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 2015

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 2015; and (2) recommendations for improved governmental performance.

The budget request for the Small Business Administration (SBA) in FY 2015 is $864.64 million – a decrease of approximately $64 million from the levels appropriated for FY 2014. The majority of the decrease (about $47 million) stems from the reduction in appropriations needed to cover the cost of the SBA loan programs. There are other minor decreases spread across other SBA programs. Of these funds, approximately half are devoted to salaries and expenses.[1] Total employment remains constant at 2,136 employees. The SBA also has requested nearly $39 million in SBA-initiated entrepreneurial development programs that have not been reviewed or approved by this Committee and duplicate existing longstanding small business outreach efforts funded through the agency's appropriation.

In the Committee's view, most of the funds for these new SBA-created outreach efforts should be eliminated while a modest amount should be reallocated to other areas, including improvements to the SBA's information technology and the hiring of additional personnel to assist small businesses in obtaining federal government contracts. These modest reallocations will reduce risk to taxpayers without increasing the overall size of the SBA. Ultimately, the changes recommended will provide greater assistance to small businesses – the primary generator of needed jobs in the economy.

Capital Access Programs

As the economy continues its embryonic recovery, small businesses will seek funds to expand their businesses. Yet, small businesses still have difficulty obtaining needed credit to operate as the hangover from the restrictions on lending due to the financial crisis remain. Businesses with solid operating histories have seen their credit lines reduced or eliminated. 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

[1] The salaries and expenses is subdivided further into three subaccounts: 1) general agency operations; 2) business loan administrative costs and 3) disaster loan administrative costs.

be repaid by the United States Treasury even if the borrower defaults. Until FY 2006, 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.[2] From FY 2005 until FY 2010, fees covered the cost of the program without the need for an appropriation. From FY 2010 to FY 2014, the economic downturn required Congress to appropriate funds to cover the costs of the 7(a) Loan Program that were not obtained from fees charged by the SBA and recoveries on collateral from defaulted loans. The economic recovery enabled the 7(a) Loan Program to return to a zero subsidy

In fact the 7(a) Loan Program will operate at a negative subsidy rate, i.e., it will take in more in fees and recoveries than is necessary to cover the cost of the program. Since these funds cannot be reallocated to any other SBA account, the Committee suggests that it would make sense for the SBA to make minor reductions in the fees charged to borrowers and lenders such that the program operates at zero subsidy.

The SBA requests authorization to make $15.65 billion in loans under the 7(a) Loan Guarantee Program. Given expected demand and the fact that the program is operating at a negative subsidy rate, the Committee believes that it would be appropriate to authorize an increase in the authorized lending to $16.65 billion. This should prevent the program from a reaching a limit that might necessitate restrictions in lending without adding any cost to the federal government from the increased authorization amount.

The Committee remains strongly concerned about the SBA's use of its pilot program authority pursuant to § 7(a)(25) of the Small Business Act. This authority originally was created to provide the SBA with some flexibility to meet unexpected needs of a diverse small business economy. The SBA, however, abuses this authority by creating programs that last for decades[3] and frequently add to the overall cost of the 7(a) Loan Program (through higher defaults). Furthermore, the programs are created without notice and comment so that neither lenders nor borrowers provide input that might improve the overall operations of the pilots. 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 unless the SBA establishes the programs after notice and comment and places strict limits on the length such programs can operate. In addition to limitations on funding, the Committee may consider additional legislative restrictions on this pilot program authority.

[2] 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.

[3] For example, the SBA announced that it will extend the Community Advantage Pilot Program until 2017, SBA, FY 2015 CONGRESSIONAL BUDGET JUSTIFICATION 76 (2014). The program was created in 2012 which means that the pilot program (after the most recently announced extension) will last longer than many government agency authorizations. Despite this, the SBA calls it a pilot program and avoids the transparency that would come with notice and comment rulemaking if the program was not a pilot.

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 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 $45 million dollars in subsidy to cover $7.5 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 $7.5 billion in an effort to save money. The Committee does not expect that demand for loans by CDCs will exceed the requested amounts.

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. The Small Business Jobs Act of 2010, Pub. L. No. 111-240, created a temporary, two-year program that authorizes refinancing of existing debt using the CDC Loan Program. The authority for the program lapsed. However, the SBA has requested reauthorization of this program for another year so that CDCs could refinance $7.5 billion in commercial real estate loans on the basis that the program will receive sufficient fees to operate at zero subsidy.

In its views and estimates since the enactment of the Small Business Jobs Act of 2010, the Committee has expressed significant concerns about the potential future costs to taxpayers. According to reestimates by the Office of Management and Budget (OMB), the subsidy rates for the commercial refinance program are 3.19 percent for loans made in FY 2011 and 1.38 percent for loans made in FY 2012.[5] Thus, the Committee's concern about risks to the taxpayer were completely justified by OMB's own calculations and the Committee has no assurances that the fees collected under a reauthorized

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[4] Most of the collateral for CDC loans is in commercial real estate. Although the initial cause of the financial crisis was not commercial real estate, the ensuing economic downturn has adversely affected the value of commercial real estate.

[5] OMB, FY 2015 FEDERAL CREDIT SUPPLEMENT, BUDGET OF THE U.S. GOVERNMENT 73 (2014) [hereinafter FY 2015 Credit Supplement].

commercial refinance program would meet the zero-subsidy requirement given past experience.[6] As a result, the Committee cannot, at this time, support the allocation of any funds or authorization of lending levels for a commercial refinance program similar to that created in the 2010 Small Business Jobs Act.

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 turn around and lend to small businesses. Although the default rate on loans to intermediaries is nearly zero, there is a cost to subsidize the difference between market interest rates and the interest rates charged to intermediaries. The SBA requests an appropriation of $2.5 million to cover lending to intermediaries of $25 million which represents a reduction of $2.1 million from FY 2014. Given the cost of the subsidy and the effectiveness of the program in providing startup funds to potential entrepreneurs that otherwise would have no access to debt financing, this modest investment in microfinancing should continue.

Small Business Lending Intermediary Pilot Program

Under the program, 20 intermediaries will be loaned $1,000,000 each to make loans of up to $200,000 to small businesses. The intermediaries will not have to repay these $1,000,000 loans for a period of two years (either principal or interest) and then the interest rate is one percent. In short, this program could wind up making loans to exactly 100 businesses (each intermediary making $200,000 loans to five businesses). According to the SBA, the purpose of the program is to alleviate the lack of credit availability to small businesses. Considering that there are about 28 million small businesses, this program could be limited to a total of less than three-ten thousandths of one percent of the small businesses in the United States. And according to the President's budget, the subsidy rate for this program is almost 29 percent for loans made in FY 2011 and 23 percent for loans made in FY 2012.[7] In contrast, the 7(a) Loan Program has a negative subsidy rate and provides loans to thousands of businesses. Thus, the program helps very few businesses at a high risk to the taxpayer and no funds should be allocated for it. Again, the Intermediary Lending Pilot Program further demonstrates the inability of the SBA to control risks associated with its pilot programs.

Small Business Investment Company Program

The Small Business Investment Company (SBIC) was instituted in an effort to ensure that small businesses could obtain equity as well as debt financing.[8] Although an

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[6] Unlike investments in the stock market in which brokerages must claim that past performance is not indicative of future returns, the Committee's experience with the SBA strongly suggests that past performance is an accurate predictor of future results.
[7] FY 2015 Credit Supplement, *supra* note 4, at 51.
[8] The Committee on Small Business held hearings in the 110th Congress showing that small businesses still have difficulty raising equity capital. This problem has been compounded by additional burdens associated

oversimplification, the SBIC program operates by the federal government guaranteeing an instrument sold by the SBIC to private investors. The SBIC repays the government from payments made to it by the companies in which the SBIC invested.

The Debenture SBIC program is designed to provide equity injections to small businesses that have been operational for a number of years 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.[9] 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. We also concur that the program should be provided with an authority level of $4 billion for FY 2015 (the same level as authorized in FY 2014) is adequate.

The SBA created two new initiatives in FY 2012: 1) an Impact Fund designed to help economically distressed regions; and 2) an Early Stage Fund to offer investments to startup businesses. The Debenture SBIC Program is not well designed to help startups (which is why Congress created the Participating Security SBIC Program in 1992). Congress also created a New Market Venture Capital Company Program to provide investment in economically distressed regions. Although the Congressionally-enacted programs have problems, the SBA has never provided any suggestions on how to ameliorate those problems. Instead, the agency decided to create the two new programs without specific authority from Congress, utilize existing debenture SBIC authority (but potentially diverts it to SBA-selected targets rather than those of venture capitalists), and duplicate extant programs. This is typical behavior of the SBA and to prevent the SBA from modifying a successful investment program, the Committee strongly recommends that no funds be provided from any account for the continuation of these programs (the $4 billion should be allocated to any debenture SBIC that files an adequate application without any precondition or preference to a specific investment strategy). 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.

The Participating Security SBIC Program became operational in 1994. The program was designed to provide equity capital to start-up small businesses – those without a significant operating history. The program operates under a significantly different reimbursement regime than that for the debenture program because the SBICs must wait significantly longer to obtain returns on their equity investments. There are existing estimates that the financial portfolio, if liquidated today, would result in losses to the federal treasury of about $2.4 billion. The program has not provided additional funds to

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with Sarbanes-Oxley compliance and Dodd-Frank requirements. Nor has the Jumpstart Our Business Startups Act ameliorated these problems.

[9] 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.

SBICs in more than nine years and the FY 2015 budget request does not seek to provide participating security SBICs with additional funds for investment. The Committee concurs in that recommendation.[10]

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 between 70 and 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.

Disaster Loans

The SBA is the primary provider of assistance to the homeowners and small businesses after a natural disaster. The SBA does not request any additional funds needed to subsidize the cost of disaster loans in FY 2015 because the agency has sufficient carryover funds from those appropriated in response to Superstorm Sandy. Therefore, the Committee concurs with the SBA request to provide no additional monies for the revolving disaster loan account.

Management of Capital Access Programs

There are three primary costs that the SBA must face in the management of its capital access programs: (1) personnel to oversee the programs; (2) computer technology necessary to process data; and (3) capabilities to address defaulted loans. In all three instances, the SBA severely misplaces its priorities in the FY 2015 budget request.

The administrative costs associated with the guaranteed loan programs are covered under an appropriation account separate from the rest of the SBA. The FY 2015 request reduces that account by $3.8 million. The Committee concurs that those savings are reasonable and any additional cuts might jeopardize the ability of the SBA to properly manage a loan portfolio that exceeds $100 billion. The Committee on the Budget should allocate the reductions in a manner that ensures full funding of the SBA's lender oversight function and its simplification of standard operating procedures that govern the lending programs.[11]

[10] The last participating securities were issued to SBICs in 2004. They are to be repaid no later than 10 years after issuance which means the last of the participating securities will be repaid by December 31, 2014 after which there will be no more participating security SBICs unless the SBA decides to begin issuing new licenses.

[11] The Committee continues to investigate the problems associated with the SBA's management of its lending program through ad hoc standard operating procedures rather than through the more transparent process of creating rules after notice and comment rulemaking.

The administrative costs for operating[12] the disaster loan program also are budgeted under a separate account. In addition, Congress permanently authorized the SBA to transfer unused disaster lending funds to administration of the disaster loan program. For FY 2015, the SBA requests $187 million which represents a reduction of about $5 million from FY 2014. The Committee believes that this should be sufficient to fund the administration of the disaster program. Any reductions would inhibit the agency's ability to provide sufficient personnel and information technology needed for disaster response, particularly a major disaster on the scale of a Hurricane Katrina or Superstorm Sandy.[13]

The information technology needed to manage the SBA guaranteed loan portfolio is outdated and at significant risk. In particular, the agency still has not complied with a statutory mandate to have a robust modern loan management accounting system (LMAS) even though Congress directed the SBA to have it operational by 1997. The only mention of the LMAS in its budget justification is that it completed a quality assurance review on investments and projects associated that project. Despite having promised this Committee to have migrated the system off of a proprietary, COBOL-based system by January 1, 2012, the agency still has not done the migration. In fact, the agency is just now beta-testing the "new" COBOL[14] code. In allocating funds, the Committee strongly endorses an approach that transfers funds from other projects of the Chief Information Officer to modernization of the LMAS.

As already noted, collections on defaulted loans, particularly in the CDC Loan Program, are abysmal. The agency obtains about 23 cents on the dollar in recoveries on defaulted loans made by CDCs. If the rate of recoveries on CDC loans were doubled (hitting that of loans made in the 7(a) Loan Program), it probably would eliminate the need for any subsidy. CDCs have a vested interest in maximizing their recoveries because that will in the long-run reduce fees that they are required to pay for the operation of the program. Thus, the Committee strongly endorses eliminating SBA's responsibility for managing defaults and transferring it to CDCs. This would result in a concomitant reduction in SBA personnel.

Entrepreneurial Development Programs

Almost a quarter of the SBA's budget is devoted to providing outreach and technical assistance to small businesses. This is done through a panoply of programs that the SBA

[12] The administrative costs for this program are not simply those associated with the issuance of disaster loans. Since this is the only direct lending program that the SBA operates, the agency also must service all of these loans until they are sold. In 2008, Congress prohibited the sale of disaster loans for a period of five years after the loans were issued.

[13] As the Committee discovered, mobilizing such resources on an ad hoc basis after Hurricane Katrina presents significant logistical problems inhibiting the ability of the SBA to distribute assistance so that communities can rebuild.

[14] Use of the term "new" in reference to COBOL seems somewhat anachronistic given the fact that COBOL was invented in 1960. C. BROWN, D. DEHAYES, J. HOFFER & W. PERKINS, MANAGING INFORMATION TECHNOLOGY 44 (7th ed. 2012). COBOL is not used in any extensive way by the SBA's lending partners and those that still use it are migrating to newer mainframe languages using newer UNIX-based operating systems.

operates at the specific direction of Congress. In addition, the SBA also creates, using its general authority to aid small businesses, a number of agency-created initiatives that duplicate those that Congress specifically directed the agency to implement. These SBA-initiated outreach efforts represent nearly 20 percent of the overall entrepreneurial development budget. The Committee believes that the SBA request for funding of the agency's initiated training programs should be eliminated except for a modest $3 million dollars that should be reallocated to hiring additional personnel to assist small businesses in obtaining government contracts and implementing a variety of changes to SBA contracting programs mandated by Congress in the 111th and 112th Congresses that have not been implemented. In addition, the Committee believes that the SBA's Offices of Native American Affairs and International Trade should be terminated. The services, to the extent that they provide any utility at all, can be better performed by the Department of the Interior's Bureau of Indian Affairs and the Department of Commerce respectively. The Committee also believes that the Veterans Business Centers would obtain significantly greater funding and have access to more veterans if they were transferred to the Department of Veterans Affairs. The Committee expects that approximately $47 million would be saved through its recommended deletions to the agency's entrepreneurial development programs.

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 2015 budget request for SBDCs is $113.625 million which is identical to the amount enacted for FY 2014. The Committee believes that this request underestimates the services and utility of the SBDC Program and strongly recommends that an additional $2 million be allocated to this program through with the funds that would be eliminated from the elimination of the Office of Native American Affairs at the SBA.

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 were in the food service business. The Committee concurs with the budget request of $7 million. As with the request for SBDCs, should the SBA-created initiatives impose new outreach efforts on SCORE volunteers, those should be met with a concomitant increase in funds for SCORE.

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 the budget for this program remain at the FY 2014 enacted level of $2.79 million rather than the requested $2.8 million.

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 reveals that a majority of training provided by microloan intermediaries is not to borrowers but to prospective borrowers, many of whom do not become borrowers. This function can be provided by other programs at the SBA and elsewhere. As a result, the Committee recommends that microloan technical assistance be reduced to the level appropriated in FY 2013 of $19.985 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 that this mission is valuable but is at a loss to understand the necessity for an increase in its budget from that enacted in FY 2013. As a result, the Committee recommends that the budget be reduced to $736,000 from the FY 2014 appropriated budget of $1 million.

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 thereby undermining 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. If funds are provided, a significant portion of the FY 2015 request of $14 million should be allocated to new centers rather than funding existing centers that should have obtained funds from the private sector.[15]

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 through SBDCs, SCORE, and WBCs. The VBOCs, are according to the SBA, underfunded. Given the fact that the resources available to the Department of Veterans Affairs far exceeds those available to the SBA,[16] it makes sense that the VBOCs be transferred to that Department. Should the VBOCs remain with the SBA, they should receive an increase in funding coming out of the funds for the SBA-created Boots-to-Business Program.

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 typically, because of 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 2015 budget request to eliminate funding.

HUBZone Program

The basic purpose of the HUBZone Program is to direct federal contracts to small businesses in distressed urban and rural areas to promote economic development of these areas. 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

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[15] The original argument for creating the sustainability aspect of the WBC Program was that the centers were having difficulty raising private sector funds when the Internet bubble burst. However, given the recent gains in the stock market (the Dow Jones average has more than doubled since March of 2009), http://research.stlouisfed.org/fred2/series/DJIA , existing WBCs should have less difficulty in raising money from the private sector. This would ensure that the program operates as Congress originally intended when it created the WBCs.

[16] The Department of Veterans Affairs entrepreneurial outreach activities are funded through fees obtained from the Department's operation of multiple award contracts utilized by other agencies. Those fees bring in an estimated $2 billion annually, *see* OMB, BUDGET OF THE U.S. GOVERNMENT FY 2015 APPENDIX 1130 (2014), or more than 2.5 times the size of the entire SBA budget. It cannot be gainsaid that the Department has significantly greater resources to reach entrepreneurs than the SBA.

rural areas characterized by chronic high unemployment or low household income or a combination of both.

Investigations by GAO 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 2015 budget requests $2 million for the HUBZone program but does not explain how those funds will be utilized. To the extent they are used to certify firm eligibility, the Committee believes that it represents a sound use of taxpayer resources. However, to the extent such funds are used to perform outreach (however poorly defined that effort is in the SBA budget), then all such funds should be eliminated or transferred to oversight of the HUBZone Program including use in certification of firms.

Office of Native American Affairs

The Office of Native American Affairs assists American Indians, Alaska Natives, and Native Hawaiians seeking to create, develop and expand small businesses. The SBA is requesting $2 million for FY 2015 (the same as in FY 2014). The services provided by this Office can be provided by other SBA programs. More significantly, there is an entire subagency at the Department of Interior – the Bureau of Indian Affairs – that has far greater resources to perform outreach to Native American small businesses.[17] As a result, the Committee urges that the funds for this Office at the SBA be terminated.

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 Small Business Jobs Act of 2010 overhauled the operation of this office by, among other things: 1) appropriating $30 million for a state trade and export promotion pilot program (STEP Program); 2) increasing SBA employees located at the Department of Commerce Export Assistance Centers; and 3) adding 10 regional export development officers in the SBA's regional offices.

Although the SBA requested no further funds or authorities for the STEP program, the Congress reauthorized the program for one more year and appropriated $8 million for the program. The Committee has never supported the program and concurs with the budget request to eliminate the funding that was provided in the appropriations bill for FY 2014.

The rationale for increasing SBA personnel at these Export Assistance Centers also is wanting. Essentially, the argument goes that Commerce Department personnel would be incapable of helping small businesses or explaining various financing programs to these small businesses. The Committee rejects that contention. Commerce Department personnel, with some minor additional training, should be able to handle advice to small

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[17] The Bureau of Indian Affairs has 5,900 employees and a budget of approximately $2.7 billion. *Id*. at 692-93. This dwarfs the size and financial resources of the SBA.

businesses. As a result, the government would save about $12 million which is the administrative cost of operating the Office of International Trade.[18]

No rationale exists to assign regional trade finance specialists to SBA regional offices. Small businesses access SBA services through district offices. Placing personnel in regional offices ensures that they are unlikely to come in close contact with small businesses. Furthermore, appropriate training should provide existing district office personnel with sufficient expertise to understand the various options for international trade finance. As a result, the Committee recommends that funding for these individuals be eliminated.

The Committee certainly understands the importance of international trade to small businesses. However, the taxpayer would save about $20 million by the elimination of the STEP Program and Office of International Trade without undermining their ability to obtain necessary information to enter the import or export markets.

SBA-created Entrepreneurial Outreach Initiatives

The SBA requested $39 million dollars for five outreach programs that it created under its general powers to help small businesses: Boots to Business; Entrepreneurship Education; Growth Accelerators; Regional Innovation Clusters; and contributions to BusinessUSA.gov.[19] The Committee does not believe that a detailed explication of these initiatives are necessary as they have amorphous goals and duplicate already extant outreach efforts that are known throughout the small business community. Therefore, the Committee endorses eliminating all funding for these efforts and reallocating $3 million to the SBA government contracting programs and increased oversight by the Inpsector General.

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 does not make a specific request for funds to operate to the government contracting program; rather those expenses are subsumed in the overall salaries and expenses for the agency. Nevertheless, the agency provides an estimate of the total cost for operating these programs at $102 million or roughly a $1 million

[18] The SBA's FY 2015 Budget Justification does not provide a budget request specifically for the Office of International Trade as its budget is subsumed in other accounts (such as salaries and expenses). Nevertheless, the SBA estimates that the administrative costs of providing assistance to small business importers and exporters is roughly $12 million. *See* SBA, FY 2015 CONGRESSIONAL BUDGET JUSTIFICATION 56 (2014).

[19] Technically, BusinessUSA.gov is not a program of the SBA but rather a collaborative effort of all federal agencies to provide information of use to small businesses. The information provided by that website is inaccurate and duplicates website efforts at other federal agencies, including that of the SBA's (which itself is not a picture of clarity and intuitive use).

increase from FY 2014.[20] 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 and resources should be reallocated to help small businesses enter and succeed in the federal government marketplace.

PCRs and CMRs

The SBA has two types of individuals devoted to ensuring that small businesses have maximum opportunities to provide goods and services to the federal government. They are procurement center representatives (PCRs) and commercial marketing representatives (CMRs).[21]

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 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 the use of full and open competition when that strategy will benefit small businesses; and 9) determine whether a contract is improperly bundled, i.e., some or all of the contracted goods or services could be provided by small businesses if the contract was not bundled.

CMRs promote the use of small businesses by prime federal contractors required to submit subcontracting plans, i.e., businesses other than small. They review compliance with federal subcontracting plans. In addition, they perform market outreach to match small businesses and large prime federal contractors. Frequently, CMRs often perform other functions in addition to their efforts to find subcontracting opportunities.

PCRs and CMRs play a vital role in helping small businesses obtain federal procurement opportunities. The number of such individuals at the SBA is well short of their need. PCRs require significant procurement knowledge. The functions of a CMR require also require a solid foundation in the federal procurement process and is clearly a full, not part-time, position.

[20] SBA, FY 2015 CONGRESSIONAL BUDGET JUSTIFICATION 26, Table 10 (2014).
[21] The Federal Acquisition Regulation actually describes three types of SBA personnel – PCRs, CMRs, and breakout PCRs. That last category was eliminated from the Small Business Act but the Federal Acquisition Regulation has not yet been updated.

While in other years, the SBA has called for the hiring of additional PCRs, the FY 2015 budget is silent on this matter. The Committee has had significant bipartisan support for the hiring of additional PCRs and CMRs. Of the $3 million in savings from the SBA's contribution to BusinessUSA.gov, about $1 million should be allocated to hiring new PCRs and CMRs. This reallocation will provide a significant benefit to small businesses and the taxpayer as it will help ensure robust small business competition when the government buys goods and services

Completion of Congressionally-Mandated SBA Contracting Regulatory Changes

In the last two years, Congress has made a number of changes to the government contracting programs overseen by the SBA. These changes require the agency to take the following actions: issue new guidelines for agency small business contracting; file a report on why agencies have not met their contracting goals (an annual requirement); promulgate regulations to improve the mentor-protégé program;[22] issue rules to permit more teaming arrangements through modification of subcontracting limitations; adjust its databases to identify large businesses misclassified as small; establish a website for large businesses to post subcontracting opportunities for small businesses; promulgate regulations creating a safe harbor for small businesses who make a good faith effort to comply with the complex agency size-standard rules; publish a plain English guide for small businesses on how to comply with the agency's size standard rules; issue regulations on its authority to suspend or debar (temporarily or permanently prohibit a business from obtaining government contracts); and issue a SOP on how the agency will conduct suspension and debarment proceedings. The SBA has not completed any of these enumerated tasks and some are more than a year overdue. Despite this, the SBA makes no mention of these items in its budget justification or requests additional sums to complete these changes to their contracting programs.

In contradistinction, the SBA determined that it was necessary to create new entrepreneurial programs (not specifically required by Congress) spending $36 million of taxpayers' money. The SBA simply gets it wrong and its first priorities should be those created by Congress not duplicative initiatives created out of whole cloth by SBA employees. As a result, the Committee strongly recommends that no funds be allocated to the SBA-created entrepreneurial development initiatives. Further, of the $3 million dollars eliminated from contributions to the BusinessUSA.gov website, $1 million should be allocated to the implementation of changes to SBA's government contracting programs as mandated by Congress.

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

[22] Under mentor-protégé program, small businesses may team with a large business mentor in order to obtain a specific government contract without running afoul of affiliation rules that would otherwise deem the small business as large in the absence of a mentor-protégé relationship. 13 C.F.R. §§ 121.103(h)(3)(iii), 124.520.

of value between $3,000 and $150,000 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 are 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 through one of these programs, the small business awardee is required to perform the majority of the work.[23]

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 SBA has sufficient resources, as reflected in the FY 2015 budget request, for operation of the specific small business programs.[24]

The issue is not the availability of resources but proper management and oversight within the agency; no amount of funds can ensure that agency leadership will place a proper focus on these government contracting programs. However, the elimination of duplicative entrepreneurial development efforts could free up agency management to focus on its government contracting programs.

Agency Structure

The SBA, unlike most federal agencies, provides services in a variety of locations rather than through its headquarters operations or through one of ten regional offices. The SBA has 68 district offices at which small business owners obtain advice, seek information, and work with SBA employees to obtain government contracts. In addition, district offices also provide office space for the outreach efforts conducted by SCORE counselors. In addition to these district offices, the SBA has a loan processing center outside of Sacramento, CA, a national office that oversees the purchase of loan guarantees and the liquidation of defaulted loans in Herndon, VA, six area-wide offices to handle disputes about a business size in the government contracting realm, two offices (in Buffalo, NY and Forth Worth, TX) for disaster response, and a national finance office in Denver, CO which also hosts much of the SBA's internal contracting function. Given

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

this decentralized structure, it is relevant to consider whether the agency has properly allocated resources among its various offices.

Personnel in the 10 Federal Regions

As already noted, the SBA delivers services to small business owners through a panoply of offices. While some functions are overseen by program offices,[25] most of these operations are managed by an Office of Field Operations at SBA's Washington, DC headquarters.

In addition to the district offices and services provided at various locations throughout the country, the SBA also has employees in each of the ten federal regions. These federal regions have regional administrators, regional communications officials, and concomitant support staff. Despite this robust presence in the federal regional offices, most of the SBA's functions carried out in the field are managed, not in these regional offices, but rather at SBA headquarters. As a result, the Committee believes that regional offices of the SBA can be eliminated without any diminution of effective agency management. The Committee recommends that no funds be allocated for the operation of its ten regional offices and those funds can be reallocated to more vital needs such as improvements in the agency's information technology and hiring additional PCRs and CMRs.

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

[25] For example, the Sacramento Loan Processing Center is managed by the Office of Capital Access at SBA's Washington, DC headquarters.

directors should be reassigned to other functions at the agencies that provide direct assistance to small businesses.

Executive Direction

The budget for executive direction, a conglomeration of various offices at the SBA that is not clearly defined has steadily increased since FY 2009. Although there has been a leveling out of the increase, the FY 2015 budget request is for $19.5 million – a reduction of a mere $25,000. The agency's inability to control its spiraling top-heavy management structure demonstrates a failure to understand its priorities and mission.

Even more troubling is the fact that no explanation exists for the use of these funds. According to the agency cost allocations, the SBA has identified roughly $8 million in funds specifically for executive direction – Women's Business Council, Ombudsman, and contributions to BusinessUSA.gov website. That leaves $11 million unspecified; presumably some of it is allocated to functions such as the Office of Legislative Affairs and the operation of the Administrator's office but it is impossible to ascertain what monies are allocated to what functions in the SBA budget. As a result, the Committee is concerned that these funds will be used for projects of the Administrator's interest rather than functions directed by Congress. The Committee strongly urges that budget submissions by federal agencies provide more granular detail so that the Committee can provide a more accurate assessment to the Committee on the Budget on the propriety of an agency's budgetary allocations.

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. 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 includes a personal office of the Administrator that is the same size as that of the Secretaries of Defense or Agriculture,[26] and a Chief Operating Officer separate from the Deputy Administrator[27] even though the Department of Energy seems to survive with a Deputy Secretary also functioning as the Chief Operating Officer.[28]

Nothing in the SBA budget suggests that the Administrator plans to reduce the Office of the Administrator; the recommended budget cuts could from employees that directly

[26] Secretary Vilsack and Secretary Gates are able to manage much larger agencies (Department of Agriculture and Defense respectively) with only 13 individuals in each of their personal offices.
[27] In testimony to the Committee on March 2, 2011, the Administrator claimed that the position of the Chief Operating Officer was terminated and the Deputy Administrator would act as the Chief Operating Officer. However, the SBA's FY 2015 Budget Justification shows an organizational chart with a Deputy Administrator, a Chief of Staff, and a Chief Operating Officer. SBA, FY 2015 CONGRESSIONAL BUDGET JUSTIFICATION 29 (2014).
[28] The Department of Energy has roughly 16,000 employees, 90,000 contractor employees and a FY 2015 budget request of $27.9 billion. OMB, FY 2015 BUDGET OF THE U.S. GOVERNMENT 73 (2014).

serve small businesses. This is unacceptable to the Committee and it recommends a 10 percent reduction in funds for the Office of the Administrator.

Inspector General

The SBA manages a loan portfolio in excess of $100 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 $1 million in savings from the BusinessUSA.gov website contribution and $1 million in savings elsewhere provided in this document be transferred to the Inspector General to ensure that office has sufficient resources to root out fraud, abuse, and waste.

The Office of the Chief Counsel for Advocacy

The Office of the Chief Counsel for Advocacy was created in 1976. Its primary mission is to represent the interests of small businesses in federal agency regulatory proceedings. The Office accomplishes this primarily through its oversight of agency compliance with the Regulatory Flexibility Act (RFA).[29] The primary costs of the Office of the Chief Counsel for Advocacy are salaries for 46 employees and funds to conduct economic research. As already noted, the Committee believes that the regional advocate positions should be eliminated and some of their positions transferred to the Washington, DC headquarters to work on oversight of agency compliance with the RFA. In addition, the Committee believes that the economic research activities of the Office should be targeted to analysis of agency rulemakings rather than the broader research currently conducted by the Office. With the aforementioned caveats, the Committee concurs with the FY 2015 Budget Request of $8.46 million.

[29] The RFA requires federal agencies to consider the impacts of their proposed and final rules on small entities, including small businesses, and if those impacts are significant on a substantial number of such entities, develop alternatives that reduce such consequences without undermining the objectives sought to be achieved by the agency.