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United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP

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December 13, 2010

The Honorable Karen G. Mills
Administrator
U.S. Small Business Administration
409 3rd Street, SW
Washington, D.C. 20416

Dear Administrator Mills,

On December 19, 2007, President Bush signed into law the Energy Independence and Security Act of 2007 (P.L. 110-140), which contained a number of incentives that we championed to make small businesses more energy efficient. Specifically, these initiatives will promote capital expenditures in renewable energy systems and establish a venture capital program to address the equity investment needs of small businesses in the energy efficiency sector – each designed to build momentum towards a cleaner environment, while reducing energy cost and consumption.

According to the Center for Small Business and the Environment, America's nearly 30 million small businesses make up half of the national economy, and produce 51 percent of the private sector output. In addition, the Small Business Administration (SBA) reports that small businesses pay nearly 45 percent of the total U.S. private payroll and employ approximately 70 million Americans, yet according to the SBA's Office of Advocacy, are charged, on average, 35 percent more per unit for their electricity than the sector average.

Thus, we write to you today to request an update on the Agency's activities as they relate to implementing the SBA's provisions in the Energy Independence Act. We request a comprehensive update of Sections 1201 through 1207 of the Energy Independence Act as listed below – their successes, performance metrics, and benchmarks, as well as what has yet to be implemented.

From H.R. 6, the Energy Independence and Security Act of 2007 as passed in both the House of Representatives and Senate:

SEC. 1201. *Amends the Small Business Act to direct the Administrator of the SBA to:*
(1) make an Express Loan for purchasing a renewable energy system or carrying out an energy efficiency project for a small business concern; and (2) establish a pilot program reducing fees for specified energy efficiency loans.

Our most recent update from April 14, 2008, suggests that the Office of Capital Access issued an information notice stating that the SBA Express loan may be utilized for energy efficiency improvements. How many SBA Express loans have been made for the purpose of purchasing a renewable energy system, efficient appliances, increased insulation, or for the purpose of carrying out energy efficient improvements? Also, what is the default rate of loans made for purposes established under this section?

SEC. 1202. *Pilot program for reduced 7(a) fees for purchase of energy efficient technologies. The Administrator shall establish and carry out a pilot program under which the Administrator shall reduce the fees for covered energy efficiency loans. The pilot program shall terminate at the end of the second full fiscal year after the date that the Administrator establishes the pilot program.*

At the close of 2008, the SBA concluded that, since no appropriations were provided for implementation of this program, and because the Office of Management and Budget determined this program had a separate risk category due to its differing characteristics from the 7(a) program, it could not be implemented. Has the SBA requested funds for implementation of this condition once fee relief under the Recovery Act expires, and if so, in what amount? If SBA has not appealed for funds, please advise as to how the Agency intends to satisfy this measure. Also, what legislative recommendations could the SBA make to facilitate small business lending through SBA programs for energy efficiency upgrades?

SEC. 1203. *Directs the SBA Administrator to: (1) promulgate final rules establishing the government-wide consumer education program authorized by the Energy Policy and Conservation Act to encourage the conservation of energy in the use of consumer products; (2) develop and coordinate establishment of another government-wide small business energy efficiency program, building on the Energy Star for Small Business Program; and (3) develop a strategy to educate, encourage, and assist small business concerns in adopting energy efficient building fixtures and equipment.*

We understand that this strategy was, in part, implemented on Business.gov. How frequently does this website receive updates, and does the feedback you have received suggest small businesses consider it an effective tool? How many "hits" has this website had? What additional tools has the SBA utilized in educating, encouraging, and assisting small businesses in implementing energy efficient measures?

SEC. 1203. *Requires the SBA Administrator to establish a Small Business Energy Efficiency Program (Small Business Sustainability Initiative) to provide energy efficiency assistance to small business concerns through small business development centers (SBDC).*

In FY 2008, former SBA acting Administrator Baruah implemented this provision with \$500,000 of funding with awards made to SBDCs in New York, Nebraska, Nevada, and Idaho. Through efforts of the Senate Small Business Committee, one million dollars was allocated to continue funding in FY 2009 and 2010. Why was funding not requested by the Administration in previous years, and will the SBA request it in the future? Also, what are the interim results from this pilot program? Was the funding fully utilized? Why or Why not?

SEC. 1203. *In carrying out the Small Business Energy Efficiency Program, the Administrator shall enter into agreements with small business development centers under which such centers shall provide access to information and resources on energy efficiency practices, including on-bill financing options, conduct training and educational activities, offer confidential, free, one-on-one, in-depth energy audits to the owners and operators of small business concerns regarding energy efficiency practices, give referrals to certified professionals and other providers of energy efficiency assistance who meet such standards for educational, technical, and professional competency as the Administrator shall establish, to the extent not inconsistent with controlling State public utility regulations, act as a facilitator between small business concerns, electric utilities, lenders, and the Administration to facilitate on-bill financing arrangements, and otherwise provide necessary support to small business energy concerns.*

How is the pilot program moving forward? Has the on-bill program been implemented, and if so, how much funding has been allocated to the revolving loan fund? How many audits have been successfully conducted? How many loans have been successfully made? What resources have been requested, deliverables achieved, and how does the SBA believe these successes can be implemented in a nationwide program?

SEC. 1203. *Each small business development center participating in the Efficiency Program shall submit to the Administrator and the Administrator of the Environmental Protection Agency an annual report that includes a summary of energy efficiency assistance provided by that center under the Efficiency Program, the number of small business concerns assisted by that center under the Efficiency Program; and any additional information deemed necessary. Not later than 60 days after the date on which all reports are submitted, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives, a report summarizing the information regarding the Efficiency Program submitted by small business development centers participating in that program.*

When will the SBA submit this report to the Senate Committee on Small Business and Entrepreneurship and the House Committee on Small Business?

SEC. 1203. *Instructs the SBA Administrator to conduct a pilot program to provide information regarding telecommuting to small business concerns and to encourage them to offer telecommuting options to employees.*

It is the Committee's understanding that the SBA has worked with the Telework Coalition toward the establishment of a strategic memorandum and fact sheet. What are current plans to implement this agreement?

SEC. 1203. *In carrying out its duties under this section relating to SBIR and STTR solicitations by Federal departments and agencies, the Administrator shall ensure that such departments and agencies give high priority to small business concerns that participate in or conduct energy efficiency or renewable energy system research and development projects; and include in the annual report to Congress a determination of whether the priority described is*

being carried out. The Administrator shall also consult with the heads of other Federal departments and agencies in determining whether priority has been given to small business concerns that participate in or conduct energy efficiency or renewable energy system research and development projects, as required by this subsection.

Has a summary report of how many contracting awards made been published in the annual report to Congress? If so, we request a copy of this report to be included in the SBA's response to our letter including how many SBIR/STTR awards have been made as a result of this energy efficiency preference. What additional plans does the SBA have to encourage innovation in energy efficiency?

SEC. 1204. *Allows a loan of up to \$4 million for plant acquisition, construction, conversion, and expansion for each project that: (1) reduces the borrower's energy consumption by at least 10%; or (2) generates renewable energy or renewable fuels. (Since passage of the Small Business Jobs and Credit Act this ceiling has risen to \$5.5 million).*

How many 504 loans have been made for the purpose of purchasing a renewable energy system, efficient appliances, increased insulation, or for the purpose of carrying out energy efficient improvements? When will regulations be written, and how has the higher loan limit accommodated these renovations? What effect, if any, has the elevated loan value had on the default rate of these loans?

SEC. 1205. *In addition to any other authority under this Act, a small business investment company licensed in the first fiscal year after the date of enactment of this subsection or any fiscal year thereafter may issue Energy Saving debentures.*

On October 1, 2009, then SBA Associate Administrator for the Office of Capital Access Eric Zarnikow testified before the Senate Small Business Committee that the SBA was collaborating with the Department of Energy in clarifying key concerns while issuing energy saving debentures and prescribing formulas for calculating outstanding leverage. It is the Committee's understanding that the Office of Investment has sent their draft regulations to the Office of Management and Budget (OMB) in October 2010. One of the contentious issues remaining in this process appears to be the allocation of debenture fees. What is the SBA's position on whether energy saving debenture fees should reflect the cost of the program or whether that cost should be spread out among all SBIC program participants?

SEC. 1206. *Prescribes a formula for calculating the maximum amount of outstanding leverage, as well as the maximum aggregate amount of such leverage, authorized for a licensed small business investment company.*

At last update, the SBA's Office of Investment drafted regulations and submitted them to OMB in October, 2010, for review. When does the SBA expect to promulgate an interim final rule?

SEC. 1207. *Instructs the SBA Administrator to establish and administer a Renewable Fuel Capital Investment Program to: (1) promote the research, development, manufacture, production, and bringing to market of goods, products, or services that generate or support the*

production of renewable energy by encouraging venture capital investments in smaller enterprises primarily engaged such activities; and (2) establish a venture capital program to address unmet equity investment needs of smaller enterprises engaged in such activities. This measure requires the company to make investments in smaller enterprises primarily engaged in researching, manufacturing, developing, producing, or bringing to market goods, products, or services that generate or support the production of renewable energy.

What progress has the SBA made in establishing and implementing this program? If costs are found to be disproportionate, what alternate ideas does the SBA have to satisfy these requirements?

We request a response to this letter, detailing what the SBA has done to implement these small business energy efficient provisions, by January 7, 2010. In your reply, please provide a list of concrete steps the SBA has taken to implement each measure, as well as what specific steps you will take, in the near future, to further completion. Should you have questions regarding this letter, please contact SBC staff member Diane Dietz at (202) 224-7884 or Megan Thompson at (202) 224-2742.

Sincerely,


OLMPIA J. SNOWE
Ranking Member


JOHN F. KERRY
United States Senator