

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6315

To: Members, Committee on Small Business
From: Small Business Committee Staff
Subject: Full Committee Hearing: "Disaster Assistance: Is SBA Meeting the Recovery Needs of Disaster Victims?"
Date: November 28, 2011

On Wednesday, November 30, 2011, at 1:00 pm, in Room 2360 of the Rayburn House Office Building, the Committee on Small Business will meet for the purpose of examining the Small Business Administration's (SBA) programs that provide long-term disaster recovery assistance. The hearing will focus on the SBA's implementation of the Small Business Disaster Response and Loan Improvements Act of 2008. The hearing will also examine the changes made in the disaster loan program since Hurricane Katrina in August of 2005. SBA Disaster Assistance staff and a representative of the Government Accountability Office will provide testimony.

Introduction

In the aftermath of a disaster, the federal government has several financial assistance programs to help homeowners, renters and businesses of all sizes recover and rebuild. Immediate disaster assistance is led by state government along with assistance from the Federal Emergency Management Agency (FEMA). Longer term recovery is spearheaded by the Small Business Administration (SBA) which offers subsidized loans with terms up to 30 years to borrowers who have incurred uninsured physical losses as a result of a disaster. These loans help disaster victims pay for the cost of replacing, rebuilding or repairing property damaged by disasters.

In August 2005, Hurricane Katrina made landfall, devastating much of the New Orleans and the surrounding area.¹ In response to the storm, SBA deployed personnel to begin the loan application process. Due to the scope of the storm, and the number of victims, the number of applications exceeded SBA's capacity to handle them, resulting in an average processing time of 66 days for disaster business loans and 74 days for disaster home loans.² In response, Congress

¹ THE FEDERAL RESPONSE TO HURRICANE KATRINA: LESSONS LEARNED (Feb 23, 2006) available at: <http://georgewbush-whitehouse.archives.gov/reports/katrina-lessons-learned/>.

² *Hearing before the Senate Committee on Small Business and Entrepreneurship*, 111th Congress (2009) (Testimony of Manual Gonzalez, District Director, Houston District Office).

passed a host of reform measures as part of the Food, Conservation, and Energy Act of 2008³ which included the Small Business Disaster Response and Loan Improvements Act of 2008.⁴ This Act contains 26 provisions requiring action by SBA.⁵ These provisions were designed to improve disaster planning, public outreach and capacity so that SBA is better able to respond to future disasters.⁶

SBA Disaster Lending

Disaster Declaration

For SBA disaster assistance aid to be implemented, a disaster declaration must be issued. A disaster declaration is an official notice recognizing that a specific geographical area has been damaged.⁷ The importance of a declaration is that it sets forth the type of assistance available, the interest rate and the eligible recipients. Only victims located in the designated geographical area are eligible for assistance.⁸ Unless otherwise noted, this memorandum will be addressing assistance available after a Presidential Disaster Declaration made pursuant to the Stafford Act authorizing federal assistance including individual assistance.

After a major disaster, the governor of the affected state is responsible for requesting that the President of the United States issue a disaster declaration.⁹ By requesting a presidential disaster declaration, the governor is affirming that the response is beyond the capability of the state to adequately respond and that federal assistance is required.¹⁰ A major disaster, according to the Stafford Act, is:

any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available

³ The Food, Conservation, and Energy Act of 2008 is commonly referred to as the 2008 Farm Bill.

⁴ Pub. L. No. 110-246, 122 Stat. 1651.

⁵ GOVERNMENT ACCOUNTABILITY OFFICE, SMALL BUSINESS ADMINISTRATION, CONTINUED ATTENTION NEEDED TO ADDRESS REFORMS TO THE DISASTER LOAN PROGRAM 3 (May 19, 2010).

⁶ Attachment A provides a list of the 26 requirements found in Small Business Disaster Response and Loan Improvements Act of 2008.

⁷ 13 C.F.R. § 123.2.

⁸ *Id.* at § 123.4.

⁹ 42 U.S.C. § 5170.

¹⁰ *Id.*

resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.¹¹

A presidential disaster declaration will specifically set out whether the geographic area is eligible for SBA disaster assistance which includes Physical Disaster Home Loans, Physical Disaster Business Loans and Economic Injury Disaster Loans (EIDL).

SBA Disaster Assistance

SBA's main role is to provide assistance to small business owners through government-backed loans, business counseling and, support of small businesses seeking federal contracts. However, in the aftermath of a disaster, SBA is the agency responsible for providing long-term assistance to homeowners, renters and businesses.¹² While most business assistance programs provided by SBA are made through a network of lending partners, disaster loans are made directly by SBA. This means that application review, processing, closing and servicing are all performed by SBA.¹³

To be eligible for an SBA loan, the victim suffering damage must first submit an application to FEMA to determine whether they are eligible for grant assistance. If the victim is not eligible for assistance from FEMA, their application is automatically referred to the SBA. SBA disaster loans cover losses that are not already covered by insurance.

Physical Disaster Home Loans

Homeowners who suffer damage in a geographic area designated by the disaster declaration are eligible for loans of up to \$200,000 to restore or replace their primary residence to the condition before the disaster occurred.¹⁴ Loan proceeds may not be used to make improvements to property. Borrowers must demonstrate to SBA that they are creditworthy, have sufficient character and have the ability to repay the loan.¹⁵ Borrowers are also required to pledge collateral for loans over \$14,000.¹⁶ The interest rate on the loan is determined based on whether the borrower has credit available elsewhere. If a borrower has no credit available elsewhere, the interest rate is capped at a maximum of four percent and if the borrower does have credit available elsewhere, the interest rate is capped at eight percent.

¹¹ *Id.* at § 5122(2).

¹² State and local emergency services are first responders and federal resources can be provided through FEMA for search and rescue, electrical power, food, water, shelter and other basic needs.

¹³ 13 C.F.R. § 123.16.

¹⁴ *Id.* at § 123.7.

¹⁵ *Id.* at § 123.6.

¹⁶ *Id.* at § 123.11.

Physical Disaster Business Loans

Business owners suffering damage in a declared disaster area may also apply for assistance from the SBA of up to \$2 million.¹⁷ Business assistance is not limited to small businesses; businesses of all sizes are eligible for SBA disaster loans.¹⁸ The interest rate on the loan is again determined based on whether the borrower has credit available elsewhere. If a borrower has no credit available elsewhere, the interest rate is capped at a maximum of four percent and if the borrower does have credit available elsewhere, the interest rate is capped at eight percent.

Economic Injury Disaster Loan (EIDL)

Businesses located in a declared disaster area which suffer an economic loss as a result of the disaster are eligible for SBA assistance. Unlike Physical Disaster Business Loans, EIDL are only available to small businesses.¹⁹

GAO Report

In July 2009, the Government Accountability Office issued a report detailing SBA's progress towards meeting the 26 requirements of the Small Business Disaster Response and Loan Improvements Act of 2008.²⁰ In May 2010, GAO appeared before the House Small Business Committee and testified that SBA met 15 of the 26 requirements, and five provisions did not require any action at that time.²¹ GAO reported that SBA needed to take additional steps to fully address six provisions.²² The provisions requiring additional action include: providing better public awareness; coordinating efforts with the IRS to expedite loan processing; establishing a private disaster loan program; establishing an Immediate Disaster Assistance Program to provide immediate small dollar loans through private lenders; establishing an expedited Disaster Assistance Business Loan Program; and submitting reports to Congress on disaster assistance.

Beyond looking merely at the requirements of the law, GAO conducted interviews and surveys of disaster victims to determine the level of satisfaction with SBA's reengineered disaster program. As a result of this outreach, GAO made several additional recommendations to SBA, including the elimination of certain paperwork requirements, expedited partial disbursements of loan funds, implementation of a formal process for addressing problems in the application process and greater coordination among resource partners and state and local officials in disaster

¹⁷ *Id.* at § 123.202.

¹⁸ *Id.* at § 123.200.

¹⁹ *Id.* at § 123.300(b).

²⁰ *Id.*

²¹ GOVERNMENT ACCOUNTABILITY OFFICE, SMALL BUSINESS ADMINISTRATION CONTINUED ATTENTION NEEDED TO ADDRESS REFORMS TO THE DISASTER LOAN PROGRAM 4 (May 19, 2010).

²² *Id.* at 6.

planning activities.²³ Further, GAO testified that they do not believe that SBA is prepared to handle a future disaster on the scale of Hurricane Katrina.²⁴

Disaster Loan Application Process

In the aftermath of a disaster, victims are encouraged by SBA to submit an application for assistance to FEMA.²⁵ Applications can either be submitted on paper or electronically. If the applicant is not eligible for FEMA assistance, the application is automatically transferred to SBA for review. After the SBA reviews the application for completeness, an appointment is scheduled for a loss verifier to visit the property and make an estimate of the cost to repair the property to its pre-disaster condition.²⁶ After the inspection is complete, an SBA loan officer will determine whether the applicant is eligible for assistance and finalize the terms and conditions.²⁷ After approval, SBA can disburse the first \$14,000.²⁸ Additional loan amounts can be disbursed after the paperwork securing the collateral is completed. Disbursements are not made in a lump sum, rather borrowers draw down the loan balance as repairs are completed.²⁹

Since Hurricane Katrina, SBA has made 96,265 loans for over \$4.5 billion with an average loan processing time of seven days for home loans, eleven days for business loans and 12 days for economic injury loans.³⁰

Conclusion

Given the importance of SBA disaster assistance loans in helping homeowners, renters and businesses recovery from a disaster it is important that the Committee review how recent programmatic changes have affected the delivery of services. The Committee will receive an update from GAO on SBA's implementation of the disaster reforms and how those programmatic changes have impacted the delivery of recovery loans. The Committee will also learn about SBA's response plans and their capacity to respond to a disaster the size and scope of

²³ *Id.* at 9.

²⁴ *Recent GAO Reports on Small Business Administration Programs Hearing Before the House Committee on Small Business*, 111th Congress (2009) (Testimony of William Shear, Director, Financial Markets and Community Investment, Government Accountability Office) available <http://www.gpo.gov/fdsys/pkg/CHRG-111hhrg51035/pdf/CHRG-111hhrg51035.pdf>.

²⁵ Applications can also be submitted directly to SBA.

²⁶ SMALL BUSINESS ADMINISTRATION, DISASTER RECOVERY PLAN 10 (2011) available <http://www.sba.gov/sites/default/files/Disaster%20Recovery%20Plan.pdf>.

²⁷ *Id.*

²⁸ 13 C.F.R. § 123.11.

²⁹ SMALL BUSINESS ADMINISTRATION, DISASTER RECOVERY PLAN 10 (2011) available <http://www.sba.gov/sites/default/files/Disaster%20Recovery%20Plan.pdf>.

³⁰ E-mail from Meina Banh, Office of Congressional and Legislative Affairs, Small Business Administration, to Andy Guggenheim, Counsel, House Committee on Small Business (Nov. 22, 2011, 10:04 EST) (on file with the Small Business Committee).

Hurricane Katrina. Members will have the opportunity to question SBA about their response to recent disasters.

ATTACHMENT A

Below is a list of the Small Business Disaster Response and Loan Improvements Act of 2008 requirements:

Section	Requirement
12061	SBA is permitted to make economic injury disaster loans to nonprofits.
12062	SBA must insure its disaster assistance programs are coordinated to the maximum extent practicable with FEMA programs.
12063	SBA must provide better public awareness of disaster declaration, application periods, and creation of a marketing and outreach plan.
12064	SBA must conduct a study looking at the consistency between standard operating procedures and regulations of the Disaster Loan Program.
12065	SBA increased loan amounts from \$10,000 to \$14,000 without requiring collateral.
12066	SBA is authorized private contractors to process disaster loans and coordinate efforts with IRS to expedite loan processing.
12067	SBA must develop, implement, or maintain a centralized information system to track and follow up with disaster loan applicants.
12068	SBA is authorized to increase the deferment period of loans, but the deferment may not exceed 4 years.
12069	SBA must put in place a secondary facility for processing disaster loans in case the primary facility is unavailable.
12070	SBA cannot require the borrower to pay any non-amortized amount for the first 5 years after repayment begins.
12071	SBA is authorized to make economic injury disaster loans in cases of ice storms and blizzards.
12072	SBA must develop and implement a major disaster response plan and conduct a disaster simulation exercise at least once every 2 years.
12073	SBA must assign an individual the disaster planning responsibilities and report to Congress.
12074	SBA should ensure that the number of full-time equivalent ODA employees is not fewer than 800 and in the disaster cadre not fewer than 1,000.
12075	SBA must develop, implement, or maintain a comprehensive written disaster response plan and update the plan annually.
12076	SBA must develop long-term plans to secure sufficient office space to accommodate an increased workforce in times of disaster.

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- 12077** SBA may not rely solely on the loan applicant's status as a major source of employment prior to the disaster to qualify for disaster loans beyond the current statutory limit.
- 12078** Maximum disaster loan amount increased from \$1.5 million to \$2 million.
- 12079** SBA may guarantee any surety against loss on a bid, payment, performance, or ancillary bond on any work order or contract that at the time of the bond execution does not exceed \$5 million.
- 12081** If the President declares a major disaster, SBA may declare eligibility for additional disaster assistance.
- 12082** SBA is permitted to make economic injury disaster loans to eligible small business concern located anywhere in the US (including outside the disaster area) when the SBA declares eligibility for additional disaster assistance.
- 12083** SBA must establish and implement a Private Disaster Assistance Program. SBA may guarantee timely payment of principal and interest on private disaster loans issued to eligible small businesses and homeowners within an eligible disaster area.
- 12084** SBA must establish an Immediate Disaster Assistance Program to provide immediate small dollar loans through private lenders.
- 12085** SBA must establish an Expedited Disaster Assistance Business Loan Program.
- 12086** SBA is allowed to institute a program to refinance Gulf Coast disaster loans resulting from Hurricanes Katrina, Rita, or Wilma up to an amount no greater than the original loan.
- 12091** SBA must submit reports to Congress on disaster assistance.³¹
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³¹ GOVERNMENT ACCOUNTABILITY OFFICE, SMALL BUSINESS ADMINISTRATION ADDITIONAL STEPS SHOULD BE TAKEN TO ADDRESS REFORMS TO THE DISASTER LOAN PROGRAM AND IMPROVE THE APPLICATION PROCESS FOR FUTURE DISASTERS 39 (July 2009).