in my current role alongside SBA's civil servants, who continue to work tirelessly to provide small business owners the relief and capital they desperately need.

In my current role, I am responsible for the Office of Capital Access's administration of SBA's 7(a) business loans, the Community Advantage Pilot program, the 504 Loan Program, the Surety Bond Program, and the Microloan Program. Collectively, these programs connect small business entrepreneurs that otherwise are unable to obtain conventional sources of capital with participating private sector lenders willing to lend necessary capital to start or grow small businesses. SBA loans are behind companies and products that are now household names, like Ben & Jerry's Ice Cream, South by Southwest, and Boppy Pillow.

Supporting Small Business Growth

In 2021, the U.S. economy added 6.4 million new jobs. In no small part, that is because 2021 was also a record year for new business starts. According to Census data, 5.4 million Americans filed an application for a new business – more than 20 percent higher than any previous year on record and more than two-thirds higher than the annual average of 3.2 million new businesses applications per year in the five years prior to the start of the pandemic. As the SBA transitions its focus from pandemic relief to its core mission, the agency has never had more startups to support. As any entrepreneur knows, new startup businesses need capital. Not only is access to affordable, timely capital key to small business growth and survival generally, but it is particularly vital in today's economy, which is marked by both high growth and rising demand, as well as headwinds such as rising prices and a changing labor market.

The SBA's core lending programs are supporting this dynamic cohort of new businesses through the tailwinds and headwinds of today's economy. Small manufacturers, which are key to the President's goal of tackling supply chain bottlenecks head-on by increasing domestic production, benefit uniquely from the 504 Loan Program. Main Street businesses emerging from the pandemic can manage cost pressures with low-cost working capital loans under the 7(a) program. Small government contractors—including those building new infrastructure under the Bipartisan Infrastructure Law—rely on SBA's Surety Bond program. Veteran entrepreneurs and those from historically underrepresented backgrounds—which make up an increasingly large share of startup owners—are served by the Community Advantage program.

Across our programs, SBA supported $44.8 billion in new lending in Fiscal Year 2021. That high volume was supported in large part by temporary program enhancements passed by Congress, including debt relief, fee waivers, and increased guarantee rates. In the President's FY 2023 Budget Request, the SBA is requesting a 13% increase in lending authority across our capital programs, to support ongoing demand for these programs.

Administrator Guzman has also taken action to strengthen SBA's core lending programs and make them accessible to a broader array of entrepreneurs and business types. Specifically, she has extended the Community Advantage Pilot Program, expanded its accessibility to underserved borrowers, and made it more accessible to entrepreneurs previously involved in the justice system. We continue to explore ways to extend changes like these to our other loan programs. And finally, as envisioned by this committee, SBA is working to make our loan programs more accessible to employee-owned businesses and those seeking to transition to employee ownership, by helping owners exit their business while giving their workers opportunity to build wealth.

Paycheck Protection Program

At the onset of the pandemic in March 2020, the Agency took on the role of administering the Paycheck Protection Program (PPP), increasing loan volume ten-fold in a matter of weeks. In 2020, the SBA approved a total of 5.2 million loans for $522 billion to America's small businesses and certain nonprofits. The Economic Aid Act extended the authority to make PPP loans through March 31, 2021 with an additional $284 billion in lending authority and modified rules for PPP loan eligibility and forgiveness and allowed certain borrowers to obtain second draw PPP loans. In March 2021, the American Rescue Plan Act provided an additional $7.25 billion through the program.

In the 2021 rounds of PPP, the SBA approved over 6.3 million loans totaling over $270 billion in loan volume. In the third round of PPP, the SBA prioritized reaching the smallest businesses, low and moderate-income communities, and rural areas to achieve an equitable distribution.

Delivering over $788 billion in relief would not have been possible without the partnership of over 5,000 lenders that participated in the PPP. We are extremely grateful for all their hard work and dedication in executing this program with us. With the involvement of community banks, credit unions, Community Development Financial Institutions, Minority Depository Institutions, farm credit lenders, financial technology firms, and traditional lenders we have been able to reach small business owners across America and protect millions of jobs. Even after PPP, we hope to continue to foster these relationships and expand access to capital.

Addressing Fraud Waste and Abuse in PPP

One of the criticisms of the PPP was the lack of eligibility and fraud checks on potential borrowers. In response, the Agency developed a detailed loan review plan in October of 2020. The process is designed to maximize program integrity and optimize the use of SBA's loan review resources, while considering the challenges posed by the high volume of PPP loans and the statutory timeframe for remittance of forgiveness payments.

As part of this process, in late 2020 the SBA reviewed the entire portfolio of PPP loans through the use of an automated screening process comparing loan data with publicly available information and applying eligibility and fraud detection rules.

Additionally, unlike in the first rounds of PPP, the 2021 guaranty process eliminated instant approval of applications. Instead, funding for loans was contingent on passing front-end SBA compliance checks such as verifying income with IRS and cross-checking Treasury's Do-Not-Pay list.

SBA has made significant progress in exposing fraudsters, reporting them to law enforcement, and preventing additional fraud. Last month, Administrator Guzman announced the creation of a new Fraud Risk Management Board (FRMB) to replace the Fraud Risk Management Council. She also designated a Special Counsel for Enterprise Risk to work across the Agency to further limit fraud and risk. We are also working closely with the Office of Inspector General and other federal authorities to refer suspected fraud to law enforcement authorities. The steps we have taken to strengthen program controls have been recognized by Congressional auditors.

PPP Forgiveness Process

One of the highest priorities of our first year was to ensure eligible small businesses could access PPP forgiveness in a smooth, simple way. PPP loans are eligible for forgiveness if funds are used for eligible payroll costs (at least 60% of total funds) and nonpayroll costs such as mortgage payments, interest payments, rent or lease payments, utilities payments, operations expenditures, supplier costs, property damage costs, and worker protection expenditures during the covered period. The covered period is the 8-to-24 week period after disbursement of the loan.

To that end, the Agency worked diligently over the summer of 2021 to launch the SBA's Direct Forgiveness Process. Lenders could opt in to using the Portal, which streamlined the forgiveness process by allowing their borrowers to apply for forgiveness directly through SBA, provided the loans were $150,000 or less. The SBA rendered borrowers' forgiveness applications in a web and mobile friendly platform, with most of the questions pre-populated based on information they already provided in their original PPP application. After submission, SBA sent the applications to the lender for review and decision, and then back to SBA for final decision. It takes borrowers 6 minutes or less on average to complete the application. We've not only reduced the time it takes for eligible borrowers to access the relief they need as they recover, but we've also shortened the time it takes for lenders to process these applications. To date, more than 1,500 lenders have opted in, and SBA has processed 1.9 million loans through Direct Forgiveness.

Overall, SBA has processed 9.9 million forgiveness decisions, or approximately 88% of all PPP loans, totaling $721 billion. This total consists of 4.9 million, or 96%, of 2020 loans and 5.1 million, or 81%, of 2021 loans.

RRF

In March 2021, the American Rescue Plan established the Restaurant Revitalization Fund (RRF) to provide funding to help restaurants and other eligible businesses keep their doors open. After shouldering the delivery of over $788 billion in PPP relief, the Office of Capital Access was able to take valuable learnings and implement the RRF program less than three months after the bill's passage.

The RRF program received more than 278,000 applications representing over $72.2 billion in requested funds. SBA securely awarded all of the $28.6 billion in Restaurant Revitalization Fund assistance by June 30, 2021. Nearly two-thirds of RRF funds ($18 billion) went to businesses owned by women, veterans, and economically and socially disadvantaged individuals.

We were able to accomplish this because of an exceptionally user-friendly application technology portal, a highly dedicated and expert team of career civil servants, and proactive outreach to restauranteurs and other eligible entity types to inform the implementation of this critical program.

COVID EIDL

The COVID Economic Injury Disaster Loan (EIDL) is the largest loan portfolio at the SBA, with 3.9 million loans totaling over $378 billion as of the month of April. Given the unprecedented demand for the program, in 2021 Administrator Guzman immediately invested heavily in increasing SBA's capacity. Within months of assuming leadership, Administrator Guzman transitioned COVID EIDL to the Office of Capital Access to dedicate additional management capacity. Since this transition, the Office of Capital Access closed out a backlog of nearly 1 million applicants across loan and advance categories by increasing the agency's processing capacity from less than 2,000 applications per day to more than 20,000. We also increased loan officer productivity from less than two applications per day to an average of 15 while overhauling the customer service experience and solidifying robust fraud controls. In recent weeks, the agency has approved an average of over $900 million a day; the average processing time for an applicant is two to three weeks for loans under $500,000 and about one month for loans over $500,000. That is on par with or faster than industry standards.

Despite our progress, there have been two recurring concerns with the programs from Congress and other stakeholders: fraud and processing delays for applicants. For fraud, a series of events contributed to this challenge for the programs that have since been rectified. In 2020, at the start of the programs, the CARES Act prohibited the agency from collecting tax documents to verify business identity and revenue, which is one of the strongest safeguards against fraud that the agency employs, including for the SBA's traditional direct disaster lending. As a result, in 2020, 3.6 million COVID EIDL loans were approved without any tax document verification, representing 92% of the portfolio. In 2021, with the reversal of the prohibition under the Economic Aid Act, the agency implemented the IRS verification along with the Do Not Pay Check. As mentioned earlier, we reaudited the 2020 portfolio with new technology to protect against fraud. These important steps will ensure that the relief funds passed by Congress are directed to the businesses they were intended to help.

To address processing delays, Administrator Guzman directed the agency to operate with both speed and certainty. We do not believe there is a tradeoff between speed and fraud controls, as we have reached a point today where both exist and function cohesively with controls in place while we process applicants within weeks. The processing delays that continue to be experienced by applicants are mostly by applicants who are filing for reconsideration. Others did not file their 2019 taxes and successfully obtained a loan in 2020 when that control was not in place or have not submitted required documentation for verification. Now that the IRS verification control is in place, the applicant who was approved in 2020 with no IRS verification is experiencing challenges obtaining a loan increase. With an average loan increase approval rate of 50%, this means of 3.6 million loans administered in 2020 with no tax verification, half of those that have come back to loan increases have been declined for not meeting eligibility and fraud controls.

Despite these cases, the majority of COVID EIDL borrowers have obtained decisions and relief within weeks and the programs have successfully kept millions of small businesses afloat. At the same time, the fraud controls introduced under Administrator Guzman's leadership have ensured the SBA can fight against fraud for the remainder of the COVID EIDL programs and beyond.

Moving Forward

I am incredibly grateful for the tremendous amount of work the SBA staff has put in over the past year to get over $700 billion of relief to small business owners and nonprofit organizations. Despite unthinkable circumstances and devastating loss, this team quickly executed on the largest SBA program in history, protecting millions of Americans and their livelihoods. Additionally, I would like to thank the members of this committee for your support of the Agency throughout the implementation of the Paycheck Protection Program, and for your dedication to these small businesses. Small business is the lifeblood of our nation's economy and our communities. I will continue to put my whole soul into our efforts to effectively concluding pandemic programs and delivering ongoing support to small businesses so they can rehire and retain workers, safely reopen, and deliver the essential goods and services our communities depend on.

Committee on Small Business
"SBA Management Review: Office of Capital Access"
Wednesday, May 18, 2022 10:00 A.M.
2360 RHOB and Zoom

Questions for Mr. Patrick Kelley, Associate Administrator, Office of Capital Access, United States Small Business Administration, Washington, DC

Questions for the Record from Rep. Houlahan (PA-6):

It is critical that we ensure women entrepreneurs can overcome the barriers to accessing the capital they need to start and grow their businesses. Data has shown that the average loan size for women-owned small businesses was 40% lower than those that were male-owned in 2021. Furthermore, on average, the credit score for women-owned businesses was 14 points lower than male-owned businesses in 2021.

- What is your office doing to level the playing field and address the difficulties experienced by women entrepreneurs in accessing capital?

SBA continues to open Women's Business Centers (WBCs) nationwide and has opened six in FY22. WBCs offer advice and counseling to help women entrepreneurs access affordable capital, including SBA's loan programs. The loan guaranties in the SBA 7(a) and 504 loan programs and the low cost of funds for Intermediary lenders in the Microloan program broaden access to capital for women entrepreneurs by offering incentives for lenders to consider lower credit scores unacceptable for conventional loans.

- What can Congress do to be supportive of these efforts?

SBA welcomes Congress' support with increasing awareness among women entrepreneurs of SBA's loan programs and resource partners that can help their business access affordable capital.

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

- Based on the results of the PPP and EIDL program, should private sector lenders have a larger or smaller role within the SBA's programs?

  Private sector lenders have and always will be integral to SBA's successful delivery of capital to American small businesses through the regular business loan programs. The 7(a) and 504 guarantee loan programs operate at zero subsidy from taxpayers due, in part, to SBA's partnership with private sector lenders.

- According to the SBA Inspector General, there is $84.8 billion in potentially fraudulent EIDL activity. How much has been recovered? How much do you anticipate recovering?

  SBA cannot anticipate the amounts recovered from "potentially fraudulent EIDL activity" because those recovery activities by law enforcement have not yet concluded. Law enforcement agencies are actively investigating these matters and any form of restitution will likely be paid during future years. SBA actively supports law enforcement agencies in their pursuit of fraudsters, including proactively referring suspected activity to the OIG and providing SBA subject matter expertise to law enforcement agencies.

- In your testimony, you state that the Office of Capital Access "overhauled" the EIDL "customer service experience." Did this involve interacting with borrowers directly?

  Yes, SBA enhanced the customer service call center to improve the COVID EIDL borrower customer experience. This included incorporating call scripts, instituting an enhanced quality assurance process, and adding an escalation process to address individual inquiries related to a particular loan. SBA also provided access to the COVID EIDL loan platform to SBA field offices and other customer service centers so they were also able to respond to borrower inquiries. SBA also enhanced the platform to allow borrowers to request an increase on COVID EIDL loan platform, directly upload documents, and view the status of their request.

- How do you believe the SBA performed when it came to rooting out fraud within the RRF program? Does the SBA have an oversight plan for RRF that they can share with the Committee?

  SBA successfully implemented a variety of measures to help limit and prevent fraud within the RRF program. The fraud control framework that SBA established and tested at the outset of the program detected and rejected approximately 30,000 potentially fraudulent applications. In addition, SBA uses data analytics to target RRF awards for manual review where potentially suspicious activity has been identified in loans made to the same entity in the PPP loan program. SBA is also performing post award reviews to ascertain the proper spending of RRF awardees' use of proceeds.

- How many 501(c)5 entities received a PPP during the entirety of the program?

  SBA did not specifically track the number of 501(c)(5) entities in the PPP program.

- How many small business jobs were saved or assisted by the PPP?

  The Treasury, SBA, and OMB produce a quarterly CARES Act Report, which contains information on the anticipated outcomes associated with PPP. They can be found at https://www.pandemicoversight.gov/omb-quarterly-reports. The SBA is currently working with the Census Bureau to establish statistical estimates on the number of jobs supported through its pandemic related programs.

- In total, how many jobs were lost during COVID-19?

  According to the Bureau of Labor Statistics (BLS), total nonfarm payroll employment declined by 22.0 million in March and April 2020. Since April 2020, employment has increased by 21.5 million. Employment changes as measured by the Current Employment Statistics survey reflect net changes. Additional information on BLS data is available at: https://www.bls.gov/ces/. Please contact the BLS for more information on employment data.

- How many jobs have been created since the Biden Administration took office?

  According to the Bureau of Labor Statistics (BLS), since January 2021, employment has increased by 9.0 million, on net. Additional information on BLS data is available at: https://www.bls.gov/ces/. Please contact BLS for more information on employment data.

- How many outstanding Inspector General recommendations remain open that deal with the SBA's Office of Capital Access programs?

  There are currently 74 outstanding OIG recommendations associated with the Office of Capital Access (OCA). The majority of the recommendations (38) are related to the pandemic programs and 36 are related to the non-pandemic OCA programs. OCA is diligently working to resolve all open audit recommendations.

- Please outline the number of full-time equivalent (FTE) staff dedicated to the Office of Capital Access.

  SBA has 362 FTE dedicated to the Office of Capital Access non-pandemic and non-disaster programs.

- How many contractors are currently operating within the Office?

  OCA has 50 contractors dedicated to non-pandemic and non-disaster programs.

- How many staff members are dedicated to the Office of Credit Risk Management?

  OCRM has 42 federal FTEs.

- In your opinion, is this office adequately staffed?

  Yes.

- In your testimony, you state that "As the SBA transitions its focus from pandemic relief to its core mission, the agency has never had more startups to support." Do you believe the Office of Capital Access has a responsibility to assist all startups or just those who can't access traditional or conventional lending?

  In accordance with the Small Business Act, SBA may not provide support for small businesses that have access to traditional or conventional lending unless so authorized by Congress. Generally, start-up businesses are difficult to finance conventionally for first time entrepreneurs due to increased risks of certain industries, inexperienced management and lack of the ability to demonstrate historic debt service coverage. The SBA guarantee helps mitigate this increased risk for lenders.

- How do you communicate with private sector lenders? Do you use a portal? Do you talk to them directly?

  SBA is highly communicative with our private sector lending partners. SBA's Office of Capital access speaks with lenders regularly through direct conversations, presentations, and trainings both virtually and in person. Additionally, SBA sends mass emails to lenders and issues policy, procedural, and information notices that communicate with lenders. SBA also provides email access for lenders to submit questions on specific loan scenarios and publishes on its website detailed Standard Operating Procedures for originating, servicing, and liquidating loans. Lenders authorized to participate in SBA programs have direct access to the ETran (electronic) portal where loan applications can be submitted for loan numbers and approvals and lenders can view and make servicing changes to their loans as necessary.

- Do you believe the SBA's traditional government guaranteed lending program applications are too burdensome?

  SBA is continuously reviewing the time and cost for lenders and small businesses to participate in SBA lending programs. SBA is modernizing the business loan application process by adopting certain technology advances implemented for the pandemic programs. To evaluate and expand program delivery improvements and to address streamlining the application process. SBA recently made certain program improvements in the Community Advantage Pilot Program with the intent to analyze, adopt and make available where appropriate, the improvements for regular 7(a) small dollar loans.

- How many Small Business Lending Companies (SBLCs) and Non-Federally Regulated Lenders (NRFLs) are operating within the SBA's programs?

  As of 5/31/22, there are 14 SBLCs & 15 NRFLs that have outstanding 7(a) loans. An additional 90 Community Advantage Pilot lenders have outstanding loans.

- Why does the SBA have a moratorium on Small Business Lending Companies and Non-Federally Regulated Lenders?

  The Small Business Lending Company (SBLC) moratorium was enacted in the early 1980s due to the oversight responsibility SBA bears for non-regulated institutions such as SBLCs. Currently, there is not, nor has there ever been, a moratorium on Non-Federally Regulated Entities (NFRLs) that have State supervision.

- What is the default rate within the SBA's disaster loan program?

  The FY21 disaster charge off rate was 0.20%

- What is the default rate of the following programs:
  - 7(a) Loan Program = 1.35%
  - 504 Loan Program = 0.40%
  - Microloan Program = 2.6%
  - Community Advantage Pilot Loan Program = 3.6%

  Rates are as of 5/31/2022 and the default rate is defined as defaults in the past 12 months divided by outstanding balance.

- Does the Community Advantage Pilot Loan Program have a higher default rate compared to the 7(a) Loan Program?

  Yes. Community Advantage default rates are typically 2-3 times higher than the 7(a) loan program.

- Does the subsidy rate of the Community Advantage Pilot Loan Program impact the subsidy rate of the 7(a) Loan Program?

  The Community Advantage Pilot (CA) is authorized under the 7(a) program which receives annual lending authority but no appropriation. SBA operates the program to zero subsidy and because the CA program does not have a separate appropriation, performance of CA loans therefore has an impact on overall 7(a) performance/subsidy.

- Why did the SBA have a moratorium on Community Advantage Pilot Loan Program lenders in the past?

  To effectively evaluate the program under the rules in place at the time, SBA concluded a review of the performance of existing lenders that had sufficient time and scaled experience within the Community Advantage Pilot Loan Program, rather than focus SBA's efforts on evaluating new lenders (less than a year +/-) for the program. SBA also concluded the addition of new leaders could negatively skew metrics regarding delinquency, default and recovery.

- What will the approval process be for new Community Advantage Pilot Loan Program lenders?

  The Community Advantage (CA) review process is delineated in the CA Application Review Guide, published in May 2022. To summarize, new CA lender applications are submitted to the Office of Credit Risk Management (OCRM), where they are checked for completeness and reviewed to determine if the lender has the necessary expertise, financial capacity, and infrastructure to participate in the CA program. All completed recommendations are reviewed by the OCRM federal employees and management before being provided to the Director of OCRM and the Director of the Office of Financial Assistance for concurrence.

- How many third-party agents, such as lender service providers (LSPs), operate within the SBA's lending programs?

  Since FY21, 68 LSPs were associated with 3,570 loan approvals and 3,276 loan agents were associated with 11,183 loan approvals.

- How does the SBA currently oversee third-party agents?

  SBA reviews and tracks LSP agreements with lenders. Loan activity is monitored via monthly activity reports and quarterly in-depth analysis. SBA collects loan agent data on the Form 159. Loan agent activity is reviewed in quarterly risk reports. OCRM uses a loan agent PARRiS risk indicator to identify lenders that utilize loan agents and to inform lender oversight.

- What impact does rising interest rates have on the SBA's 7(a) Loan Program and the SBA's 504 Loan Program?

  Rising interest rates generally make it more difficult for borrowers to meet commercial debt obligations. This is also true for the 7(a) and 504 Loan Programs. The 504 program has fixed rates which make it easier to predict the loan cost and calculate payments over the life of the loan. 7(a) guaranteed loans can be either fixed or variable. SBA continues to manage the risk and performance of the program through both rising and declining interest rate markets. Demand is typically strong in either case.

- Please walk the Committee through how the financial crisis of 2007-2009 impacted the subsidy rate of the 7(a) Loan Program and the 504 Loan Program? Do you believe COVID will have an impact on the subsidy rate of the 7(a) Loan Program and the 504 Loan Program?

  The financial crisis of 2007-2009 had an immediate impact on the re-estimated subsidy rate for the 7(a) and 504 loan programs. The re-estimated subsidy rates increased for several years due to higher than anticipated losses. For several years after the financial crisis, the subsidy rates for new 7(a) and 504 cohorts increased as well. This increase may have been the result of the continued elevated unemployment rates, which led to elevated default projections for the cohorts, as well as continued experience of low recoveries on defaulted loans, which resulting in lower recovery projections in the subsidy estimates.

COVID also had an immediate impact on the re-estimated subsidy rate for the 7(a) and 504 loan programs. The re-estimated subsidy rates increased as a result of the debt relief payments made by SBA on eligible 7(a) and 504 loans. We do not believe the subsidy rates for new 7(a) and 504 cohorts will be affected by COVID. The increased re-estimated subsidy rates were mainly a result of the debt relief payments. Because we do not assume debt relief payments for future cohorts, we do not project these costs in new cohorts, therefore we do not expect this to impact future subsidy rates. Given the broad recovery to date, particularly with respect to the unemployment rate, we expect sufficient fee authority exists to offset expected credit losses and maintain zero subsidy for new 7(a) and 504 cohorts.

- **In your testimony, you mention that the 504 Loan Program can assist with supply chain issues. Can you explain this in detail?**

Part of the issue with current supply chain is the reliance on imported goods. Both the 7(a) and the 504 programs provide access to capital which can assist domestic manufacturers and other goods producers to increase our domestic supply and therefore make the US less reliant on foreign imports. Having increased access to the 7(a) program for inventory, equipment and working capital and to the 504 program for capital/plant acquisition, domestic companies can increase the supply of US produced manufactured goods and other goods. This, consequently, would improve US supply chains by reducing delivery times and, thereby, increasing timely production. Most U.S. companies reduce costs by relying on JIT (just in time) inventory where they request what they want on a workflow and orders basis. Having US produced goods that are not subject to import shipping delays will likely help improve domestic companies' access to inventory needed for manufacturing, which is one way SBA programs assist in mitigating costs and business disruption in supply chains.

- **Upon submitting an application, how long does it take for a small business to receive funding under the 504 Loan Program?**

For the SBA 504 Loan Program, an application is currently approved within 14 business days of receipt of a complete application package. The funding of the 504 loan, once approved, is determined by the Third Party Lender and the borrower and is based on when the project is complete (for construction that can take several years) and is ready for SBA to fund the permanent debenture.

- **When does the SBA anticipate releasing the rules and regulations under the 504 Express program?**

The Rules for the 504 (ALP) Express Program were published and effective on June 27, 2022 (87 Fed. Reg. 37979) and authorized ALP lenders are currently using the delegated authority granted through the program to approve small dollar 504 debentures.

- According to the Government Accountability Office, the SBA hasn't implemented its 2020 recommendation regarding fragmentation within the Microloan Program. Why not?

  Progress is being made on the integration of the Microloan Systems with ETran, and updated policy guidance that will continue in conjunction with the deployment of technology in all of SBA's business loan programs.

<u>Questions for the Record from Rep. Claudia Tenney (NY-22):</u>

- What justification and reason did the SBA use to grant PPP Loan Forgiveness to various Planned Parenthood affiliates?

  In the responses to Administrator Guzman's November 16, 2021 House Small Business Committee hearing and Associate Administrator Patrick Kelley's March 24, 2021 Senate Committee on Small Business and Entrepreneurship hearing, SBA stated that Planned Parenthood loans were and would continue to be treated similarly to all other PPP loans, particularly from an affiliation standpoint. SBA has not found that any Planned Parenthood loans were wrongfully approved, or that any forgiveness payments for Planned Parenthood loans were wrongfully disbursed.

- Given the current restrictions as they relate to firm size and affiliation, how did various Planned Parenthood affiliates comply with the PPP's rules?

  Planned Parenthood applicants were required to make the same certifications as to size and affiliation in the same manner as all other applicants for PPP loans. Participating PPP lenders approved and made the PPP loans in accordance with CARES Act mandates regarding the applicant's certifications. Lenders were permitted to rely on the certifications made by the applicants.

- Does the SBA have plans to rule any of the Planned Parenthood affiliates out of compliance with program rules and act accordingly to request funds back?

  As stated above, SBA has not found that any PPP loan to a Planned Parenthood applicant was wrongfully approved, nor that any forgiveness payments for such PPP loans to Planned Parenthood applicants were wrongfully disbursed. If SBA determines that a PPP loan to a Planned Parenthood applicant is not eligible for forgiveness, SBA would deny forgiveness for that applicant.

Questions for the Record from Rep. Byron Donalds (FL-19):

- How does the SBA view the current Small Business Lending Company (SBLC) program moratorium, and should it be lifted?

  The moratorium was enacted due to concerns regarding the oversight responsibility SBA bears for non-regulated institutions such as SBLCs. SBA is considering removing the moratorium as per our regulatory authority to do so.

- How can Congress support SBA in lifting the moratorium to allow FinTechs and CDFI's to participate in the 7(a) program?

  SBA will monitor any changes that permit non-regulated entities to participate and the impact to small businesses and the loan programs. SBA will continue to need discretionary authority through rulemaking and Federal Register Notice to manage risk by reviewing and determining the number of lenders that the Office of Credit Risk Management can effectively oversee.

- In August of 2021, you authored a communication to PPP lenders urging them to opt into the newly created SBA direct PPP forgiveness platform. That communication contained a threat that if PPP lenders chose to retain their customer relationships and continue to directly serve the borrowers throughout the forgiveness process then they may be under a greater risk of audit. You wrote, "To avoid these lender audits, we would encourage you to opt into direct forgiveness." Since that time, has the SBA indeed targeted audits towards lenders who preferred to use their own forgiveness systems?

  SBA has not used participation in the direct PPP forgiveness platform as a criterion for PPP audit selection.

- Additionally, in the same communication you suggested that certain lenders were deliberately delaying forgiveness in order to manage recognition of fee income. In my conversations with small lenders, especially community banks, they took great offense at this accusation and noted that that practice would be unacceptable and would cut against the grain of community bank service and relationship-oriented lending. In the several months since that communication have you found any examples of community banks engaging in this practice?

  At the time there were many PPP lenders who had begun the submitting forgiveness decisions to SBA for their PPP borrowers, and many that had not. SBA designed a solution for all lenders, especially those who did not have a system in place to process and submit forgiveness to SBA.

- At this time, the SBA Direct Lending proposal contained in the Build Back Better Act appears to be stalled. Does the implementation of an SBA direct lending program remain a top priority for this Administration and the SBA?

  Small business access to capital remains a priority of this Administration. SBA is evaluating existing programs to ensure they are accessible to borrowers, particularly underserved borrowers and communities.