Views and Estimates of the Committee on Small Business on Matters to be set forth in the Concurrent Resolution on the Budget for Fiscal Year 2013

Pursuant to clause 4(f) of Rule X of the Rules of the House and § 301(d) of the Congressional Budget Act of 1974, 2 U.S.C. § 632(d), the Committee on Small Business is transmitting herein: (1) its views and estimates on all matters within its jurisdiction or functions to be set forth in the concurrent resolution on the budget for Fiscal Year 2013; and (2) recommendations for improved governmental performance.

The budget request for the Small Business Administration (SBA) in FY 2013 is $1.115 billion – an increase of nearly $200 million from the FY 2012 enacted budget. The two main reasons for the increase are: (1) the need to account for the costs, as required by the Federal Credit Reform Act, of the primary SBA lending programs; and (2) the need to fund the SBA Disaster Loan Program. Rather than making necessary cuts, the President's budget actually requests additional funds for more duplicative programs. That is simply unacceptable given the current state of the federal deficit.

Capital Access Programs

Small businesses continue to have difficulty in obtaining needed credit to operate. In some cases, businesses with solid operating histories have seen their credit lines reduced or eliminated. Unlike large enterprises that can seek out funds from commercial debt and equity markets, small businesses must rely on their own personal assets, retained earnings, and commercial bank funds for needed capital. With the continued limitations in the normal commercial credit markets, the SBA capital access programs provide businesses with necessary capital and credit to create jobs that the economy needs.

7(a) Guaranteed Loan Program

The 7(a) Loan Program is the primary program for providing financial assistance to entrepreneurs. The program utilizes private lenders who make loans and receive guarantees from the SBA that a portion (varying from 50 to 85 percent of the loan) will be repaid by the United States Treasury even if the borrower defaults. Until FY 2005, Congress appropriated funds to supplement the fees charged by the SBA in order to cover the cost of the program as required by the Federal Credit Reform Act.[1] From FY 2005 until FY 2010, fees covered the cost of the program without the need for an appropriation. However, the recent economic downturn in conjunction with existing statutory limits on the fees that the SBA can charge to lenders and borrowers makes it impossible to cover the costs of the program without an additional appropriation. The SBA requests $235 million which includes an additional $96 million of new budget authority to cover the costs of the program as required by the Federal Credit Reform Act.

[1] Under the Federal Credit Reform Act, the SBA must determine the costs needed to cover potential losses from the cohort of loans made in the fiscal year in which the loans were made. Determining the net present value involves estimating expected loan defaults in the future less any recoveries of collateral on the defaulted loans. According to the agency's estimates, defaults are only expected to rise very modestly; the real issue is the expected recoveries will be lower due to reductions in the value of collateral.

The request would cover the costs associated with issuing guarantees on $16 billion in lending. Of this, $13.65 billion is conventional 7(a) loans.[2] Approximately, $197.3 million of the $235 million would be devoted to conventional 7(a) lending.[3]

Given the reduced access to normal commercial credit for small businesses, the Committee supports the need for funding the 7(a) Loan Program. Fees from borrowers and lenders could be increased or the size of the program could be reduced to offset the appropriations. Both alternatives are counterproductive because they would reduce available capital to small businesses at a time when such businesses need capital to expand and create jobs. As a result, the Committee believes that savings must be found in other areas of the SBA budget.

However, the Committee strongly disagrees with the establishment or continuation of pilot programs established under the 7(a) Loan Program. There are two "pilot" programs underway within the 7(a) Loan Program – Community Advantage and Small Loan Advantage. The pilot programs were established without direction from Congress or input from lenders or borrowers. As such, the programs often have internal problems that affect the overall subsidy rate of the 7(a) Loan Program. The Committee recommends that no funds be allocated from the 7(a) Loan Program or any other account be used to establish any new pilot programs or continue the operation of the Community Advantage and Small Loan Advantage programs. Furthermore, the Committee would be willing to work with the Committee on the Budget to obtain separate subsidy rates for these pilot programs from the SBA in order to determine their impact on the overall fiscal health of the 7(a) Loan Program.

The Certified Development Company Loan Program

The Certified Development Company (CDC or colloquially the "504 loan") program utilizes both private and government-guaranteed financing to provide long-term financing on larger capital projects that provide economic development to local communities. Loans made by CDCs must meet certain public policy goals (such as assisting manufacturers or promoting economic development) and demonstrate that the loans will create jobs.

Fees are charged to borrowers and lenders to cover the cost of the program in order to drive the subsidy rate to zero, i.e., so that there would be no appropriation needed to cover the cost of the program under the Federal Credit Reform Act. Despite the statutory mandate to maintain a zero subsidy, Congress also limited the size of fees that the SBA could impose on CDCs and borrowers. As with the 7(a) Loan Program, economic

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[2] SBA's budget request parses the 7(a) Loan Guarantee program into three subsidiary parts: (1) conventional 7(a) loans; (2) 7(a) loans used for revolving lines of credit; and (3) floor plan financing for automobile, boat, recreational vehicle, and manufactured home dealers. Each has a different subsidy calculation. For purposes of these views and estimates, the critical lending component is the conventional 7(a) loans, i.e., loans other than revolving credit or floor plan financing.

[3] For each billion dollars in reduced loan authority, the savings on the total appropriation would be approximately $15.5 million dollars.

conditions (particularly lower than expected recoveries on the value of collateral)[4] have made it impossible for the SBA to continue operating the CDC Program without an appropriation. The SBA requested a $113 million dollar subsidy to cover $6 billion in lending. Given the value that CDC lending has to small businesses seeking to create jobs, the Committee believes it would be inappropriate to reduce the $6 billion in an effort to save money. There are other areas that could be reduced in the overall SBA budget without undermining the opportunities provided by this program.

Commercial Refinancing under the CDC Program

As an economic development program that was aimed at creating jobs, small businesses could not use loans from CDCs to refinance existing debt.[5] The Small Business Jobs Act of 2010, Pub. L. No. 111-240, created a temporary, two-year program (the authorization ceases on Sept. 27, 2012) that permits refinancing of existing debt using the CDC Loan Program. The program, as implemented by the SBA, does not require borrowers to create jobs as with conventional CDC loans.

In regulations published on February 17, 2011, the SBA claimed that the subsidy rate would be zero based on a new ongoing fee of .2934 percent of the total outstanding amount guaranteed. In the views submitted last year, the Committee stated that it was troubled by the risk that the refinancing poses to taxpayers.

The Committee's concerns turned out to be justified. The subsidy rate for the program skyrocketed from zero to 6.67 percent according to the Office of Management and Budget's reestimate of the subsidy rate.[6] Thus, a program that was to have cost nothing in its original form now will cost about $6.7 million dollars for each $100 million backed under the program.[7] Such additional risks might have been worth it to the taxpayer if jobs were created through such refinancing but, as already noted, no such requirement exists.

No additional funds should be provided to the Treasury to account for the cost of the Commercial Refinance Program. Instead, the SBA should be required to charge fees to cover the cost of the program. By not providing for any funds from the Treasury to account for losses in the program, the SBA will be forced to charge necessary fees to cover the cost of the program.[8]

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[4] Most of the collateral for CDC loans is in commercial real estate. Although that market has not experienced the precipitous drop that occurred in residential markets, commercial real estate values have declined and not yet rebounded. As a result, the SBA was required to recalculate the expected value of collateral recovered on defaulted loans and, given the decline in the market, estimated recoveries would decline. Reduced recoveries directly lead to an increase in the subsidy rate.

[5] The basic argument is that refinancing does not create jobs but simply lowers the costs to a borrower.

[6] OFFICE OF MANAGEMENT AND BUDGET, FEDERAL CREDIT SUPPLEMENT – BUDGET OF THE U.S. GOVERNMENT FISCAL YEAR 2013 Table 8 at 79 (2012).

[7] The SBA has issued approximately $57.375 million in loans under the Commercial Refinance Program with a current estimated cost to the taxpayer of about $3.7 million. *Id*.

[8] The position on fees with respect to the Commercial Refinance Program is not inconsistent with the Committee's resistance to increasing fees noted previously in these views and estimates. First, the Commercial Refinance Program was created explicitly under the assumption that fees would be sufficient

Microloans

The Microloan Program is a microfinancing program in which very small loans are made to very high risk customers, usually those that would not consider utilizing banks. The SBA makes loans, at below market rates, to intermediaries who then lend to small businesses. The default rate on loans made to intermediaries is nearly zero but the cost of the program primarily stems from cost between market interest rates and the interest rates charged to intermediaries. The SBA requests an appropriation of $2.8 million to cover lending to intermediaries of $18 million. Given the modest cost of the subsidy and the effectiveness of the program in supporting the underserved, including skilled craftsman who have been laid off from work, this modest investment should continue.

Small Business Investment Company Program

The Small Business Investment Company (SBIC) program provides that holders of securities issued by the SBICs will be repaid by the federal government. The program was instituted in an effort to ensure that small businesses could obtain equity as well as debt financing.[9] Although an oversimplification, the SBIC program operates by the federal government guaranteeing an instrument sold by the SBIC into the commercial market. The SBIC is obligated to repay the federal government generally from proceeds from the investments it makes.

The debenture SBIC program is designed to provide equity injections to small businesses that have been operational and have a track record of cash-flow and profits. Debenture SBICs have invested in enterprises such as Callaway Golf, Outback Steakhouse, Dell Computer, and Nike. The program is financially sound because the structure of repayments ensures that the government will not suffer significant losses.[10] Thus, no changes are needed to the program and it operates on a zero subsidy basis without an appropriation. The SBA budget is fully supportive of this program and we concur in that recommendation, including raising the program level from $3 billion to $4 billion.

Presumably, some of the additional program level (which will cost the federal government no money) will be used to support two new variations in the Debenture SBIC Program. One program already has commenced, the Impact Fund, and the other, the Early Stage Innovation Fund, has not yet started because it requires changes to SBA regulations. Neither initiative has received authority from Congress nor had its

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to cover the costs of the program. Second, the increase in fees will not be counterproductive to creating jobs since the rules that govern refinancing do not require any job creation unlike with conventional CDC financing. As a result, small businesses that pay increased fees under the Commercial Refinance Program will not have their job creation capacities reduced in the face of a fee increase.

[9] The Committee on Small Business held hearings in the 110th Congress in which small businesses noted difficulty in raising equity capital. This problem has been compounded by additional burdens associated with Sarbanes-Oxley compliance, turmoil in the commercial credit markets, and new regulations implementing Dodd-Frank.

[10] Without going into detail beyond the scope of this letter, the debenture SBIC program operates in terms more analogous to the SBA's 7(a) and CDC programs.

operational principles assessed by the Committee prior to implementation. The Committee reiterates its recommendation from last year's views and estimates – no funds should be allocated from the additional debenture program levels for these two programs.[11] The Committee on the Budget also should provide further protection to the existing debenture SBIC program by requiring any modifications to the program, whether a pilot program or not, be based on a new subsidy calculation that ensures the current debenture program will operate at zero subsidy without any increase in fees due to losses stemming from the Impact and Early Stage Innovation programs.

Surety Bond Program

Small federal contractors, particularly in the construction industry, are required to post bonds in order to protect the federal government against the failure to complete a project. Title IV of the Small Business Investment Act of 1958 authorizes the SBA to reimburse surety bond writers for up to 90 percent of the losses if a small business contractor defaults on a contract to which a surety issued a bond. The program operates on a revolving fund account and sufficient funds exist in the program so that no appropriation is needed. The Committee concurs that the program should not require any appropriated funds to cover the costs of defaults by contractors.

Although the FY 2013 Budget request does not include any funds for covering losses in the program, it requests approximately $400,000 in additional administrative resources primarily to increase awareness of the program. The SBA has significant outreach efforts in other areas to federal government procurement officials and federal contractors. No additional sums should be provided for the operation of the surety bond program beyond those needed to ensure that the risks to the taxpayer from guaranteeing the issuance of the bonds are minimized.

Disaster Loans

The SBA is the primary provider of assistance to the homeowners and small businesses after a natural disaster. According to the SBA, the disaster loan account continues to have sufficient funds to provide loans for homeowners and businesses in disasters other than significant outlier events such as a category 5 hurricane making landfall in a major metropolitan area or a Richter Scale 8 earthquake.[12]

To a certain extent, unused subsidy funds (be they for the disaster loan program or one of the other SBA loan programs) has been transferred to pay for the administration of the disaster loan program. The capacity to pay for these administrative costs has nearly been depleted; the SBA is requesting an allocation of $202 million to administer the disaster

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[11] The limitation on use of additional program funds obviously would not apply to any commitments already made and issued by the SBA to back an Impact Fund Debenture SBIC.

[12] There is no way to ascertain on a priori basis the extent of damage from such a large-scale disaster. Historically, Congress has responded to such outlying events through separate emergency appropriations. As a result, the SBA has never requested funds to address outlier natural disaster events and the Committee concurs with that practice.

loan program, of which $35 million is reprogrammed funds from unused subsidies in various lending program accounts.[13] This represents about a $4 million dollar increase in the amount that the SBA historically used to administer the disaster loan program. Given the fact that the SBA does not explain why it needs an increase for administering what it expects to be the same number of loans[14] for FY 2013, the Committee recommends that $4 million of the carryover be returned to the Treasury for deficit reduction.

Management of Capital Access Programs

There are two primary areas where the SBA has failed to properly manage the capital access programs: (1) computer technology necessary to process data; and (2) procedures for addressing defaulted loans. Both failures have led directly to increased subsidy costs for the capital access programs.

The information technology needed to manage the SBA guaranteed loan portfolio is outdated and at significant risk. The loan accounting system, first developed by the SBA in the 1970s, utilizes COBOL in a mainframe environment. In the budget request for FY 2012, the SBA promoted the fact that this scaled-back modernization effort would save significant sums. Despite the putative savings, the ongoing efforts to modernize that system (that commenced in late 2005) raised significant concerns with the Committee who asked the Government Accountability Office (GAO) to assess the modernization process. At a February 8, 2012 Committee hearing, GAO testified that the process was already behind schedule and suffering from cost overruns. Despite these significant problems with an antiquated loan accounting system, the FY 2013 budget request from the SBA makes nary a mention of the modernization effort or any savings in the budget for the program. This is unacceptable because a modern loan accounting system would enable the SBA to manage its loan portfolio in a manner that protects the taxpayer, mainly by improving returns on recoveries of defaulted loans. The Committee recommends that information technology projects, except as otherwise specified in this letter, not be funded until the SBA has completed the first four projects of its scaled-down loan management accounting system modernization.

As already noted, collections on defaulted loans, particularly in the CDC Loan Program, are abysmal. In the FY 2013 Budget Credit Supplement, expected recoveries for the CDC program are expected to be about 23 cents on the dollar. This is about the historical average even in years when collateral values were rising. If the rate of recoveries on CDC loans achieved the results identical to those in the 7(a) Loan Program (in which recovery on defaults are managed by personnel of preferred lenders rather than SBA employees), the subsidy for the program could be reduced significantly – possibly by as much as $40 to $47 million.[15] Reimbursing CDCs for their expenses associated with

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[13] If the lending accounts are overfunded, i.e., they have more in the accounts than needed due to loan demand being lower than expected, the Small Business Act and annual appropriation bills enable the Administrator to reprogram funds to pay for administrative expenses of the disaster loan program.

[14] Since the SBA is not requesting additional appropriations to fund disaster loans, it must expect that the number of such loans disbursed in FY 2013 will be about the same number as past years.

[15] Similar econometric models are used to calculate the subsidy rates in the 7(a) and CDC Loan Programs. The subsidy rate for the CDC Loan Program is about .47 percent higher than that for the 7(a) Loan

handling defaults probably would be less costly than paying SBA employees and would most likely result in higher returns due to CDCs' vested interest in reducing the fees that they pay for the guarantees. Thus, the Committee strongly endorses eliminating SBA's responsibility for managing defaults and transferring it to CDCs. This will result in a concomitant reduction in SBA personnel in addition to the savings associated with the subsidy cost.

Entrepreneurial Development Programs

There are a plethora of programs operated by the SBA in conjunction with non-federal partners to provide outreach and technical assistance to small businesses. These programs duplicate each other and programs in other agencies. In its consideration of these programs, the Committee first examined which programs had the broadest missions and best capability of meeting their federal match requirements. After making this identification, the Committee determined that programs with narrow missions or incapable of raising non-federal funds should not receive any funding or receive significantly reduced amounts of funding. Programs with broad missions and capable of obtaining non-federal funds to help defray costs should not receive cuts or even see a modest increase to cover expenses from an expanded mission.

In particular, the Committee endorses maintenance of funds for Small Business Development Center grantees and SCORE. Funds should be reduced for: 7(j) technical assistance; microloan technical assistance; and the National Women's Business Council. Funding should be eliminated for the following existing programs: Women's Business Centers; Veterans Business Centers; Prime Technical Assistance; HUBZone outreach; and the Offices of Native American Affairs, and International Trade. No funds should be made available for the following initiatives: Drug-Free Workplace, Clusters, or the National Veterans Entrepreneurial Training Program.

Small Business Development Centers

Small Business Development Centers deliver their services through 63 cooperative agreements with either state agencies or institutions of higher education. To the extent that a state agency is a grantee, the agency typically subcontracts that performance to an institution of higher education located in the state. These 63 grantees have established over 1,000 service centers to provide technical assistance to small businesses for: business strategy development, technology transfer, government procurement, engineering, accounting, etc. The FY 2013 budget request reduces the SBDC funding request by the SBA is $101.193 million. The Committee believes that SBDCs should be granted the $7 million devoted to the National Veterans Entrepreneurial Training Program. SBDCs are more capable of providing such training than a new unproven program to be developed by the SBA that has no authorization from Congress. This still represents an approximately $4 million dollar reduction in funding for SBDCs from FY 2012.

Program. Perforce, the only significant difference must be the amount obtained in recoveries on defaulted loans.

SCORE

SCORE provides face-to-face counseling from 389 chapter locations with 10,900 SCORE volunteers. SCORE volunteers provide the full gamut of business consultation services from development of business plans to strategic marketing to financing. SBA's SCORE database also enables small businesses to find a SCORE volunteer that best suits the need of the small business. For example, the owner of a restaurant can find SCORE volunteers who are or were in the food service business. The budget request for FY 2013 is $6.3 million which is $700,000 less than allocated in FY 2012. The Committee concurs with the request.

7(j) Technical Assistance

Section 7(j) of the Small Business Act authorizes the Administrator to contract for the provision of management, technical, and consulting services to participants in the 8(a) government contracting business development program. Unlike other assistance programs in which any interested individual may obtain an appointment and seek advice, this program is limited solely to participants in the 8(a) program. While the assistance is useful for participants, the Committee believes that these services can be provided, in part, by other entrepreneurial development partners and personnel at the agency. Given the current fiscal condition of the United States, the Committee recommends reducing that budget by $1.1 million to $2 million rather than the FY 2013 request of $2.79 million. Better coordination of existing technical assistance by agency personnel, improvement in the mentor-protégé program, and better coordination with SBDCs, SCORE and services from other federal and state agencies should enable participants in the program to obtain needed technical assistance.

Microloan Technical Assistance

The keystone of the Microloan Program is not the lending that is done by intermediaries but rather the training that they provide to their borrowers so that the borrowers can operate their businesses without defaulting on loans. The Committee believes that this is a valuable and irreplaceable component of the microloan program – assisting a new class of entrepreneurs. However, testimony before the Committee revealed that a majority of training provided by microloan intermediaries is not to borrowers but to prospective borrowers, many of whom do not utltimately become borrowers. This function can be provided by other programs at the SBA and elsewhere. As a result, the Committee recommends an additional $2.5 million reduction in microloan technical assistance and requiring that all technical assistance provided by microloan intermediaries be provided to borrowers. This will result in a drop of total microloan technical assistance to $17.2 million from the FY 2013 request of $19.76 million.

National Women's Business Council

The National Women's Business Council is a bipartisan federal advisory council created to serve as an independent source of advice and counsel to the President, Congress, and the SBA on economic issues of importance to women business owners. By interacting with women throughout the country, the Council develops and promotes policies and programs to help women entrepreneurs, the largest growing class of small business owners in the country. The Committee concurs with the FY 2013 request of $898,000.

Women's Business Centers

Women's Business Centers (WBCs) provide training, counseling, and mentoring to women entrepreneurs. WBCs are public/private partnerships in which the federal government provides funds that were to be matched by private donors. However, over time, the centers became more reliant on federal funds which undermines the original intent of Congress in creating the WBCs. Furthermore, many of the clients are not women but men. The services provided by WBCs fundamentally are indistinguishable from that provided by SCORE and SBDCs. Given the duplication in mission and the fact that WBCs were not created to obtain permanent federal funding, the program should be terminated thereby saving $12.6 million – the FY 2013 budget request.

Veterans Business Outreach Centers

Veterans Business Outreach Centers (VBOCs) are modeled on SBDCs and WBCs. The SBA already provides significant assistance to veterans who are seeking to start or already operate small businesses. The VBOCs duplicate services already available from the SBA, other entrepreneurial development partners and programs available from the Department of Veterans Affairs. As a result, the Committee believes that no funding should be made available for funding VBOCs. This will result in a savings of $6.3 million.

PRIME Technical Assistance

Under the Program for Investment in Microentrepreneurs (PRIME), the SBA provides federal funds to community-based, regional, and national organizations that in turn will offer training and technical assistance to low-income and very low-income entrepreneurs with small businesses of five employees or less. The major focus of PRIME is to provide assistance to very small businesses that, due to their lack of experience and education, are unable to gain access to banks and other providers of capital. The services provided by PRIME duplicate other services and the Committee concurs with the SBA FY 2013 budget request to eliminate funding. This will result in a savings of $3.5 million that was appropriated for PRIME in FY 2012.

HUBZone Program

The basic purpose of the HUBZone Program is to promote economic development in distressed urban and rural areas through the award of federal contracts to small businesses located in those regions. Contracting officers are authorized to set aside contracts for competition among eligible HUBZone small businesses, sole source, or use bid preferences when large firms and HUBZone small businesses are in competition. HUBZones are distressed urban and rural areas characterized by chronic high unemployment and/or low household income.

Investigations by GAO have revealed vulnerabilities in the program, especially related to self-certification. Funds related to correcting these problems and improving the operations of the HUBZone program are discussed elsewhere in this document. The FY 2013 budget request allocates $1.978 million to the HUBZone program but does not explain how those funds will be utilized. However, the funds are listed under entrepreneurial outreach programs. Given the lack of an explanation and the fact that any outreach duplicates existing efforts by other entrepreneurial development programs at the SBA, the Committee believes that those funds are not needed for the HUBZone program. It is important to note that the proposed elimination of these unexplained funds should not be interpreted as a recommendation to eliminate the HUBZone Program. Rather, the Committee believes that the program can be of significant value if the SBA ultimately removes ineligible firms and contracts are made available to eligible HUBZone firms.

Office of Native American Affairs

The Office of Native American Affairs offers technical assistance to American Indians, Alaska Natives, and Native Hawaiians seeking to create, develop and expand small businesses. The services provided by this Office can be provided by other SBA programs. More significantly, there is an entire agency at the Department of Interior – the Bureau of Indian Affairs – that has far greater resources to perform outreach to Native American small businesses. As a result, the Committee urges that the $850,000 budget request for FY 2013 be eliminated.

Office of International Trade

According to the SBA, the Office of International Trade enhances the ability of small businesses to compete in the global marketplace. The Committee certainly understands the importance of international trade to small businesses. However, the current fiscal constraints make it impossible for this office to continue given the fact that its services are duplicated by the Department of Commerce and the Department of Agriculture's Foreign Agriculture Service. As a result, the Committee is recommending that all appropriations for the Office be eliminated, including all programs under the Office of International Trade which will save nearly $1 million in salaries and expenses from the budget request. In addition, it would save a total of $8.4 million in total administrative resources.[16]

Drug-Free Workplace Program

The program was enacted to promote drug-free workplace programs in the small business community. It allows intermediaries, such as SBDCs, to provide employers with guidance regarding their drug-free workplace programs. The SBA provides competitive grants to intermediaries that have the best proposals for educating small businesses on developing drug-free workplace programs. This program duplicates efforts by the Department of Labor to educate businesses on maintaining drug-free workplaces. Therefore, the Committee concurs with the request from the SBA that funding for the program be terminated.

Regional Innovation Clusters

The SBA's Regional Innovative Cluster program awards grants to non-federal entities that in turn would help create clusters (a geographically confined grouping of firms in the same or similar industries). The SBA is asking for $3.350 million for FY 2013 to continue this program. There is no evidence that the government or the private sector can artificially create clusters. Furthermore, the SBA has not provided sufficient information on the results of its cluster efforts to continue its funding. As a result, the Committee strongly recommends that no funds be provided for the conduct of this program – saving $3.35 million.

Government Contracting Programs

One of the primary missions of the SBA is to ensure that small businesses receive a "fair proportion of the total purchases and contracts for property and services for the Government in each industry category...." 15 U.S.C. § 644(a). To achieve this objective, Congress created a number of programs designed to increase opportunities for small businesses. The SBA is requesting for FY 2013 a total of about $110.847 million to operate the various government contracting programs and functions at the agency.

The Committee believes that the SBA undervalues the importance of its mission to ensure that small businesses have a fair shot at winning government contracts. The issue is not about available resources but the correct deployment of those resources. In this regard, the Committee believes that the budget proposal for FY 2013 failed to allocate resources in a manner that maximizes the ability of small businesses to enter the federal procurement marketplace.

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[16] U.S. SMALL BUSINESS ADMINISTRATION FY 2013 CONGRESSIONAL BUDGET JUSTIFICATION Table 1.5 at 60 (2012).

PCRs

PCRs generally are assigned to contracting activities and work under the supervision of the contracting activity personnel (but report to the Office of Government Contracting at the SBA). They are supposed to: (1) review proposed acquisitions to recommend procurements for setting aside to small businesses or specific categories of small businesses; (2) advise contracting officers whether the acquisition strategy will prevent small businesses from competing; (3) suggest alternative contracting methodologies designed to increase the probability that small businesses will be able to compete for various procurements; (4) recommend small businesses that should be contacted about procurement solicitations; (5) appeal a contracting officer's failure to solicit from small businesses after identification of responsible small business bidders by a PCR or other sources; (6) review contracting activity compliance with small business contracting requirements of federal laws and federal regulations; (7) participate in conferences designed to increase small business utilization in federal procurement; (8) advocate for use of full and open competition; and (9) recommend the breakout of items from contracts that could be provided by small businesses. Hence, PCRs are the SBA's front line in promoting the use of small businesses as prime contractors and also the first line of defense against inappropriate bundling of contracts.

The number of such individuals at the SBA is well short of their need. PCRs require significant knowledge of the procurement process as well as the needs of program offices at the various buying activities at which they are collocated. Given the technical requirements for these jobs, it would not be easy to simply have other SBA employees perform these functions. The Committee would suggest that $2 million dollars in savings found elsewhere in these recommendations be reallocated to the hiring of 15 new PCRs. This modest reallocation of resources will prove invaluable to the hundreds of thousands of small businesses interested in the federal procurement marketplace. By using more small businesses, the government will recoup in procurement savings the expense associated with hiring the additional PCRs.

Vulnerabilities in SBA Contracting Programs

There are five major programs developed by Congress to promote small business contracting opportunities. The Small Business Reserve Program requires that contracts of value between $3,000 and $150,000 (this maximum is now indexed for inflation) be set aside only for competition among small businesses if at least two small businesses can perform the contract at a fair market price. The other programs targeted at specific classes of small businesses are: 8(a) businesses; HUBZone businesses; service-disabled veteran-owned businesses; and women-owned businesses. The programs also enable contracting officers to limit competition to businesses within a specific category and in all cases, except small businesses owned by women, to award contracts on a sole source basis, i.e., without competition at all. If a contract is awarded under one of these programs, the small business awardee is required to perform the majority of the work.[17]

These contracting programs present a number of vulnerabilities: (1) small businesses might misrepresent their size (and not actually be small); (2) small businesses may misrepresent their status for purposes of eligibility such as not being a woman-owned and controlled business; or (3) small businesses do not perform the necessary quantum of work on the contract. Given these vulnerabilities, there are key defenses – adequate personnel to check the small businesses and updated databases for use by contractors and federal contracting officers. The Committee believes that the allocation of resources as reflected in the FY 2013 budget request for operation of the specific small business programs generally is adequate and appropriate.[18] In addition, the Committee believes that the resources available and requested by the Inspector General to help root out such fraud also is adequate.

Small Business Innovation Research Program (SBIR)[19]

The SBIR program is designed to assist small businesses (those with less than 500 employees) bootstrap federal research dollars into commercial products. In 2011, Congress reauthorized the SBIR program.[20] This represented the first comprehensive modification of the SBIR program in over a decade. Congress mandated significant new regulations and reporting requirements as part of the update to the SBIR program. The SBA requests $3 million to implement the changes to the SBIR program. The Committee believes that the SBIR program is very important and fully supports the additional funds devoted to implementation of the SBIR/STTR Reauthorization Act of 2011.

SBA Management and Administration

In its budget submission to Congress, the SBA claimed to have conducted a targeted review of program offices to ascertain whether additional efficiencies can be found. The agency also examined whether any of its programs or operations were duplicative. This self-examination was unrevealing, and the Committee believes the SBA missed opportunities to streamline its operations without undermining its ability to serve small businesses.

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[17] This prohibits small firms from acting as fronts for large businesses. The first line of defense against this type of fraud is not the SBA, but the agency's contracting officer and the contracting officer technical representative (the individuals who handle post-contract award).

[18] Reductions in spending on this program could be counterproductive because it could lead to an increase in fraud or other abuse of these contracting programs. In turns, this fraud denies legitimate small businesses of valuable opportunities.

[19] Although the SBA places the SBIR program in the category of Investment and Innovation for small businesses, the program fundamentally is a mechanism by which federal agencies can contract for research and development services without following the formalities of the federal procurement statutes and regulations. Given this, the Committee believes the appropriate view is to discuss SBIR in its discussion of the SBA's government contracting programs.

[20] SBIR/STTR Reauthorization Act of 2011, Div. E. of National Defense Authorization Act of 2012, Pub. L. No. 112-81 (not yet available in United States Statutes at Large).

Information Technology

As already noted, the Committee is concerned with the efforts of the SBA in modernizing its loan accounting system. The Committee continues to believe that the SBA's information technology efforts should have a narrow focus on completing that modernization rather than undertaking other significant information technology projects. Even though the SBA remains significantly behind schedule in its modernization efforts, the agency requests funding for two other major projects – migration of its computers to cloud computing data centers; and efforts to create a BusinessUSA.gov website.

The Committee supports the $5 million request for migration to a cloud computing environment operated by the Department of Homeland security because the savings (first five years calculated at $12.5 million) will outweigh the costs. Given the SBA's history with respect to management of its information technology, the move to cloud data centers operated by another agency may be the wisest course of action for the agency and the taxpayer. Finally, the migration will enable the SBA to reallocate personnel and resources to the much more important job of modernizing the loan accounting systems.

The SBA requested $6 million to lead the development of a website BusinessUSA.gov which is supposed to be a one-stop website for information of relevance to business owners, especially small businesses. While such a site may be a valuable tool for America's entrepreneurs, the Committee cannot support any funding for the SBA to commence such a project. There are other agencies that have significantly greater resources with a better track record of information technology management than the SBA who should take the lead in such an endeavor. By not allocating any funds to the SBA for such a project, it will enable the agency to focus its limited information technology management resources on the completion of the loan accounting system modernization.

Personnel in the 10 Federal Regions

The SBA provides most of its services to small businesses through 84 district offices that are staffed with personnel who are knowledgeable on a variety of small business related topics. When a small business owner or entrepreneur has contact with an agency official, it is typically at a district office.[21] Those district offices are overseen by an Office of Field Operations at SBA headquarters in Washington, DC.

Despite this agency structure, the SBA also has ten regional administrators, regional communication officials and support staff. It remains unclear what management function or responsibility these regional administrators or regional offices have. Given that, the Committee believes that the position of regional administrator should be eliminated. Without regional administrators, there would be no reason to have regional offices and the Committee recommends that those offices be shuttered.

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[21] The primary exception to this would be when applying for a disaster loan. In those cases, the applicant will be dealing with on-site field personnel and disaster loan call centers.

Another office at the SBA with ten regional representatives is the Office of the Chief Counsel for Advocacy. The primary responsibility of that office is to monitor agency compliance with the Regulatory Flexibility Act, a statute mandating agencies examine the impact of their proposed and final rules on small businesses. While input from small businesses is quite useful in performing that role, the office does not need regional representatives to obtain that input. As a result, the Committee believes that the Office of the Chief Counsel's regional personnel should be eliminated. However, rather than simply eliminate all ten positions from the Office of the Chief Counsel for Advocacy, the Committee recommends that five additional positions be created to review federal agency compliance with the Regulatory Flexibility Act. This would result in a net savings of five individuals in the office while boosting its capability to fight burdensome regulations inhibiting the ability of small businesses to create jobs.

District Personnel

As already noted, the SBA's primary contact with small businesses is through its district offices. The district offices are, logically enough, headed by a district director. However, in about 75 percent of the offices, there also is a deputy district director. The Committee is of the opinion that district offices do not need a separate, dedicated individual to be the deputy. If the district director is unavailable (due to vacation or illness), that person simply can appoint someone to act temporarily as the district director. The Committee strongly recommends that no monies be allocated to pay for individuals whose sole job is to act as a deputy district director. Instead, deputy district directors should be reassigned to other functions at the agencies that provide direct assistance to small businesses.

Headquarters Structure

According to the agency, there about 600 people at SBA headquarters leaving approximately 1,600 people to interact with small businesses in their field operations.[22] Given the fact that there are about 28 million small businesses in the United States, the Committee finds that the agency structure is too concentrated at headquarters in Washington, DC. This would include an Office of Policy with an apparently amorphous mission and a personal office of the Administrator that is the same size as that of the Secretaries of Defense or Agriculture.[23] This is unacceptable to the Committee and it recommends a 10 percent reduction in funds for the Office of the Administrator and that no funds should be provided to fund the Office of Policy.

[22] Not all field personnel are located at district offices. The SBA also has major employment centers to process loans (thereby speeding credit to small businesses) and a disaster loan call center (to help those seeking to rebuild after a disaster).

[23] Secretary Vilsack and Secretary Gates are able to manage much larger agencies (the Departments of Agriculture and Defense, respectively) with only 13 individuals in each of their personal offices.

Inspector General

The SBA manages a loan portfolio of approximately $90 billion. It also deals with thousands of small business federal government contractors. As has already been noted in this document, there are significant vulnerabilities in the SBA's operations – vulnerabilities that place the taxpayer at risk and undermine the integrity of the federal procurement process. As the first line of defense against waste, fraud and abuse, the Office of the Inspector General plays a vital role in uncovering significant criminal, civil, and management problems at the SBA. The Committee strongly recommends $2 million in savings recommended elsewhere in this document be transferred to the Inspector General to ensure that office has sufficient resources to root out fraud, abuse, and waste.