

**Congress of the United States**  
**U.S. House of Representatives**  
**Committee on Small Business**  
2361 Rayburn House Office Building  
Washington, DC 20515-6515

To: Members, Subcommittee on Agriculture, Energy and Trade  
From: Committee Staff  
Re: Hearing: "Duplication, Overlap and Fragmentation in Federal Financial Assistance Programs"  
Date: February 3, 2014

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On February 6, 2014, the Subcommittee on Agriculture, Energy and Trade of the Committee on Small Business will meet in Room 2360 of the Rayburn House Office building to examine overlap and duplication between guaranteed loan programs operated by the United States Small Business Administration (SBA) and the United States Department of Agriculture (USDA). Both programs provide loans to businesses in rural areas which confirms the United States Government Accountability Office's (GAO) finding that these programs may overlap and duplicate each agency's effort to assist entrepreneurs.

**I. GAO Identification of Duplicative Financial Programs**

In 2010, Congress ordered GAO to compile a government-wide report on federal programs with duplicative roles and activities and report those findings to Congress on an annual basis.<sup>1</sup> According to GAO, overlap exists in the federal economic development programs because the identified programs offer a similar type of assistance to beneficiaries with similar characteristics.<sup>2</sup> Several types of overlap may exist: programs have similar goals; engage in similar activities or strategies to achieve their goals; or target similar beneficiaries.<sup>3</sup> Duplication occurs when two or more agencies or programs are engaged in the same activities or provide the same services to the same beneficiaries.<sup>4</sup>

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<sup>1</sup> Statutory Pay-As-You-Go Act, Pub. L. No. 111-139, Tit. II, § 21, 124 Stat. 8, 29 (2010), (codified at 31 U.S.C. § 712 Note).

<sup>2</sup> GOVERNMENT ACCOUNTABILITY OFFICE, ENTREPRENEURIAL ASSISTANCE: OPPORTUNITIES EXIST TO IMPROVE PROGRAMS' COLLABORATION, DATA-TRACKING, AND PERFORMANCE MANAGEMENT 3 (2012) (GAO-12-819) [hereinafter August 2012 GAO Report], available at <http://www.gao.gov/assets/650/647267.pdf>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

In August 2012, GAO completed a final report on economic development programs that separated 52 identified entrepreneurial programs into three categories: technical assistance, financial assistance, and government contracting assistance.<sup>5</sup> For purposes of this hearing, the Subcommittee will focus solely on the financial assistance programs, which GAO defined as programs that support entrepreneurs through grants and loans.<sup>6</sup> An examination of the various GAO reports reveals that SBA and USDA each offer programs that guarantee loans for small businesses. The SBA oversees two programs – the 7(a) guaranteed loan program<sup>7</sup> and the “504 Loan Program.”<sup>8</sup> USDA operates a Business and Industry (B&I) guaranteed loan program.<sup>9</sup>

## II. Financial Assistance Programs

Both the SBA and USDA offer financial assistance, not directly, but by guaranteeing a designated percentage of a loan issued by a private lender. The 7(a) Loan Program provides variable rate financing for loans up to \$5 million in which the percentage guaranteed by the SBA varies depending on size of loan (lower percentages of guarantee for larger loans).<sup>10</sup> The SBA’s 504 Loan Program offers long-term fixed-rate financing of up to \$5.5 million for the purchase of capital assets (such as plants and equipment) provided by non-profit certified development companies, or CDCs.<sup>11</sup> In the USDA’s B&I Program, loans up to \$25 million are made by a private lender with USDA guaranteeing a percentage of the loan that varies with the size of the loan.<sup>12</sup>

## III. Duplication and Overlap in Financial Assistance Programs

As will be examined below, when applying GAO’s definitions of overlap and duplication to the government guaranteed lending programs at SBA and USDA, it appears that the programs offer similar assistance to a similar set of beneficiaries. The programs at SBA and USDA can

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<sup>5</sup> *Id.* at 6.

<sup>6</sup> *Id.*

<sup>7</sup> The program is named after § 7(a) of the Small Business Act which created the program.

<sup>8</sup> The “504 Loan Program” is a misnomer but is commonly used. The program was created by Title V of the Small Business Investment Act of 1958.

<sup>9</sup> 7 U.S.C. § 1932(g).

<sup>10</sup> <http://www.sba.gov/content/7a-loan-amounts-fees-interest-rates>.

<sup>11</sup> CDCs generally provide only 40 percent of the cost of the project. Borrowers must contribute 10 percent of the cost and obtain 50 percent of the cost from private lenders, usually commercial banks. As a result, the value of the projects can run to as much as \$13.75 million. Finally, CDCs only may provide financing if the project meets certain economic development objectives.

<sup>12</sup> 7 U.S.C. § 1932(g). For loans up to \$5 million, USDA guarantees 80 percent, 70 percent for loans from \$5 million to \$10 million, and 60 percent for loans up to \$25 million. 7 C.F.R. § 4279.119(b). USDA established the guarantee percentages by administrative fiat, while the SBA guarantee percentages are established in statute. *Compare* Business and Industry Guarantee Loan Program, Proposed Rule, 61 Fed. Reg. 3853, 3855 (Feb. 2, 1996) (setting forth guarantee percentages for USDA loan program) *with* 15 U.S.C. § 636(a)(2) (statutory mandate for guarantee percentages in 7(a) Loan Program).

each offer government guaranteed loans, to for-profit businesses, through partnerships with private sector lenders.<sup>13</sup>

Funding in both programs may be used for the following purposes: purchase of businesses; construction; expansion; repair and modernization; equipment acquisition; inventory; working capital; or miscellaneous business-related costs.<sup>14</sup>

In terms of loan size, while the exact percentage of the government guarantee may vary, both agencies can offer (at least) a 75 percent government guarantee on loans of up to \$5 million and up to \$13.75 million for the purchase of capital assets.<sup>15</sup> Thus, the loan sizes are overlapping rather than being complementary, and each agency is serving a similar need in the financial assistance marketplace.

Further, beneficiaries of the program may overlap, as all three programs are able to serve small businesses and nascent entrepreneurs.<sup>16</sup> SBA only is permitted to serve small businesses;<sup>17</sup> there is no prohibition from USDA offering financial assistance to small businesses. As a result, both agencies offer guaranteed loans to the same population.

Similarly, while USDA guaranteed loans must benefit rural areas,<sup>18</sup> there is no prohibition against SBA serving businesses in rural areas. In fact, in fiscal year 2013, SBA made nearly nine thousand loans for close to four billion dollars in rural areas.<sup>19</sup> During the same period, the B&I Program funded 357 loans for \$939 million.<sup>20</sup> Given the lack of prohibitions against serving the same population, or agency coordination to ensure the financial assistance programs are targeted to specific beneficiaries, all three programs currently overlap in terms of the populations served which can lead to duplication and overlap.

To summarize, USDA and SBA guarantee loans made by private lenders to small businesses in rural areas. Given the criteria set out by GAO for determining whether there is overlap and duplication between these loan programs, it is beyond cavil that the preponderance of the evidence reveals far more than a scintilla of overlap and duplication in the two programs.

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<sup>13</sup> Compare 7 C.F.R. §§ 4279.29, 4279.108 (specifying eligible lenders and borrowers for USDA loans) with 13 C.F.R. § 120.2 (describing SBA loan program borrowers and lenders). The Small Business Act and the Small Business Investment Act of 1958 only permit assistance to small business concerns. 15 U.S.C. §§ 632(a)(1), 662(5).

<sup>14</sup> Compare 7 C.F.R. § 4279.113 (describing eligible loan purposes for USDA loans) with 13 C.F.R. § 120.120 (describing eligible use of loan proceeds for SBA loans).

<sup>15</sup> Compare 7 U.S.C. § 1932(g)(6)(B) (establishing the maximum amount of principal for USDA loans to private businesses) with 15 U.S.C. § 696(2), (3) (establishing the maximum size of a loan in the SBA 504 Loan Program).

<sup>16</sup> August 2012 GAO Report, *supra* note 2, at 7.

<sup>17</sup> 13 C.F.R. § 120.100.

<sup>18</sup> 7 U.S.C. § 1932(g)(6). There are some very limited circumstances in which USDA can lend to cooperatives (non-profits) in urban areas. *Id.* Since this aspect has no overlap with SBA programs, it will not be addressed in this hearing.

<sup>19</sup> The SBA lending includes 7,114 loans totaling \$2.8 billion in the 7(a) Loan Program and 1,865 loans in the 504 Loan Program totaling \$1.1 billion.

<http://www.sba.gov/sites/default/files/SBA%207a%20and%20504%20Gross%20Loan%20Approval%20Volume%20as%2009-30-13.pdf>.

<sup>20</sup> Email from USDA to Committee Staff, January 28, 2014 (on file with the Committee). The activity cited is total program activity for fiscal year 2013 and does not distinguish the size of the borrower. Thus, it is not possible using these statistics to evaluate the amount of lending in rural areas to small businesses by USDA.

#### IV. GAO Recommendations and Agency Compliance

Given the evidence of overlap and duplication within the programs' structures offering assistance to similar beneficiaries, it is not surprising that GAO made recommendations to both agencies meant to reduce overlap and potential duplication. These recommendations focused on improving agency collaboration, collecting data about the programs and developing ways to measure program performance.<sup>21</sup>

Agencies (led by the Office of Management and Budget) should identify opportunities to enhance collaboration. SBA and USDA should collect information that would enable them to track the specific type of assistance that programs provide and use this information to help administer programs. Finally, SBA and USDA should conduct program evaluations to better understand why programs have not met performance goals and improve their overall effectiveness.<sup>22</sup>

Agency compliance with GAO's recommendations has been mixed. According to GAO, one recommendation has been addressed and two remain partially addressed.<sup>23</sup> SBA's response to GAO's August 2012 report stated that SBA and USDA are examining ways to make their loan programs more complementary.<sup>24</sup>

On August 22, 2013, a Memorandum of Understanding (MOU) on program coordination was signed between the SBA and USDA covering all agency program and services.<sup>25</sup> With respect to improving access to capital, the agreement strives to increase the number of rural small business loans guaranteed or made by the SBA and USDA, and strengthen relationships among their approved lenders.<sup>26</sup> The MOU states that the SBA and USDA, when possible, will coordinate efforts with their lenders and other resource partners.<sup>27</sup> Specifically, each agency field office will: advise potential applicants of the other agencies credit programs; provide promotional materials; and coordinate outreach to financial institutions to increase awareness of the relevant agency programs.<sup>28</sup>

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<sup>21</sup> August 2012 GAO Report, *supra* note 2, at 29.

<sup>22</sup> *Id.*

<sup>23</sup> According to GAO's online Action Tracker, [http://www.gao.gov/duplication/action\\_tracker/Support\\_for\\_Entrepreneurs/action1#t=2](http://www.gao.gov/duplication/action_tracker/Support_for_Entrepreneurs/action1#t=2), the first recommendation related to establishing an interagency working group has been addressed while the recommendations related to conducting program evaluations and new performance measures has been partially addressed.

<sup>24</sup> Letter from Nicholas J. Coutsos, Assistant Administrator, Office of Congressional and Legislative Affairs, SBA, to the Hon. Darrell Issa, Chairman, Committee on Oversight and Government Reform, United States House of Representatives (Feb. 15, 2013) (on file with the Committee).

<sup>25</sup> MEMORANDUM OF UNDERSTANDING BETWEEN THE SBA AND THE USDA (Aug. 22, 2013) (on file with the Committee).

<sup>26</sup> *Id.* at 1.

<sup>27</sup> *Id.* at 2.

<sup>28</sup> *Id.*

## **V. Conclusion**

Congress delegated both SBA and USDA the power to make guaranteed loans in rural areas. As Congress seeks to streamline and eliminate duplicative programs, the question now becomes, based on program data, is there sufficient evidence to support the continuation of three programs which appear to offer an identical lending product to the same beneficiaries, or given the overlap, should these programs be modified. While SBA and USDA are taking steps, including an MOU, to address overlap and duplication in their guaranteed lending programs, progress has been slow. Continued failure to conduct program evaluations and collect performance data has left both the agencies and Congress with insufficient data to determine whether the lending programs are distinctive and achieving their intended goals. As a result of insufficient data collection, Congress is limited in its ability to take legislative action to properly define the eligibility criteria to clearly distinguish the programs and appropriately limit their scope.