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United States Senate
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January 21, 2025

The President
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President,

The prior Administration put small businesses last and caused small business confidence to hit its lowest point in more than 11 years.¹ Since your election, this confidence has soared to a six-year high as our nation's job creators look forward to once again having a partner in the Oval Office.² As Chair of the U.S. Senate Committee on Small Business and Entrepreneurship, it is my responsibility to ensure that small businesses both in the great state of Iowa and across America thrive and to oversee the programs and services offered by the U.S. Small Business Administration (SBA).³ Unfortunately, you are inheriting an agency with mounting taxpayer losses and gross political mismanagement. The Biden Administration treated the SBA like a blank check and removed critical safeguards used to ensure taxpayer investments are protected. Their unsustainable changes to all SBA programs left disaster funding empty in the fall of 2024 and many of the programs are showing critical indicators that they will need funding to offset losses.

For several years in a row, the Government Accountability Office (GAO) was unable to issue a financial audit of the SBA because the agency could not provide enough support for their loans receivable and loan guarantees.⁴ The SBA is on a path of insolvency with numerous unnecessary and duplicative programs. I am ready and willing to work with you and your SBA Administrator-nominee Kelly Loeffler to right-size the SBA and restore prudent decision making at the agency. However, as we start on this path, I must alert you to the following landmines that await you, caused entirely by the careless acts of the Biden Administration.

SBA Mismanagement of Lending Programs is Leading to Rapid Deterioration and Depleted Funds

The 7(a) loan program utilizes private sector banks to make loans to small businesses with the guarantee that, if those loans default, the SBA will purchase a portion of the defaulted loan from the bank. Over the last year, the 7(a) program has seen a dramatic increase in negative statuses for its loans.⁵ Defaults,

¹ Jeff Cox, *Small business optimism hits 11-year low as inflation fears won't go away*, CNBC, (Apr. 9, 2024), available at <https://www.cnbc.com/2024/04/09/small-business-optimism-hits-11-year-low-as-inflation-fears-wont-go-away.html>.

² Press Release, NFIB, *New NFIB Survey: Small Business Optimism Surges Again, Reaches Six-year High* (Jan. 14, 2025), available at <https://www.nfib.com/news-article/new-nfib-survey-small-business-optimism-surges-again-reaches-six-year-high-6/>.

³ Senate Rule XXV 1(l).

⁴ GAO, GAO-25-107421, FINANCIAL AUDIT: FY 2024 AND FY 2023 CONSOLIDATED FINANCIAL STATEMENTS OF THE U.S. GOVERNMENT (Jan. 16, 2025), available at <https://www.gao.gov/products/gao-25-107421>.

⁵ SBA, FY24 ANNUAL 7(A) RISK ANALYSIS REPORT 16, (Dec. 2, 2024), (on file with Comm.).

early defaults (loans that default in the first 36 months of their term), and delinquencies are all at the worst they have been since March 2020, when shutdowns were in effect but pandemic relief had not yet been passed by Congress.⁶ While SBA has claimed that interest rates were the primary driver of this deterioration, the rate at which these negative outcomes are increasing in frequency is also outpacing equivalent measures in the private sector, indicating that this is likely driven in large part by SBA policy, rather than market-wide factors. Chief among the culprits are the Biden Administration's rulemakings in 2023 that relaxed underwriting criteria for 7(a) and 504 loans and expanded the participation of non-bank lenders that lack a state or federal-level prudential regulator.⁷ SBA needs an audit of its early defaults in the 7(a) program to determine if there are specific, reckless lenders jeopardizing the safety and soundness of the program. SBA's senior leadership, beginning with Administrator Guzman and extending throughout the ranks, exerted improper and undue political influence in selecting new lenders, which resulted in irresponsible administrative actions that must be reviewed.

Further, purchases of 7(a) loans from private lenders by SBA are also at the highest level since the pandemic, with \$1.6 billion in purchases in fiscal year (FY) 24. These elevated purchase levels have caused the 7(a) program's net cash flow (fee revenue minus purchase costs) to be negative for the first time in 13 years, driven by the dramatically lower fee revenue from borrowers, who do not pay any fees on loans of \$1 million or less, and reduced fees levied on lenders for guarantees.⁸ Statutorily, the program is required to operate at zero cost to the taxpayer where losses are offset by these fees. The Biden Administration cut fees for borrowers every year from FY22 to FY24 and completely eliminated the guarantee fee charged to lenders for loans under \$1 million, while reducing the fee for loans above \$1,000,000.⁹ The new SBA team must review the program's cash flow to make sure the program is still on track to remain at zero cost to the taxpayer.

SBA Must Prioritize COVID Program Servicing and Potential for Increased Defaults

Despite mandates to recover fraud, the SBA continues to charge off billions of dollars' worth of COVID Economic Injury Disaster Loans (EIDL), with \$18.6 billion in COVID EIDLs charged off in FY24 alone and over \$70 billion charged off cumulatively.¹⁰ The agency has claimed they do not have the capacity to continue servicing the COVID EIDL portfolio, which is why in 2023 they attempted to forgo

⁶ *Id.*

⁷ Affiliation and Lending Criteria for the SBA Business Loan Programs, 88 Fed. Reg. 21074, (Apr. 10, 2023) (to be codified at 13 C.F.R. pt 120 and 121), *available at* <https://www.federalregister.gov/documents/2023/04/10/2023-07173/affiliation-and-lending-criteria-for-the-sba-business-loan-programs>; Small Business Lending Company (SBLC) Moratorium Recission and Removal of the Requirement for a Loan Authorization, 88 Fed. Reg. 21890, (Apr. 12, 2023) (to be codified at 13 C.F.R. pt. 120), *available at* <https://www.federalregister.gov/documents/2023/04/12/2023-07181/small-business-lending-company-sblc-moratorium-recission-and-removal-of-the-requirement-for-a-loan>.

⁸ SBA, SBA INFORMATION NOTICE 5000-858936, 7(A) FEES EFFECTIVE OCTOBER 1, 2024, (July 23, 2024), *available at* <https://www.sba.gov/sites/default/files/2024-07/Information%20Notice%205000-858936%207a%20Fees%20for%20FY%202025%20%28FINAL%29.pdf>.

⁹ SBA, SBA INFORMATION NOTICE 5000-20048, 7(A) FEES EFFECTIVE OCTOBER 1, 2020, (Sept. 22, 2020), *available at* https://www.sba.gov/sites/default/files/2020-09/SBA%20Information%20Notice%205000-20048_7%28a%29%20Fees%20Effective%20October%201%2C%202020-508.pdf; SBA, SBA INFORMATION NOTICE 5000-848801, 7(A) FEES EFFECTIVE OCTOBER 1, 2023, (Aug. 29, 2023), *available at* <https://www.sba.gov/sites/default/files/2023-08/7%28a%29%20Fees%20Notice%20FY%2024%205000-848801.pdf>.

¹⁰ SBA, *Small Business Administration loan program performance*, (Nov. 19, 2024), *available at* <https://www.sba.gov/document/report-small-business-administration-loan-program-performance> (see SBA loan performance reports, specifically table 5); please note loans are "charged off" if SBA determines no additional principal and interest from the borrower will be recovered by the agency.

collections on all Paycheck Protection Program (PPP) and COVID EIDLs under \$100,000, over \$72 billion in loans, before reversing course later that year due to pressure from this Committee. Likely due to political considerations, the agency has also evaded its duty to refer these loans to collections, instead letting small business owners repeatedly enter the Hardship Accommodation Program (HAP), a “relief” program that allowed the Biden-Harris Administration to say the COVID EIDLs were current and avoid the need to refer the borrowers to collections even as borrowers drown in accruing interest.¹¹ Due to the timing and term length of small business participation in the HAP, your Administration will inherit the challenge of what SBA must do with these loans, with defaults likely to increase as small business owners come out of the HAP and begin making their full payments. This is yet another example of gross negligence by SBA’s political leadership creating burdens that will likely be blamed on your Administration.

Gross Policy Mismanagement Led to Disaster Program Shortfall

As you start your Presidency, the news is filled with grim outlooks on California wildfires and other natural disasters occurring throughout our nation. Unfortunately, SBA’s role in this space is both vitally important and has gone horribly wrong. In 2023 and 2024, the SBA made multiple unilateral administrative changes to the disaster loan program.¹² These changes include moving the Office of Disaster Assistance into SBA’s Office of Capital Access under the new title of the Office of Disaster Recovery and Resilience,¹³ SBA raising the maximum loan amount for all its disaster loans,¹⁴ deferring principal and interest payments for one year,¹⁵ and increasing the unsecured loan limit of some of its disaster loans.¹⁶ SBA acknowledged these changes would impact the disaster loan subsidy rate, but made no apparent changes to the distribution of loans or modeling of when the disaster loan account would be depleted; therefore, the changes contributed to the shortfall.¹⁷ This led to the unacceptable situation where on October 15, 2024, the SBA announced that “it has exhausted funds for its disaster loan program.”¹⁸ On December 21, 2024, under the American Relief Act, 2025, (Pub. L. 118-158) the SBA disaster subsidy loan account received \$2.249 billion, \$50 million of which is required to go to SBA’s Office of Inspector General (OIG). It also allowed for \$613 million of the total request to be transferred to the SBA disaster administrative account. However, this measure did not include any transparency or accountability standards to ensure this situation never occurs again. The prior Administration failed to put disaster survivors first and work with Congress. I am confident your

¹¹ Andy Medici, *An SBA Covid loan hardship program tops \$36B – and hope is dimming to get current*, THE BUS. JOURNALS (Oct. 8, 2024), available at <https://www.bizjournals.com/bizjournals/news/2024/10/08/sba-covid-eidl-loan-hap-hardship-forgiveness.html>.

¹² Disaster Assistance Loan Program Changes to Maximum Loan Amounts and Miscellaneous Updates, 88 Fed. Reg. 39335, (June 6, 2023) [hereinafter SBA Disaster Change 2023], available at <https://www.federalregister.gov/documents/2023/06/16/2023-12779/disaster-assistance-loan-program-changes-to-maximum-loan-amounts-and-miscellaneous-updates>; see also Disaster Assistance Loan Program Changes to Unsecured Loan Amounts and Credit Elsewhere Criteria, 89 Fed. Reg. 59826, (July 24, 2024) [hereinafter SBA Disaster Change 2024], available at <https://www.govinfo.gov/content/pkg/FR-2024-07-24/pdf/2024-16207.pdf>.

¹³ Press Release, SBA, *Administrator Guzman Transforms SBA’s Disaster Enterprise to Strengthen Support for Disaster-Impact Communities*, (Feb. 2023), available at <https://www.sba.gov/article/2023/feb/01/administrator-guzman-transforms-sbas-disaster-enterprise-strengthen-support-disaster-impacted>.

¹⁴ SBA Disaster Change 2023, *supra* note 12.

¹⁵ *Id.*

¹⁶ SBA Disaster Change 2024, *supra* note 12.

¹⁷ *Id.*; Email from Staff, SBA to Staff, Senate Small Business Committee (Oct. 10, 2024), (on file with Comm.).

¹⁸ Press Release, SBA, *SBA Exhausts Funds for New Disaster Loans*, (Oct. 15, 2024), available at <https://www.sba.gov/article/2024/10/15/sba-exhausts-funds-new-disaster-loans>.

Administration will carefully examine the rules and decisions that led to this outcome and remedy it for the American people while aiding disaster survivors.

SBA Rulemaking Risks Catastrophe in the SBIC Program

The Small Business Investment Company (SBIC) program provides licenses to private equity and venture capital funds so they can borrow low-cost, government-guaranteed loans (matched with private capital) to invest in United States small businesses. It traditionally pays for itself through interest payments and fees paid by licensees. The Biden Administration’s 2023 SBIC rule created new accrual debenture licenses, which do not require any payments before the debenture’s 10-year maturity date to facilitate long-term—and inherently riskier—equity stake investments.¹⁹ While the SBIC program has remained zero-subsidy since 1999, this relies on the low-risk terms of conventional SBIC licenses that historically dominate the program and pay interest semi-annually. In contrast, the investment strategy driven by new licensees increases the risk of loss to taxpayers. With more than ten accrual licenses awarded so far in FY24 and FY25, each eligible for up to \$175 million in SBA leverage, a substantial amount of taxpayer funds are at risk under a potentially hazardous SBIC investment strategy.²⁰ The Biden Administration failed to heed lessons learned from the disastrous SBIC participating securities initiative of the 1990s, which similarly prioritized equity investments and resulted in a projected \$2.7 billion-dollar loss forcing SBA to wind down the program.²¹ The new SBA management team needs to immediately pose a moratorium on accrual licenses, audit the portfolio, and establish true performance metrics for the funds that are not paying semi-annual interest payments.

Diversity, Equity, and Inclusion (DEI) Preferences Distract from Technological Excellence in the SBIR-STTR Program

Under the Biden Administration, the multi-agency SBIR-STTR program—overseen by the SBA—has shifted its priority from awarding innovators based on technical merit to a focus on identity politics. Through Executive Order (EO) 13985 and EO 14091, President Biden required federal agencies to prioritize a “comprehensive approach to advancing equity for all”²² throughout contracting and grant programs resulting in DEI-focused “equity-action plans”²³ taking root across the federal government.²⁴

¹⁹ Small Business Investment Company Investment Diversification and Growth, 88 Fed. Reg. 45982, (July 18, 2023), *available at* <https://www.federalregister.gov/documents/2023/07/18/2023-13981/small-business-investment-company-investment-diversification-and-growth>.

²⁰ *Id*; Email from Staff, Legislative Affairs, Department of Defense to Staff, S. Comm. on Small Business and Entrepreneurship, (Oct 31, 2024, 3:51 EST) (on file with Comm.); SBA, SMALL BUSINESS INVESTMENT COMPANY (SBIC) PROGRAM OVERVIEW REPORT FOR FISCAL YEAR 2024, (Jan. 8, 2025), *available at* <https://www.sba.gov/document/report-small-business-investment-company-sbic-program-overview-report>; Small Business Administration Office of Innovation and Investment Briefing to S. Comm. on Small Business and Entrepreneurship staff, (Jan. 13, 2025).

²¹ ROBERT J DILGER, CONG. RSCH. SERV., (R41456), SBA SMALL BUSINESS INVESTMENT COMPANY PROGRAM, (June 15, 2021), *available at* <https://crsreports.congress.gov/product/pdf/R/R41456/91>.

²² Exec. Order No. 13985, 86 Fed. Reg. 7009, (Jan. 20, 2021), *available at* <https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government>.

²³ Exec. Order No. 14091, 88 Fed. Reg. 10825, (Feb. 16, 2023), *available at* <https://www.federalregister.gov/documents/2023/02/22/2023-03779/further-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal>.

²⁴ Exec. Order No. 13985, 86 Fed. Reg. 7009, (Jan. 20, 2021), *available at* <https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government>; Exec. Order No. 14091, 88 Fed. Reg. 10825, (Feb. 16, 2023), *available at* <https://www.federalregister.gov/documents/2023/02/22/2023-03779/further-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal>.

Following this, several agencies including the Department of Energy and National Institutes of Health established SBIR-STTR diversity supplemental awards based on the identity of the researchers or key personnel of small businesses receiving an award.²⁵ Agencies have also begun requiring a diversity statement as part of the application—for example, a portion of the Department of Energy’s SBIR-STTR application review is based on an applicant’s ability to “promote inclusive and equitable research.”²⁶ Allocating resources to small businesses based on the diversity of its key personnel or its racial equity-oriented goals, rather than the quality of a technology and its innovation potential, takes away from a merit-based approach that is necessary for the SBIR-STTR program to meet its full potential. As SBIR-STTR needs to be reauthorized this year, these prior efforts have no place in moving our nation’s innovators forward.

SBA Information Technology (IT) and Certification Platform Leads to Major Cyber Vulnerabilities

Over several Administrations, SBA’s IT has remained a significant management challenge. In July 2024, I wrote a letter with House Small Business Committee Chairman Williams to SBA regarding its poorly timed plans to upgrade its online small business contracting certification portal.²⁷ In November 2024, the Government Accountability Office (GAO) issued a report examining the SBA’s new Unified Certification Platform (UCP) and determined that the SBA urgently needs to address outstanding risks.²⁸ GAO identified critical management gaps, finding that the agency did not have an acceptable risk mitigation plan and failed to fully identify, document, and manage risks including cybersecurity risks.²⁹ The SBA’s failures leave the UCP vulnerable to successful cyberattacks on a platform intended to collect personal data, including financial information, from American small business owners. The GAO also found the SBA’s UCP was not entirely unified, undercutting the whole point of this IT investment.³⁰ Finally, the GAO found the SBA’s cost estimate to be unreliable, indefensible, and rooted in one project manager’s past experience rather than on objective data or documentation.³¹ Further, SBA used its IT Working Capital Fund to support certain IT projects while other portions of SBA lacked basic IT capacity. Over the past three years, SBA FITRA implementation score has been a C.³² The SBA OIG found that the SBA had ineffective information security during this period.³³ The new

²⁵ U.S. DEP’T OF ENERGY, OFF. OF SCI., *DOE Phase II Diversity Supplements*, (Jan. 14, 2025), available at <https://science.osti.gov/sbir/Awardee-Resources>.

U.S. DEP’T OF HEALTH & HUM. SERV., NAT. INST. OF HEAL., *Small Business Diversity Supplement Application Guidance*, (Jan. 14, 2025), available at <https://seed.nih.gov/small-business-funding/find-funding/supplemental-funding-to-diversify-the-entrepreneurial-workforce/application-components>.

²⁶ U.S. DEP’T OF ENERGY, OFF. OF SBIR/STTR PROG., *PIER Plan*, (Jan. 14, 2025), available at <https://pamsexternalhelp.science.energy.gov/pages/viewpage.action?pageId=105513098>.

²⁷ Letter from Joni Ernst, Ranking Member, S. Comm. on Small Business and Entrepreneurship, and Roger Williams, Chair, H. Comm. on Small Business, to Isabel Casillas Guzman, Admin’r, SBA, (July 11, 2024), available at <https://fedscoop.com/wp-content/uploads/sites/5/2024/07/7.11.24-SSBC-HSBC-Joint-Letter-on-SBA-Contracting-System-Pause.pdf>.

²⁸ GAO, GAO-25-106963, *IT MODERNIZATION: SBA URGENTLY NEEDS TO ADDRESS RISKS ON NEWLY DEPLOYED SYSTEM* 16 (Nov. 2024), available at <https://www.gao.gov/assets/gao-25-106963.pdf>.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

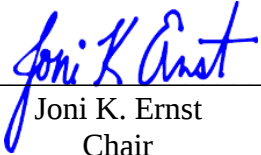
³² MERITALK, *SBA - FITARA Dashboard*, available at <https://fitara.meritalk.com/view/sba>.

³³ SBA OIG, REPORT 24-07, *FISCAL YEAR 2023 FEDERAL INFORMATION SECURITY MODERNIZATION ACT*, (Mar. 7, 2024), available at <https://www.sba.gov/sites/default/files/2024-03/SBA%20OIG%20Report%2024-07.pdf>; see also Letter from Joni K. Ernst, Chair, S. Comm. on Small Business and Entrepreneurship, to Isabella Guzman, Adm’r, SBA, (May 9, 2024), available at https://www.ernst.senate.gov/imo/media/doc/capital_it_fund_letter.pdf.

Administration needs to seek a strong Chief Information Officer and expeditiously work to protect small businesses' personal information.

As we work to support our nation's more than 34 million small business, I urge your Administration to take a holistic look at improvements and efficiencies we can make at the SBA.³⁴ I look forward to working with you and SBA Administrator-nominee Loeffler on fixing these pressing issues and putting the SBA back on a path to success and providing relevant services to meet the needs of America's entrepreneurs.

Sincerely,



Joni K. Ernst
Chair

³⁴ Press Release, SBA Office of Advocacy, *New Advocacy Report Shows Small business Total Reaches 34.8 million, Accounting for 2.6 million net new jobs in Latest Year Data*, (Nov. 19, 2024), available at <https://advocacy.sba.gov/2024/11/19/new-advocacy-report-shows-small-business-total-reaches-34-8-million-accounting-for-2-6-million-net-new-jobs-in-latest-year-of-data/#:~:text=The%20United%20States%20contains%2034.8,followed%20by%20Texas%20and%20Florida./>.