

October 16, 2024

The Honorable Isabel Casillas Guzman
Administrator
U.S. Small Business Administration
409 3rd Street, SW
Washington, D.C. 20416

Dear Administrator Guzman,

We are committed to ensuring disaster victims across our nation, including those affected by recent Hurricanes Helene and Milton, receive timely federal disaster assistance. Yesterday, the Small Business Administration (SBA) announced that “it has exhausted funds for its disaster loan program.”¹ We are deeply concerned about the SBA’s handling of its disaster loan account and the SBA’s failure to provide its authorizing committees statutorily required information. These concerns are only heightened by the SBA’s lack of transparency, including the failure to provide an official Office of Management and Budget (OMB) request, and the requisite notifications and reports to authorizing committees. These considerable missteps by your agency and its urgent supplemental funding request raise significant questions as to the SBA’s ability to monitor its disaster portfolio.

Despite several news stories, the SBA failed to follow the law and only provided the statutorily required² written notification of a need for supplemental funding on October 10, 2024, days after news stories broke.³ Under existing law, the SBA already has several reporting requirements to provide Congress with sufficient notification and information before any shortfall occurs in its disaster account. Unfortunately, the SBA failed to comply, or only partially complied, with several of these provisions and is now, at the eleventh-hour, sounding alarm bells. We must consider whether SBA’s internal decisions were the catalyst for this unfortunate situation. For example, SBA currently has more than \$550 million in its disaster administrative expenses

¹ Press Release, SBA, *SBA Exhausts Funds for New Disaster Loans*, (Oct. 15, 2024), available at <https://www.sba.gov/article/2024/10/15/sba-exhausts-funds-new-disaster-loans>.

² See 15 U.S.C 636k(d).

³ Letter from Isabel Casillas Guzman, Admin’r, SBA, to Chair Chris Van Hollen and Ranking Member Bill Hagerty of Subcomm. on Financial Services and General Government, Senate Comm. on Appropriations, and Chairman David Joyce and Ranking Member Steny Hoyer, Subcomm. on Financial Services and General Government, H. Comm. on Appropriations (Oct. 10, 2024) (on file with Comm.). Please note that authorizers were only provided this as a cc and did not receive a separate letter. See also Mae Anderson, *Small business disaster loan program said to be in danger of running out of funds by end of month*, AP NEWS, (Oct. 8, 2024), available at <https://apnews.com/article/hurricane-helene-small-business-administration-milton-loans-f087fa405a3e0a9e691fd9c6192be259>; Tamara Keith, *Biden says small business disaster loan program will soon run out of money*, NPR, (Oct. 5, 2024), available at <https://www.npr.org/2024/10/04/nx-s1-5140667/hurricane-helene-loans-biden-kamala-harris-trump>.

account to pay for salaries, but did not request any reprogramming to their disaster loan fund.⁴ Further, we must consider whether moving the disaster loan program to the Office of Capital Access and renaming and shifting the responsibility of the previous Office of Disaster Assistance to a new Office of Disaster Recovery and Resilience led to substantial failures on the SBA's part to ensure critical activities were monitored and overseen properly.⁵ Additionally, SBA's decision to administratively change its disaster loan program terms in 2023 and again in 2024, lead to a substantial increase in its subsidy rate, which the SBA failed to properly model and did not properly notify authorizers of the ramifications of these changes.⁶

Pursuant to 15 U.S.C. 636k, the SBA is required to transmit various reports on disaster assistance to Congress. Despite the SBA providing some information on a monthly basis, critical statutorily required components failed to be included, such as "an estimate of how long the available funding for such loans will last, based on the spending rate"⁷ and "an estimate of how long the available funding for salaries and expenses will last, based on the spending rate."⁸ Had the SBA shared this information with the authorizing committees each month, as required by law, a clear picture of the disaster loan account's spend rate would have allowed Congress to take steps to ensure disaster victims would receive all necessary federal assistance.

Further, during a disaster, on-the-ground staff and training is essential. Congress has long recognized the need for agencies to scale up and down during times of disaster. In light of this, the SBA has a statutorily authorized disaster cadre, which is not meant to fall below 1,000 employees.⁹ In the event staffing for this cadre decreases below certain thresholds, the SBA is supposed to notify both appropriations committees and authorizing committees no later than 21 days after the date on which the staffing has decreased and further request, if practicable, additional funds needed to meet the required level of disaster cadres.¹⁰ Based on information recently provided by the SBA in response to questions as it sought supplemental funds, it appears that this cadre may have vanished, but no one was notified.¹¹ This raises stark concerns about the SBA's ability to provide for disaster victims during the immediate aftermath of these storms and its ability to inform Congress in accordance with the law.

⁴ Email from Congressional Affairs, SBA, to Committee Staff, S. Comm. on Small Business and Entrepreneurship (Oct. 15, 2024, 9:46 p.m. ET) (on file with Comm.).

⁵ Press Release, SBA, *Administrator Guzman Transforms SBA's Disaster Enterprise to Strengthen Support for Disaster-Impact Communities*, (Feb. 2023), available at <https://www.sba.gov/article/2023/feb/01/administrator-guzman-transforms-sbas-disaster-enterprise-strengthen-support-disaster-impacted>.

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

⁷ 15 U.S.C. § 636k(a)(2)(E).

⁸ 15 U.S.C. § 636k(a)(2)(I).

⁹ 15 U.S.C. § 636b(7)(A).

¹⁰ 15 U.S.C. § 636b(7)(B).

¹¹ Attachment – Helene Hill Questions, Email from Congressional Affairs, SBA, to Committee Staff, S. Comm. on Small Business and Entrepreneurship (Oct. 9, 2024, 5:39 p.m. ET) (on file with Comm.) (providing attachments in response to Comm. questions including responses on staffing and hiring).

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To ensure Congress has all adequate information and can make informed decisions, please provide responses to the following as soon as possible but no later than October 21, 2024:


1. Provide the report required by 15 U.S.C. 636k regarding the disaster loan program and the spend rate.
2. Provide the report required by 15 U.S.C. 636b(7) regarding the disaster cadre.
3. Provide all updated standard operating procedures that reflect rulemakings since 2018 and details on the delegations of authority granted to the Administrator in statute as they relate to the disaster loan program, including all items regarding SBA's movement of the SBA disaster loan program to the Office of Capital Access.
4. Provide the most recent copy of the SBA's disaster playbook.
5. Provide all documents and communications related to supplemental funding requests for FY24 and FY25.

Thank you for your prompt attention to this important matter. If you have any questions, please do not hesitate to contact Committee staff at (202) 224-5175.

Sincerely,



Joni K. Ernst
Ranking Member



Tim Scott
Member



Todd Young
Member



James E. Risch
Member

cc: The Honorable Hannibal "Mike" Ware, Inspector General, U.S. Small Business Administration