The original documents are located in Box 4, folder "1974/08/23 S.3331 Small Business Amendments of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

To- Warren Hendrick 8-16-74

APPROVED AUG 23 1974 Statement Issued 8/24

AUG 16 1974

MEMORANDUM FOR THE PRESIDENT

Posted 8/24

Subject: Enrolled Bill S. 3331 - Small business amendments
Sponsor - Sen. Cranston (D) California

J. Orchis 8/26

Last Day for Action

August 23, 1974 - Friday

Purpose

Provides increased ceilings and authorities for SBA's loan programs, requires that SBA make a minimum of $400 million in direct loans during fiscal year 1975, clarifies and amends certain provisions applicable to SBA's loans, transfers certain authorities from the Economic Opportunity Act to the Small Business Act, prescribes a new reporting requirement by SBA and a special GAO audit of SBA, and creates two new positions within SBA.

Agency Recommendations

Office of Management and Budget	Disapproval (veto message attached)
Department of the Treasury	Disapproval
Council of Economic Advisers	Disapproval (qualified)
Federal Energy Administration	No objection
Department of Justice	Defers to SBA
Small Business Administration	Approval

Discussion

S. 3331 contains a number of provisions which were requested or supported by the Administration as necessary to continue SBA's loan programs. It contains other unrequested provisions which are not, however, considered undesirable.

One feature of S. 3331 is so objectionable as to warrant, in our opinion, disapproval of the bill. It would require SBA to make a minimum of $400 million in direct loans in fiscal year 1975 -- this would increase 1975 budgeted outlays by approximately $360 million, in the absence of reprogramming.

The main provisions of the bill are discussed in more detail below.

Provisions requested or supported by the Administration

(1) Section 2(a) of the bill would increase from $4.875 billion to $6 billion the total amount of loans, guarantees, and other obligations and commitments which may be outstanding at any one time from the business loan and investment fund established by section 4(c) of the Small Business Act ("the Act"). Presently SBA has no unused authority within the existing limitation and can make loans only to the extent of repayment of existing loans.

(2) Section 2(b) would transfer to the Small Business Act the authority to render financial assistance to socially or economically disadvantaged persons now embodied in title IV of the Economic Opportunity Act.

(3) Section 3(1) would provide that when SBA is required to purchase a financial institution's share of a guaranteed loan, it may continue to charge the borrower up to the rate of interest that the financial institution charged. At present, SBA can charge only 5 1/2 percent or the Treasury rate in such cases; this creates an incentive for a borrower to default on an SBA guaranteed loan in order to obtain a lower interest rate.

(4) Section 3(2) would clarify the provision of the Act relating to the rate of interest applicable to loans under SBA's handicapped assistance program.

(5) Section 6 would expand SBA's authority to carry out its lease guarantee and surety bond guarantee programs.

(6) Section 9 would authorize disaster-type loans with terms of up to 30 years for small business concerns affected adversely by energy shortages whenever SBA determines that such firms have suffered or are likely to suffer substantial economic injury without such assistance.

Provisions not opposed by the Administration

(1) Section 4 of the bill would require SBA to submit annual sealed reports to the House and Senate Banking Committees concerning (a) complaints alleging illegal conduct by SBA employees and (b) investigations undertaken by SBA, including external and internal audits and security and investigation reports.

(2) Section 5 attempts to clarify section 18 of the Act, which currently prohibits SBA from duplicating the work of any other Federal department or agency. SBA's views letter on the enrolled bill, however, indicates that section 5 actually is more ambiguous than clarifying and would be very difficult to administer in cases where an agency other than SBA denies loan applications.

(3) Sections 7 and 10 would create the position of Associate Administrator for Minority Small Business and would require designation of an existing SBA employee as Chief Counsel for Advocacy. The former would be basically responsible for formulating policy and reviewing the execution of programs relating to the agency's minority enterprise programs. The latter would be a focal point for (a) handling small business complaints, proposals, and issues concerning the relationship between public and private organizations, (b) counselling small businesses in these areas, and (c) representing their views before other Federal agencies.

(4) Section 8 would remove the statutory interest rate of 5 1/2 percent for SBA's regular direct business loans and substitute the Treasury rate plus one-fourth of one percent. Treasury, in its views letter on the enrolled bill, states that the formula in the bill is technically deficient in that it would be based on coupon rates and thus bear no direct relationship to the current cost of funds to the Government, and would be set only once a year.

(5) Section 11 would require SBA to conduct a study of the surety bond guarantee program and submit a report to the Congress within one year after enactment.

(6) Section 13 would direct the GAO to conduct a complete audit of SBA and report to the Congress within six months from the date of enactment.

Provision strongly opposed by the Administration

Section 12 would require SBA to make direct loans under its regular business loan program in an aggregate amount of at least $400 million during fiscal year 1975. The 1975 Budget provides for only $40 million in direct loans for this program. Thus, in the absence of reprogramming, the effect of Section 12 would be to increase 1975 outlays by $360 million. This requirement is inappropriate and unwarranted and runs directly counter to the Administration's and the Congress' efforts to reduce Federal spending. The legislative history of S. 3331 indicates the Congressional intent that a supplemental appropriation be enacted in order for Section 12 to take effect. However, the provision would invite litigation which could conceivably result in a court ruling that Section 12 requires reprogramming in the absence of additional appropriations.

The success of SBA's loan guarantee program makes direct loans in addition to the budgeted level unnecessary and inappropriate. Expansion of the direct loan level would impair SBA's excellent relations with the private banking sector. A substantial increase in staff would be required to administer an expanded program.

If the increased outlays under Section 12 were to be offset by reprogramming within SBA, the guaranteed loan and the minority business assistance programs would have to be mostly eliminated, in addition to other program reductions. Even with such a reprogramming, 1975 outlays would be increased by about $180 million.

Arguments for approval

-- An increase of SBA's loan ceiling is essential to carry out the budgeted loan programs.

-- S. 3331 incorporates, in identical or similar form, all other small business legislation which has been requested by the Administration during the 93rd Congress.

-- The Administration could subsequently seek to have a provision added to the pending SBA appropriation bill which would have the effect of cancelling out the $400 million direct loan requirement of S. 3331. In its views letter on the enrolled bill, SBA indicates that it has received informal indications from its Appropriations Subcommittees "that a $400 million appropriation will not be forthcoming."

Arguments for disapproval

-- The bill would result in inappropriate and unnecessary Federal outlays, thus undermining both Congressional and Executive efforts to fight inflation through reduced spending. Moreover, the desired level of assistance can largely be achieved through the loan guarantee program which produces minimal outlays.

-- An amendment to the SBA's appropriations bill cancelling the direct loan provision might well not survive. The House Banking Committee clearly indicated in its report accompanying the bill its intention that SBA immediately seek a supplemental appropriation for the expanded direct loan program if necessary to achieve the mandated lending level.

-- A veto of this bill would, we believe, be sustained. (The bill was approved by a voice vote in both Houses.)

-- Congress can promptly enact a new bill omitting the objectionable direct loan provision.

SBA recommends approval of S. 3331 because of the desirable authorities provided by the bill including the needed increased revolving fund ceilings. SBA believes that the effect of the expanded direct loan provision is mitigated by the need for supplemental appropriations which may not be forthcoming.

In its views letter on the enrolled bill, CEA states:

> "There is one provision, however, which appears to be contrary to two pressing Administration concerns -- reducing inflation and increasing productivity. Section 12 of the bill would require the SBA to make an aggregate of no less than $400 million worth of direct loans in FY 1975...
>
> "We believe that the SBA rather than Congress is a better judge of the minimum amount of loans that should be issued in FY 1975. The mandated minimum is an important provision that may be contrary to achieving other objectives. If there is a high probability of SBA direct loans falling below $400 million in FY 1975 under the same standards as have prevailed in the last few years, then we recommend that S. 3331 should be vetoed by the President."

The Office of Management and Budget and Treasury recommend that the bill be disapproved because the direct loan provision is greatly excessive and unwarranted in the light of efforts to reduce Federal expenditures.

We have prepared the attached draft of a veto message for your consideration.

Director

Enclosures

TO THE SENATE

I am returning today without my approval S. 3331, the "Small Business Amendments of 1974."

Many of the provisions of this bill are essential to the on-going programs of the Small Business Administration or are desirable amendments to existing law. For example, the bill raises ceilings on the SBA's loan programs as requested by the Administration.

I would approve the bill except for one unacceptable provision which is completely incompatible with our joint fight against inflation. That provision would require SBA to make direct loans under its regular business loan program in an aggregate amount of at least $400 million during fiscal year 1975. The House Banking and Currency Committee report states its expectation that the SBA will request the necessary supplemental appropriations to achieve this level.

The 1975 Budget provides $40 million for this direct loan program. Thus, in the absence of reprogramming, the effect S. 3331 seeks to achieve would be to increase Federal budget outlays by $360 million this year. Even if SBA's successful guaranteed loan and minority business assistance programs were virtually eliminated in order to mitigate this budget add-on, 1975 outlays would still have to be increased by about $180 million.

Outlays of the magnitude this bill seeks to mandate are prohibitive at a time when both the Congress and the Administration are committed to the American taxpayers to fight inflation through reduced Federal spending. The 1975 Budget level of $40 million for direct loan outlays, combined with the

continuing success of SBA's loan guarantee program, should ensure an adequate level of assistance for small businessmen.

I urge the Congress to reenact immediately legislation which incorporates the needed and desirable authorities of the bill but which eliminates the direct loan provision. This is the responsible course of action which I believe that Congress will, on further reflection, adopt as part of our vital fight against inflation.

THE WHITE HOUSE

August , 1974

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 16 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3331 - Small business amendments
Sponsor - Sen. Cranston (D) California

Last Day for Action

August 23, 1974 - Friday

Purpose

Provides increased ceilings and authorities for SBA's loan programs, requires that SBA make a minimum of $400 million in direct loans during fiscal year 1975, clarifies and amends certain provisions applicable to SBA's loans, transfers certain authorities from the Economic Opportunity Act to the Small Business Act, prescribes a new reporting requirement by SBA and a special GAO audit of SBA, and creates two new positions within SBA.

Agency Recommendations

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Department of the Treasury	Disapproval
Council of Economic Advisers	Disapproval (qualified)
Federal Energy Administration	No objection
Department of Justice	Defers to SBA
Small Business Administration	Approval

Discussion

S. 3331 contains a number of provisions which were requested or supported by the Administration as necessary to continue SBA's loan programs. It contains other unrequested provisions which are not, however, considered undesirable.

One feature of S. 3331 is so objectionable as to warrant, in our opinion, disapproval of the bill. It would require SBA to make a minimum of $400 million in direct loans in fiscal year 1975 -- this would increase 1975 budgeted outlays by approximately $360 million, in the absence of reprogramming.

The main provisions of the bill are discussed in more detail below.

Provisions requested or supported by the Administration

(1) Section 2(a) of the bill would increase from $4.875 billion to $6 billion the total amount of loans, guarantees, and other obligations and commitments which may be outstanding at any one time from the business loan and investment fund established by section 4(c) of the Small Business Act ("the Act"). Presently SBA has no unused authority within the existing limitation and can make loans only to the extent of repayment of existing loans.

(2) Section 2(b) would transfer to the Small Business Act the authority to render financial assistance to socially or economically disadvantaged persons now embodied in title IV of the Economic Opportunity Act.

(3) Section 3(1) would provide that when SBA is required to purchase a financial institution's share of a guaranteed loan, it may continue to charge the borrower up to the rate of interest that the financial institution charged. At present, SBA can charge only 5 1/2 percent or the Treasury rate in such cases; this creates an incentive for a borrower to default on an SBA guaranteed loan in order to obtain a lower interest rate.

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(2) Section 5 attempts to clarify section 18 of the Act, which currently prohibits SBA from duplicating the work of any other Federal department or agency. SBA's views letter on the enrolled bill, however, indicates that section 5 actually is more ambiguous than clarifying and would be very difficult to administer in cases where an agency other than SBA denies loan applications.

(3) Sections 7 and 10 would create the position of Associate Administrator for Minority Small Business and would require designation of an existing SBA employee as Chief Counsel for Advocacy. The former would be basically responsible for formulating policy and reviewing the execution of programs relating to the agency's minority enterprise programs. The latter would be a focal point for (a) handling small business complaints, proposals, and issues concerning the relationship between public and private organizations, (b) counselling small businesses in these areas, and (c) representing their views before other Federal agencies.

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Provision strongly opposed by the Administration

Section 12 would require SBA to make direct loans under its regular business loan program in an aggregate amount of at least $400 million during fiscal year 1975. The 1975 Budget provides for only $40 million in direct loans for this program. Thus, in the absence of reprogramming, the effect of Section 12 would be to increase 1975 outlays by $360 million. This requirement is inappropriate and unwarranted and runs directly counter to the Administration's and the Congress' efforts to reduce Federal spending. The legislative history of S. 3331 indicates the Congressional intent that a supplemental appropriation be enacted in order for Section 12 to take effect. However, the provision would invite litigation which could conceivably result in a court ruling that Section 12 requires reprogramming in the absence of additional appropriations.

The success of SBA's loan guarantee program makes direct loans in addition to the budgeted level unnecessary and inappropriate. Expansion of the direct loan level would impair SBA's excellent relations with the private banking sector. A substantial increase in staff would be required to administer an expanded program.

If the increased outlays under Section 12 were to be offset by reprogramming within SBA, the guaranteed loan and the minority business assistance programs would have to be mostly eliminated, in addition to other program reductions. Even with such a reprogramming, 1975 outlays would be increased by about $180 million.

Arguments for approval

-- An increase of SBA's loan ceiling is essential to carry out the budgeted loan programs.

-- S. 3331 incorporates, in identical or similar form, all other small business legislation which has been requested by the Administration during the 93rd Congress.

-- The Administration could subsequently seek to have a provision added to the pending SBA appropriation bill which would have the effect of cancelling out the $400 million direct loan requirement of S. 3331. In its views letter on the enrolled bill, SBA indicates that it has received informal indications from its Appropriations Subcommittees "that a $400 million appropriation will not be forthcoming."

Arguments for disapproval

-- The bill would result in inappropriate and unnecessary Federal outlays, thus undermining both Congressional and Executive efforts to fight inflation through reduced spending. Moreover, the desired level of assistance can largely be achieved through the loan guarantee program which produces minimal outlays.

-- An amendment to the SBA's appropriations bill cancelling the direct loan provision might well not survive. The House Banking Committee clearly indicated in its report accompanying the bill its intention that SBA immediately seek a supplemental appropriation for the expanded direct loan program if necessary to achieve the mandated lending level.

-- A veto of this bill would, we believe, be sustained. (The bill was approved by a voice vote in both Houses.)

-- Congress can promptly enact a new bill omitting the objectionable direct loan provision.

SBA recommends approval of S. 3331 because of the desirable authorities provided by the bill including the needed increased revolving fund ceilings. SBA believes that the effect of the expanded direct loan provision is mitigated by the need for supplemental appropriations which may not be forthcoming.

In its views letter on the enrolled bill, CEA states:

> "There is one provision, however, which appears to be contrary to two pressing Administration concerns -- reducing inflation and increasing productivity. Section 12 of the bill would require the SBA to make an aggregate of no less than $400 million worth of direct loans in FY 1975...
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> "We believe that the SBA rather than Congress is a better judge of the minimum amount of loans that should be issued in FY 1975. The mandated minimum is an important provision that may be contrary to achieving other objectives. If there is a high probability of SBA direct loans falling below $400 million in FY 1975 under the same standards as have prevailed in the last few years, then we recommend that S. 3331 should be vetoed by the President."

The Office of Management and Budget and Treasury recommend that the bill be disapproved because the direct loan provision is greatly excessive and unwarranted in the light of efforts to reduce Federal expenditures.

We have prepared the attached draft of a veto message for your consideration.

Director

Enclosures

THE PRESIDENT HAS SEEN.

ACTION

THE WHITE HOUSE

WASHINGTON

August 23, 1974

MEMORANDUM FOR THE PRESIDENT

FROM: KEN COLE

SUBJECT: Enrolled Bill S. 3331 - Small Business Amendments

Last day for action - August 23, 1974 - Friday

BACKGROUND

This bill would increase from $4.875 billion to $6 billion the total amount of loans, guarantees and other obligations, which SBA could lend at any one time. Presently SBA has no unused authority within the existing limitation and can make loans only to the extent of the repayment of existing loans. The bill would also furnish other beneficial provisions like disaster-type loans for small businesses affected adversely by energy sources and continue the authority for SBA to carry out its lease guarantee and surety bond guarantee programs.

The bill, however, contains the unfavorable provision that would require SBA to make direct loans of at least $400 million in FY 75, a figure more than SBA's total program budget and ten times the amount budgeted for direct loans in FY 75. OMB opposes the bill because it feels this provision is inflationary and budget busting. OMB also maintains that the legislative history of the bill indicates Congressional intent for a supplemental appropriation to effect this and even if no supplemental were forthcoming, the provision might invite litigation which might mean a court ruling calling for SBA reprogramming to meet the $400 million figure.

SBA also opposes the additional direct loan funds but maintains that a veto of the bill would kill any meaningful new loans until a clean bill comes out of Congress. It further claims that it would be difficult to obtain a new bill without additional direct loan authority and that the threat of litigation is unlikely because this is not an appropriation bill. SBA proposes that you sign the bill with a statement that you will not request a supplemental appropriation to obtain the $400 million for direct loans. Bill Timmons indicates that from some quick Hill checks his office found the Appropriations people not disposed to supporting a supplemental for this program even if requested by the President (Tab).

In the light of recent conversations with key figures on the Senate and House Appropriation Committees, Tom Kleppe, Administrator of SBA, feels that the latter course of action would be a more effective tactic for eliminating the direct loan addition than a veto and request for a clean bill, particularly because Congress was not given a clear veto signal on this bill by SBA. SBA's Senate Appropriation Committee recently set the direct loan figure at $40 million.

RECOMMENDATIONS

Veto

Treasury
Council of Economic Advisors
OMB (Ash) - because of budgetary implications

Sign

SBA
Ken Cole
Phil Buchen - previous legal objection satisfied and now defers to Timmons
Bill Timmons - with statement that you disapprove of this mandated provision and will not request $400 million in supplemental appropriations

DECISION

_____APPROVE _____DISAPPROVE

THE PRESIDENT HAS SEEN

THE WHITE HOUSE

WASHINGTON
August 23, 1974

MEMORANDUM FOR THE PRESIDENT

FROM: William E. Timmons

SUBJECT: SBA Legislation

Walking back from the Housing bill signing yesterday you asked me about subject legislation.

Tom Kleppe recommends you sign into law S. 3331, the Small Business Amendments. He recognizes that the requirement for SBA to make direct loans of $400 million this fiscal year is unwarranted and excessive. However, he argues that:

-- Congressmen knew this authorization would never be funded at that level and voted for the measure as a political tool in their re-election campaigns.
-- He has personally talked to George Mahon, Al Cederberg, John Slack, Bill Stanton, John Pastore and others involved who told Kleppe to "forget it", that there is no inclination to appropriate more than the budgeted $40 million in direct loans.
-- The SBA Administrator advises me that the mandating language only requires Tom to request $400 million of OMB but that you have no obligation to submit it to the Congress. He expects you will not.

My office did some quick Hill checks and indeed found appropriations people not disposed to supporting a supplemental for this program even if you request it. Hugh Scott and John Rhodes urge you to sign the bill, as do Bill Simon, Burt Talcott and others.

You should know, however, that there would be a problem if Congress - on its own - added monies to some supplemental and the bill were signed. SBA would have to spend it all this fiscal year.

It should be pointed out that all congressional votes on this measure were by voice and our veto strength is probably not good. Also, we did not signal a veto during the legislative process so Members have no reason to expect a veto. The Black Caucus raised this at your meeting. There is a legal question now involved since it is unclear whether or not you would veto or pocket veto during this recess in light of recent court cases.

NOTE: If you decide to sign the bill you may wish to call Rep. Charles Rangel (D-NY) to tell him you could go either way and ask the Black Caucus position. He will urge signing and when you sign it will demonstrate your interest in the Black Members of Congress. You might also elect to call Tom Kleppe if you decide to sign.

RECOMMENDATION:

That you sign S. 3331 and in your statement say that you disapprove of this mandated provision and will not request $400,000,000 in supplemental appropriations.

APPROVE RECOMMENDATION_____.

DISAPPROVE RECOMMENDATION_____.

_____.

Sincerely,

THE GENERAL COUNSEL OF THE TREASURY

WASHINGTON, D.C. 20220

AUG 13 1974

Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Attention: Assistant Director for Legislative Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of S. 3331, "Small Business Amendments of 1974."

The enrolled enactment would change the interest formula used to determine the interest rate on Small Business Administration (SBA) loans to small businesses. The present formula sets fixed minimum and maximum rates. The enrolled enactment makes the rate equal to the average annual interest rate on all interest bearing obligations of the United States as computed at the end of the fiscal year preceding the date of the loan, plus one-quarter of one percent.

The new formula, which according to the legislative history is "based upon the cost of money to the Government as determined by available yields of Government securities," is technically deficient. The proposed interest formula is based on coupon rates and, thus, bears little if any relation to the current cost of funds to the Government. The Treasury recommended formula, which is contained in OMB Circular A-70, uses current market yields on outstanding obligations of the United States of comparable maturity as the best measure of the current Government financing cost. Further, the rate would also be set only once a year. This defect appears also in the sections in the act creating the guarantee funds, where the formula otherwise is appropriate; i.e., a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of comparable maturity.

Section 12 of the enrolled enactment provides that in fiscal year 1975 the SBA Administrator "shall" make direct loans "in an aggregate amount of not less than $400,000,000." Such requirement to make budget outlays is contrary to effective budget policy and is inconsistent with current Administration efforts to control the budget.

In view of the foregoing, the Department would concur in a recommendation that the enrolled enactment not be approved by the President.

Sincerely yours,

General Counsel

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

August 14, 1974

Dear Mr. Rommel:

This is in response to your request for our views on S. 3331, a bill to clarify and increase the authority of the Small Business Administration.

We recognize that we live in an imperfect world in which some small enterprises which will eventually produce marketable goods and services at a profit may have difficulty borrowing funds from conventional commercial lenders, at legal rates of interest, if these loans are not guaranteed by some public agency. We also recognize that there is widespread public interest in promoting small enterprises. The result has been the development of the Small Business Administration loan program. We, therefore, support the current bill's expanding the ceilings of the SBA revolving funds and the other provisions that will make the SBA more responsive to the concerns of Congress, the public and small business.

There is one provision, however, which appears to be contrary to two pressing Administration concerns -- reducing inflation and increasing productivity. Section 12 of the bill would require the SBA to make an aggregate of no less than $400 million worth of direct loans in FY 1975. Suppose, however, the SBA determines, with due regard for current standards for promoting small business, it would issue less than $400 million in loans in FY 1975. Section 12 would then require the SBA to make loans to firms it deems not worthy of such public support. These are firms that the SBA views as not likely to become efficient. The expenditure of resources by inefficient firms increases aggregate demand and inflation, and decreases productivity. Such a policy would intensify, rather than mitigate, our current difficulties.

We believe that the SBA rather than Congress is a better judge of the minimum amount of loans that should be issued in FY 1975. The mandated minimum is an important provision that may be contrary to achieving other objectives. If there is a high probability of SBA direct loans falling below $400 million in FY 1975 under the same standards as have prevailed in the last few years, then we recommend that S. 3331 should be vetoed by the President.

Sincerely,

Herbert Stein

Herbert Stein

Mr. Wilfred H. Rommel
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

August 15, 1974

MEMORANDUM FOR: Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget

ATTN: Jay P. Brenneman

FROM: Eric J. Fygi
Assistant General Counsel for
General Law, Legislation
and Resource Development

SUBJECT: Enrolled Bill, S. 3331, "To clarify the authority of the Small Business Administration, to increase the authority of the Small Business Administration, and for other purposes."

This is in response to your request for the views of the Federal Energy Administration on section 9 of the subject enrolled bill, which section would authorize the Small Business Administration to make loans to small business concerns adversely affected by energy shortages.

Section 9(a) of the enrolled bill would add a new subparagraph (8) to section 7(b) of the Small Business Administration Act which would authorize the SBA to make loans directly or through participation agreements in order to assist or refinance small business concerns "seriously and adversely" affected by fuel or other energy shortages, or shortages of raw or processed materials resulting from such energy shortages, if the SBA determines that such small business have or will suffer "substantial economical injury" without such assistance.

Though the Federal Energy Administration is sensitive to the impact which energy shortages may have upon small business concerns, we believe generally that the Administration's policy should avoid creation of economical disincentives for energy conservation. Small business concerns most acutely affected by energy shortages often would be the highest proportional users of energy, and we believe it appropriate and necessary that such small business concerns, like businesses generally, should be encouraged to develop sound energy conservation practices and, where appropriate, to utilize alternative, more abundant, energy sources.

Accordingly, we believe that administration of any loan program such as that which would be authorized by section 9 of the enrolled bill should be premised upon including sound energy conservation programs by small business concerns affected in the process whereby the assistance is provided. If this bill is approved by the President, we believe it would be appropriate for any signing statement to include a reference to this approach as a fundamental constituent of the loan program that would be established.

Subject to these comments, we have no objection to approval of the enrolled bill.

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

AUG 14 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

In compliance with your request, I have examined a facsimile of the enrolled bill S. 3331, "To clarify the authority of the Small Business Administration, and for other purposes."

S. 3331 would authorize the SBA, upon purchase of a deferred participation, to charge a rate of interest not exceeding that initially charged, except that the Administration would not charge more than 3 percent on its share of loans to the handicapped. The bill also purports to enable the Administrator to investigate with subpoena power (I.C.C. v. Brimson, 154 U.S. 447) and creates a Chief Counsel for Advocacy.

The substantive provisions of S. 3331 involve policy considerations, as to which the Department of Justice makes no recommendations.

The assignment of functions to the Chief Counsel for Advocacy in Section 10 of the bill might be viewed as rigidly confining the Administrator in dealing with functions specifically assigned to the Chief Counsel for Advocacy; they might create an independent unresponsive authority with powers encroaching on the powers of the Administrator by conferring status incompatible with direction and control by the Administrator on the discretion delegated to him by statute, as in relation to dealings with other agencies and even in other areas of more direct and immediate concern to SBA and its Administrator.

Nevertheless, the Department of Justice defers to the Small Business Administration as to whether this bill should receive Executive approval.

Sincerely,

W. Vincent Rakestraw
Assistant Attorney General

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

AUG 9 1974

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Rommel:

This is in response to your request of August 9, 1974, for the views of the Small Business Administration with respect to S. 3331, an enrolled bill, "The Small Business Amendments of 1974."

Earlier this year, SBA submitted to the Congress its own proposed amendments to the Small Business Act and the Small Business Investment Company Act of 1958. These amendments would have increased the revolving fund ceilings in section 4(c) of the Small Business Act, transferred our EOL and 406 programs from the Economic Opportunity Act to the Small Business Act, permitted SBA to charge the same rate of interest as the participating lender where SBA is required to repurchase a loan in default, clarified the interest rate applicable to handicapped assistance loans and increased the amount of capital authorized by the Small Business Investment Company Act for our lease guarantee and surety bond guarantee programs. In addition, we participated in the drafting of an amendment to the Small Business Act which authorizes SBA to provide appropriate assistance to small concerns seriously and adversely affected by energy and materials shortages. All these proposals are contained in the enrolled bill.

However, S. 3331, as enacted, goes beyond our proposals and provides some authorities not sought by the Administration. Of those provisions of the bill which we did not recommend, we have no objection to any, except sections 5 and 12.

Section 11 had previously been of some concern. This section amends section 411(c) of the Small Business Investment Company Act of 1958 to require SBA to administer the surety bond guarantee program on "a prudent and economically justifiable basis" and to conduct a study of this program which is to be transmitted to the Congress within one year after enactment of the bill. The initial House Banking and Currency Committee version of this amendment would have required the fees charged by SBA for this program to be based on "sound actuarial methods and underwriting practices" -- in effect, a requirement that the program be self-sustaining.

This initial draft of the amendment might have required SBA to raise these fees to such an extent that the surety bond guarantee program could have ceased functioning, since small, and particularly minority, contractors would have been unable to afford such increased fees. However, the new language and the remarks made on the Senate floor during consideration of the House version of this bill make clear that the only requirement is that the total benefits of this program to the Nation should equal its costs. We, therefore, have no objection to this provision.

Section 5 of S. 3331 amends section 18 of the Small Business Act, which currently prohibits SBA from duplicating the work of any other Federal department or ageney. Section 5 provides that no duplication shall be deemed to exist where the other government agency is denying loan applications because of "administrative withholding from obligation or withholding from apportionment, or [an] administratively declared moratorium." This provision is extremely ambiguous and will therefore be very difficult to administer. It is unclear, from both the language of the provision and the accompanying legislative history, whether this amendment applies, for example, if only minor amounts are withheld or if a moratorium is in effect for only a short period of time. There is further ambituity as to how "withholding" and "moratorium" should be defined.

Section 12 of S. 3331 authorizes SBA to make $400,000,000 in direct section 7(a) loans during Fiscal Year 1975. While this provision would appear to have serious budgetary implications, it should be remembered that this language merely authorizes, and does not appropriate, funds for this purpose. In addition, it is clear from both the House Committee report and the House floor debate that the Congress expects the submission of a supplemental appropriation request for these funds and does not expect SBA to use funds appropriated for other programs for this purpose. We would admit that an appropriation of $400 million for direct loans might have serious budgetary ramifications and might impair SBA's currently excellent relations with the private banking sector. However, informal indications from our Appropriations Subcommittees are that a $400 million appropriation will not be forthcoming.

It should also be noted that there was no indication by the Administration to the Congress that inclusion of this provision in the enrolled bill might result in the President's disapproval of this measure. While this fact, by itself, might not now preclude a veto, it should certainly be weighed in arriving at a decision. In addition, it could be argued that the President's approval of this bill, including the $400 million authorization, might later foreclose disapproval of any appropriation pursuant to it. However, that problem could be resolved

by issuing a short statement when the bill is approved, indicating that any subsequent appropriation might be disapproved. Such a statement could cite the fiscal irresponsibility of such an appropriation, the substantial additional staff that would be required to administer it and the potential adverse effect on SBA's relations with the Nation's banking community.

Finally, there is one other factor to be considered in our recommendation to the President. Our section 4(c) revolving fund ceiling and three other subceilings are subject to the provision in P. L. 93-237 which prohibits SBA from incurring any additional obligations after June 30, 1974. We are thus currently limited in almost all of our programs to incurring obligations only out of repayments and cancellations, which limits our loan-making capability to approximately 60% of normal. The failure to increase these ceilings, as is provided in S. 3331, will result in our continued inability to provide the Nation's small businesses with a vitally needed source of capital and other assistance. In addition, our excellent relations with the private sector, which we have worked so hard to cultivate and which are so vital to our success, might be seriously impaired.

Therefore, based on all these considerations, I strongly recommend that the President approve S. 3331.

Sincerely,

Thomas S. Kleppe

Thomas S. Kleppe
Administrator

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 520

Date: August 19, 1974 Time: 9:30 a.m.

FOR ACTION: ~~Geoff Shepard~~ - veto
~~Max Friedersdorf~~ Phil Buchen - note comments
Bill Timmons

cc (for information): Warren K. Hendriks
Jerry Jones
Dave Gergen

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, August 20, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill S. 3331 - Small Business Amendments

ACTION REQUESTED:

____ For Necessary Action
XX For Your Recommendations
____ Prepare Agenda and Brief
____ Draft Reply
____ For Your Comments
____ Draft Remarks

REMARKS:

Please return to Kathy Tindle

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 520

Date: August 19, 1974 Time: 9:30 a.m.

FOR ACTION: Geoff Shepard
Phil Buchen
Bill Timmons

cc (for information): Warren K. Hendriks
Jerry Jones
Dave Gergen

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____ Draft Remarks

REMARKS:

Please return to Kathy Tindle

8/21

No objection to veto for reasons stated.

No objet to SBA suggestion that President sign and not send up an appropriation bill for the mandatory $400 million in loans because it could imply overtones of impoundment. Phil Buchen personally contacted and is of this view.

D. Chapman

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 520

Date: August 19, 1974 Time: 9:30 a.m.

FOR ACTION: Geoff Shepard
Fred Buzhardt
Bill Timmons

cc (for information): Warren K. Hendriks
Jerry Jones
Dave Gergen

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K. R. COLE, JR.
For the President

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 16 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3331 - Small business amendments
Sponsor - Sen. Cranston (D) California

Last Day for Action

August 23, 1974 - Friday

Purpose

Provides increased ceilings and authorities for SBA's loan programs, requires that SBA make a minimum of $400 million in direct loans during fiscal year 1975, clarifies and amends certain provisions applicable to SBA's loans, transfers certain authorities from the Economic Opportunity Act to the Small Business Act, prescribes a new reporting requirement by SBA and a special GAO audit of SBA, and creates two new positions within SBA.

Agency Recommendations

Office of Management and Budget	Disapproval (veto message attached)
Department of the Treasury	Disapproval
Council of Economic Advisers	Disapproval (qualified)
Federal Energy Administration	No objection
Department of Justice	Defers to SBA
Small Business Administration	Approval

Discussion

S. 3331 contains a number of provisions which were requested or supported by the Administration as necessary to continue SBA's loan programs. It contains other unrequested provisions which are not, however, considered undesirable.

One feature of S. 3331 is so objectionable as to warrant, in our opinion, disapproval of the bill. It would require SBA to make a minimum of $400 million in direct loans in fiscal year 1975 -- this would increase 1975 budgeted outlays by approximately $360 million, in the absence of reprogramming.

The main provisions of the bill are discussed in more detail below.

Provisions requested or supported by the Administration

(1) Section 2(a) of the bill would increase from $4.875 billion to $6 billion the total amount of loans, guarantees, and other obligations and commitments which may be outstanding at any one time from the business loan and investment fund established by section 4(c) of the Small Business Act ("the Act"). Presently SBA has no unused authority within the existing limitation and can make loans only to the extent of repayment of existing loans.

(2) Section 2(b) would transfer to the Small Business Act the authority to render financial assistance to socially or economically disadvantaged persons now embodied in title IV of the Economic Opportunity Act.

(3) Section 3(1) would provide that when SBA is required to purchase a financial institution's share of a guaranteed loan, it may continue to charge the borrower up to the rate of interest that the financial institution charged. At present, SBA can charge only 5 1/2 percent or the Treasury rate in such cases; this creates an incentive for a borrower to default on an SBA guaranteed loan in order to obtain a lower interest rate.

(4) Section 3(2) would clarify the provision of the Act relating to the rate of interest applicable to loans under SBA's handicapped assistance program.

(5) Section 6 would expand SBA's authority to carry out its lease guarantee and surety bond guarantee programs.

(6) Section 9 would authorize disaster-type loans with terms of up to 30 years for small business concerns affected adversely by energy shortages whenever SBA determines that such firms have suffered or are likely to suffer substantial economic injury without such assistance.

Provisions not opposed by the Administration

(1) Section 4 of the bill would require SBA to submit annual sealed reports to the House and Senate Banking Committees concerning (a) complaints alleging illegal conduct by SBA employees and (b) investigations undertaken by SBA, including external and internal audits and security and investigation reports.

(2) Section 5 attempts to clarify section 18 of the Act, which currently prohibits SBA from duplicating the work of any other Federal department or agency. SBA's views letter on the enrolled bill, however, indicates that section 5 actually is more ambiguous than clarifying and would be very difficult to administer in cases where an agency other than SBA denies loan applications.

(3) Sections 7 and 10 would create the position of Associate Administrator for Minority Small Business and would require designation of an existing SBA employee as Chief Counsel for Advocacy. The former would be basically responsible for formulating policy and reviewing the execution of programs relating to the agency's minority enterprise programs. The latter would be a focal point for (a) handling small business complaints, proposals, and issues concerning the relationship between public and private organizations, (b) counselling small businesses in these areas, and (c) representing their views before other Federal agencies.

(4) Section 8 would remove the statutory interest rate of 5 1/2 percent for SBA's regular direct business loans and substitute the Treasury rate plus one-fourth of one percent. Treasury, in its views letter on the enrolled bill, states that the formula in the bill is technically deficient in that it would be based on coupon rates and thus bear no direct relationship to the current cost of funds to the Government, and would be set only once a year.

(5) Section 11 would require SBA to conduct a study of the surety bond guarantee program and submit a report to the Congress within one year after enactment.

(6) Section 13 would direct the GAO to conduct a complete audit of SBA and report to the Congress within six months from the date of enactment.

Provision strongly opposed by the Administration

Section 12 would require SBA to make direct loans under its regular business loan program in an aggregate amount of at least $400 million during fiscal year 1975. The 1975 Budget provides for only $40 million in direct loans for this program. Thus, in the absence of reprogramming, the effect of Section 12 would be to increase 1975 outlays by $360 million. This requirement is inappropriate and unwarranted and runs directly counter to the Administration's and the Congress' efforts to reduce Federal spending. The legislative history of S. 3331 indicates the Congressional intent that a supplemental appropriation be enacted in order for Section 12 to take effect. However, the provision would invite litigation which could conceivably result in a court ruling that Section 12 requires reprogramming in the absence of additional appropriations.

The success of SBA's loan guarantee program makes direct loans in addition to the budgeted level unnecessary and inappropriate. Expansion of the direct loan level would impair SBA's excellent relations with the private banking sector. A substantial increase in staff would be required to administer an expanded program.

If the increased outlays under Section 12 were to be offset by reprogramming within SBA, the guaranteed loan and the minority business assistance programs would have to be mostly eliminated, in addition to other program reductions. Even with such a reprogramming, 1975 outlays would be increased by about $180 million.

Arguments for approval

-- An increase of SBA's loan ceiling is essential to carry out the budgeted loan programs.

-- S. 3331 incorporates, in identical or similar form, all other small business legislation which has been requested by the Administration during the 93rd Congress.

-- The Administration could subsequently seek to have a provision added to the pending SBA appropriation bill which would have the effect of cancelling out the $400 million direct loan requirement of S. 3331. In its views letter on the enrolled bill, SBA indicates that it has received informal indications from its Appropriations Subcommittees "that a $400 million appropriation will not be forthcoming."

Arguments for disapproval

-- The bill would result in inappropriate and unnecessary Federal outlays, thus undermining both Congressional and Executive efforts to fight inflation through reduced spending. Moreover, the desired level of assistance can largely be achieved through the loan guarantee program which produces minimal outlays.

-- An amendment to the SBA's appropriations bill cancelling the direct loan provision might well not survive. The House Banking Committee clearly indicated in its report accompanying the bill its intention that SBA immediately seek a supplemental appropriation for the expanded direct loan program if necessary to achieve the mandated lending level.

-- A veto of this bill would, we believe, be sustained. (The bill was approved by a voice vote in both Houses.)

-- Congress can promptly enact a new bill omitting the objectionable direct loan provision.

SBA recommends approval of S. 3331 because of the desirable authorities provided by the bill including the needed increased revolving fund ceilings. SBA believes that the effect of the expanded direct loan provision is mitigated by the need for supplemental appropriations which may not be forthcoming.

In its views letter on the enrolled bill, CEA states:

> "There is one provision, however, which appears to be contrary to two pressing Administration concerns -- reducing inflation and increasing productivity. Section 12 of the bill would require the SBA to make an aggregate of no less than $400 million worth of direct loans in FY 1975...
>
> "We believe that the SBA rather than Congress is a better judge of the minimum amount of loans that should be issued in FY 1975. The mandated minimum is an important provision that may be contrary to achieving other objectives. If there is a high probability of SBA direct loans falling below $400 million in FY 1975 under the same standards as have prevailed in the last few years, then we recommend that S. 3331 should be vetoed by the President."

The Office of Management and Budget and Treasury recommend that the bill be disapproved because the direct loan provision is greatly excessive and unwarranted in the light of efforts to reduce Federal expenditures.

We have prepared the attached draft of a veto message for your consideration.

Director

Enclosures

TO THE SENATE

I am returning today without my approval S. 3331, the "Small Business Amendments of 1974."

Many of the provisions of this bill are essential to the on-going programs of the Small Business Administration or are desirable amendments to existing law. For example, the bill raises ceilings on the SBA's loan programs as requested by the Administration.

I would approve the bill except for one unacceptable provision which is completely incompatible with our joint fight against inflation. That provision would require SBA to make direct loans under its regular business loan program in an aggregate amount of at least $400 million during fiscal year 1975. The House Banking and Currency Committee report states its expectation that the SBA will request the necessary supplemental appropriations to achieve this level.

The 1975 Budget provides $40 million for this direct loan program. Thus, in the absence of reprogramming, the effect S. 3331 seeks to achieve would be to increase Federal budget outlays by $360 million this year. Even if SBA's successful guaranteed loan and minority business assistance programs were virtually eliminated in order to mitigate this budget add-on, 1975 outlays would still have to be increased by about $180 million.

Outlays of the magnitude this bill seeks to mandate are prohibitive at a time when both the Congress and the Administration are committed to the American taxpayers to fight inflation through reduced Federal spending. The 1975 Budget level of $40 million for direct loan outlays, combined with the

continuing success of SBA's loan guarantee program, should ensure an adequate level of assistance for small businessmen.

I urge the Congress to reenact immediately legislation which incorporates the needed and desirable authorities of the bill but which eliminates the direct loan provision. This is the responsible course of action which I believe that Congress will, on further reflection, adopt as part of our vital fight against inflation.

THE WHITE HOUSE

August , 1974

THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

AUG 13 1974

Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Attention: Assistant Director for Legislative Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of S. 3331, "Small Business Amendments of 1974."

The enrolled enactment would change the interest formula used to determine the interest rate on Small Business Administration (SBA) loans to small businesses. The present formula sets fixed minimum and maximum rates. The enrolled enactment makes the rate equal to the average annual interest rate on all interest bearing obligations of the United States as computed at the end of the fiscal year preceding the date of the loan, plus one-quarter of one percent.

The new formula, which according to the legislative history is "based upon the cost of money to the Government as determined by available yields of Government securities," is technically deficient. The proposed interest formula is based on coupon rates and, thus, bears little if any relation to the current cost of funds to the Government. The Treasury recommended formula, which is contained in OMB Circular A-70, uses current market yields on outstanding obligations of the United States of comparable maturity as the best measure of the current Government financing cost. Further, the rate would also be set only once a year. This defect appears also in the sections in the act creating the guarantee funds, where the formula otherwise is appropriate; i.e., a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of comparable maturity.

Section 12 of the enrolled enactment provides that in fiscal year 1975 the SBA Administrator "shall" make direct loans "in an aggregate amount of not less than $400,000,000." Such requirement to make budget outlays is contrary to effective budget policy and is inconsistent with current Administration efforts to control the budget.

In view of the foregoing, the Department would concur in a recommendation that the enrolled enactment not be approved by the President.

Sincerely yours,

Edward R. Mudd

General Counsel

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

August 14, 1974

Dear Mr. Rommel:

This is in response to your request for our views on S. 3331, a bill to clarify and increase the authority of the Small Business Administration.

We recognize that we live in an imperfect world in which some small enterprises which will eventually produce marketable goods and services at a profit may have difficulty borrowing funds from conventional commercial lenders, at legal rates of interest, if these loans are not guaranteed by some public agency. We also recognize that there is widespread public interest in promoting small enterprises. The result has been the development of the Small Business Administration loan program. We, therefore, support the current bill's expanding the ceilings of the SBA revolving funds and the other provisions that will make the SBA more responsive to the concerns of Congress, the public and small business.

There is one provision, however, which appears to be contrary to two pressing Administration concerns -- reducing inflation and increasing productivity. Section 12 of the bill would require the SBA to make an aggregate of no less than $400 million worth of direct loans in FY 1975. Suppose, however, the SBA determines, with due regard for current standards for promoting small business, it would issue less than $400 million in loans in FY 1975. Section 12 would then require the SBA to make loans to firms it deems not worthy of such public support. These are firms that the SBA views as not likely to become efficient. The expenditure of resources by inefficient firms increases aggregate demand and inflation, and decreases productivity. Such a policy would intensify, rather than mitigate, our current difficulties.

We believe that the SBA rather than Congress is a better judge of the minimum amount of loans that should be issued in FY 1975. The mandated minimum is an important provision that may be contrary to achieving other objectives. If there is a high probability of SBA direct loans falling below $400 million in FY 1975 under the same standards as have prevailed in the last few years, then we recommend that S. 3331 should be vetoed by the President.

Sincerely,

Herbert Stein

Herbert Stein

Mr. Wilfred H. Rommel
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

August 15, 1974

MEMORANDUM FOR: Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget

ATTN: Jay P. Brenneman

FROM: Eric J. Fygi
Assistant General Counsel for
General Law, Legislation
and Resource Development

SUBJECT: Enrolled Bill, S. 3331, "To clarify the authority of the Small Business Administration, to increase the authority of the Small Business Administration, and for other purposes."

This is in response to your request for the views of the Federal Energy Administration on section 9 of the subject enrolled bill, which section would authorize the Small Business Administration to make loans to small business concerns adversely affected by energy shortages.

Section 9(a) of the enrolled bill would add a new subparagraph (8) to section 7(b) of the Small Business Administration Act which would authorize the SBA to make loans directly or through participation agreements in order to assist or refinance small business concerns "seriously and adversely" affected by fuel or other energy shortages, or shortages of raw or processed materials resulting from such energy shortages, if the SBA determines that such small business have or will suffer "substantial economical injury" without such assistance.

Though the Federal Energy Administration is sensitive to the impact which energy shortages may have upon small business concerns, we believe generally that the Administration's policy should avoid creation of economical disincentives for energy conservation. Small business concerns most acutely affected by energy shortages often would be the highest proportional users of energy, and we believe it appropriate and necessary that such small business concerns, like businesses generally, should be encouraged to develop sound energy conservation practices and, where appropriate, to utilize alternative, more abundant, energy sources.

Accordingly, we believe that administration of any loan program such as that which would be authorized by section 9 of the enrolled bill should be premised upon including sound energy conservation programs by small business concerns affected in the process whereby the assistance is provided. If this bill is approved by the President, we believe it would be appropriate for any signing statement to include a reference to this approach as a fundamental constituent of the loan program that would be established.

Subject to these comments, we have no objection to approval of the enrolled bill.

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

AUG 14 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

In compliance with your request, I have examined a facsimile of the enrolled bill S. 3331, "To clarify the authority of the Small Business Administration, and for other purposes."

S. 3331 would authorize the SBA, upon purchase of a deferred participation, to charge a rate of interest not exceeding that initially charged, except that the Administration would not charge more than 3 percent on its share of loans to the handicapped. The bill also purports to enable the Administrator to investigate with subpoena power (I.C.C. v. Brimson, 154 U.S. 447) and creates a Chief Counsel for Advocacy.

The substantive provisions of S. 3331 involve policy considerations, as to which the Department of Justice makes no recommendations.

The assignment of functions to the Chief Counsel for Advocacy in Section 10 of the bill might be viewed as rigidly confining the Administrator in dealing with functions specifically assigned to the Chief Counsel for Advocacy; they might create an independent unresponsive authority with powers encroaching on the powers of the Administrator by conferring status incompatible with direction and control by the Administrator on the discretion delegated to him by statute, as in relation to dealings with other agencies and even in other areas of more direct and immediate concern to SBA and its Administrator.

Nevertheless, the Department of Justice defers to the Small Business Administration as to whether this bill should receive Executive approval.

Sincerely,

W. Vincent Rakestraw
Assistant Attorney General

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

AUG 9 1974

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Rommel:

This is in response to your request of August 9, 1974, for the views of the Small Business Administration with respect to S. 3331, an enrolled bill, "The Small Business Amendments of 1974."

Earlier this year, SBA submitted to the Congress its own proposed amendments to the Small Business Act and the Small Business Investment Company Act of 1958. These amendments would have increased the revolving fund ceilings in section 4(c) of the Small Business Act, transferred our EOL and 406 programs from the Economic Opportunity Act to the Small Business Act, permitted SBA to charge the same rate of interest as the participating lender where SBA is required to repurchase a loan in default, clarified the interest rate applicable to handicapped assistance loans and increased the amount of capital authorized by the Small Business Investment Company Act for our lease guarantee and surety bond guarantee programs. In addition, we participated in the drafting of an amendment to the Small Business Act which authorizes SBA to provide appropriate assistance to small concerns seriously and adversely affected by energy and materials shortages. All these proposals are contained in the enrolled bill.

However, S. 3331, as enacted, goes beyond our proposals and provides some authorities not sought by the Administration. Of those provisions of the bill which we did not recommend, we have no objection to any, except sections 5 and 12.

Section 11 had previously been of some concern. This section amends section 411(c) of the Small Business Investment Company Act of 1958 to require SBA to administer the surety bond guarantee program on "a prudent and economically justifiable basis" and to conduct a study of this program which is to be transmitted to the Congress within one year after enactment of the bill. The initial House Banking and Currency Committee version of this amendment would have required the fees charged by SBA for this program to be based on "sound actuarial methods and underwriting practices" -- in effect, a requirement that the program be self-sustaining.

This initial draft of the amendment might have required SBA to raise these fees to such an extent that the surety bond guarantee program could have ceased functioning, since small, and particularly minority, contractors would have been unable to afford such increased fees. However, the new language and the remarks made on the Senate floor during consideration of the House version of this bill make clear that the only requirement is that the total benefits of this program to the Nation should equal its costs. We, therefore, have no objection to this provision.

Section 5 of S. 3331 amends section 18 of the Small Business Act, which currently prohibits SBA from duplicating the work of any other Federal department or agency. Section 5 provides that no duplication shall be deemed to exist where the other government agency is denying loan applications because of "administrative withholding from obligation or withholding from apportionment, or [an] administratively declared moratorium." This provision is extremely ambiguous and will therefore be very difficult to administer. It is unclear, from both the language of the provision and the accompanying legislative history, whether this amendment applies, for example, if only minor amounts are withheld or if a moratorium is in effect for only a short period of time. There is further ambituity as to how "withholding" and "moratorium" should be defined.

Section 12 of S. 3331 authorizes SBA to make $400,000,000 in direct section 7(a) loans during Fiscal Year 1975. While this provision would appear to have serious budgetary implications, it should be remembered that this language merely authorizes, and does not appropriate, funds for this purpose. In addition, it is clear from both the House Committee report and the House floor debate that the Congress expects the submission of a supplemental appropriation request for these funds and does not expect SBA to use funds appropriated for other programs for this purpose. We would admit that an appropriation of $400 million for direct loans might have serious budgetary ramifications and might impair SBA's currently excellent relations with the private banking sector. However, informal indications from our Appropriations Subcommittees are that a $400 million appropriation will not be forthcoming.

It should also be noted that there was no indication by the Administration to the Congress that inclusion of this provision in the enrolled bill might result in the President's disapproval of this measure. While this fact, by itself, might not now preclude a veto, it should certainly be weighed in arriving at a decision. In addition, it could be argued that the President's approval of this bill, including the $400 million authorization, might later foreclose disapproval of any appropriation pursuant to it. However, that problem could be resolved

by issuing a short statement when the bill is approved, indicating that any subsequent appropriation might be disapproved. Such a statement could cite the fiscal irresponsibility of such an appropriation, the substantial additional staff that would be required to administer it and the potential adverse effect on SBA's relations with the Nation's banking community.

Finally, there is one other factor to be considered in our recommendation to the President. Our section 4(c) revolving fund ceiling and three other subceilings are subject to the provision in P. L. 93-237 which prohibits SBA from incurring any additional obligations after June 30, 1974. We are thus currently limited in almost all of our programs to incurring obligations only out of repayments and cancellations, which limits our loan-making capability to approximately 60% of normal. The failure to increase these ceilings, as is provided in S. 3331, will result in our continued inability to provide the Nation's small businesses with a vitally needed source of capital and other assistance. In addition, our excellent relations with the private sector, which we have worked so hard to cultivate and which are so vital to our success, might be seriously impaired.

Therefore, based on all these considerations, I strongly recommend that the President approve S. 3331.

Sincerely,

Thomas S. Kleppe

Thomas S. Kleppe
Administrator

S. 3331

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-first day of January, one thousand nine hundred and seventy-four

An Act

To clarify the authority of the Small Business Administration, to increase the authority of the Small Business Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Amendments of 1974".

SEC. 2. (a) The Small Business Act is amended—

(1) by redesignating subsection (b) of section 2 as subsection (c) and by adding after subsection (a) of that section the following new subsection:

"(b) The assistance programs authorized by sections 7(i) and 7(j) of this Act are to be utilized to assist in the establishment, preservation, and strengthening of small business concerns and improve the managerial skills employed in such enterprises, with special attention to small business concerns (1) located in urban or rural areas with high proportions of unemployed or low-income individuals; or (2) owned by low-income individuals; and to mobilize for these objectives private as well as public managerial skills and resources.";

(2) by striking out paragraphs (1) and (2) of section 4(c), and inserting in lieu thereof the following:

"(c)(1) There are hereby established in the Treasury the following revolving funds: (A) a disaster loan fund which shall be available for financing functions performed under sections 7(b)(1), 7(b)(2), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), 7(c)(2), and 7(g) of this Act, including administrative expenses in connection with such functions; and (B) a business loan and investment fund which shall be available for financing functions performed under sections 7(a), 7(b)(3), 7(e), 7(h), 7(i), and 8(a) of this Act, and titles III and V of the Small Business Investment Act of 1958, including administrative expenses in connection with such functions.

"(2) All repayments of loans and debentures, payments of interest and other receipts arising out of transactions heretofore or hereafter entered into by the Administration (A) pursuant to sections 7(b)(1), 7(b)(2), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), and 7(c)(2) of this Act shall be paid into a disaster loan fund; and (B) pursuant to sections 7(a), 7(b)(3), 7(e), 7(h), 7(i), and 8(a) of this Act, and titles III and V of the Small Business Investment Act of 1958, shall be paid into the business loan and investment fund.";

(3) by striking out paragraph (4) of section 4(c), and inserting in lieu thereof the following:

"(4) The total amount of loans, guarantees, and other obligations or commitments, heretofore or hereafter entered into by the Administration, which are outstanding at any one time (A) under sections 7(a), 7(b)(3), 7(e), 7(h), 7(i), and 8(a) of this Act, shall not exceed $6,000,000,000; (B) under title III of the Small Business Investment Act of 1958, shall not exceed $725,000,000; (C) under title V of the Small Business Investment Act of 1958, shall not exceed $525,000,000; and (D) under section 7(i) of this Act, shall not exceed $450,000,000."; and

(4) by adding at the end of section 7 the following three new subsections:

"(i)(1) The Administration also is empowered to make, participate (on an immediate basis) in, or guarantee loans, repayable in not more than fifteen years, to any small business concern, or to any qualified person seeking to establish such a concern, when it determines that

such loans will further the policies established in section 2(b) of this Act, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals, or owned by low-income individuals: *Provided, however*, That no such loans shall be made, participated in, or guaranteed if the total of such Federal assistance to a single borrower outstanding at any one time would exceed $50,000. The Administration may defer payments on the principal of such loans for a grace period and use such other methods as it deems necessary and appropriate to assure the successful establishment and operation of such concern. The Administration may, in its discretion, as a condition of such financial assistance, require that the borrower take steps to improve his management skills by participating in a management training program approved by the Administration: *Provided, however*, That any management training program so approved must be of sufficient scope and duration to provide reasonable opportunity for the individuals served to develop entrepreneurial and managerial self-sufficiency.

"(2) The Administration shall encourage, as far as possible, the participation of the private business community in the program of assistance to such concerns, and shall seek to stimulate new private lending activities to such concerns through the use of the loan guarantees, participations in loans, and pooling arrangements authorized by this subsection.

"(3) To insure an equitable distribution between urban and rural areas for loans between $3,500 and $50,000 made under this subsection, the Administration is authorized to use the agencies and agreements and delegations developed under title III of the Economic Opportunity Act of 1964, as amended, as it shall determine necessary.

"(4) The Administration shall provide for the continuing evaluation of programs under this subsection, including full information on the location, income characteristics, and types of businesses and individuals assisted, and on new private lending activity stimulated, and the results of such evaluation together with recommendations shall be included in the report required by section 10(a) of this Act.

"(5) Loans made pursuant to this subsection (including immediate participation in and guarantees of such loans) shall have such terms and conditions as the Administration shall determine, subject to the following limitations—

"(A) there is reasonable assurance of repayment of the loan;

"(B) the financial assistance is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

"(C) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made;

"(D) the loan bears interest at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (ii) such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes: *Provided, however*, That the rate of interest charged on loans made in redevelopment areas designated under the Public Works and Economic Development Act of 1965 (42 U.S.C. 3108 et seq.) shall not exceed the rate currently applicable to new loans made under section 201 of that Act (42 U.S.C. 3142); and

"(E) fees not in excess of amounts necessary to cover administrative expenses and probable losses may be required on loan guarantees.

"(6) The Administration shall take such steps as may be necessary to insure that, in any fiscal year, at least 50 per centum of the amounts loaned or guaranteed pursuant to this subsection are allotted to small business concerns located in urban areas identified by the Administration as having high concentrations of unemployed or low-income individuals or to small business concerns owned by low-income individuals. The Administration shall define the meaning of low income as it applies to owners of small business concerns eligible to be assisted under this subsection.

"(7) No financial assistance shall be extended pursuant to this subsection where the Administration determines that the assistance will be used in relocating establishments from one area to another if such relocation would result in an increase in unemployment in the area of original location.

"(j)(1) The Administration is authorized to provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under subsection 7(i) of this Act, with special attention to small business located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals.

"(2) Financial assistance under this subsection may be provided for projects, including without limitation—

"(A) planning and research, including feasibility studies and market research;

"(B) the identification and development of new business opportunities;

"(C) the furnishing of centralized services with regard to public services and Government programs including programs authorized under subsection 7(i);

"(D) the establishment and strengthening of business service agencies, including trade associations and cooperatives;

"(E) the encouragement of the placement of subcontracts by major business with small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals, including the provision of incentives and assistance to such major businesses so that they will aid in the training and upgrading of potential subcontractors or other small business concerns; and

"(F) the furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

"(3) The Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small business concerns by residents of urban areas of high concentration of unemployed or low-income individuals, and to projects which are planned and carried out with the participation of local businessmen.

"(4) The financial assistance authorized by this subsection includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services.

"(5) The Administration is authorized to make payments under grants and contracts entered into under this subsection in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments.

"(6) To the extent feasible, services under this subsection shall be provided in a location which is easily accessible to the individuals and small business concerns served.

"(7) The Administration shall provide for an independent and continuing evaluation of programs under this subsection, including full information on, and analysis of, the character and impact of managerial assistance provided, the location, income characteristics, and types of businesses and individuals assisted, and the extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations deemed advisable by the Administration shall be included in the report required by section 10(a) of this Act.

"(8) The Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, so that contracts, subcontracts, and deposits made by the Federal Government or in connection with programs aided with Federal funds are placed in such a way as to further the purposes of this subsection and of subsection 7(i) of this Act. The Administration shall provide for the continuing evaluation of programs under this subsection and the results of such evaluation together with recommendations shall be included in the report required by section 10(a) of this Act.

"(k) In carrying out its functions under subsections 7(i) and 7(j) of this Act, the Administration is authorized—

"(1) to utilize, with their consent, the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or political subdivision of a State, accept and utilize the services and facilities of such State or subdivision without reimbursement;

"(2) to accept, in the name of the Administration, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible, or intangible, received by gift, devise, bequest, or otherwise;

"(3) to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 655(b)); and

"(4) to employ experts and consultants or organizations thereof as authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a), except that no individual may be employed under the authority of this subsection for more than one hundred days in any fiscal year; to compensate individuals so employed at rates not in excess of $100 per diem, including traveltime; and to allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5 of such Act (5 U.S.C. 73b–2) for persons in the Government service employed intermittently, while so employed: *Provided, however*, That contracts for such employment may be renewed annually."

(b) Title IV of the Economic Opportunity Act of 1964 is hereby repealed; and all references to such title in the remainder of that Act are repealed.

SEC. 3. The Small Business Act is further amended—

(1) by amending section 5(b) by striking out "and" following paragraph (8), by striking out the period at the end of para-

graph (9) and inserting in lieu thereof a semicolon and by adding at the end of paragraph (9) the following new paragraphs:

"(10) upon purchase by the Administration of any deferred participation entered into under section 7 of this Act, continue to charge a rate of interest not to exceed that initially charged by the participating institution on the amount so purchased for the remaining term of the indebtedness; and

"(11) make such investigations as he deems necessary to determine whether a recipient of or participant in any assistance under this Act or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, or of any rule or regulation under this Act, or of any order issued under this Act. The Administration shall permit any person to file with it a statement in writing, under oath or otherwise as the Administration shall determine, as to all the facts and circumstances concerning the matter to be investigated. For the purpose of any investigation, the Administration is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena issued to, any person, including a recipient or participant, the Administration may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Administration, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found."; and

(2) by striking out the third sentence in paragraph (2) of section 7(h) and inserting in lieu thereof: "The Administration's share of any loan made under this subsection shall bear interest at the rate of 3 per centum per annum."

SEC. 4. Section 10 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(g) The Administration shall transmit, not later than December 31 of each year, to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Banking and Currency of the House of Representatives a sealed report with respect to—

"(1) complaints alleging illegal conduct by employees of the Administration which were received or acted upon by the Administration during the preceding fiscal year; and

"(2) investigations undertaken by the Administration, including external and internal audits and security and investigation reports.".

SEC. 5. Section 18 of the Small Business Act is amended by adding at the end thereof the following new sentence: "If loan applications are being refused or loans denied by such other department or agency responsible for such work or activity due to administrative withholding from obligation or withholding from apportionment, or due to

administratively declared moratorium, then, for purposes of this section, no duplication shall be deemed to have occurred.".

SEC. 6. (a) The Small Business Investment Act of 1958 is amended—

(1) by striking out in the table of contents in section 101 all references to title IV and section numbers therein and inserting in lieu thereof the following:

"TITLE IV—GUARANTEES

"PART A—LEASE GUARANTEES

"Sec. 401. Authority of the Administration.
"Sec. 402. Powers.
"Sec. 403. Fund.

"PART B—SURETY BOND GUARANTEES

"Sec. 410. Definitions.
"Sec. 411. Authority of the Administration.
"Sec. 412. Fund.";

(2) by striking out section 403 and inserting in lieu thereof the following:

"FUND

"SEC. 403. There is hereby created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitations as a revolving fund for the purposes of this part. There are authorized to be appropriated to the fund from time to time such amounts not to exceed $10,000,000 to provide capital for the fund. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with this part, shall be deposited in the fund. All expenses and payments pursuant to operations of the Administrator under this part shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Administrator shall pay from the fund into Treasury as miscellaneous receipts interest at a rate determined by the Secretary of the Treasury on the cumulative amount of appropriations available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, and shall not be less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of guarantees from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.";

(3) by striking out "$500,000" in section 411 and inserting in lieu thereof "$1,000,000"; and

(4) by adding after section 411 the following new section:

"FUND

"SEC. 412. There is hereby created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purposes of this part. There are authorized to be appropriated to the fund from time to time such amounts not to exceed $35,000,000 to provide capital for the fund. All amounts received by the Administrator, including

any moneys, property, or assets derived by him from his operations in connection with this part, shall be deposited in the fund. All expenses and payments pursuant to operations of the Administrator under this part shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Administrator shall pay from the fund into Treasury as miscellaneous receipts interest at a rate determined by the Secretary of the Treasury on the cumulative amount of appropriations available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, and shall not be less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of guarantees from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested."

(b) Unexpected balances of capital previously transferred to the fund pursuant to section 403 of the Small Business Investment Act of 1958 (15 U.S.C. 694), as in effect prior to the effective date of this Act, shall be allocated, together with related assets and liabilities, to the funds established by paragraphs (2) and (4) of subsection (a) of this section in such amounts as the Administrator shall determine. In addition, the Administrator is authorized to transfer to the fund established by paragraph (4) of subsection (a) of this section not to exceed $2,000,000 from the fund established under section 4(c)(1)(B) of the Small Business Act: *Provided*, That section 4(c)(6) and the last sentence of section 4(c)(5) shall not apply to any amounts so transferred.

SEC. 7. Section 4(b) of the Small Business Act is amended—

(1) by striking out "three" in the third sentence and inserting in lieu thereof "four"; and

(2) by inserting after the third sentence the following new sentence: "One of the Associate Administrators shall be designated at the time of his appointment as the Associate Administrator for Minority Small Business and shall be responsible to the Administrator for the formulation of policy relating to the Administration's programs which provide assistance to minority small business concerns and in the review of the Administration's execution of such programs in light of such policy."

SEC. 8. Sections 7(a)(4)(B) and 7(a)(5)(B) of the Small Business Act are each amended to read as follows: "the rate of interest for the Administration's share of any such loan shall be the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum per annum; and".

SEC. 9. (a) Section 7(b) of the Small Business Act is amended by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and" and by adding immediately after paragraph (7) the following new paragraph:

"(8) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist, or refinance

the existing indebtedness of, any small business concern seriously and adversely affected by a shortage of fuel, electrical energy, or energy-producing resources, or by a shortage of raw or processed materials resulting from such shortages, if the Administration determines that such concern has suffered or is likely to suffer substantial economic injury without assistance under this paragraph."

(b) The first paragraph following the numbered paragraphs of section 7(b) of the Small Business Act is amended by striking out "or (7)," immediately following "(6)," and inserting in lieu thereof "(7), or (8),".

SEC. 10. Section 5 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(e) The Administrator shall designate an individual within the Administration to be known as the Chief Counsel for Advocacy and to perform the following duties:

"(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other Federal agency which affects small businesses;

"(2) counsel small businesses on how to resolve questions and problems concerning the relationship of the small business to the Federal Government;

"(3) develop proposals for changes in the policies and activities of any agency of the Federal Government which will better fulfill the purposes of the Small Business Act and communicate such proposals to the appropriate Federal agencies;

"(4) represent the views and interests of small businesses before other Federal agencies whose policies and activities may affect small businesses; and

"(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government which are of benefit to small businesses, and information on how small businesses can participate in or make use of such programs and services.".

SEC. 11. (a) The first sentence of section 411(c) of the Small Business Investment Act of 1958 is amended by inserting "administer this program on a prudent and economically justifiable basis and shall" immediately after "shall".

(b) Section 411(c) of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following: "Within 30 days after the date of enactment of this sentence and at monthly intervals thereafter, the Administration shall publish the cost of the program to the Administration for the month immediately preceding the date of publication. The Administration shall conduct a study of the program in order to determine what must be done to make the program economically sound. Within one year after the date of enactment of this sentence, the Administration shall transmit a report to Congress containing a detailed statement of the findings and conclusions of the study, together with its recommendations for such legislative and administrative actions as it deems appropriate.".

SEC. 12. Section 7(a) of the Small Business Act is amended by adding at the end thereof the following new paragraph:

"(8) During the fiscal year ending June 30, 1975, the Administrator shall make direct loans under this subsection in an aggregate amount of not less than $400,000,000.".

SEC. 13. The General Accounting Office is directed to conduct a full-scale audit of the Small Business Administration, including all field offices. This audit shall be submitted to the House and Senate not later than six months from the date of enactment of this Act.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

93D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 93-1178

SMALL BUSINESS AMENDMENT OF 1974

JULY 3, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PATMAN, from the Committee on Banking and Currency, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 15578]

The Committee on Banking and Currency, to whom was referred the bill (H.R. 15578) to amend the Small Business Act, the Small Business Investment Act, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On page 16, beginning in line 18, strike out "but shall be" and all that follows down through the colon in line 22, and insert in lieu thereof a period.

On page 18, beginning in line 6, strike out "but shall be" and all that follows down through "under this part" in line 11.

On page 18, line 12, strike out "appropriations made" and insert in lieu thereof "capital previously transferred".

On page 22, line 2, insert "of 1958" immediately after "Act".

On page 22, after line 11, insert the following:

> SEC. 12. The General Accounting Office is directed to conduct a full-scale audit of the Small Business Administration, including all field offices. This audit shall be submitted to the House and Senate not later than six months from the date of this Act.

HISTORY OF LEGISLATION

On May 18, 1974 the Small Business Subcommittee held hearings on S. 3331, which was passed by the Senate in mid April. The following day, the Subcommittee met in Executive Session and adopted a

number of amendments to S. 3331. The Subcommittee then voted to have a clean bill introduced and recommended to the full Committee. On June 24, 1974 Congressman Stephens of the Small Business Subcommittee introduced H.R. 15578 for himself and Mr. Mitchell of Maryland, Mr. Gonzalez, Mr. Gettys, Mr. Annunzio, Mr. Hanley, Mr. Cotter, Mr. J. William Stanton, Mr. Williams, Mrs. Heckler of Massachusetts, Mr. Burgener, and Mr. Roncallo of New York.

The full House Committee on Banking and Currency met in Executive Session on June 26, 1974 and by a voice vote unanimously ordered the bill reported.

Purpose of the Legislation

The most basic purpose of H.R. 15578 is to increase the overall loan, guaranty, and investment ceilings of the Agency. At the present time, the Agency can have outstanding in all of its lending programs, other than disaster loans, $4.875 billion. This legislation would increase the overall ceiling to $6 billion with increases in several subceilings for programs such as small business investment companies and economic opportunity loans.

Under the terms of P.L. 93-237 Congress, in addition to establishing a 4.875 billion overall ceiling, placed an additional requirement on the Agency with regard to its lending authority. The restrictions provided that if the ceiling was not reached by June 30, 1974 then on that date the authority of the Agency to expend additional funds would expire. Thus, unless this legislation is enacted; the Small Business Administration will be virtually precluded from engaging in any additional lending or guaranty activities.

The legislation also transfers the functions of the Economic Opportunity Act, which have been carried out by the Small Business Administration, to the Small Business Act. This does not provide any additional authority for the Small Business Administration but merely is a technical change so as to continue the SBA—Economic Opportunity Act programs if the Economic Opportunity Act is not allowed to continue.

There are a number of other changes in this legislation which will be outlined further in the section-by-section summary.

Section-by-Section Summary

Section 1: Section 1 of the legislation cites the bill as the Small Business Amendments of 1974.

Section 2: Section 2 of the bill accomplishes the following: (1) transfers to the Small Business Act the authority to provide financial assistance to socially or economically disadvantaged persons previously authorized by Title IV of the Economic Opportunity Act of 1964, the economic opportunity loan program and the 406 management and technical assistance programs. The SBA has been authorized, by statute to carry out these programs since 1966, and this transfer of authority is to eliminate any confusion should the Economic Opportunity Act expire. No substantive changes are being made in the language transfering the legislative authority. (2) Increases the amount

of funds that SBA may have outstanding in its loan, guaranty and other obligations fund in the following manner: the total amount outstanding is increased from $4.875 billion to $6 billion. The amount which can be outstanding in the Small Business Investment Company program is increased from $556.25 million to $725 million and loans which are outstanding under Title IV of the Economic Opportunity Act for loans to low-income individuals and for businesses located in areas of high unemployment or low income areas is raised from $381.25 million to $450 million. The ceiling on State and local government loans remains unchanged at $525 million.

These ceiling increases are estimated to carry the SBA through the end of fiscal year 1975 and permit an additional contingency reserve of $112.2 million. Neither these ceilings nor does this legislation provide the Small Business Administration with any additional unappropriated funds. The legislation merely allows SBA to increase its loan ceilings so that it may spend funds that it will obtain either through the appropriation process or through repayments of prior loans which also must be approved by the Congress via the appropriation process.

Section 3: Section 3 provides that when a financial institution makes a legitimate demand upon SBA for the Agency to purchase its share of a guaranteed loan, that SBA may continue to charge the borrower the rate that the lending institution had charged for such a loan. Under existing legislation when SBA purchases the guaranteed portion from the participant and assumes servicing of the account, the rate of interest to the borrower is automatically reduced to the statutory rate applicable to the SBA share, which can go as low as 3%. This situation creates an inconsistency since it allows a borrower who may have gotten into trouble with his loan to receive an interest rate of 3% while the borrower who meets all payments of his guaranteed loan would be required to pay the financial institution rate, which in some cases is as high as 12%. Section 3 would allow SBA to charge the higher rate, but does not make such a position mandatory. Section 3 also provides SBA with the authority to make investigations and to issue subpoenas and to administer oaths in conjunction with investigations under the SBA. In 1966 Congress granted this authority to SBA for the Small Business Investment program, but did not grant the authority for programs operated under the authority of the Small Business Act.

Thus, Section 3 would give the SBA the same investigatory powers over all of its programs that it now has over the Small Business Investment Company programs. Some question has been raised as to whether the authority granted to SBA in the 1966 Act in connection with subpeonas and hearings for Small Business Investment Companies, also covers other facets of the Small Business Act, such as lease guarantees and surety bond programs. Your Committee feels that the 1966 authority was not limited to the SBIC program but was intended to cover all of the program then offered or to be offered in the future by the Small Business Investment Act. Your Committee backs this belief by the fact that it extended similar authority to programs covered by the Small Business Act with the understanding that this would bring all Small Business Administration programs under the

same investigatory authority. If the Committee had felt that some programs under the Small Business Investment Act were not now covered, then it would have added those programs to the new authority. By its lack of action in that area, your Committee believes that these programs are already covered and further legislative action is not necessary. Section 3 also clarifies a portion of the Small Business Act relating to the rate of interest applicable to loans under SBA's handicapped assistance program. This section clarifies the rate of interest on these loans so that loans made in conjunction with private lenders will bear a rate of interest set by the borrower, but SBA's share of such loans shall remain at 3%.

Section 4: Section 4 requires the Administrator to transmit to the Banking Committee of both Houses a report each year outlining (1) complaints alleging illegal conduct on the part of employees of the Administration and (2) investigations and audits undertaken by the Administration in conjunction with all of its programs.

Section 5: Section 5 raises the surety bond guaranty maximum from $500,000 to $1 million and authorizes up to $10 million in additional capital to carry out the lease guaranty functions of the Agency and up to $35 million for the surety bond fund. This section also allows SBA to transfer up to $2 million to the lease guaranty fund from the general business fund while awaiting appropriated funds.

Section 6: Section 6 provides for an additional associate administrator of the Agency to be designated Associate Administrator for Minority Small Business.

Section 7: Section 7 removes the statutory interest rate of 5½% for SBA regular business loans made on a direct basis. And instead bases the rate at the cost of money to the government plus ¼ of 1%. At the present time the interest rate on these loans set by that formula would be 6⅛%. Since the statutory rate at the present time is below the cost of money, the Office of Management and Budget has greatly restricted SBA from making direct loans. The new language is designed to make the SBA profitmaking and, thus, remove the OMB objection.

Section 8: Section 8 is designed to deal with small businesses and the energy crisis. This would allow SBA to make direct or guaranteed loans on a disaster basis to small businesses affected by the energy crisis. It would also allow SBA to refinance existing loans to such small businesses.

Section 9: Section 9 would create a position in the Small Business Administration to be known as the Chief Counsel for Advocacy. The purpose of this job would be to serve as a focal point for input to small businessmen.

Section 10: Section 10 would require that the surety bond program be operated on an at least break even point. At the present time, the losses in this program exceed premium income by about 200%, and section 10 is designed to make certain that the surety bond fees are of such an amount as to assure that these losses will be reduced.

Section 11: Section 11 directs the Administration to make available during fiscal year 1975 at least $400 million in direct regular business loans.

Section 12: Section 12 directs the General Accounting Office to conduct a complete audit of the Small Business Administration includ-

ing all of its programs and field offices and to provide the House and Senate with the results of that audit not later than six months from the date of enactment of this Act.

General Information

The increases authorized under this legislation will provide SBA with enough ceiling authorization to operate through the end of fiscal year 1975. Your Committee considered extending the ceiling for only a nine month basis but decided against this because the ceiling would be reached during a period when the new Congress would be organizing and it might result in a long delay in providing new funds once the ceiling was reached.

Because your Committee granted a one year increase rather than a nine month increase is not to be interpreted that the Committee is satisfied with the operations of the Small Business Administration or its efforts to clean up a large number of problems within the Agency that have come to light in the past year. The full year increases were granted to help small businessmen and not as a commendation to the SBA.

Your Committee also notes that in the past Congress has enacted ceiling increases for two and three year periods, thus, the one year extension is indeed a drastic departure from normal ceiling increases and will require the SBA to return to Congress next year, thereby giving the Committee the additional oversight opportunities.

While the Committee realizes that vast majorities of SBA employees conduct their job with complete dedication and integrity, the Committee has noticed an ever-growing deterioration in the quality of loan processing and in the administration of SBA programs, much of it at the highest levels of the Agency. Your Committee also notes there has been a general unwillingness on the part of the Agency to recognize this deterioration which in some cases may have resulted in criminal acts and to deal with these matters. This attitude was best characterized by Congressman Annunzio when he stated during a Small Business Subcommittee hearing that the "SBA officials are more interested in covering up than uncovering scandals in the Agency."

Your Committee fully expects SBA to diligently pursue any wrongdoings on the part of SBA employees or any recipients and to take firm and appropriate action where necessary.

Direct Loans

In every loan ceiling increase report filed by this Committee in recent years the Committee has consistently urged the Small Business Administration to increase the amount of money it is making available to direct regular business loans. Despite these urgings, SBA has totally ignored the Committee's wishes. For instance, in fiscal year 1974 SBA made only $40 million available in direct 7(a) loans and $22 million available in immediate participation loans. Under the immediate participation loans SBA provides up to 80% of the funds while private lenders provide the rest of the money. On a direct loan SBA provides

100% of the financing. The Small Business Administration has submitted a budget identical to 1974 for direct and immediate participation loans during fiscal year 1975. While these figures are pale indeed to the more than $1 billion that SBA will make available in guarantees during 1974 and 1975, they could be reduced even further if the Office of Management and Budget impounds additional direct loan funds as it has done in previous years. "The trend away from direct loans and more towards bank guaranteed loans is indeed alarming to your Committee. It has resulted in saddling small businessmen with millions of dollars in excess interest rates at a time when they least can afford to pay such rates. Under the guaranteed loan program SBA allows banks to charge an interest rate which is adopted on a quarterly basis by the Agency. Prior to adopting this method of setting interest rates, the SBA allowed the banks to charge whatever rate the banks desired and on occasion that rate approached 13%. Under the new SBA rate setting program, the rate has reached as high as 11% and currently is set as 10½%.

Instead of assisting small businessmen with low cost direct loans as money has tightened, SBA has gone in just the opposite direction and has forced thousands of small businessmen to pay unnecessary extra interest charges.

In 1965, for example, 92.2% of SBA's business loan activities were in the form of either direct or immediate participation. However, in 1973 direct and immediate participation loans had fallen to only 6.8% of the volume. Your Committee feels that since SBA has refused to reverse the trend through the suggestion route that it is now necessary to direct the change through the legislative route.

For this reason, H.R. 15578 directs the Small Business Administration to make available $400 million in direct loans during fiscal year 1975. The $400 million represents roughly ⅓ of the authorization increase requested by SBA and will go a long way towards reversing the trend of requiring small businessmen to pay unnecessary high rates for loans.

In the past, the Office of Management and Budget has given as its excuse for refusing to allow SBA to make more guaranteed loans the statutory interest rates on these loans of 5½%. The Office of Management and Budget contends that it costs the government more to obtain the money than it would receive in interest from the Small Business Administration direct loans and thus the loans were being provided on a loss basis.

Your Committee has remedied that situation by removing the statutory interest rate of 5½%. In its place the Committee has substituted a formula which sets the rate at the cost of money to the government plus ¼% of 1% for servicing fees. Under present interest rates that formula would result in an interest of approximately 6⅛% to 6¼% on a direct loan. While this raises the rate on direct loans in actuality, it is a large reduction in the amount the small businessman would have to pay if he was forced to obtain a bank guaranteed loan which currently is set at 10½%.

The new rate will result in not only a lower interest rate to small businessmen, but will also turn the loans into a profitmaking situation for the Federal government.

Since H.R. 15578 removes the OMB objection to a less than market interest rate on direct loans, there can be no reason why SBA will not make the $400 million available in direct loans. Your committee will look with great disfavor on any attempt to short circuit this aid to small businessmen.

In the event the SBA feels it does not have the necessary appropriation authority to make this money available from the revolving fund, your Committee expects SBA to immediately seek a supplemental appropriation for the direct loans. Your Committee notes that Congress has always granted SBA virtually every dollar it has requested in loan appropriations.

Surety Bond Payments

Your Committee adopted a provision which raised the amount of the surety bond that SBA may guaranty from $500,000 to $1 million. These are bonds that are issued to small businessmen by a surety and which are then reinsured on a 90% basis by the Small Business Administration. In voting for a 100% increase in these bonds, your Committee at the same time feels it is necessary to put this program on a sound footing. The Small Business Administration contends that when Congress enacted the surety bond program it did not intend to make the program operate at a profit. While your Committee agrees that the program was not designed with a profit to the government in mind, at the same time it was not designed to incur the tremendous losses that have arisen in this program. Although your Committee has been presented with several sets of figures and additional testimony on the losses in the program, it appears that the amount that SBA has paid out to sureties in connection with contract defaults is in the neighborhood of 200% in excess of the amount that SBA has taken in in fees for these guarantees.

While these losses are themselves the subject of concern to the Committee, of even greater concern was the method in which SBA presented the results of a three-year test program to the Committee. Small Business Administration Administrator, Thomas Kleppe, was extremely vague in providing loss figures to Congressman Cotter during the colloquy on surety bond results. This less than candid approach by the Agency on the subject of surety bonds heightens your Committee's belief that the program might need an upward revision in its rate structure.

Since SBA, by its own testimony, states that the surety bond program was designed as a pilot project and that initial fees were arbitrarily set until an experience factor could be obtained, your Committee feels it is now time to readjust the fee schedule. There was a reluctance on the part of many Committee members to support the increase in the amount of surety bonds from $500,000 to $1 million unless the fee schedule placed SBA closer to a break-even point.

The Small Business Administration contends that by requiring it to use sound actuarial methods and underwriting procedures in establishing rates for the surety bonds, these bonds will be placed out of the reach of small businessmen. Your Committee feels, however, that the SBA is "shooting from the hip" in this area and has not presented detailed information to back up its argument. Your Committee finds

it strange that an Agency that could not even correctly inform the Committee of the excess of default payments to set income, suddenly is able to predict economic disaster for the surety bond program. If agencies of the government are to suggest pilot programs to the Congress then these agencies must be willing to use the results of the pilot programs in drafting permanent program procedures.

Chief Counsel for Advocacy

A number of small business trade associations have suggested that a position be created within the Small Business Administration to be known as the Chief Counsel for Advocacy. Basically, this position would serve as an ombudsman for small business. The fact that thousands of small businessmen across the Country feel that it is necessary for an agency with a single constituency to be forced to establish an office to advocate the position of small businessmen, merely confirms the findings of the Committee's Small Business Subcommittee of mismanagement and criminal activities within the SBA. If the SBA were meeting the needs of small businesses throughout the Country it would not be necessary to create the position of Chief Counsel for Advocacy. However, your Committee believes that such a position is needed and that this position could be of great assistance not only in helping small businesses but also to point out the shortcomings of the Agency.

While your Committee does not mean to imply through the title of Chief Counsel for Advocacy that the person filling this post need be a lawyer, your Committee at the same time expects this position to be placed at a high enough level within the Agency to insure that its operations will not be thwarted because of a lengthy chain of command within the Agency.

Your Committee also recognizes the fact that in order for the office of the Chief Counsel for Advocacy to be effective, it is necessary that this position be given a great deal of latitude in its operation and that it not be filled by a person who will become a "yes" man for the Agency. It must be pointed out that the first allegiance of the Chief Counsel for Advocacy is to the small businessmen of the Country—not to the Small Business Administration. Consequently, in reviewing the operations of this new office; your Committee will use that criteria to measure performance.

General Accounting Office Audit

Although the General Accounting Office does audit the operations of the Small Business Administration this is only done on a selected program basis and does not result in an annual overall report on the Agency's operations.

While your Committee realizes the monetary and manpower limitations, it is not suggesting that such a report be required on an annual basis. However, your Committee is concerned that it is impossible for SBA to uncover all the problems within its own Agency by conducting an in-house audit. Therefore, the only alternative is to ask the GAO to make such an audit. Several members of the Committee have stated that without this audit they could not vote for

H.R. 15578, paricularly in light of the discoveries made by the Small Business Subcommittee with regard to mismanagement and criminal activities.

Technical Assistance

During its oversight hearings of the Small Business Administration, the Small Business Subcommittee repeatedly heard testimony from small businessmen, particularly minority small businessmen, about the lack of technical assistance provided SBA borrowers.

The prevalent feeling among the witnesses appeared to be that the SBA would provide the money to small businessmen and then forget about them. Several witnesses testified that they made repeated attempts to secure technical assistance from the Agency but were unable to obtain help.

Your Committee feels that the SBA is not meeting its commitment to small businessmen merely by providing a loan or a contract award. The Committee has numerous cases in its file of loan situations that have gone into default which might have been saved had SBA followed through with technical assistance.

One witness during the Chicago field hearing testified that when big businesses have a tax, legal, or bidding problem it merely brings in its in-house experts in this area or hires outside consultants. Small businessmen, the witness contended, do not have the resources to obtain the services of such individuals and are forced to seek solutions to their problems without expert advice. This situation has forced many small businesses into bankruptcy.

The witness suggested that the SBA should maintain a staff of experts in such fields as law, taxation, contract procurement, labor negotiations, and other related fields of importance to small businessmen who can provide services on a direct case-by-case basis to small businessmen.

Your Committee realizes that such positions would increase the cost of the operation of the Agency, but this increase would be a small comparison to the millions of dollars in defaulted loans that would be saved if these individuals were quickly and inexpensively available to small businessmen.

Cost of Carrying Out the Bill

In compliance with Clause 7 of Rule 13 of the House of Representatives, the following statement is made relative to the cost of carrying out this bill. Since the main section of the legislation merely increases the ceilings under which loans or guarantees can be expended out of repayments of existing loans, there would be no budgetary impact in carrying out these provisions. The other loan programs included in this legislation, except handicap loan assistance, would all bear profitmaking interest rates, i.e., above the cost of money to the government, and, therefore, should not result in any increased long-term expenditures. Since SBA has not made any direct handicap assistance loans, there would appear to be no direct cost to the government for that program. The only area of the legislation which might result in a cost increase would be in the creation of an Asso-

ciate Administrator for Minority Business and a Chief Counsel for Advocacy. The creation of a new Associate Administrator will require only the upgrading of an existing position and will increase the cost of this legislation only a few thousand dollars. There may not necessarily be a cost increase in the creation of the Chief Counsel for Advocacy since the legislation does not preclude the Agency from appointing a current employee to that position.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

SMALL BUSINESS ACT

Sec. 1. This Act may be cited as the "Small Business Act."

Sec. 2. (a) The essence of the American economic system of private enterprise is free competition. Only through full and free competition can free markets, free entry into business, and opportunities for the expression and growth of personal initiative and individual judgment be assured. The preservation and expansion of such competition is basic not only to the economic well-being but to the security of this Nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed. It is the declared policy of the Congress that the Government should aid, counsel, assist and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprises, to insure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the Government (including but not limited to contracts or subcontracts for maintenance, repair, and construction) be placed with small-business enterprises, to insure that a fair proportion of the total sales of Government property be made to such enterprises, and to maintain and strengthen the overall economy of the Nation.

(b) The assistance programs authorized by sections 7(i) and 7(j) of this Act are to be utilized to assist in the establishment, preservation, and strengthening of small business concerns and improve the managerial skills employed in such enterprises, with special attention to small business concerns (1) located in urban or rural areas with high proportions of unemployed or low-income individuals; or (2) owned by low-income individuals; and to mobilize for these objectives private as well as public managerial skills and resources.

[(b)] *(c)* Further, it is the declared policy of the Congress that the Government should aid and assist victims of floods and other catastrophes, and small-business concerns which are displaced as a result of federally aided construction programs.

Sec. 4. (a) * * *

(b) The management of the Administration shall be vested in an Administrator who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and who shall

be a person of outstanding qualifications known to be familiar and sympathetic with small-business needs and problems. The Administrator shall not engage in any other business, vocation, or employment than that of serving as Administrator. In carrying out the programs administered by the Small Business Administration including its lending and guaranteeing functions, the Administrator shall not discriminate on the basis of sex or marital status against any person or small business concern applying for or receiving assistance from the Small Business Administration, and the Small Business Administration shall give special consideration to veterans of the Armed Forces of the United States and their survivors or dependents. The Administrator is authorized to appoint a Deputy Administrator and [three] *four* Associate Administrators (including the Associate Administrator specified in section 201 of the Small Business Investment Act of 1958) to assist in the execution of the functions vested in the Administration. The Deputy Administrator shall be Acting Administrator of the Administration during the absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator. *One of the Associate Administrators shall be designated at the time of his appointment as the Associate Administrator for Minority Small Business and shall be responsible to the Administrator for the formulation of policy relating to the Administration's programs which provide assistance to minority small business concerns and in the review of the Administration's execution of such programs in the light of such policy.*

(c) (1) There are hereby established in the Treasury the following revolving funds: (A) a disaster loan fund which shall be available for financing functions performed under sections 7(b) (1), 7(b) (2), 7(b) (4), 7(b) (5), 7(b) (6), 7(b) (7), 7(*b*) (*8*), 7(c) (2), and 7(g) of this Act, including administrative expenses in connection with such functions; and (B) a business loan and investment fund which shall be available for financing functions performed under sections 7(a), 7(b) (3), 7(e), [7(g)], 7(*h*), 7(*i*), and 8(a) of this Act, *and* titles III and V of the Small Business Investment Act of 1958, [and title IV of the Economic Opportunity Act of 1964,] including administrative expenses in connection with such functions.

(2) All repayments of loans and debentures, payments of interest and other receipts arising out of transactions heretofore or hereafter entered into by the Administration (A) pursuant to sections 7(b) (1), 7(b) (2), 7(b) (4), 7(b) (5), 7(b) (6), 7(b) (7), 7(*b*) (*8*), and 7(c) (2) of this Act shall be paid into [the] *a* disaster loan fund; and (B) pursuant to sections 7(a), 7(b) (3), 7(e), 7(h), 7(*i*), and 8(a) of this Act, *and* titles III and V of the Small Business Investment Act of 1958, [and title IV of the Economic Opportunity Act of 1964,] shall be paid into the business loan and investment fund.

(3) Unexpended balances of appropriations made to the fund pursuant to this subsection, as in effect immediately prior to the effective date of this paragraph, shall be allocated, together with related assets and liabilities, to the funds established by paragraph (1) in such amounts as the Administrator shall determine. In addition to any sums so allocated, appropriations are hereby authorized to be made to such funds, as capital thereof, in such amounts as may be necessary

to carry out the functions of the Administration, which appropriations shall remain availabel until expended.

(4) The total amount of loans, guarantees, and other obligations or commitments, heretofore or hereafter entered into by the Administration, which are outstanding at any one time (A) under sections 7(a), 7(b)(3), 7(e), *7(h)*, *7(i)*, and 8(a) of this Act, [and title IV of the Economic Opportunity Act of 1964,] shall not exceed [$4,875,000,000] *$6,000,000,000*; (B) under title III of the Small Business Investment Act of 1958, shall not exceed [$556,250,000] *$725,000,000;* (C) under title V of the Small Business Investment Act of 1958, shall not exceed $525,000,000; and (D) under [title IV of the Economic Opportunity Act of 1964] *section 7(i) of this Act*, shall not exceed [$381,250,000] *$450,000,000.*

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SEC. 5. (a) * * *

(b) In the performance of, and with respect to, the functions, powers, and duties vested in him by this Act the Administrator may—

(1) sue and be sued in any court of record of a State having general jurisdiction, or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Administrator or his property;

(2) under regulations prescribed by him, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions and for such consideration as the Administrator shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of loans granted under this Act, and to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him in connection with the payment of such loans until such time as such obligations may be referred to the Attorney General for suit or collection;

(3) deal with, complete, renovate, improve, modernize, insure, or rent, or sell for cash or credit upon such terms and conditions and for such consideration as the Administrator shall determine to be reasonable, any real property conveyed to or otherwise acquire by him in connection with the payment of loans granted under this Act;

(4) pursue to final collection, by way of compromise or otherwise, all claims against third parties assigned to the Administrator in connection with loans made by him. This shall include authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Administrator. Section 3709 of the Revised Statutes, as amended (41 U.S.C., sec. 5), shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Administrator as a result of loans made under this Act if the premium therefor or the amount thereof does

not exceed $1,000. The power to convey and to execute in the name of the Administrator deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real property or any interest therein acquired by the Administrator pursuant to the provisions of this Act may be exercised by the Administrator or by any officer or agent appointed by him without the execution of any express delegation of power or power of attorney. Nothing in this section shall be construed to prevent the Administrator from delegating such power by order or by power of attorney, in his discretion, to any officer or agent he may appoint;

(5) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized in section 7(a) and 7(b);

(6) make such rules and regulations as he deems necessary to carry out the authority vested in him by or pursuant to this Act;

(7) in addition to any powers, functions, privileges, and immunities otherwise vested in him, take any and all actions, including the procurement of the services of attorneys by contract, determined by him to be necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act; but no attorneys' services shall be procured by contract in any office where an attorney or attorneys are or can be economically employed full time to render such services;

(8) pay the transportation expenses and per diem in lieu of subsistence expenses, in accordance with the Travel Expense Act of 1949, for travel of any person employed by the Administration to render temporary services not in excess of six months in connection with any disaster referred to in section 7(b) from place of appointment to, and while at, the disaster area and any other temporary posts of duty and return upon completion of the assignment; [and]

(9) accept the services and facilities of Federal, State, and local agencies and groups, both public and private, and utilize such gratuitous services and facilities as may, from time to time, be necessary, to further the objectives of section 7(b)[.]*;*

(10) upon purchase by the Administration of any deferred participation entered into under section 7 of this Act, continue to charge a rate of interest not to exceed that initially charged by the participating institution on the amount so purchased for the remaining term of the indebtedness; and

(11) make such investigations as he deems necessary to determine whether a recipient of or participant in any assistance under this Act or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, or of any rule or regulation under this Act, or of any order issued under this Act. The Administration shall permit any person to file with it a statement in writing, under oath or otherwise as the Administration shall determine, as to all the facts and circumstances concerning the

matter to be investigated. For the purpose of any investigation, the Administration is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena issued to, any person, including a recipient or participant, the Administration may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Administration, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

* * * * * * *

(d) Section 3648 of the Revised Statutes (31 U.S.C. 529) shall not apply to prepayments of rentals made by the Administration on safety deposit boxes used by the Administration for the safeguarding of instruments held as security for loans or for the safeguarding of other documents.

(e) The Administrator shall designate an individual within the Administration to be known as the Chief Counsel for Advocacy and to perform the following duties:

(1) serve as a focal point for the receipt of complaints, criticisms and suggestions concerning the policies and activities of the Administration and any other Federal agency which affects small businesses;

(2) counsel small businesses on how to resolve questions and problems concerning the relationship of the small business to the Federal Government;

(3) develop proposals for changes in the policies and activities of any agency of the Federal Government which will better fulfill the purposes of the Small Business Act and communicate such proposals to the appropriate Federal agencies;

(4) represent the views and interests of small businesses before other Federal agencies whose policies and activities may affect small businesses; and

(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government which are of benefit to small businesses, and information on how small businesses can participate in or make use of such programs and services.

* * * * * * *

SEC. 7. (a) The Administration is empowered to make loans to enable small-business concerns to finance plant construction, conversion, or expansion, including the acquisition of land; or to finance the acquisition of equipment, facilities, machinery, supplies, or materials; or to supply such concerns with working capital to be used in the manufacture of articles, equipment, supplies, or materials for war, defense, or civilian production or as may be necessary to insure a well-balanced national economy; and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis. The foregoing powers shall be subject, however, to the following restrictions and limitations:

(1) No financial assistance shall be extended pursuant to this subsection unless the financial assistance applied for is not otherwise available on reasonable terms.

(2) No immediate participation may be purchased unless it is shown that a deferred participation is not available; and no loan may be made unless it is shown that a participation is not available.

(3) In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

(4) Except as provided in paragraph (5)(A), no loan under this subsection shall be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the revolving fund established by this Act would exceed $350,000; (B) the rate of interest for the Administration's share of any such loan shall be [no more than 5½] *the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1* per centum per annum; and (C) no such loan, including renewals or extensions thereof, may be made for a period or periods exceeding ten years except that such portion of a loan made for the purpose of constructing facilities may have a maturity of fifteen years plus such additional period as is estimated may be required to complete such construction.

(5) In the case of any loan made under this subsection to a corporation formed and capitalized by a group of small-business concerns with resources provided by them for the purpose of obtaining for the use of such concerns raw materials, equipment, inventories, supplies or the benefits of research and development, or for establishing facilities for such purpose, (A) the limitation of $350,000 prescribed in paragraph (4) shall not apply, but the limit of such loan shall be $250,000 multiplied by the number of separate small businesses which formed and capitalized such corporation; (B) the rate of interest for the Administration's share of *any* such loan shall be [no less than 3 nor more than 5] *the*

average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one quarter of 1 per centum per annum; and (C) such loan, including renewals and extensions thereof, may not be made for a period or periods exceeding ten years except that if such loan is made for the purpose of constructing facilities it may have a maturity of twenty years plus such additional time as is required to complete such construction.

(7) All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment.

(8) During the fiscal year ending June 30, 1975, the Administrator shall make direct loans under this subsection in an aggregate amount of not less than $400,000,000.

(b) The Administration also is empowered—

(1) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate because of floods, riots or civil disorders, or other catastrophes:

(2) to make such loans (either directly or in coopeartion with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to any small business concern located in an area affected by a disaster, if the Administration determines that the concern has suffered a substantial economic injury as a result of such disaster and if such disaster constitutes—

(A) a major disaster, as determined by the President under the Act entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes", approved September 30, 1950, as amended (42 U.S.C. 1855–1855g), or

(B) a natural disaster, as determined by the Secretary of Agriculture pursuant to the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961);

(3) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern or appropriate to assist any small business concern in continuing in business at its existing location, in reestablishing its business, in purchasing a business, or in establishing a new business, if the Administration determines that such concern has suffered substantial economic injury as the result of its displacement by, or location in, adjacent to, or near, a federally aided urban renewal program or a highway project or any other construction constructed by or with funds provided in whole or in part by the Federal Government; and the purpose of a loan made pursuant to such project or program may, in the discretion of the

Administration, include the purchase or construction of other premises whether or not the borrower owned the premises occupied by the business; and

(4) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in reestablishing its business if the Administration determines that such concern has suffered substantial economic injury as a result of the inability of such concern to process or market a product for human consumption because of disease or toxicity occurring in such product through natural or undetermined causes: *Provided*, That loans under this paragraph include loans to persons who are engaged in the business of raising livestock (including but not limited to cattle, hogs, and poultry), and who suffer substantial economic injury as a result of animal disease; and

(5) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed on such concern pursuant to any Federal law, any State law enacted in conformity therewith, or any regulation or order of a duly authorized, Federal, State, regional, or local agency issued in conformity with such Federal law, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph: *Provided*, That the maximum loan made to any small business concern under this paragraph shall not exceed the maximum loan which, under rules or regulations prescribed by the Administration, may be made to any business enterprise under paragraph (1) of this subsection; and

(6) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist, or to refinance the existing indebtedness of, any small business concern directly and seriously affected by the significant reduction of the scope or amount of Federal support for any project as a result of any international agreement limiting the development of strategic arms or the installation of strategic arms or strategic arms facilities, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph.

(7) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in continuing in business at its existing location,

in reestablishing its business, in purchasing a new business, or in establishing a new business if the Administration determines that such concern has suffered or will suffer substantial economic injury as the result of the closing by the Federal Government of a major military installation under the jurisdiction of the Department of Defense, or as a result of a severe reduction in the scope and size of operations at a major military installation[.]*; and*

(8) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist, or refinance the existing indebtedness of, any small business concern seriously and adversely affected by a shortage of fuel, electrical energy, or energy-producing resources, or by a shortage of raw or processed materials resulting from such shortages, if the Administration determines that such concern has suffered or is likely to suffer substantial economic injury without assistance under this paragraph.

No loan under this subsection, including renewals and extensions thereof, may be made for a period or periods exceeding thirty years: *Provided*, That the Administrator may consent to a suspension in the payment of principal and interest charges on, and to an extension in the maturity of, the Federal share of any loan under this subsection for a period not to exceed five years, if (A) the borrower under such loan is a homeowner or a small business concern, (B) the loan was made to enable (i) such homeowner to repair or replace his home, or (ii) such concern to repair or replace plant or equipment which was damaged or destroyed as the result of a disaster meeting the requirements of clause (A) or (B) of paragraph (2) of this subsection, and (C) the Administrator determines such action is necessary to avoid severe financial hardship: *Provided further*, That the provisions of paragraph (1) of subsection (c) of this section shall not be applicable to any such loan having a maturity in excess of twenty years. Notwithstanding the provisions of any other law, and except as otherwise provided in this subsection, the interest rate on the Administration's share of any loan made under this subsection shall not exceed 3 per centum per annum, except that in the case of a loan made pursuant to paragraph (3), (5), (6), [or] (7), *or (8)*, the rate of interest on the Administration's share of such loan shall not be more than the higher of (A) 2¾ per centum per annum; or (B) the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum per annum. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

In the administration of the disaster loan program under paragraphs (1), (2), and (4) of this subsection, in the case of property loss or damage or injury resulting from a major disaster as determined by the President or a disaster as determined by the Administrator which occurs on or after January 1, 1971, and prior to July 1, 1973, the Small

Business Administration, to the extent such loss or damage or injury is not compensated for by insurance or otherwise—

(A) may make any loan for repair, rehabilitation, or replacement of property damaged or destroyed without regard to whether the required financial assistance is otherwise available from private sources;

(B) may, in the case of the total destruction or substantial property damage of a home or business concern, refinance any mortgage or other liens outstanding against the destroyed or damaged property if such property is to be repaired, rehabilitated, or replaced, except that (1) in the case of a business concern, the amount refinanced shall not exceed the amount of the physical loss sustained, and (2) in the case of a home, the amount of each monthly payment of principal and interest on the loan after refinancing under this clause shall be not less than the amount of each such payment made prior to such refinancing;

(C) may, in the case of a loan made under clause (A) or a mortgage or other lien refinanced under clause (B) in connection with the destruction of, or substantial damage to, property owned and used as a residence by an individual who by reason of retirement, disability, or other similar circumstances relies for support on survivor, disability, or retirement benefits under a pension, insurance, or other program, consent to the suspension of the payments of the principal of that loan, mortgage, or lien during the lifetime of that individual and his spouse for so long as the Administration determines that making such payments would constitute a substantial hardship;

(D) shall, notwithstanding the provisions of any other law and upon presentation by the applicant of proof of loss or damage or injury and a bona fide estimate of cost of repair, rehabilitation, or replacement, cancel the principal of any loan made to cover a loss or damage or injury resulting from such disaster, except that—

(i) with respect to a loan made in connection with a disaster occurring on or after January 1, 1971 but prior to January 1, 1972, the total amount so canceled shall not exceed $2,500, and the interest on the balance of the loan shall be at a rate of 3 per centum per annum; and

(ii) with respect to a loan made in connection with a disaster occurring on or after January 1, 1972 but prior to July 1, 1973, the total amount so canceled shall not exceed $5,000, and the interest on the balance of the loan shall be at a rate of 1 per centum per annum.

With respect to any loan referred to in clause (D) which is outstanding on the date of enactment of this paragraph, the Administrator shall—

(i) make such change in the interest rate on the balance of such loan as is required under that clause effective as of such date of enactment; and

(ii) in applying the limitation set forth in that clause with respect to the total amount of such loan which may be canceled, consider as part of the amount so canceled any part of such loan

which was previously canceled pursuant to section 231 of the Disaster Relief Act of 1970.

Whoever wrongfully misapplies the proceeds of a loan obtained under this subsection shall be civilly liable to the Administrator in an amount equal to one-and-one-half times the original principal amount of the loan.

* * * * * * *

(h)(1) The Administration also is empowered, where other financial assistance is not available on reasonable terms, to make such loans (either directly or in cooperation with Banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate—

(A) to assist any public or private organization—

(i) which is organized under the laws of the United States or of any State, operated in the interest of handicapped individuals, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

(ii) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

(iii) which, in the production of commodities and in the provision of services during any fiscal year in which it receives financial assistance under this subsection, employs handicapped individuals for not less than 75 per centum of the man-hours required for the production or provision of the commodities or services; or

(B) to assist any handicapped individual in establishing, acquiring, or operating a small business concern.

(2) The Administration's share of any loan made under this subsection shall not exceed $350,000, nor may any such loan be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by section 4(c)(1)(B) of this Act would exceed $350,000. In agreements to participate in loans on a deferred basis under this subsection, the Administration's participation may total 100 per centum of the balance of the loan at the time of disbursement. [Any loan made under this subsection shall bear interest at the rate of 3 per centum per annum.] *The Administration's share of any loan made under this subsection shall bear interest at the rate of 3 per centum per annum.* The maximum term of any such loan, including extensions and renewals thereof, may not exceed fifteen years. All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment: *Provided, however*, That any reasonable doubt shall be resolved in favor of the applicant.

(3) For purposes of this subsection, the term "handicapped individual" means a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable.

(*i*)(*1*) *The Administration also is empowered to make, participate*

(on an immediate basis) in, or guarantee loans, repayable in not more than fifteen years, to any small business concerne, or to any qualified person seeking to establish such a concern, when it determines that such loans will further the policies established in section 2(b) of this Act, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals: Provided, however, That no such loans shall be made, participated in, or guaranteed if the total of such Federal assistance to a single borrower outstanding at any one time would exceed $50,000. The Administration may defer payments on the principal of such loans for a grace period and use such other methods as it deems necessary and appropriate to assure the successful establshment and operation of such concern. The Administration may, in its discretion, as a condition of such financial assistance, require that the borrower take steps to improve his management skills by participating in a management training program approved by the Administration: Provided, however, That any management training program so approved must be of sufficient scope and duration to provide reasonable opportunity for the individuals served to develop entrepreneurial and managerial self-sufficiency.

(2) The Administration shall encourage, as far as possible, the participation of the private business community in the program of assistance to such concerns, and shall seek to stimulate new private lending activities to such concerns through the use of the loan guarantees, participations in loans, and pooling arrangements authorized by this subsection.

(3) To insure an equitable distribution between urban and rural areas for loans between $3,500 and $50,000 made under this subsection, the Administration is authorized to use the agencies and agreements and delegations developed under title III of the Economic Opportunity Act of 1964, as amended, as it shall determine necessary.

(4) The Administration shall provide for the continuing evaluation of programs under this subsection, including full information on the location, income characteristics, and types of businesses and individuals assisted, and on new private lending activity stimulated, and the results of such evaluation together with recommendations shall be included in the report required by section 10(a) of this Act.

(5) Loans made pursuant to this subsection (including immediate participation in and guarantees of such loans) shall have such terms and conditions as the Administration shall determine, subject to the following limitations—

(A) there is reasonable assurance of repayment of the loan;

(B) the financial assistance is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

(C) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loans is made;

(D) the loan bears interest at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury

obligations of comparable maturity, plus (ii) such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes: Provided, however, That the rate of interest charged on loans made in redevelopment areas designated under the Public Works and Economic Development Act of 1965 (42 U.S.C. 3108 et seq.) shall not exceed the rate currently applicable to new loans made under section 201 of that Act (42 U.S.C. 3142); and

(E) fees not in excess of amounts necessary to cover administrative expenses and probable losses may be required on loan guarantees.

(6) The Administration shall take such steps as may be necessary to insure that, in any fiscal year, at least 50 per centum of the amounts loaned or guaranteed pursuant to this subsection are allotted to small business concerns located in urban areas identified by the Administration as having high concentrations of unemployed or low-income individuals or to small business concerns owned by low-income individuals. The Administration shall define the meaning of low income as it applies to owners of small business concerns eligible to be assisted under this subsection.

(7) No financial assistance shall be extended pursuant to this subsection where the Administration determines that the assistance will be used in relocating establishments from one area to another if such relocation would result in an increase in unemployment in the area of original location.

(j)(1) The Administration is authorized to provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under subsection 7(i) of this Act, with special attention to small business located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals.

(2) Financial assistance under this subsection may be provided for projects, including without limitation—

(A) planning and research, including feasibility studies and market research;

(B) the identification and development of new business opportunities;

(C) the furnishing of centralized services with regard to public services and Government programs including programs authorized under subsection 7(i);

(D) the establishment and strengthening of business service agencies, including trade associations and cooperatives;

(E) the encouragement of the placement of subcontracts by major business with small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals, including the provision of incentives and assistance to such major businesses so that they will aid in the training and upgrading of potential subcontractors or other small business concerns; and

(F) the furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the

resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

(3) The Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small business concerns by residents of urban areas of high concentration of unemployed or low-income individuals, and to projects which are planned and carried out with the participation of local businessmen.

(4) The financial assistance authorized by this subsection includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services.

(5) The Administration is authorized to make payments under grants and contracts entered into under this subsection in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments.

(6) To the extent feasible, services under this subsection shall be provided in a location which is easliy accessible to the individuals and small business concerns served.

(7) The Administration shall provide for an independent and continuing evaluation of programs under this subsection, including full information on, and analysis of, the character and impact of managerial assistance provided, the location, income characteristics, and types of businesses and individuals assisted, and the extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations deemed advisable by the Administration shall be included in the report required by section 10(a) of this Act.

(8) The Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, so that contracts, subcontracts, and deposits made by the Federal Government or in connection with programs aided with Federal funds are placed in such a way as to further the purposes of this subsection and of subsection 7(i) of this Act. The Administration shall provide for the continuing evaluation of programs under this subsection and the results of such evaluation together with recommendations shall be included in the report required by section 10(a) of this Act.

(k) In carrying out its functions under subsections 7(i) and 7(j) of this Act, the Administration is authorized—

(1) to utilize, with their consent, the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or political subdivision of a State, accept and utilize the services and facilities of such State or subdivision without reimbursement;

(2) to accept, in the name of the Administration, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gifts, devise, bequest, or otherwise;

(3) to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 655(b)); and

(4) to employ experts and consultants or organizations thereof as authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a), except that no individual may be employed under the authority of this subsection for more than one hundred days in any fiscal year; to compensate individuals so employed at rates not in excess of $100 per diem, including traveltime; and to allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5 of such Act (5 U.S.C. 73b-2) for persons in the Government service employed intermittently, while so employed: Provided, however, That contracts for such employment may be renewed annually.

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SEC. 10. (a) * * *

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(g) The Administration shall transmit, not later than December 31 of each year, to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Banking and Currency of the House of Representatives a sealed report with respect to—

(1) complaints alleging illegal conduct by employees of the Administration which were received or acted upon by the Administration during the preceding fiscal year; and

(2) investigations undertaken by the Administration, including external and internal audits and security and investigation reports.

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ECONOMIC OPPORTUNITY ACT OF 1964

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[TITLE IV—EMPLOYMENT AND INVESTMENT INCENTIVES

[STATEMENT OF PURPOSE

[SEC. 401. It is the purpose of this title to assist in the establishment, preservation, and strengthening of small business concerns and improve the managerial skills employed in such enterprises, with special attention to small business concerns (1) located in urban or rural areas with high proportions of unemployed or low-income individuals, or (2) owned by low-income individuals; and to mobilize for these objectives private as well as public managerial skills and resources.

[LOANS, PARTICIPATIONS, AND GUARANTIES

[SEC. 402. (a) The Administrator of the Small Business Administration is authorized to make, participate (on an immediate basis) in, or guarantee loans, payable in not more than fifteen years, to any

small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632) and regulations issued thereunder), or to any qualified person seeking to establish such a concern, when he determines that such loans will assist in carrying out the purposes of this title, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals: *Provided, however,* That no such loans shall be made, participated in, or guaranteed if the total of such Federal assistance to a single borrower outstanding at any one time would exceed $25,000. The Administrator of the Small Business Administration may defer payments on the principal of such loans for a grace period and use such other methods as he deems necessary and appropriate to assure the successful establishment and operation of such concern. The Administrator of the Small Business Administration may, in his discretion, as a condition of such financial assistance, require that the borrower take steps to improve his management skills by participating in a management training program approved by the Administrator of the Small Business Administration: *Provided, however,* That any management training program so approved must be of sufficient scope and duration to provide reasonable opportunity for the individuals served to develop entrepreneurial and managerial self-sufficiency. The Administrator of the Small Business Administration shall encourage, as far as possible, the participation of the private business community in the program of assistance to such concerns, and shall seek to stimulate new private lending activities to such concerns through the use of the loan guaranties, participations in loans, and pooling arrangements authorized by this section.

[(c) To the extent necessary or appropriate to carry out the programs provided for in this title the Administrator of the Small Business Administration shall have the same powers as are conferred upon the Director by section 602 of this Act. To insure an equitable distribution between urban and rural areas for loans between $3,500 and $25,000 made under this title, the Administrator is authorized to use the agencies and agreements and delegations developed under title III of the Act as he shall determine necessary.

[(c) The Administrator shall provide for the continuing evaluation of programs under this section, including full information on the location, income characteristics, and types of businesses and individuals assisted, and on new private lending activity stimulated, and the results of such evaluation together with recommendations shall be included in the report by section 608.

[LOAN TERMS AND CONDITIONS

[SEC. 403. Loans made pursuant to section 402 (including immediate participation in and guaranties of such loans) shall have such terms and conditions as the Administrator of the Small Business Administration shall determine, subject to the following limitations—

[(a) there is reasonable assurance of repayment of the loan;

[(b) the financial assistance is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

[(c) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made;

[(d) the loan bears interest at a rate not less than (1) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (2) such additional charge, of any, toward covering other costs of the program as the Administrator of the Small Business Administration may determine to be consistent with its purposes: *Provided, however*, That the rate of interest charged on loans made in redevelopment areas designated under the Area Redevelopment Act (42 U.S.C. 2501 et seq.) shall not exceed the rate currently applicable to new loans made under section 6 of that Act (42 U.S.C. 2505); and

[(e) fees not in excess of amounts necessary to cover administrative expenses and probable losses may be required on loan guaranties.

[DISTRIBUTION OF FINANCIAL ASSISTANCE

[SEC. 404. The Administrator of the Small Business Administration shall take such steps as may be necessary to insure that, in any fiscal year, at least 50 per centum of the amounts loaned or guaranteed pursuant to this part are allotted to small business concerns located in urban areas identified by the Director, after consideration of any recommendations of the Administrator of the Small Business Administration, as having high concentrations of unemployed or low-income individuals or to small business concerns owned by low income individuals. The Administrator of the Small Business Administration, after consideration of any recommendations of the Director, shall define the meaning of low income as it applies to owners of small business concerns eligible to be assisted under this part, and such definition need not correspond to the definition of low income as used elsewhere in this Act.

[LIMITATION ON FINANCIAL ASSISTANCE

[SEC. 405. No financial assistance shall be extended pursuant to this title where the Administrator of the Small Business Administration determines that the assistance will be used in relocating establishments from one area to another if such relocation would result in an increase in unemployment in the area of original location.

[TECHNICAL ASSISTANCE AND MANAGEMENT TRAINING

[SEC. 406. (a) The Administrator of the Small Business Administration is authorized to provide financial assistance to public or private organizations to pay all or part of the costs of projects designed to provide technical and management assistance to individuals or enterprises eligible for assistance under section 402, with special attention to small business concerns located in urban areas of high concentration of unemployed or low income individuals or owned by low-income individuals.

[(b) Financial assistance under this section may be provided for projects, including without limitation—

[(1) planning and research, including feasibility studies and market research;

[(2) the identification and development of new business opportunities;

[(3) the furnishing of centralized services with regard to public services and government programs, including programs authorized under section 402;

[(4) the establishment and strengthening of business service agencies, including trade associations and cooperatives;

[(5) the encouragement of the placement of subcontracts by major business with small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals, including the provision of incentives and assistance to such major businesses so that they will aid in the training and upgrading of potential subcontractors or other small business concerns; and

[(6) the furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

[(c) The Administrator of the Small Business Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small business concerns by residents of urban areas of high concentration of unemployed or low-income individuals, and to projects which are planned and carried out with the participation of local businessmen.

[(d) To the extent feasible, services under this section shall be provided in a location which is easily accessible to the individuals and small business concerns served.

[(e) The Administrator of the Small Business Administration shall, in carrying out programs under this section, consult with and take into consideration the views of the Secretary of Commerce, with a view to coordinating activities and avoiding duplication of effort.

[(f) The President may, if he determines that it is necessary to carry out the purposes of this part, transfer any of the functions under this section to the Secretary of Commerce.

[(g) The Administrator of the Small Business Administration shall provide for an independent and continuing evaluation of programs under this section, including full information on and analysis of the character and impact of managerial assistance provided, the location, income characteristics, and types of businesses and individuals assisted, and the extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations as he deems advisable shall be included in the report required by section 608.

[GOVERNMENT CONTRACTS

[SEC. 407. (a) The Administrator of the Small Business Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, so that contracts, subcontracts, and deposits made by the Federal Government or in connection with programs aided with Federal funds are placed in such a way as to further the purposes of this title.

[(b) The Administrator of the Small Business Administration shall provide for the continuing evaluation of programs under this section and the results of such evaluation together with recommendations shall be included in the report required by section 608.

[DURATION OF PROGRAM

[SEC. 408. The Administrator of the Small Business Administration and the Secretary of Commerce shall carry out the programs provided for in this title during the fiscal year ending June 30, 1967, and the eight succeeding fiscal years.]

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TITLE VI—ADMINISTRATION AND COORDINATION

PART A—ADMINISTRATION

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AUTHORITY OF DIRECTOR

SEC. 602. In addition to the authority conferred upon him by other sections of this Act, the Director is authorized, in carrying out his functions under this Act, to—

(a) * * *

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(k) notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real or personal property by the United States, deal with, complete, rent, renovate, modernize, or sell for cash or credit at his discretion any properties acquired by him in connection with loans, participations, and guaranties made by him pursuant to [titles] *title* III [and IV] of this Act;

* * * * * * *

DEFINITIONS

SEC. 609. As used in this Act—

(1) the term "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, or the Virgin Islands, and for purposes of title I, title II, *and* title III–A, [and title IV] the meaning of "State" shall also include the Trust Territory of the Pacific Islands; except that when used in section 225 of this Act this term means only a State,

Puerto Rico, or the District of Columbia. The term "United States" when used in a geographical sense includes all those places named in the previous sentence, and all other places continental or insular, subject to the jurisdiction of the United States;

(2) the term "financial assistance" when used in titles I, II, III–B, [IV,] and V–B includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services;

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TITLE VII—COMMUNITY ECONOMIC DEVELOPMENT

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ESTABLISHMENT OF PROGRAMS

SEC. 712. (a) The Director is authorized to provide financial assistance to community development corporations and to cooperatives and other nonprofit agencies in conjunction with qualifying community development corporations for the payment of all or part of the costs of programs which are designed to carry out the purposes of this part. Such programs shall be restricted in number so that each is of sufficient size, scope, and duration to have an appreciable impact on the area served. Such programs may include—

(1) economic and business development programs, including programs which provide financial and other assistance (including equity capital) to start, expand, or locate businesses in or near the areas served so as to provide employment and ownership opportunities for residents of such areas, and programs [including those described in title IV of this Act] for small businesses in or owned by residents of such areas;

(2) community development and housing activities which create new training, employment, and ownership opportunities and which contribute to an improved living environment; and

(3) manpower training programs for unemployed or low-income persons which support and complement economic, business, housing, and community development programs, including without limitation activities such as those described in part B of title I of this Act.

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SMALL BUSINESS INVESTMENT ACT OF 1958

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TITLE I—SHORT TITLE, STATEMENT OF POLICY, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act, divided into titles and sections according to the following table of contents, may be cited as the "Small Business Investment Act of 1958."

TABLE OF CONTENTS

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TITLE IV—GUARANTEES

PART A—LEASE GUARANTEES

AUTHORITY OF THE ADMINISTRATION

SEC. 401. (a) The Administration may, whenever it determines such action to be necessary or desirable, and upon such terms and conditions as it may prescribe, guarantee the payment of rentals under leases of commercial and industrial property entered into by small business concerns to enable such concerns to obtain such leases. Any

such guarantee may be made or effected either directly or in cooperation with any qualified surety company or other qualified company through a participation agreement with such company. The foregoing powers shall be subject, however, to the following restrictions and limitations:

(1) No guarantee shall be issued by the Administration (A) if a guarantee meeting the requirements of the applicant is otherwise available on reasonable terms, and (B) unless the Administration determines that there exists a reasonable expectation that the small business concern in behalf of which the guarantee is issued will perform the covenants and conditions of the lease.

(2) The Administration shall, to the greatest extent practicable, exercise the powers conferred by this section in cooperation with qualified surety or other companies on a participation basis.

(b) The Administration shall fix a uniform annual fee for its share of any guarantee under this section which shall be payable in advance at such time as many be prescribed by the Administrator. The amount of any such fee shall be determined in accordance with sound actuarial practices and procedures, to the extent practicable, but in no case shall such amount exceed, on the Administration's share of any guarantee made under this part, 2½ per centum per annum of the minimum annual guaranteed rental payable under any guaranteed lease: *Provided*, That the Administration shall fix the lowest fee that experience under the program established hereby has shown to be justified. The Administration may also fix such uniform fees for the porcessing of applications for guarantees under this section as the Administrator determines are reasonable and necessary to pay the administrative expenses that are incurred in connection therewith.

(c) In connection with the guarantee of rentals under any lease pursuant to authority conferred by this section, the Administrator may require, in order to minimize the financial risk assumed under such guarantee—

(1) that the lessee pay an amount, not to exceed one-fourth of the minimum guaranteed annual rental required under the lease, which shall be held in escrow and shall be available (A) to meet rental charges accruing in any month for which the lessee is in default, or (B) if no default occurs during the term of the lease, for application (with accrued interest) toward final payments of rental charges under the lease;

(2) that upon occurrence of a default under the lease, the lessor shall, as a condition precedent to enforcing any claim under the lease guarantee, utilize the entire period, for which there are funds available in escrow for payment of rentals, in reasonably diligent efforts to eliminate or minimize losses, by releasing the commercial or industrial property covered by the lease to another qualified tenant, and no claim shall be made or paid under the guarantee until such effort has been made and such escrow funds have been exhausted;

(3) that any guarantor of the lease will become a successor of the lessor for the purpose of collecting from a lessee in default rentals which are in arrears and with respect to which the lessor

has received payment under a guarantee made pursuant to this section; and

(4) such other provisions, not inconsistent with the purposes of this part, as the Administrator may in his discretion require.

POWERS

SEC. 402. Without limiting the authority conferred upon the Administrator and the Administration by section 201 of this Act, the Administrator and the Administration shall have, in the performance of and with respect to the functions, powers, and duties conferred by this part, all the authority and be subject to the same conditions prescribed in section 5(b) of the Small Business Act with respect to loans, including the authority to execute subleases, assignments of lease and new leases with any person, firm, organization, or other entity, in order to aid in the liquidation of obligations of the Administration hereunder.

[SEC. 403. There is hereby established a revolving fund for use by the Administration in carrying out the provisions of this part and part B of this title. Initial capital for such fund shall consist of not to exceed $10,000,000 transferred from the fund established under section 4(c) of the Small Business Act: *Provided*, That the last sentence of such section 4(c) shall not apply to any amounts so transferred. Into the fund established by this section there shall be deposited all receipts from the guarantee programs authorized by this title. Moneys in such fund not needed for the payment of current operating expenses or for the payment of claims arising under such programs may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as initial capital for such fund shall not be so invested but shall be returned to the fund established by section 4(c) of the Small Business Act, in such amounts and at such times as the Administration determines to be appropriate, whenever the level of the fund herein established is sufficiently high to permit the return of such moneys without danger to the solvency of the programs under this title. The Administration shall pay into miscellaneous receipts of the Treasury, as of the close of each fiscal year, interest on the net outstanding disbursements of the initial capital from the fund, at rates determined by the Secretary of the Treasury, taking into consideration the average yield on outstanding long-term, interest-bearing marketable public debt obligations of the United States as of the month of June preceding such fiscal year.]

FUND

SEC. 403. There is hereby created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purposes of this part. There are authorized to be appropriated to the fund from time to time such amounts not to exceed $10,000,000 to provide capital for the fund. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in

connection with this part, shall be deposited in the fund. All expenses and payments pursuant to operations of the Administrator under this part shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Administrator shall pay from the fund into Treasury as miscellaneous receipts interest at a rate determined by the Secretary of the Treasury on the cumulative amount of appropriations available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, and shall not be less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of guarantees from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.

PART B—SURETY BOND GUARANTEES

DEFINITIONS

SEC. 410. As used in this part—

(1) The term "bid bond" means a bond conditioned upon the bidder on a contract entering into the contract, if he receives the award thereof, and furnishing the prescribed payment band and performance bond.

(2) The term "payment bond" means a bond conditioned upon the payment by the principal of money to persons under contract with him.

(3) The term "performance bond" means a bond conditioned upon the completion by the principal of a contract in accordance with its terms.

(4) The term "surety" means the person who (A) under the terms of a bid bond, undertakes to pay a sum of money to the obligee in the event the principal breaches the conditions of the bond, (B) under the terms of a performance bond, undertakes to incur the cost of fulfilling the terms of a contract in the event the principal breaches the conditions of the contract, or (C) under the terms of a payment bond, undertakes to make payment to all persons supplying labor and material in the prosecution of the work provided for in the contract if the principal fails to make prompt payment.

(5) The term "obligee" means (A) in the case of a bid bond, the person requesting bids for the performance of a contract, or (B) in the case of a payment bond or performance bond, the person who has contracted with a principal for the completion of the contract and to whom the obligation of the surety runs in the event of a breach by the principal of the conditions of a payment bond or performance bond.

(6) The term "principal" means (A) in the case of a bid bond, a person bidding for the award of a contract, or (B) the person primarily liable to complete a contract for the obligee, or to make payments to other persons in respect of such contract, and for whose performance of his obligation the surety is bound under the terms of a payment or performance bond. A principal may be a prime contractor or a subcontractor.

(7) The term "prime contractor" means the person with whom the obligee has contracted to perform the contract.

(8) The term "subcontractor" means a person who has contracted with a prime contractor or with another subcontractor to perform a contract.

AUTHORITY OF THE ADMINISTRATION

SEC. 411. (a) The Administration may, in consultation with the Secretary of Housing and Urban Development and upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety against loss, as hereinafter provided, as the result of the breach of the terms of a bid bond, payment bond, or performance bond by a principal on any contract up to [$500,000] *$1,000,000* in amount, subject to the following conditions:

(1) The person who would be the principal of the bond is a small business concern.

(2) The bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor thereon.

(3) Such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section.

(4) The Administration determines that there is a reasonable expectation that such person will perform the covenants and conditions of the contract with respect to which the bond is required.

(5) The contract meets requirements established by the Administration for feasibility of successful completion and reasonableness of cost.

(6) The terms and conditions of any bond guaranteed under the authority of this part are reasonable in light of the risks involved and the extent of the surety's participation.

(b) Any contract of guarantee under this section shall obligate the Administration to pay to the surety a sum not to exceed 90 per centum of the loss incurred by the surety in fulfilling the terms of his contract as the result of the breach by the principal of the terms of a bid bond, performance bond, or payment bond.

(c) The Administration shall fix a uniform annual fee *based* on *sound actuarial methods and underwriting practices* which it deems reasonable and necessary for any guarantee issued under this section, to be payable at such time and under such conditions as may be determined by the Administration. Such fee shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration shall also fix such uniform fees for the processing of applications for guarantees under this section as it determines are reasonable and necessary

to pay administrative expenses incurred in connection therewith. Any contract of guarantee under this section shall obligate the surety to pay the Administration such portions of the bond fee as the Administration determines to be reasonable in the light of the relative risks and costs involved.

(d) The provisions of section 402 shall apply in the administration of this section.

FUND

SEC. 412. There is hereby created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purposes of this part. There are authorized to be appropriated to the fund from time to time such amounts not to exceed $35,000,000 to provide capital for the fund. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with this part, shall be deposited in the fund. All expenses and payments pursuant to operations of the Administrator under this part shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Administrator shall pay from the fund into Treasury as miscellaneous receipts interest at a rate determined by the Secretary of the Treasury on the cumulative amount of appropriations available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, and shall not be less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of guarantees from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations or, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.

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COMMENTS AND ADDITIONAL VIEWS OF HON. WRIGHT PATMAN

Hearings and investigations conducted by the Small Business Subcommittee, and the full Banking and Currency Committee have revealed the existence of self-dealing, favored treatment and shaky if not fraudulent loan practices existing in a number of SBA offices around the country.

While I recognize that there are many SBA offices that operate in a highly efficient and exemplary manner, there is at the same time a tendency on the part of to many offices to turn many of their functions over to the commercial banking industry; and this has led to severe problems since the banks do not necessarily protect the interest of the SBA.

The practices uncovered by the Small Business Subcommittee constitute dishonesty of the most fundamental nature since they channel desperately needed financial resources away from those who are worthy and most in need. Instead much of the program's resources are being diverted into the hands of persons intent only on carrying political favor or influence or gratifying their own desire for financial power at public expense. The chain of corruption revealed by the efforts of the Small Business Subcommittee threads its way to some of the highest offices of the SBA.

It is my sincere hope that the Small Business Administration program will be cleaned up quickly and completely. But I would be less than candid if I did not add that I have serious doubts about whether this will be accomplished, even to a degree approaching adequacy. The ability of this Administration, let alone the Small Business Administration, to achieve and sustain a high level of integrity, is something which has yet to be demonstrated.

My misgivings over the present and future condition of the Small Business program have given rise to the question of whether the Small Business Administration itself should be abolished. Certainly its continued existence without extensive reform cannot be condoned.

I am by no means suggesting that the financial resources extended by the Small Business Administration to every corner of the nation should be eliminated through any decision to abolish SBA. Rather, I would point to the fact that the roots of the SBA program itself provide an answer for the credit needs of small business and industries should the Agency be abolished.

The basic structure of the Small Business Administration was developed as part of the Reconstruction Finance Corporation, a Federal agency established during the depression to help get the country back on its feet. The RFC provided billions of dollars of loans at reasonable interest rates to priority areas of the economy deprived of credit on reasonable terms from private lending institutions. Functioning in this way, the RFC played a vital role not only in the economic re-

covery of the nation prior to World War II, but during the war itself when the need to finance thousands of new plants and to fund enormous production changeovers was of crucial importance to the country's survival.

It has been a source of constant regret to me that the RFC was dismantled in the post war years as the nation achieved economic stability. But the RFC did not entirely disappear. Its program to provide credit to viable small businesses and industries which could not obtain investment capital from banks and other lenders survived and has made a significant contribution to the nation's economy and the welfare of our people. Against this background, the present ignoble condition of the SBA program is sad indeed.

Perhaps the only way to effectively and fairly serve the credit needs of small businesses and industries is to establish a new Federal vehicle to provide investment funds at reasonable cost when private sector financing is not feasible. Since small business and industry, important as they are, constitute but one of several priority areas of the economy, any new Federal credit agency should be designed to aid all priority area borrowers who cannot obtain funds under conditions which they can afford.

Establishment of a National Development Bank, similar to the RFC, to allocate credit on reasonable terms to all priority areas of the economy would, I am convinced, provide a full response not only to the credit problems of small business and industry, but for our low and moderate income housing needs and the constant need of state and local governments to finance urgently needed public works and facilities. A National Development Bank, funded through Congressional appropriations and given authority to borrow from the Treasury and in the open market, could serve as a lender of last resort for priority area borrowers who cannot obtain loan funds on reasonable terms from the private sector.

I would emphasize that a National Development Bank formed to serve these purposes should confine its credit activities to direct loans. The investigations conducted by the Small Business Subcommittee make it painfully clear that loan guarantees provide an easy path for corrupt Agency officials and irresponsible bankers to waste the resources of the SBA program on unqualified borrowers at the expense of the taxpayers.

As far as I am concerned, the Small Business Administration is now on trial. I am willing to give it a reasonable opportunity to get its house in order and fully conduct its affairs in the public interest. Failure to reach this goal in the near future should provide the Banking and Currency Committee and all other Members of Congress with an unmistakable signal that a new approach must be taken along the lines I have indicated.

WRIGHT PATMAN.

ADDITIONAL VIEWS OF HON. FRANK ANNUNZIO

While I co-sponsored H.R. 15578 and voted for the legislation in the Committee, I must point out that my actions in no way are intended to be an endorsement of the operations of the Small Business Administration.

My support for this legislation is solely for the purpose of helping small businessmen who desperately needed financial assistance, particularly in these most critical economic times.

Perhaps the best commentary on the performance of the Small Business Administration is contained in Section 9 of the legislation which establishes a position to be known as Chief Counsel for Advocacy within the SBA. This position has been suggested by a number of small business groups around the Country who are concerned that the SBA is not performing in the best interest of small businessmen. I cannot help but wonder why an Agency that serves only one segment of the economy is doing such a poor job in carrying out its functions that a new office has to be created in order to see that the Agency meets its goals. This is very much like saying that the Department of Defense should have a new office created to make certain that the Agency is interested in the welfare of our armed services.

It must also be re-emphasized that the creation of a Chief Counsel for Advocacy was suggested by the small business community, the very constituency that the SBA should be serving but apparently is not.

Another disturbing aspect of the SBA has been its efforts to uncover wrong-doers or to clean up its loan making processes. It is my belief that the SBA is more interested in covering up than in cleaning up its operations. I detect a "Watergate mentality" within the higher echelon of the Small Business Administration.

For instance, the SBA has told the Committee that it had found no conflicts of interest in connection with former Wisconsin State director, Richard Murry. Murry resigned his SBA position to become a president of a bank in Wisconsin and previous to his resignation he helped secure a loan for at least one of the principals of the bank which later employed him.

When the Small Business Subcommittee held hearings in Milwaukee, Wisconsin, the regional director of the area that includes Wisconsin testified as far as he was concerned Mr. Murry had a conflict of interest from the inception of the loan and that that conflict had never been resolved. Now, the SBA central office has virtually retracted its "no conflict of interest" stand on Mr. Murry, which means that its first statement is now "inoperative." The fact that Mr. Murry resigned his position in Wisconsin to go to work for the Committee to Re-Elect the President in 1972 and subsequently was rehired to the Wisconsin job following the presidential election, also heightens my fears that the SBA was more interested in exonerating Mr. Murry rather than establishing the facts.

I must confess also my unhappiness with the role of the Justice Department in prosecuting individuals both in and out of the SBA who are allegedly involved in criminal activities involving government loan programs.

During the Subcommittee's hearing in Chicago I strongly questioned the Justice Department's go slow attitude on these cases and on a number of other occasions I have restated these questions. In Chicago for instance I pointed out that the Justice Department had done nothing to collect a $400,000 loan that had gone into default after the borrower violated his agreement with the SBA. Less than four days after my statement a suit was filed to recover this money and a few days later the Justice Department announced indictments in connection with loan frauds in the Philadelphia office. I don't know whether these actions were a result of my statements and the purpose of these views is not to take any credit for those actions. The important thing is that we punish the wrong-doers and protect the taxpayer's funds rather than argue over credit for initiating action.

Hopefully, the Justice Department will continue with its new found conscience including a speed up of its investigation of the Richmond SBA office. The Subcommittee was informed that indictments would be handed down in that situation by the end of January 1974. It is now some six months later and there are still no indictments nor have we seen any action in connection with the Dr. Matthew case in New York even though local law enforcement officials have obtained convictions against Dr. Matthew for mis-use of Federal funds.

In conclusion, let me reiterate that I sponsored and voted for this legislation not because of the SBA but in spite of it.

FRANK ANNUNZIO.

ADDITIONAL VIEWS OF HON. WILLIAM R. COTTER

Although I am a co-sponsor of H.R. 15578, I would be remiss if I did not express my deep and continuing concern over the administration of the Small Business Administration.

My support for this bill is solely determined by the need of legitimate small businesses to receive assistance, but my support for this worthy goal is seriously challenged by continuing reports of widespread mismanagement, and possible criminal activities within SBA programs.

The investigations of the Subcommittee on Small Business have uncovered serious shortcomings and abuses of legitimate SBA programs. It appears that only when the Subcommittee brought these abuses to light did the SBA become involved. I use the term "involved" because of the actions of the SBA to date have not convinced me that there is a serious systematic and effective effort being made to root out the irregularities, but merely a cosmetic attempt to paper over ongoing problems. The situation that the Subcommittee discovered in Richmond appeared in other SBA offices throughout the United States, and the Subcommittee hearings amply record the startling dimensions of the problems.

The House Small Business Subcommittee will continue its investigative work, but it is also incumbent upon the SBA to clear up these irregularities. Without such an effort by the SBA the Congressional calls for the abolition of the SBA will grow in number and intensity and of these calls become a majority view, the small business community that the SBA was created to serve will lose a valuable means of assistance

WILLIAM R. COTTER.

ADDITIONAL VIEWS OF HON. PARREN J. MITCHELL

The Small Business Subcommittee must be commended for its recent investigations involving abuse and corruption within the Small Business Administration.

Although the Small Business Administration is still plagued with many internal problems and coupled with an unwillingness on the part of some SBA officials to recognize or admit any fault within the Agency, the Committee acted on this Bill in light of the needs of the Small businessman. I am grateful for the Committee's action because it is meaningful for many minority businessmen whose survival depends on the Small Business Administration. The structure, policies and program delivery of the Small Business Administration are deficient in many respects, but deficient though they may be, SBA is still the backbone support for minority business enterprise.

7(A) LOAN CEILING

When H.R. 15578 comes to the House Floor I am considering offering an Amendment to increase the Small Business 7(a) loan maximum from $350,000 to $500,000. The Senate saw the necessity to make this change when they passed S. 3331, the Senate version of H.R. 15578. The 7(a) loan is to enable small business concerns to finance plant construction, conversion, expansion, equipment, facilities, supplies, materials; and to supply such concerns with working capital.

The critical issue here seems to be "what is the size of small business?" Would an increase in the 7(a) loan maximum from $350,000 to $500,000 make a small business a big business? The answer is clearly no.

The $350,000 maximum has not been changed since 1958. Since that time the rapid inflationary spiral in our economy has caused the cost of business plant and equipment to increase 47 percent; the increase in labor unit cost has risen 49 percent; consumer prices have gone up 54 percent. According to current economic indicators $539.000 is needed in 1974 to purhase what $350,000 bought in 1958. The ceiling increase would technically apply only to guarantee and participation loans because of the administratively set ceiling of $100,000 on all SBA direct loans.

The net effect of the Committee's decision not to increase the 7(a) ceiling is to make a 1974 small business smaller with less chance to become a big business than its 1958 counterpart.

SURETY BOND GUARANTEE PROGRAMS

The Committee adopted a well intended Amendment advanced by Congressman Cotter (section 10 of this Bill) to make the Small Business Surety Bond Guarantee program actuarially sound; in effect

requiring that the program be operated on at least break even point. This Amendment will cripple if not completely destroy the surety bond guarantee program.

At the end of Fiscal Year 1974, SBA will have guaranteed contracts with total value of $1.07 billion. The incurred losses will be $13.2 million but the actual payment will only be $6.0 million since payments are not made until losses are finally established and confirmed.

In order to make this program self-sustaining, it would be necessary to triple fees. Contractors now pay .2 percent of the contract value and the surety pay .1 percent (10 percent of the premium pay it by the contractor). The effect of the Cotter Amendment would be to burden the Contractor to a point where his competitive position would be endangered and Sureties would certainly tighten up underwriting standards. We would be right back to the situation that existed before the program, i.e. small contractors will be unable to obtain bonds. There would be an extremely adverse affect on minority contractors (35% of total) who have a higher than average loss rate.

Compare the program losses to the mission of the Small Business Administration, i.e. to assist small businessmen. Assume losses of $12.4 million on contracts valued at $1.0 billion. The result is delivery of $1.0 billion in direct aid to small business for $12.4 million in cost to the government. That certainly is not out of line with cost of other government programs.

The Surety Bond Programs is actually one of the governments most successful programs. Approximately 50 percent of contracts are in federal, state or municipal jobs. Awards are approximately 7 percent under the next highest bidder. $.5 billion in contracts result in the saving of $35 million to taxpayers. Compare this saving to the $12.4 million operating cost (losses incurred in the surety bond program).

The Cotter Amendment, though well intended, is clearly a counter productive restrictive measure. It is based on insurance actuary principals. Actuarial science does not lend itself to suretyship in the same manner as it does to insurance.

I urge elimination of the Cotter Amendment (section 10) before this Bill becomes law.

PARREN J. MITCHELL.

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Calendar No. 748

93D CONGRESS 2d Session | SENATE | REPORT No. 93-776

AMENDING THE SMALL BUSINESS ACT

APRIL 9, 1974.—Ordered to be printed

Mr. CRANSTON, from the Committee on Banking, Housing and Urban Affairs, submitted the following

REPORT

[To accompany S. 3331]

The Committee on Banking, Housing and Urban Affairs, having considered the same, reports favorably a committee bill (S. 3331) to amend the Small Business Act, with amendments and recommends that the bill do pass.

HISTORY OF LEGISLATION

S. 3137 and S. 3138 were introduced on March 8, 1974, and hearings held by the Small Business Subcommittee on March 12 and 13, 1974.

On March 26, 1974, the committee agreed without objections to report a clean bill (S. 3331) with three amendments.

EXPLANATION OF THE BILL

The committee bill is divided into six sections. S. 3137 and S. 3138, are incorporated in the committee bill.

Section 1 cites the bill as the Small Business Amendments of 1974. Section 2(a)(1), 2(a)(2), and 2(a)(4) transfers to the Small Business Act *en toto* the authority to provide financial assistance to socially or economically disadvantaged persons previously authorized by title IV of the Economic Opportunity Act of 1964, the economic opportunity loan program and the 406 management and technical assistance programs. The SBA has been authorized, by statute to carry out these programs since 1966, and this transfer of authority from one statute to another is to eliminate any confusion should the Economic Opportunity Act expire. No substantive changes are made in the language as it now appears in title IV of the Economic Opportunity Act, but some technical changes in wording have been made to be consistent with the language of the Small Business Act.

In addition, SBA is authorized to utilize, with respect to title IV, of the Economic Opportunity Act, some of the administrative powers conferred on the Director of OEO by title VI of the Economic Opportunity Act. Since many of these powers are already contained in the Small Business Act, all of the title VI authorities referred to need not be transferred to the Small Business Act. Thus section 2(a)(4) also transfers to the Small Business Act the title VI authorities already conferred on SBA by the Economic Opportunity Act and which are necessary to administer the title IV programs but which are not already provided SBA by the Small Business Act.

Section 2(a)(3) of the bill amends section 4(c)(4) of the Small Business Act to increase the total amount of loans, guarantees, and other obligations or commitments outstanding by the Small Business Administration. This section effects three amendments to the provisions of section 4(c)(4) of the Small Business Act.

Subsection A, the first of these amendments, would increase from $4.875 billion to $6 billion the amount which may be outstanding from the business loan and investment fund at any one time for direct, immediate participation and guaranteed loans under section 7(a); 7(b)(3) displaced business loans; 7(c) trade adjustment loan program; 8(a) prime contract authority program; and economic opportunity loans under title IV of the Economic Opportunity Act of 1964.

Subsection B, will increase from $556.25 million to $725 million SBA's commitment authority to Small Business Investment companies under title III of the Small Business Investment Act of 1958.

Subsection C, the subceiling for the State and local development company program, remains unchanged at $525 million.

Subsection D, will increase from $381.25 million to $450 million SBA's commitment authority under title IV of the Economic Opportunity Act of 1964 for loans to low-income individuals and for businesses located in areas of high unemployment or low income areas.

The overall ceiling and the three subceilings under 4(c)(4) are subject to the provisions of Public Law 93–237, which prohibits SBA from incurring any obligations under these programs after June 30, 1974. The Small Business Administration estimates that these increases will assure continued lending activities through fiscal year 1975 and permit an additional contingency reserve of $112.2 million.

Section 4(c)(1) of the Small Business Act, as amended by Public Law 89–409 approved May 2, 1966 created (a business loan and investment fund, and a disaster loan fund) for the financing of SBA's programs.

Section 4(c)(3) of the act authorizes appropriations to the two funds "* * * in such amounts as may be necessary * * *." However, with respect to the business loan and investment fund, the Congress has set limits on the amounts which may be used for the various programs by providing in section 4(c)(4) for limitations on the amounts of loans guarantees, and other obligations or commitments which may be outstanding at any one time from that fund.

When the Small Business Act was originally passed in 1954 ceilings on outstanding financial commitments by the agency were placed in the legislation to provide Congress with a check on the operations

of the Small Business Administration. As these ceilings are reached, SBA is required to come before the Congress to justify a new ceiling increase thus providing an automatic review of the agency's operation. The ceiling increases in section 1 represent neither an appropriation of funds nor an authorization for appropriations. The legislation merely allows SBA to increase its loan ceilings so that it may spend funds that it will obtain through the appropriation process or through repayment of prior loans. It also is the means by which Congress controls the extent of the Government's possible outstanding financial liability for the respective SBA programs within a given period.

Section 3, paragraph (1) provides that, in the case of loans guaranteed by the Small Business Administration pursuant to section 7 of the Small Business Act, for purchase of which the participating institution has made a valid demand under the terms of the guarantee, a rate of interest not to exceed that charged by the institution may continue to be charged by the SBA for the remaining term of the outstanding indebtedness. Under the existing legislation, when SBA purchases the guaranteed portion from the participant and assumes servicing of the account, the rate of interest to the borrower is automatically reduced to the statutory rate applicable to the SBA share, which can vary between 3 and 6¾ percent per annum. This situation creates an inconsistency because interest may be charged by participating financial institutions at a rate which is legal and reasonable, and SBA must reimburse the participant at that rate of interest. Yet if SBA purchases the guarantee under existing law, the interest on their share must be reduced to the statutory rate.

This creates an inequity since most purchase actions result from a condition of borrower default. A defaulted borrower automatically is the beneficiary of reduced interest rates, while those borrowers who maintain their loan accounts in current status must pay the higher interest cost permitted to be charged by participating institutions. This is a technical amendment to close the present loophole in the law.

Section 3. paragraph 2 clarifies section 7(h) (2) of the Small Business Act relating to the rate of interest applicable to loans under SBA's handicapped assistance program. The existing legislation reads "Any loan made under this subsection shall bear interest at a rate of 3 per centum per annum." It is unclear whether that rate is applicable only to SBA's share, or also to the participating lender's share of a loan in the case of immediate participation loans or guarantees. Obviously, if this rate of interest were to be required for the private lender, no handicapped assistance loans would be made.

In an effort to clarify this ambiguity, SBA requested an opinion from the Comptroller General. They were advised that it was not unreasonable to conclude that the intent in enacting this interest rate provision was that a reasonable and appropriate rate of interest be charged on the participating lenders' share of such loans. While this opinion clarified the ambiguity to some degree, the SBA now seeks appropriate legislative revision of the language in question. Thus this section revises the interest rate language directing participating lenders to charge a legal and reasonable rate of interest as they do on all other loan programs.

In addition section 3(2) raised the interest rate on the SBA share of direct and participation loans from 3 percent to cost of money to the government. The Committee in considering this section adopted an amendment that caused the interest rate of SBA's share of handicapped loans to remain at the subsidized rate of 3 per centum per annum. There was no evidence presented at the Committee hearings that handicapped persons no longer needed this low rate of interest as Congress intended.

Section 4 increases the Small Business 7(a) loan maximum from $350,000 to $500,000. The 7(a) loan is to enable small business concerns to finance plant construction, conversion, expansion, equipment, facilities, supplies, materials; and to supply such concerns with working capital.

The $350,000 maximum has not been changed since 1958. Since that time the rapid inflationary spiral in our economy has caused the cost of business plant and equipment to increase 47 percent; the increase in labor unit cost has risen 49 percent; consumer prices have gone up 54 percent.

According to current economic indicators $539,000 is needed in 1974 to purchase what $350,000 bought in 1958. This amendment would technically apply only to guarantee and participation loans because of the administratively set ceiling of $100,000 on all SBA direct loans.

Section 5 requires the SBA to report on an annual basis to the respective congressional committees in a sealed report all matters involving alleged improprieties on the part of SBA employees, indicating the name of the complainant, nature of the complaint, name of the employee involved, and the corrective action instituted.

During the last year, information has come to the subcommittee that a number of SBA employees have been allegedly guilty of improprieties. Administrator Kleppe indicated to the committee that he had taken prompt and effective action to discipline the persons responsible. However, the subcommittee's field investigation indicated that proper follow up has not been occurring on public complaint. Additional staff has been requested by the SBA to provide continuing audit and spot checks on all SBA offices. Prior information indicates that SBA due to lack of staff had only audited 35 of its 77 field offices in the history of the program. Sufficient staff and increased oversight is imperative if an effective policing job is to be done in view of the tremendous SBA activity in loans and related programs.

Section 6 raises the surety bond guarantee maximum from $500,000 to $1,000,000, and authorizes up to $10 million in additional capital to carry out the lease guarantee and up to $35 million for the surety bond guarantee fund. These reserves are expected to carry these programs through FY 75.

A technical amendment separates the lease guarantee revolving fund from the surety bond guarantee revolving funds. Operating both the lease guarantee program, which by statute must be operated on a sound actuarial basis to the extent practicable and is in fact self-sustaining, and the surety bond guarantee program which is not self-sustaining and requires substantially greater capital, out of a single fund is causing the SBA to pay losses to the sureties from the premiums collected

from applicants for lease guarantee. Therefore, it is essential that the funds for these two programs be separate and distinct.

The Committee believes that the bill will be extremely helpful to small business and recommends that the bill be given favorable consideration by the Senate.

Cordon Rule

In the opinion of the committee, it is necessary to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate in connection with the report.

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FOR IMMEDIATE RELEASE AUGUST 24, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

Late yesterday I signed into law S. 3331, the "Small Business Amendments of 1974 "

Most of the provisions of this bill are essential to the ongoing programs of the Small Business Administration or are desirable amendments to existing law.

This legislation, for instance, raises ceilings on the SBA's loan programs. It increases the agency's flexibility to establish interest rates on guaranteed loans purchased from financial institutions. It expands the authority to carry out lease guarantee and surety bond guarantee programs. And it authorizes disaster loans with terms of up to thirty years for small business concerns affected adversely by energy shortages.

Each of these provisions was either requested or supported by the Executive Branch. Their enactment is welcome evidence that the Executive Branch and the Congress can work together to meet the needs of small business. In the Congress, I have long supported small business as the backbone of our American enterprise system. As President, I intend to encourage small business in every way I can.

There is one provision in this bill which disturbs me. That provision would require SBA to make direct loans under its regular business loan program in an aggregate amount of at least $400 million during fiscal year 1975. The 1975 budget, however, provides only $40 million for this direct loan program. Thus, in the absence of reprogramming, the effect of S. 3331, if fully funded, would be to increase Federal budget outlays by $360 million this year.

At a time when both the Congress and the Administration are committed to fighting inflation by reducing Federal spending, outlays of this magnitude would be excessive. Therefore, I do not intend to request additional appropriations to carry out the $400 million authorization for fiscal year 1975. The present 1975 budget request of $40 million, combined with the continuing success of SBA's loan guarantee program, should ensure an adequate level of assistance for small businessmen.

In sum, the bill is generally responsive to the needs of small businesses. I commend the Congress for enacting it.

# # #

August 12, 1974

Dear Mr. Director:

The following bills were received at the White House on August 12th:

S. 3331
S. 3782

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.