

State Small Business Credit Initiative: Implementation and Funding Issues

Updated April 13, 2022

Congressional Research Service

<https://crsreports.congress.gov>

R42581



R42581

April 13, 2022

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State Small Business Credit Initiative: Implementation and Funding Issues

Congressional interest in small business access to capital has always been high, primarily because small businesses are viewed as a means to stimulate economic activity and create jobs, but it has become especially acute in the wake of the Coronavirus Disease 2019 (COVID-19) pandemic's widespread adverse economic impact on the national economy.

In recognition of small business's current economic difficulties, Congress passed budget reconciliation legislation (P.L. 117-2, the American Rescue Plan Act of 2021) that includes an appropriation of \$10 billion for another round of funding for the State Small Business Credit Initiative (SSBCI). The SSBCI was originally authorized by P.L. 111-240, the Small Business Jobs Act of 2010, as a means to assist small businesses following the Great Recession (2007-2009). The \$1.5 billion program was administered by the Secretary of the Treasury from 2010 through September 27, 2017.

The original SSBCI provided funding, allocated by formula and distributed in one-third increments, to states, territories, and eligible municipalities (hereinafter referred to as states) to expand existing or create new state small business investment programs, including state capital access programs, collateral support programs, loan participation programs, loan guarantee programs, and venture capital programs. In most instances, the initial round of funding (called a tranche) took place in FY2011. Most states received their second tranche during FY2013 and their third tranche during FY2015.

SSBCI participants were (and continue to be) expected to leverage their SSBCI funds to generate new small business lending that is at least 10 times the amount of their SSBCI funds. The original SSBCI program's participants leveraged \$8.95 in new financing for every \$1 in SSBCI funds. Forty-seven states; American Samoa; the District of Columbia; Guam; the Northern Mariana Islands; Puerto Rico; the U.S. Virgin Islands; Anchorage, Alaska; two consortiums of municipalities in North Dakota; and a consortium of municipalities in Wyoming participated in the program.

P.L. 117-2 provides \$6.5 billion for an SSBCI capital allocation grant, \$1.5 billion to address the needs of business enterprises owned and controlled by socially and economically disadvantaged individuals (SEDI-owned businesses), \$1.0 billion for an incentive allocation for participants that demonstrate robust support for SEDI-owned businesses, \$500 million for very small businesses (VSBs), and \$500 million for technical assistance funding.

This report examines the SSBCI and its implementation, including lessons learned from the original SSBCI program's implementation. For example, audits of the original SSBCI program indicated that Treasury's program oversight could have been improved and that performance measures were needed to assess the program's efficacy.

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Overview

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In recognition of small business's current economic difficulties, Congress passed budget reconciliation legislation (P.L. 117-2, the American Rescue Plan Act of 2021) that includes an appropriation of \$10 billion for another round of funding for the State Small Business Credit Initiative (SSBCI). The SSBCI was originally authorized by P.L. 111-240, the Small Business Jobs Act of 2010, as a means to assist small businesses following the Great Recession (2007-2009). The \$1.5 billion program was administered by the Secretary of the Treasury from 2010 through September 27, 2017.¹

The original SSBCI provided funding, allocated through a statutorily created formula and distributed in one-third increments (called tranches), to states, the District of Columbia (DC), eligible territories, and eligible municipalities (hereinafter states) to expand existing or create new state small business investment programs, including capital access programs, collateral support programs, loan participation programs, loan guarantee programs, and venture capital programs. In most instances, states received their initial tranche in FY2011, with more than \$366 million in SSBCI funds transferred to states.² At that time, Treasury anticipated providing another \$859 million in SSBCI funds to states in FY2012.³ However, because it took states longer than anticipated to expend, transfer, or obligate their first tranche of SSBCI funds, Treasury transferred less SSBCI funding to states in FY2012 than in FY2011 (\$187 million, for a total of \$553 million).⁴ Treasury transferred \$364 million in SSBCI funds to states (totaling \$917 million) in FY2013, \$229 million in FY2014 (totaling \$1.146 billion), \$216 million in FY2015 (totaling \$1.362 billion), and \$50 million in FY2016 (totaling \$1.412 billion).⁵

As of December 31, 2016 (the latest available data), Treasury had disbursed \$1.43 billion, or about 98%, of the \$1.45 billion available to states (\$1.5 billion minus Treasury's administrative

¹ P.L. 111-240, the Small Business Jobs Act of 2010, limited Treasury's role in administering the State Small Business Credit Initiative (SSBCI) program to seven years from enactment (September 27, 2010). As a result, Treasury role in administering the program sunset on September 27, 2017.

² U.S. Office of Management and Budget (OMB), *Appendix, Budget of the U.S. Government, FY2013: Department of the Treasury*, p. 1061, at <http://www.gpo.gov/fdsys/pkg/BUDGET-2013-APP/pdf/BUDGET-2013-APP.pdf>.

³ OMB, *Appendix, Budget of the U.S. Government, FY2013: Department of the Treasury*, p. 1061.

⁴ OMB, *Appendix, Budget of the U.S. Government, FY2014: Department of the Treasury*, p. 991, at <https://www.gpo.gov/fdsys/pkg/BUDGET-2014-APP/pdf/BUDGET-2014-APP.pdf>.

⁵ U.S. Department of the Treasury, *State Small Business Credit Initiative, FY2016: President's Budget*, p. 6, at <http://www.treasury.gov/about/budget-performance/CJ16/18.%20SSBCI%20FY%202016%20CJ.pdf>; U.S. Department of the Treasury, *State Small Business Credit Initiative: A Summary of States' Quarterly Reports as of September 30, 2015*, p. 1, at https://www.treasury.gov/resource-center/sb-programs/Documents/SBLFTransactions/SSBCI%20Quarterly%20Report%20Summary%20September%202015_FINAL.pdf; and U.S. Department of the Treasury, *State Small Business Credit Initiative: A Summary of States' Quarterly Reports as of September 30, 2016*, p. 1, at https://www.treasury.gov/resource-center/sb-programs/Documents/SSBCI%20Quarterly%20Report%20Summary%20September%202016_Final.pdf.

costs).⁶ As of December 31, 2016, all 57 participants had received their first tranche, 56 had received their second tranche, and 53 had received their third tranche.⁷

States were expected to leverage their SSBCI funds to generate new small business lending that is at least 10 times the amount of their SSBCI funds (a leverage ratio of 10:1). As of December 31, 2016, SSBCI participants had leveraged \$8.95 in new financing for every \$1 in SSBCI funds.⁸ There were 57 participants: 47 states; American Samoa; DC; Guam; the Northern Mariana Islands; Puerto Rico; the U.S. Virgin Islands; Anchorage, Alaska; two consortiums of municipalities in North Dakota; and a consortium of municipalities in Wyoming.

During congressional consideration, advocates argued that the SSBCI would promote economic growth and job creation by enhancing small business access to capital. Opponents argued that the SSBCI did not address the need to stimulate demand for credit by small businesses, which, in the opponents' view, was the core issue affecting the role of small business in job creation. They argued that "the solutions to America's economic problems do not lie in more taxpayer-funded bailouts" and advocated small business tax reductions as a more effective means to stimulate job creation and economic growth.⁹ For additional discussion of these different approaches to stimulate job creation and economic growth, see CRS Report R40985, *Small Business: Access to Capital and Job Creation*, by Robert Jay Dilger.

It is difficult to determine the full extent of the SSBCI's effect on small business lending. As of December 31, 2016, states had spent or obligated about 88% of the \$1.45 billion available (\$1.27 billion of \$1.45 billion), which is sufficient to provide an indication of the program's impact on small business lending.¹⁰ However, determining the program's influence on small business lending is likely to be more suggestive than definitive because differentiating the SSBCI's effect on small business lending from other factors, such as changes in the lender's local economy, is methodologically challenging, especially given the relatively small amount of financing involved relative to the national market for small business loans. In 2017, the SSBCI's \$1.5 billion in financing represented about 0.24% of outstanding nonagricultural small business loans.¹¹

⁶ U.S. Department of the Treasury, *State Small Business Credit Initiative: A Summary of States' Quarterly Reports as of December 31, 2016*, p. 1, at https://www.treasury.gov/resource-center/sb-programs/Documents/SSBCI_Quarterly_Report_Summary_December_2016.pdf.

⁷ U.S. Department of the Treasury, *State Small Business Credit Initiative: A Summary of States' Quarterly Reports as of December 31, 2016*, p. 1.

⁸ U.S. Department of the Treasury, *State Small Business Credit Initiative: A Summary of States' 2016 Annual Reports*, p. 2, at https://www.treasury.gov/resource-center/sb-programs/Documents/SSBCI%20Summary%20of%20States%20Annual%20Report%202016_508%20Compliant.pdf.

⁹ U.S. Congress, House Committee on Financial Services, To Create the Small Business Lending Fund Program to Direct the Secretary of the Treasury to make Capital Investments in Eligible Institutions in order to Increase the Availability of Credit for Small Businesses, and for other Purposes, report to accompany H.R. 5297, 111th Cong., 2nd sess., May 27, 2010, H.Rept. 111-499 (Washington: GPO, 2010), pp. 37, 38.

¹⁰ U.S. Department of the Treasury, *State Small Business Credit Initiative: A Summary of States' Quarterly Reports as of December 31, 2016*, p. 1, at https://www.treasury.gov/resource-center/sb-programs/Documents/SSBCI_Quarterly_Report_Summary_December_2016.pdf. In addition, as of December 31, 2016, 34 states reported that they had spent about \$279.9 million for new State Small Business Credit Initiative (SSBCI) supported loans and investments using recycled SSBCI funds generated from SSBCI loan repayments and returns on SSBCI investments.

¹¹ Federal Deposit Insurance Corporation, "Statistics on Depository Institutions," at <https://www5.fdic.gov/sdi/main.asp?formname=compare>. As of December 31, 2017, there was \$627.8 billion in outstanding nonagricultural small business loans (defined as the sum of "total loans secured by nonfarm nonresidential properties of \$1,000,000 or less" and "total commercial and industrial loans to U.S. addressees of \$1,000,000 or less").

Treasury has reported that SSBCI funds supported more than 21,000 loans and investments in small business totaling over \$10.7 billion, with more than 80% of the funds and investments made to small businesses with 10 or fewer full-time employees. Treasury has also reported that small business owners indicated that the funds helped them to create or retain 240,669 jobs (79,193 new jobs and 161,476 retained jobs).¹²

The Obama Administration recommended in its FY2015, FY2016, and FY2017 budget requests that another \$1.5 billion round of funding take place. Under their proposal, \$1 billion would have been competitively awarded to states “best able to target local market needs, promote inclusion, attract private capital for start-up and scale-up businesses, strengthen regional entrepreneurial ecosystems, and evaluate results,” and \$500 million awarded “by formula based on economic factors such as job losses and pace of economic recovery.”¹³

Legislation containing provisions similar to the Obama Administration’s proposal was introduced during the 113th Congress (H.R. 4556, the Small Business Access to Capital Act of 2014, and S. 2285, its companion bill in the Senate), the 114th Congress (S. 1901, the Small Business Access to Capital Act of 2015, H.R. 5144, the Jumpstart Housing Opportunities Utilizing Small Enterprises Act of 2016, and H.R. 5672, the Small Business Access to Capital Act of 2016), the 115th Congress (S. 1897, the Small Business Access to Capital Act of 2017), and the 116th Congress (S. 3551, the Small Business Access to Capital Act of 2020).¹⁴

This report examines the current SSBCI provision (P.L. 117-2, round two) and its legislative origins and the implementation of the original SSBCI (P.L. 111-240, round one), including Treasury’s response to initial program audits conducted by the U.S. Government Accountability Office (GAO) and Treasury’s Office of Inspector General (OIG). These audits suggested that states generally met the statute’s requirements, but there were some compliance problems. They also indicated that Treasury’s oversight of the program could have been improved and that performance measures were needed to assess the program’s efficacy.

Legislative Origins

On February 4, 2021, Senator Gary Peters, who sponsored legislation establishing the original SSBCI (see the **Appendix** for the original SSBCI’s legislative origins), introduced S. 258, the

¹² U.S. Department of the Treasury, *State Small Business Credit Initiative: A Summary of States’ 2016 Annual Reports*, pp. 2, 3, 15, at https://www.treasury.gov/resource-center/sb-programs/Documents/SSBCI%20Summary%20of%20States%20Annual%20Report%202016_508%20Compliant.pdf.

¹³ OMB, *The Appendix, Budget of the United States Government, Fiscal Year 2017: Department of the Treasury*, pp. 1034, 1035, at <https://www.gpo.gov/fdsys/pkg/BUDGET-2017-APP/pdf/BUDGET-2017-APP.pdf>.

¹⁴ H.R. 5144, the Jumpstart HOUSE Act of 2016, added a provision (Section 3. Support for affordable housing projects) designed to facilitate the financing of affordable housing projects: “... to develop, acquire, construct, rehabilitate, maintain, operate, or manage housing projects that provide housing that is affordable for low- or moderate-income households, as determined by the Secretary, in consultation with the Secretary of Housing and Urban Development.”

H.R. 5672, the Small Business Access to Capital Act of 2016, added a provision (Section 2. New tranches of capital for successful State programs) that would have included competitive award factors designed to provide preference to participants based on their plans to (I) leverage private sector capital; (II) create and retain jobs during the 2-year period beginning on the date of the award; (III) serve small businesses that have been incorporated or in operation for not more than 5 years; (IV) serve low- or moderate-income communities; (V) serve minority- and women-owned small businesses; and establish or continue a robust self-evaluation of their use of awarded funds; provide nonfederal funds in excess of the amount required; and the extent to which the participant expended, obligated, or transferred their 2010 allocation.

Small Business Access to Capital Act of 2021.¹⁵ The bill would provide \$10 billion for another round of SSBCI funding (\$5 billion in formula-based allocations and an additional \$5 billion in competitive grants for states that have already capitalized the financing received from the 2010 program).¹⁶

Several organizations indicated their support for the bill. For example, the Council of Development Finance Agencies (CDFA) argued that

A \$10 billion infusion in a reauthorized SSBCI Program would provide immediate access to capital for small businesses that desperately need it. The programs created by states under the original SSBCI are still in operation and would be ready to immediately deploy capital to businesses in need. There would be no need to create new rules and regulations should this option be enacted. States are prepared to receive an infusion of SSBCI funding immediately.¹⁷

There were disagreements concerning whether a reauthorization of the SSBCI should be included in the budget reconciliation bill. Generally speaking, Democrats argued that the SSBCI should be included in the reconciliation bill because the program

- had a proven track record of assisting small businesses create and retain jobs; and
- required states to develop programs that targeted the needs of underserved communities, which, they argued, had not been adequately addressed by the Small Business Administration's Paycheck Protection Program (PPP), which provides forgivable loans to small businesses adversely affected by COVID-19.¹⁸

Republicans generally argued that the SSBCI should not be included in the reconciliation bill because the program

- was an extraneous matter that did not directly address COVID-19 and would make funding available for years after the pandemic's expected duration;
- was duplicative of the PPP, which had, at that time, \$140 billion in lending authority still available; and
- had limited oversight, did not meet all of its statutory objectives, was slow to launch and inefficient at deploying capital, and had a questionable effect on job creation.¹⁹

¹⁵ Sen. Gary Peters introduced similar legislation (S. 3551, the Small Business Access to Capital Act of 2020) during the 116th Congress. That bill would have appropriated \$3 billion for another round of SSBCI funding (on March 20, 2020).

¹⁶ Sen. Gary Peters, "Peters, Stabenow Reintroduce Legislation Providing \$10 Billion to Support Small Business Lending," press release, February 5, 2021, at <https://www.peters.senate.gov/newsroom/press-releases/peters-stabenow-reintroduce-legislation-providing-10-billion-to-support-small-business-lending>.

¹⁷ Council of Development Finance Agencies, "Small Business Access to Capital Act," at <https://www.cdfa.net/cdfa/cdfaweb.nsf/pages/SSBCI.html>.

¹⁸ For further information and analysis of the Paycheck Protection Program, see CRS Report R46284, *COVID-19 Relief Assistance to Small Businesses: Issues and Policy Options*, by Robert Jay Dilger, Bruce R. Lindsay, and Sean Lowry.

¹⁹ U.S. House of Representatives, Committee on Financial Services, "Supporting Small and Minority-Owned Businesses Through the Pandemic," majority staff hearing memorandum, February 1, 2021, at https://democrats-financialservices.house.gov/UploadedFiles/020421_NSIDMP_Small_Biz_Hrg_Memo.pdf; U.S. House of Representatives, Committee on Financial Services, Subcommittee on National Security, International Development and Monetary Policy, "Supporting Small and Minority-Owned Businesses Through the Pandemic," subcommittee hearing, February 4, 2021, at <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=407099>; U.S. Senate, Committee on Banking, Housing and Urban Affairs, "The Coronavirus Crisis: Next Steps for Rebuilding Main Street," committee hearing, February 25, 2021, at <https://www.banking.senate.gov/hearings/the-coronavirus-crisis-next-steps>.

During their internal negotiations on the reconciliation bill, Democratic congressional leaders amended S. 258 to reserve

- \$2.5 billion for businesses owned and controlled by socially and economically disadvantaged individuals, including minority-owned businesses (\$1.5 billion in an initial allocation, plus \$1 billion for an incentive program for states that demonstrate “robust support,” as defined by the Secretary of the Treasury, for businesses owned and controlled by socially and economically disadvantaged individuals);
- \$500 million for tribal governments;
- at least \$500 million for businesses, including independent contractors and sole proprietors, with fewer than 10 employees (very small businesses, VSBs); and
- \$500 million for technical assistance to small businesses that need legal, accounting, financial, and other kinds of advice in applying for small business support programs.

Also, like the original SSBCI initiative, the program was provided a sunset date. The Secretary of the Treasury is required to complete all SSBCI disbursements and remaining obligations before September 30, 2030. Any amount that remains unexpended, whether obligated or unobligated, on September 30, 2030, is to be rescinded and deposited into the general fund.

Among other things, the amended bill, as developed in the House, would have required states and other jurisdictions to submit a plan on how they would expeditiously deliver funds to help small businesses respond to and recover from the pandemic and a plan to encourage program participation by minority depository institutions (MDIs) and community development financial institutions (CDFIs). The amended bill would have also authorized Treasury to create a multi-state participation program that would allow states to automatically deem a person or business eligible for their SSBCI program if that person or business were already participating in the other state’s SSBCI program. These provisions were included in the House-passed version of the bill, but were later removed by the Senate.

The House Committee on Financial Services included the amended SSBCI bill language in its portion of the budget reconciliation bill (H.R. 1319), which was agreed to (29-24) on February 10, 2021, and reported to the House Committee on the Budget. The House Committee on the Budget agreed to the budget reconciliation bill (19-16), which included the amended SSBCI bill language, on February 22, 2021, and reported the bill to the full House on February 24, 2021. The House passed H.R. 1319 (219-212) on February 27, 2021. On March 6, 2021, the Senate replaced the text of the House-passed bill with S.Amdt. 891, then agreed to a number of additional amendments before passing the measure (50-49). The bill then went back to the House, which voted 220-211 to concur with the Senate amendment (i.e., S.Amdt. 891, as amended) on March 10, 2021. President Biden signed the bill into law (P.L. 117-2) on March 11, 2021.

SSBCI Programs

The SSBCI provides funding to expand existing or create new state small business lending and investment programs, including state capital access programs (CAPs) and other credit support programs (OCSPs).

for-rebuilding-main-street; and Sen. Pat Toomey, “Toomey Opening Statement at Banking Hearing on COVID and Small Businesses,” February 25, 2021, at <https://www.banking.senate.gov/newsroom/minority/toomey-opening-statement-at-banking-hearing-on-covid-and-small-businesses>.

State Capital Access Programs

State CAPs provide portfolio insurance to lenders to encourage them to lend to small businesses. Under a state CAP, when a participating lender originates a loan, the lender and borrower combine to contribute a percentage of the loan or line of credit (together up to 7% of the loan or line of credit amount) into a reserve fund, which is held by the lender. The SSBCI then matches the aggregate borrower/lender contribution on a 1:1 basis and sends that amount to the lender, who deposits the funds into the lender-held reserve fund. State CAPs encourage lending to small businesses because the reserve fund reduces the lender's risk of losses by being available to cover any losses on any of the loans in the lender's state CAP portfolio. Interest rates, maturity, collateral, and other loan terms are negotiated between the lender and the borrower within limits set by Treasury.²⁰

Under the SSBCI, approved state CAPs are eligible for federal funding equal to the amount of the insurance premiums paid by the borrower and the lender into the lender-held reserve fund, as calculated on a loan-by-loan basis. The state may use SSBCI funding to make its contribution to the lender-held reserve fund. States may also supplement the federal contribution with state or private funds if they choose to do so.²¹

Subject to some restrictions, SSBCI state CAP loans may be used for most business purposes, including, "but not limited to: start-up costs, working capital, franchise fees; and acquisition of equipment, inventory, or services used in the production, manufacturing, or delivery of a business's goods or services, or in the purchase, construction, renovation, or tenant improvements of an eligible place of business that is not for passive real estate investment purposes."²² In addition, the borrower must have 500 employees or fewer at the time that the loan is enrolled in the program and the loan amount may not exceed \$5 million.²³

Other Credit Support Programs

State OCSPs are programs that (1) are not a state CAP program, (2) use public resources to promote private access to credit, and (3) meet certain eligibility criteria. State OCSPs may include loan programs, investment programs, or other credit or equity support programs, such as collateral support programs, loan participation programs, state-sponsored venture capital programs, loan guarantee programs, or other similar programs.²⁴

²⁰ U.S. Department of the Treasury, "State Small Business Credit Initiative: Capital Program Policy Guidelines," November 10, 2021, p. 14, at <https://home.treasury.gov/system/files/256/SSBCI-Capital-Program-Policy-Guidelines-November-2021.pdf> (hereinafter U.S. Department of the Treasury, "SSBCI: Capital Program Policy Guidelines").

²¹ U.S. Department of the Treasury, "SSBCI: Capital Program Policy Guidelines," pp. 11-12.

²² U.S. Department of the Treasury, "SSBCI: Capital Program Policy Guidelines," p. 15.

²³ U.S. Department of the Treasury, "SSBCI: Capital Program Policy Guidelines," p. 14.

²⁴ Collateral support programs help viable businesses that are struggling to obtain credit because the value of the collateral they hold is below the lender's standards. The collateral support provides banks greater confidence in extending credit to these borrowers.

Loan participation programs entail risk sharing among financial institution lenders and the participating state. States typically structure loan participation programs in two ways: (1) by purchasing a portion of a loan originated by a lender (also known as a purchase transaction or purchase participation) or (2) by participating in the loan as a co-lender (also known as a companion loan).

State-sponsored venture capital programs typically "entail joint public-private investment programs focused on "seeding" small businesses with high-growth-potential."

Loan guarantee programs "provide an assurance to lenders that they will be partially repaid in the event of default, after

Each OCSF must demonstrate (1) a reasonable expectation that it will achieve a 10:1 private financing ratio (the ratio of small business lending and investment to the federal contribution amount) and (2) that, at a minimum, each \$1 of public investment by the state will cause and result in at least \$1 of new private credit.²⁵

OCSFs are required to

- target an average borrower or investee size of 500 employees or less,
- not extend credit support to borrowers that have more than 750 employees,
- target support towards loans or investments with an average principal amount of \$5 million or less, and
- not provide credit or investment support if a given transaction exceeds \$20 million.²⁶

SSBCI Funding

As mentioned, P.L. 117-2 appropriated \$10 billion for the SSBCI program in FY2021, with the funding available until expended (except that all disbursements and remaining obligations on September 30, 2030, “shall be rescinded and deposited into the general fund of the Treasury”).

Application Process

States, American Samoa, DC, Guam, Puerto Rico, the Northern Mariana Islands, and the U.S. Virgin Islands were required to file a notice of intent to apply for SSBCI funding with Treasury by December 11, 2021, and to apply for SSBCI capital grants by February 11, 2022, and SSBCI technical assistance grants by June 30, 2022.²⁷

Municipalities may apply for funding only in the event their state does not participate in the program. Municipalities are eligible to apply for funding up to the total amount of their state’s SSBCI allotment, with the final approved amounts apportioned based on their proportionate share of the population of all approved municipal applicants in that state, based on the most recent available decennial census.²⁸ Eligible municipalities were required to submit to Treasury an application for funding by March 11, 2022.

Tribal governments are required to initiate and apply for SSBCI capital grants by May 11, 2022, and SSBCI technical assistance grants by July 11, 2022.

The application for funding requested information concerning such items as

the lender makes every reasonable effort to collect, helping small businesses secure loans that may have otherwise been inaccessible or prohibitively expensive.”

See U.S. Department of the Treasury, “SSBCI: Capital Program Policy Guidelines,” p. 2; and U.S. Department of the Treasury, “State Small Business Credit Initiative (SSBCI) Program, Fact Sheet,” November 2021, at <https://home.treasury.gov/system/files/256/State-Small-Business-Credit-Initiative-SSBCI-Fact-Sheet.pdf>.

²⁵ U.S. Department of the Treasury, “SSBCI: Capital Program Policy Guidelines,” pp. 22, 24.

²⁶ U.S. Department of the Treasury, “SSBCI: Capital Program Policy Guidelines,” p. 26.

²⁷ U.S. Department of the Treasury, “State Small Business Credit Initiative, 2021 Archive,” at <https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci/ssbci-2021>.

²⁸ 12 U.S.C. §5703(d)(6). If more than three municipalities or combinations of municipalities from the same state are approved, Treasury is required to allocate federal funds to the three municipalities (or combination of municipalities) with the largest populations. See 12 U.S.C. §5703(d)(5).

- the amount requested;
- how the funds are to be used (state capital access program, collateral support program, loan participation program, loan guarantee program, venture capital program, or other small business support program);
- confirmation that, at a minimum, \$1 of public investment will result in at least \$1 of new private credit; that there is a reasonable expectation the funding will result in new small business lending of at least 10 times the amount of the SSBCI federal contribution; that the funding targets small businesses with 500 employees or fewer, does not support borrowers that have more than 750 employees, targets loans with an average principal of \$5 million or less, and does not extend credit support to loans that exceed \$20 million;
- documentation describing the operational capacity, skills, and experience of the applicant's management team in operating capital access and other small business capital support programs;
- documentation describing the internal accounting and administrative control systems used to safeguard against waste, loss, unauthorized use, and misappropriation; and
- documentation describing how the participant planned to use the funds "to help provide access to capital for small businesses in low- and moderate-income, minority, and other underserved communities, including women- and minority-owned small businesses."²⁹

The Capital Grants' Funding Formula

The SSBCI's allocation formula for the distribution of \$6.5 billion in main capital funds takes into account a state's 2020 job losses in proportion to the aggregate job losses of all states in 2020. Each state, DC, and territory is guaranteed a minimum allocation of 0.9% of the \$6.0 billion allocation available for states (not including tribal governments). Treasury made a separate allocation to tribal governments based on tribal enrollment, with a preliminary minimum allocation of approximately 0.09% of the \$500 million available for tribal allocation (see **Table 1**).³⁰

Funding is provided in three approximately equal installments (called tranches): 33%, 33%, and 34%. The first tranche is provided immediately following the receipt of the fully signed Allocation Agreement. Allotment agreements describe how states are to comply with program requirements and are signed after the state's application was approved.

Prior to the receipt of the second and third tranches, each state is required to certify that it has expended, transferred, or obligated at least 80% of the previous disbursement to, or for the account of, one or more approved state programs.³¹ Treasury is authorized to recoup misused funds should the state be found in default of the allocation agreement.³²

²⁹ U.S. Department of the Treasury, "2021 State Small Business Credit Initiative: Application Instructions," at <https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci/2021-ssbci-program-materials/application-material>.

³⁰ 12 U.S.C. §5702(b). State employment decline is defined as the excess (if any) of (i) the number of individuals employed in such state determined for December 2019; over (ii) the number of individuals employed in such state determined for December 2020.

³¹ U.S. Department of the Treasury, "SSBCI: Capital Program Policy Guidelines," p. 3.

³² U.S. Department of the Treasury, "SSBCI: Capital Program Policy Guidelines," p. 7.

To encourage states to utilize their funds expeditiously, P.L. 117-2 requires states to receive their second tranche (second one-third allotment) within three years and their third and final tranche (last one-third allotment) within six years of their approval date to participate in the program. States failing to do so must return their remaining SSBCI funds to Treasury, and Treasury is required to either return the funds to the general fund or reallocate the funds to other participating states.

Set-Asides for SEDI-Owned Businesses, Incentive Allocation for SEDI-Owned Businesses, VSBs, and Technical Assistance

P.L. 117-2 requires Treasury to set aside \$1.5 billion in SSBCI funding to address the needs of business enterprises owned and controlled by socially and economically disadvantaged individuals (SEDI-owned businesses), \$1.0 billion for an incentive allocation for participants that demonstrate robust support for SEDI-owned businesses, \$500 million for very small businesses (VSBs), and \$500 million for technical assistance funding.

SEDI-Owned Businesses

Treasury allocated the \$1.5 billion set-aside for SEDI-owned businesses into a portion for states, DC, and territories and a portion for tribal governments, consistent with the division of funds under the main capital allocation.³³

Each state, DC, or territory's share of these jurisdictions' portion of the \$1.5 billion SEDI allocation is "based on the percentage of the jurisdiction's total population residing in Community Development Financial Institution (CDFI) Investment Areas, as defined in 12 C.F.R. §1805.201(b)(3)(ii), relative to the total population residing in all CDFI Investment Areas."³⁴ Each tribal government's share of the tribal government portion of the \$1.5 billion SEDI allocation is "determined using the same formula as the main capital allocation, based on enrollment data, except without the minimums" (see **Table 1**).³⁵

Each state's SEDI allocation will be transferred in three approximately equal tranches: 33%, 33%, and 34%. The first allocation will be disbursed when the state is approved for participation in the SSBCI. The second and third disbursements will occur when the state certifies that it has deployed 80% of its prior tranche of SSBCI funds.

Incentive Allocation for SEDI-Owned Businesses

P.L. 117-2 requires Treasury to set aside \$1 billion to increase the amount of SSBCI funds that states can obtain, beyond their allocated amounts for the second and third tranches of main

³³ Treasury determined "that these portions reasonably reflect the needs of SEDI-owned businesses in the respective jurisdictions, because these portions, determined by statute for the main capital allocation, generally reflect small business financing needs in these jurisdictions." See U.S. Department of the Treasury, "SSBCI: Capital Program Policy Guidelines," p. 5.

³⁴ Treasury indicated that "the population in CDFI Investment Areas serves as a proxy for the needs of SEDI-owned businesses because these areas are generally low-income, high-poverty geographies that receive neither sufficient access to capital nor support for the needs of small businesses, including minority-owned businesses." See U.S. Department of the Treasury, "SSBCI: Capital Program Policy Guidelines," p. 5.

³⁵ Treasury indicated that "the use of enrollment data reflects the needs of Tribal SEDI-owned businesses, as Tribal members and communities have faced widespread and long-standing lack of access to capital and investment, such that a population-based approach provides a reasonable proxy for the extent of the needs of these businesses." See U.S. Department of the Treasury, "SSBCI: Capital Program Policy Guidelines," pp. 5-6.

capital, “for states that demonstrate “robust support” for SEDI-owned businesses in the deployment of prior allocation amounts.”³⁶ Of this amount, Treasury will use \$500 million to provide states additional funds for each of the second and third tranches of main capital.³⁷

Each state’s initial eligible amount was determined in the same manner as the \$1.5 billion SEDI allocation methodology.³⁸ For each of the second and third tranches of main capital, Treasury will increase the amount of SSBCI funds that a state can obtain using a two-step process:

First,

each state should aspire to expend a certain percentage (the SEDI Objective) of its SSBCI funds that have been expended since the state’s prior disbursement of main capital allocation, SEDI allocation, and VSB allocation funds for meeting the needs of the SEDI-owned businesses within its state. For states of the United States, the District of Columbia, and territories, the SEDI Objective equals the population of the jurisdiction that are residents in CDFI Investment Areas, as defined in 12 C.F.R. §1805.201(b)(3)(ii), divided by the jurisdiction’s total population. For Tribal governments, the SEDI Objective is 100 percent....³⁹

For each of the second and third tranches of main capital, \$400 million of the \$500 million of additional funds will be available as initial eligible amounts. Each state’s initial eligible amount will be determined in the same manner as the \$1.5 billion SEDI allocation methodology described above, as that methodology reflects the needs of SEDI-owned businesses.⁴⁰

Second,

for each of the second and third tranches of main capital, Treasury will make a second disbursement from these additional funds, totaling \$100 million in the aggregate plus any other residual funds, to states that have requested their Step 1 disbursement by the date that Treasury sets for the second disbursement. For the second tranche of main capital, the residual funds will include only initial eligible amounts unachieved by the states that have requested their Step 1 disbursement. For the third tranche of main capital, the residual funds will include any remaining (unachieved and un-drawn) amount of the \$400 million for the second tranche of main capital and any remaining (unachieved and un-drawn) amount of the \$400 million for the third tranche of main capital.⁴¹

Very Small Businesses

P.L. 117-2 requires Treasury to set aside \$500 million to states to be expended for VSBs. The allocations for VSBs are determined according to the same formula as the state’s main capital allocation, except without the minimums for the tribal government portion. Each state’s VSB allocation will be transferred in three approximately equal tranches, 33%, 33%, and 34%. The first tranche will be disbursed when the state is approved for participation in the SSBCI. The second and third tranches will be disbursed when the state certifies that it has deployed 80% of its prior tranche of disbursed SSBCI funds (see **Table 1**).

³⁶ U.S. Department of the Treasury, “SSBCI: Capital Program Policy Guidelines,” p. 7.

³⁷ U.S. Department of the Treasury, “SSBCI: Capital Program Policy Guidelines,” p. 7.

³⁸ U.S. Department of the Treasury, “SSBCI: Capital Program Policy Guidelines,” p. 8.

³⁹ U.S. Department of the Treasury, “SSBCI: Capital Program Policy Guidelines,” p. 8.

⁴⁰ U.S. Department of the Treasury, “SSBCI: Capital Program Policy Guidelines,” p. 8.

⁴¹ U.S. Department of the Treasury, “SSBCI: Capital Program Policy Guidelines,” p. 8.

States are not required to establish a separate VSB program, but must maintain records of the total amount of its SSBCI funds expended for VSBs.

Technical Assistance

P.L. 117-2 requires Treasury to set aside \$500 million for state administrative costs. These costs are capped by statute (see 12 U.S.C. §5702(c)(3)(C)-(D)). Specifically, administrative costs may not exceed 5% of SSBCI funds for the first tranche and 3% for the second or third tranche.

State-by-State Allotments

Table 1 shows the amount of SSBCI funding available to each state (not including administrative awards, which will be determined later). As shown in **Table 1**, California is eligible for the largest allotment (\$1.18 billion) and the Northern Mariana Islands is eligible for the smallest allotment (\$57.06 million).

Table 1. SSBCI Allocation Table

Participant	Main Capital Allocation	Very Small Business Allocation	SEDI Allocation	Initial Eligible Amounts (\$800 million of incentive funding)	Total Potential Funding Amount (excluding Technical Assistance grants)
Alabama	\$52,092,000	\$4,142,176	\$27,201,417	\$14,507,422	\$97,943,015
Alaska	\$52,092,000	\$4,142,176	\$2,394,597	\$1,277,118	\$59,905,891
American Samoa	\$52,092,000	\$4,142,176	\$553,430	\$295,163	\$57,082,769
Arizona	\$54,546,269	\$4,337,331	\$34,009,405	\$18,138,349	\$111,031,354
Arkansas	\$52,092,000	\$4,142,176	\$16,557,075	\$8,830,440	\$81,621,691
California	\$829,050,641	\$65,923,238	\$187,189,392	\$99,834,342	\$1,181,997,613
Colorado	\$70,278,471	\$5,588,301	\$18,852,249	\$10,054,533	\$104,773,554
Connecticut	\$93,906,484	\$7,467,119	\$11,766,086	\$6,275,245	\$119,414,934
Delaware	\$52,092,000	\$4,142,176	\$3,090,605	\$1,648,322	\$60,973,103
District of Columbia	\$52,092,000	\$4,142,176	\$3,777,969	\$2,014,917	\$62,027,062
Florida	\$300,311,399	\$23,879,723	\$107,149,207	\$57,146,243	\$488,486,572
Georgia	\$109,140,449	\$8,678,471	\$53,346,483	\$28,451,457	\$199,616,860
Guam	\$52,092,000	\$4,142,176	\$1,588,530	\$847,216	\$58,669,922
Hawaii	\$52,092,000	\$4,142,176	\$3,774,640	\$2,013,141	\$62,021,957
Idaho	\$52,092,000	\$4,142,176	\$6,158,721	\$3,284,651	\$65,677,548
Illinois	\$261,128,465	\$20,764,032	\$47,435,265	\$25,298,808	\$354,626,570
Indiana	\$57,461,660	\$4,569,152	\$24,167,552	\$12,889,361	\$99,087,725
Iowa	\$78,036,450	\$6,205,188	\$7,735,439	\$4,125,567	\$96,102,644
Kansas	\$52,092,000	\$4,142,176	\$8,714,786	\$4,647,885	\$69,596,847

Participant	Main Capital Allocation	Very Small Business Allocation	SEDI Allocation	Initial Eligible Amounts (\$800 million of incentive funding)	Total Potential Funding Amount (excluding Technical Assistance grants)
Kentucky	\$75,985,059	\$6,042,069	\$22,888,318	\$12,207,103	\$117,122,549
Louisiana	\$68,793,015	\$5,470,182	\$25,309,701	\$13,498,507	\$113,071,405
Maine	\$52,092,000	\$4,142,176	\$3,912,223	\$2,086,519	\$62,232,918
Maryland	\$154,429,827	\$12,279,725	\$20,670,917	\$11,024,489	\$198,404,958
Massachusetts	\$125,977,247	\$10,017,275	\$21,258,689	\$11,337,967	\$168,591,178
Michigan	\$162,909,105	\$12,953,968	\$39,866,007	\$21,261,870	\$236,990,950
Minnesota	\$69,777,312	\$5,548,450	\$14,143,588	\$7,543,246	\$97,012,596
Mississippi	\$52,092,000	\$4,142,176	\$19,463,655	\$10,380,616	\$86,078,447
Missouri	\$52,092,000	\$4,142,176	\$25,188,018	\$13,433,609	\$94,855,803
Montana	\$52,092,000	\$4,142,176	\$3,322,039	\$1,771,754	\$61,327,969
Nebraska	\$52,092,000	\$4,142,176	\$5,068,397	\$2,703,145	\$64,005,718
Nevada	\$85,277,686	\$6,780,986	\$13,629,033	\$7,268,818	\$112,956,523
New Hampshire	\$52,092,000	\$4,142,176	\$3,413,648	\$1,820,612	\$61,468,436
New Jersey	\$197,308,382	\$15,689,280	\$27,521,719	\$14,678,250	\$255,197,631
New Mexico	\$52,092,000	\$4,142,176	\$11,905,193	\$6,349,436	\$74,488,805
New York	\$349,347,050	\$27,778,868	\$81,170,522	\$43,290,945	\$501,587,385
North Carolina	\$111,588,774	\$8,873,153	\$53,110,274	\$28,325,479	\$201,897,680
North Dakota	\$52,092,000	\$4,142,176	\$1,570,218	\$837,449	\$58,641,843
Northern Mariana Islands	\$52,092,000	\$4,142,176	\$537,122	\$286,465	\$57,057,763
Ohio	\$106,498,285	\$8,468,375	\$43,944,282	\$23,436,950	\$182,347,892
Oklahoma	\$52,092,000	\$4,142,176	\$16,573,324	\$8,839,106	\$81,646,606
Oregon	\$52,092,000	\$4,142,176	\$17,782,859	\$9,484,191	\$83,501,226
Pennsylvania	\$191,483,931	\$15,226,140	\$39,866,127	\$21,261,934	\$267,838,132
Puerto Rico	\$52,092,000	\$4,142,176	\$3,581,833	\$1,910,311	\$61,726,320
Rhode Island	\$56,224,591	\$4,470,785	\$26,509,098	\$14,138,185	\$101,342,659
South Carolina	\$52,092,000	\$4,142,176	\$2,462,790	\$1,313,488	\$60,010,454
South Dakota	\$60,573,813	\$4,816,620	\$33,612,467	\$17,926,649	\$116,929,549
Tennessee	\$265,398,300	\$21,103,554	\$121,038,443	\$64,553,836	\$472,094,133
Texas	\$106,498,285	\$8,468,375	\$43,944,282	\$23,436,950	\$182,347,892
Utah	\$52,092,000	\$4,142,176	\$8,329,451	\$4,442,373	\$69,006,000
Vermont	\$52,092,000	\$4,142,176	\$1,117,696	\$596,105	\$57,947,977
Virgin Islands	\$52,092,000	\$4,142,176	\$1,060,678	\$565,695	\$57,860,549
Virginia	\$174,537,551	\$13,878,622	\$27,403,585	\$14,615,245	\$230,435,003

Participant	Main Capital Allocation	Very Small Business Allocation	SEDI Allocation	Initial Eligible Amounts (\$800 million of incentive funding)	Total Potential Funding Amount (excluding Technical Assistance grants)
Washington	\$115,269,784	\$9,165,854	\$25,450,902	\$13,573,814	\$163,460,354
West Virginia	\$52,092,000	\$4,142,176	\$10,350,406	\$5,520,216	\$72,104,798
Wisconsin	\$52,092,000	\$4,142,176	\$14,929,240	\$7,962,261	\$79,125,677
Wyoming	\$52,092,000	\$4,142,176	\$1,429,764	\$762,541	\$58,426,481
Total					\$9,087,998,714

Source: U.S. Department of Treasury, "Allocations for States, Territories, Washington DC, and Tribal Governments," at <https://home.treasury.gov/system/files/256/Updated-Preliminary-Allocations-Table-Nov-2021.pdf>.

Lessons Learned from Round One Audits and Evaluation Reports

P.L. 111-240 required Treasury's OIG to conduct, supervise, and coordinate audits and investigations into the use of SSBCI funds. The act also required GAO to perform an annual audit of the SSBCI program. P.L. 113-188, the Government Reports Elimination Act of 2014, later eliminated this requirement.

Treasury's OIG released its first evaluation report of Treasury's implementation of the SSBCI on August 5, 2011, and its first audit of a state's use of SSBCI funds (California) on May 24, 2012. It completed audits of 24 participants' use of SSBCI funds (California, Montana, Vermont, Michigan, Texas, Massachusetts, Delaware, New Jersey, Alabama, Missouri, Washington, Kansas, Florida, West Virginia, Illinois, South Carolina, American Samoa, North Carolina, Idaho, Indiana, Tennessee, the North Dakota Mandan consortium, Rhode Island, and New York).⁴²

GAO released annual audits of the SSBCI program on December 7, 2011, December 5, 2012, December 18, 2013, and December 11, 2014.

GAO's Audits

GAO's audits indicated that the SSBCI program got off to a relatively slow start for a number of reasons:

- Treasury's revisions to its policy guidelines and application paperwork led several states, worried that they might be found in noncompliance with Treasury's rules and regulations, to postpone their SSBCI applications until

⁴² U.S. Department of the Treasury, Office of Inspector General (OIG), Small Business Lending Fund Program Oversight Office, *Small Business Lending Fund Oversight Reports*, at <https://oig.treasury.gov/Office-of-Small-Business-Lending-Fund-Program-Oversight>. An audit of Louisiana's use of SSBCI funds was issued on January 9, 2014, and removed from the Treasury OIG's website on February 19, 2015, pending further review. The OIG later determined that the work performed was not sufficient to support the findings and conclusions in the report under generally accepted government auditing standards. The audit report will not be reissued.

Treasury finalized its policy guidance. Thirty-seven states waited to submit their applications until June 2011, the final month that applications were allowed.⁴³

- Many states did not have preexisting small business programs in place and lacked the administrative infrastructure necessary to distribute SSBCI funds quickly. Instead of immediately disbursing funds, many states conducted outreach to lenders to make them aware of their SBCI programs and to encourage them to commit to small business lending.⁴⁴
- Some states reported that some large, multi-state banks were reluctant to participate in the program due to the variation of SSBCI programs across the nation and the need to “tailor different processes to each SSBCI participant’s program.”⁴⁵

None of these implementation impediments is expected to affect the latest round of funding. States and lenders have become familiar with the SSBCI regulations and guidelines, and states now have infrastructures in place to enable them to process applications and awards.

GAO also encouraged Treasury to develop SSBCI performance measures to enable it to “be in a position to determine whether the SSBCI program is effective in achieving its goals.”⁴⁶ In response, in January 2012, Treasury adopted three performance goals to measure its administration of the program and four performance indicators to measure SSBCI outcomes.

The three administrative performance goals were

- 90% of requests for modifications to allocation agreements are approved or rejected within 90 days of receiving a final submission;
- 90% of requests for subsequent disbursements under existing allocation agreements are approved or rejected within 90 days of receipt of a formal submission; and
- 90% of quarterly reports are received within five days of the deadline.⁴⁷

Treasury tracked these performance goals continuously and reported 12-month data to the Office of Management and Budget as part of its annual budget submission.

The four performance indicators were

- the amount of SSBCI funds used over time, as reported on SSBCI quarterly reports;
- the volume and dollar amounts of loans or investments supported by SSBCI funds, as reported on SSBCI annual reports;
- the amount of private sector leverage, as reported on SSBCI annual reports; and

⁴³ GAO, *State Small Business Credit Initiative: Opportunities Exist to Improve Program Oversight*, GAO-12-173, p. 14, at <https://www.gao.gov/products/gao-12-173>.

⁴⁴ GAO, *Small Business Lending: Opportunities Exist to Improve Performance Reporting of Treasury’s Programs*, GAO-13-76, December 5, 2012, p. 22, at <http://www.gao.gov/assets/660/650555.pdf>.

⁴⁵ GAO, *State Small Business Credit Initiative: Opportunities Exist to Enhance Performance Measurement and Evaluation*, p. 16.

⁴⁶ GAO, *State Small Business Credit Initiative*, GAO-12-173, p. 21.

⁴⁷ U.S. Treasury, “Correspondence with the author,” June 22, 2012. For the first two goals, the measurement period starts once all required documentation from the requesting participating state is received.

- the estimated number of jobs created or retained, as reported on SSBCI annual reports.

Treasury reported this performance data internally to the Assistant Secretary of Financial Institutions on an annual basis. After GAO recommended this data be made public, on September 25, 2013, Treasury officials made SSBCI performance information publicly available by releasing the first of what would become an annual summary report of performance information drawn from SSBCI participants' annual reports.⁴⁸

Treasury's Inspector General Evaluation Report and State Audits

On August 5, 2011, Treasury's OIG released an evaluation report examining the SSBCI program.⁴⁹ Treasury's OIG made a number of recommendations for improving program guidance language and to improve SSBCI program oversight. In response, Treasury redefined several terms and conditions in its guidance documents and established minimum standards for participating state oversight of SSBCI recipients.⁵⁰

On May 24, 2012, Treasury's OIG released the first of a series of audits of state use of SSBCI funds, starting with California.⁵¹ Treasury's OIG completed audits of 24 participants' use of SSBCI funds (California, Montana, Vermont, Michigan, Texas, Massachusetts, Delaware, New Jersey, Alabama, Missouri, Washington, Kansas, Florida, West Virginia, Illinois, South Carolina, American Samoa, North Carolina, Idaho, Indiana, Tennessee, the North Dakota Mandan consortium, Rhode Island, and New York).⁵² A summary of the OIG's findings for each state follows, starting with California.

In each audit, the OIG reviewed a judgmental sample of small business loans or investments to "determine whether [the loans or investments] complied with program requirements for loan use, capital at risk, and other restrictions."⁵³ Treasury was required to recoup any funds the OIG identified as intentionally or recklessly misused.⁵⁴ Only Texas, New Jersey, West Virginia, and the North Dakota Mandan consortium were found to be in full compliance with all SSBCI requirements.

These audits revealed that states generally did not intentionally or recklessly misuse SSBCI funds. Nonetheless, Treasury's OIG found many instances where states did not fully comply with

⁴⁸ U.S. Department of the Treasury, *State Small Business Credit Initiative: A Summary of States' 2012 Annual Reports*, September 25, 2013, at <http://www.treasury.gov/resource-center/sb-programs/Documents/SSBCI%20Summary%20of%20States%202012%20Annual%20Reports%20FINAL.pdf>.

⁴⁹ U.S. Department of the Treasury, OIG, "State Small Business Credit Initiative: Treasury Needs to Strengthen State Accountability for Use of Funds," August 5, 2011, at https://oig.treasury.gov/sites/oig/files/Audit_Reports_and_Testimonies/SBLF11002.pdf.

⁵⁰ U.S. Department of the Treasury, OIG, "State Small Business Credit Initiative: Treasury Needs to Strengthen State Accountability for Use of Funds," pp. 10, 20.

⁵¹ U.S. Department of the Treasury, OIG, *Small Business Lending Fund: California Needs to Improve Its Oversight of Programs Participating in the State Small Business Credit Initiative*, May 24, 2012, at https://oig.treasury.gov/sites/oig/files/Audit_Reports_and_Testimonies/OIG-SBLF-12-003.pdf.

⁵² U.S. Department of the Treasury, OIG, Small Business Lending Fund Program Oversight Office, *Small Business Lending Fund Program and State Small Business Credit Initiative Oversight Reports*, at <https://oig.treasury.gov/Office-of-Small-Business-Lending-Fund-Program-Oversight>.

⁵³ U.S. Department of the Treasury, OIG, *Small Business Lending Fund: California Needs to Improve Its Oversight of Programs Participating in the State Small Business Credit Initiative*, p. 2.

⁵⁴ U.S. Department of the Treasury, OIG, *Small Business Lending Fund: California Needs to Improve Its Oversight of Programs Participating in the State Small Business Credit Initiative*, p. 1.

SSBCI rules and regulations, especially early in the program's implementation. For example, Treasury's OIG determined that California had properly used the majority of the \$3.6 million in SSBCI loans examined, but it identified \$133,250 in loan loss reserves funded under California's Small Business Loan Guarantee Program that did not comply with SSBCI program requirements.⁵⁵ The OIG indicated that these noncompliant expenditures "constitute a 'reckless' misuse of funds as defined by Treasury guidance, which under the provisions of the Small Business Jobs Act must be recouped."⁵⁶ The OIG also identified \$160,988 in administrative expenses charged to the SSBCI program that were "not adequately supported by actual expenses incurred or with proper documentation to validate the costs claimed."⁵⁷ In addition, the OIG reported that "42 or approximately 58 percent, of the 73 loans [OIG] tested lacked all of the required borrower and lender assurances."⁵⁸

Similarly, Treasury's OIG found that Michigan had used the majority of the \$38.5 million in SSBCI loans it examined properly, but it identified "approximately \$2.524 million in misuse, of which \$2.5 million was used to finance lender purchase transactions that did not involve extensions of additional credit to borrowers; \$3,000 supported a partner buy-out, a prohibited use; and \$21,000 was used to pay the CAP insurance premium on a loan closed and funded prior to Michigan's acceptance into the SSBCI program and Treasury's allocation of funds to the State."⁵⁹ The OIG determined the \$21,000 used to pay the CAP insurance premium was a "reckless" misuse of funds that must be recouped. Although the OIG did not find the \$2.5 million used to finance lender purchase transactions that did not involve extensions of additional credit to borrowers to be a similarly reckless misuse of funds, it did question whether the purchase transactions were "consistent with the intent of the [Small Business Jobs] Act to help small businesses expand, grow, and create jobs."⁶⁰ It recommended that Treasury develop guidance for such transactions. In addition, the OIG found \$8,506 in administrative expenses charged to the SSBCI program that were incurred prior to the date Michigan was approved to participate in the program and notified of its SSBCI allocation. The OIG recommended that those expenses be disallowed.⁶¹

Treasury agreed to issue guidance to address the conditions under which loan purchase transactions would be permitted.⁶² Treasury also agreed to recoup the \$21,000 used to pay the CAP insurance premium on a loan closed and funded prior to Michigan's acceptance into the SSBCI program and Treasury's allocation of funds to the state and to disallow the \$8,506 in

⁵⁵ U.S. Department of the Treasury, OIG, *Small Business Lending Fund: California Needs to Improve Its Oversight of Programs Participating in the State Small Business Credit Initiative*, p. 3.

⁵⁶ U.S. Department of the Treasury, OIG, *Small Business Lending Fund: California Needs to Improve Its Oversight of Programs Participating in the State Small Business Credit Initiative*, p. 3.

⁵⁷ U.S. Department of the Treasury, OIG, *Small Business Lending Fund: California Needs to Improve Its Oversight of Programs Participating in the State Small Business Credit Initiative*, p. 3.

⁵⁸ U.S. Department of the Treasury, OIG, *Small Business Lending Fund: California Needs to Improve Its Oversight of Programs Participating in the State Small Business Credit Initiative*, p. 3.

⁵⁹ U.S. Department of the Treasury, OIG, *State Small Business Credit Initiative: Michigan's Use of Federal Funds for Capital Access and Other Credit Support Programs*, December 13, 2012, pp. 2-3, at https://oig.treasury.gov/sites/oig/files/Audit_Reports_and_Testimonies/OIGSBLF13002.pdf.

⁶⁰ U.S. Department of the Treasury, OIG, *State Small Business Credit Initiative: Michigan's Use of Federal Funds for Capital Access and Other Credit Support Programs*, p. 3.

⁶¹ U.S. Department of the Treasury, OIG, *State Small Business Credit Initiative: Michigan's Use of Federal Funds for Capital Access and Other Credit Support Programs*, p. 3.

⁶² U.S. Department of the Treasury, OIG, *State Small Business Credit Initiative: Michigan's Use of Federal Funds for Capital Access and Other Credit Support Programs*, p. 13.

administrative expenses that were incurred prior to the date Michigan was approved to participate in the program and notified of its SSBCI allocation.⁶³

Most of the issues raised by the Treasury OIG's state audits became lessons learned for SSBCI participants. SSBCI advocates might point to the state's previous SSBCI experiences as an indication that there will be fewer implementation problems during round two than there were in round one. Nevertheless, these previous audits reveal that programs with multiple actors (federal and state officials, hundreds of lenders and venture capital companies, and thousands of small businesses) are likely to encounter implementation issues even under the best of circumstances.

Concluding Observations

The original SSBCI was enacted as part of a larger effort to enhance the supply of capital to small businesses. Advocates argued that the SSBCI would help to address the then-recent decline in small business lending and create jobs. Opponents were not convinced it would enhance small business lending and worried about the program's potential cost to the federal treasury.

It is difficult to determine the full extent of the program's effect on small business lending. As mentioned, as of December 31, 2016, states had spent or obligated about 88% of the \$1.45 billion available (\$1.27 billion of \$1.45 billion), which is sufficient to provide some insight. For example, as mentioned, Treasury reported that SSBCI funds supported more than 21,000 loans and investments in small business amounting to over \$10.7 billion, with more than 80% of the funds and investments made to small businesses with 10 or fewer full-time employees. Treasury also reported that small businesses indicated that SSBCI funds helped them to create or retain 240,669 jobs (79,193 new jobs and 161,476 retained jobs).⁶⁴ But, as Treasury also noted, determining the SSBCI's influence on small business lending is likely to be more suggestive than definitive because differentiating the SSBCI's effect on small business lending from other, exogenous factors, such as changes in the lender's local economy and changes in the demand for small business loans, is methodologically challenging, especially given the relatively small amount of financing involved relative to the national market for small business loans.⁶⁵ As mentioned, the SSBCI's \$1.5 billion in financing at that time represented about 0.24% of outstanding nonagricultural small business loans.

Treasury's OIG's audits of 24 states' implementation of their SSBCI programs suggest that many states experienced difficulty reaching full compliance with the program's administrative requirements, which were designed to reduce the likelihood of loan defaults, investment losses, and fraudulent use of funds. That should be less of an issue during round two, because states now have experience with, and are accustomed to, the SSBCI's rules and regulations. However, given the relatively large increase in proposed funding, the large number of small business investment programs receiving SSBCI funding, and the large number of entities involved in the program (state officials, hundreds of lenders and investment companies, and thousands of small businesses), SSBCI program oversight is likely to remain a congressional interest.

⁶³ U.S. Department of the Treasury, OIG, *State Small Business Credit Initiative: Michigan's Use of Federal Funds for Capital Access and Other Credit Support Programs*, pp. 15-16.

⁶⁴ U.S. Department of the Treasury, *State Small Business Credit Initiative: A Summary of States' 2016 Annual Reports*, pp. 3, 15, at https://www.treasury.gov/resource-center/sb-programs/Documents/SSBCI%20Summary%20of%20States%20Annual%20Report%202016_508%20Compliant.pdf.

⁶⁵ U.S. Treasury, "Correspondence with the author," June 22, 2012.

Appendix. The Original SSBCI's Legislative Origins

On January 27, 2010, then-President Obama announced in his State of the Union Address that because “financing remains difficult for small business owners across the country, even those that are making a profit,” he would send Congress several legislative proposals designed to enhance small business access to capital, including a proposal to establish a \$30 billion Small Business Lending Fund (SBLF).⁶⁶ On May 7, 2010, the Obama Administration sent Congress draft legislation to establish the SBLF and the State Small Business Credit Initiative (SSBCI).⁶⁷

On May 13, 2010, Representative (now Senator) Gary Peters introduced H.R. 5302, the State Small Business Credit Initiative Act of 2010. The bill would have authorized a \$2 billion SSBCI modeled on the President's SSBCI proposal. That same day, then-Representative Barney Frank, then-chair of the House Committee on Financial Services, introduced H.R. 5297, initially titled the Small Business Lending Fund Act of 2010. Based on the President's SBLF proposal, the bill was designed to encourage lending to small businesses by creating a \$30 billion SBLF to make capital investments in eligible community banks with total assets of less than \$10 billion.⁶⁸ On May 18, 2010, the Committee on Financial Services held a hearing on H.R. 5297 and the following day, approved the bill, 42-23, as amended.⁶⁹ Perhaps the most significant amendment approved was an amended version of the \$2 billion State Small Business Credit Initiative Act of 2010. It was approved by a vote of 39-23.⁷⁰

SBLF and SSBCI advocates argued that the programs were necessary because “many companies, particularly small businesses, claim that it is becoming harder to get new loans to keep their business operating and that banks are tightening requirements or cutting off existing lines of even when the businesses are up to date on their loan repayments.”⁷¹ In their view, the SBLF and SSBCI would promote economic growth and job creation by enhancing small business access to capital.

The House Committee on Financial Services' Republicans indicated in the report accompanying H.R. 5297 that they “were unanimous in our opposition to this misguided legislation.”⁷² They

⁶⁶ U.S. President (Barack Obama), “Remarks by the President in State of the Union Address,” January 27, 2010, at <https://obamawhitehouse.archives.gov/the-press-office/remarks-president-state-union-address>.

⁶⁷ U.S. Congress, House Committee on Financial Services, *To Create the Small Business Lending Fund Program to Direct the Secretary of the Treasury to make Capital Investments in Eligible Institutions in order to Increase the Availability of Credit for Small Businesses, and for other Purposes*, report to accompany H.R. 5297, 111th Cong., 2nd sess., May 27, 2010, H.Rept. 111-499 (Washington, DC: GPO, 2010), p. 17.

⁶⁸ U.S. Congress, House Committee on Financial Services, *To Create the Small Business Lending Fund Program to Direct the Secretary of the Treasury to make Capital Investments in Eligible Institutions in order to Increase the Availability of Credit for Small Businesses, and for other Purposes*, p. 18.

⁶⁹ U.S. Congress, House Committee on Financial Services, *Incentives to Promote Small Business Lending, Jobs, and Economic Growth*, 111th Cong., 2nd sess., May 18, 2010, Serial no. 111-137 (Washington, DC: GPO, 2010).

⁷⁰ U.S. Congress, House Committee on Financial Services, *To Create the Small Business Lending Fund Program to Direct the Secretary of the Treasury to make Capital Investments in Eligible Institutions in order to Increase the Availability of Credit for Small Businesses, and for other Purposes*, report to accompany H.R. 5297, 111th Cong., 2nd sess., May 27, 2010, H.Rept. 111-499 (Washington, DC: GPO, 2010), pp. 21, 22.

⁷¹ U.S. Congress, House Committee on Financial Services, *To Create the Small Business Lending Fund Program to Direct the Secretary of the Treasury to make Capital Investments in Eligible Institutions in order to Increase the Availability of Credit for Small Businesses, and for other Purposes*, p. 16.

⁷² U.S. Congress, House Committee on Financial Services, *To Create the Small Business Lending Fund Program to Direct the Secretary of the Treasury to make Capital Investments in Eligible Institutions in order to Increase the Availability of Credit for Small Businesses, and for other Purposes*, p. 18.

argued that the SBLF and SSBCI did not address what they considered to be the core issue affecting small business job creation during the economic recovery—the need to stimulate demand for credit by small businesses.⁷³ They argued that the bill would fail to help small businesses or create jobs, would succeed in adding billions of dollars to the national debt, and concluded that “the solutions to America’s economic problems do not lie in more taxpayer-funded bailouts.”⁷⁴ Instead of supporting federal spending programs to enhance small business access to capital, they advocated an extension of a series of small business tax credits as a more effective means to stimulate small business job creation and economic growth.⁷⁵

On June 14, 2010, the House Committee on Rules issued a rule for H.R. 5297 (H.Res. 1436), which provided that “in the engrossment of H.R. 5297, the Clerk shall add the text of H.R. 5486, as passed by the House, at the end of H.R. 5297 and that H.R. 5486 shall be laid on the table.”⁷⁶ H.R. 5486, To Amend the Internal Revenue Code of 1986 to Provide Tax Incentives for Small Business Job Creation, and for Other Purposes, included several tax incentives for small businesses and several revenue-raising provisions designed to offset the costs of the tax incentives. Also, at that time, the House Committee on Rules posted on its website legislative language for a proposed amendment in the nature of a substitute to H.R. 5297, as reported, which included a proposed \$1 billion Small Business Early-Stage Investment Program.

On June 17, 2010, the House passed H.R. 5297 by a vote of 241-182. The engrossed bill, retitled the Small Business Jobs and Credit Act of 2010, included the language in H.R. 5486 and the Small Business Early-Stage Investment Program, as well as the \$30 billion SBLF and \$2 billion SSBCI.

The arguments presented in the House report accompanying the bill, both for and against the bill’s passage, also were presented during House floor debate. For example, advocates argued that the SSBCI would “increase small business lending which will retain and create jobs.”⁷⁷ Opponents argued that the bill “is repeating the same failed initiatives that have helped our national debt grow to \$13 billion in the past two years” and did not address what they viewed as the top problem facing small businesses—“the lack of sales and demand.”⁷⁸

The House-passed version of H.R. 5297 was placed on the Senate Legislative Calendar on June 18, 2010. Following a series of votes on motions to invoke cloture on several amendments in the nature of a substitute to H.R. 5297 and the August recess, the Senate passed an amended version of the bill (S.Amdt. 4594, an amendment in the nature of a substitute for H.R. 5297) on

⁷³ U.S. Congress, House Committee on Financial Services, *To Create the Small Business Lending Fund Program to Direct the Secretary of the Treasury to make Capital Investments in Eligible Institutions in order to Increase the Availability of Credit for Small Businesses, and for other Purposes*, p. 37.

⁷⁴ U.S. Congress, House Committee on Financial Services, *To Create the Small Business Lending Fund Program to Direct the Secretary of the Treasury to make Capital Investments in Eligible Institutions in order to Increase the Availability of Credit for Small Businesses, and for other Purposes*, p. 38.

⁷⁵ U.S. Congress, House Committee on Financial Services, *To Create the Small Business Lending Fund Program to Direct the Secretary of the Treasury to make Capital Investments in Eligible Institutions in order to Increase the Availability of Credit for Small Businesses, and for other Purposes*, p. 38.

⁷⁶ H.Res. 1436. A second rule (H.Res. 1448) was issued on June 16, 2010, to allow consideration of two amendments that were revised to comply with House “pay-go” rules.

⁷⁷ Rep. Melissa Bean, “The Small Business Jobs and Credit Act of 2010,” House debate, *Congressional Record*, vol. 156, no. 90 (June 16, 2010), p. H4514.

⁷⁸ Rep. Randy Neugebauer, “The Small Business Jobs and Credit Act of 2010,” House debate, *Congressional Record*, vol. 156, no. 90 (June 16, 2010), p. H4514, H4515.

September 16, 2010, by a vote of 61-38.⁷⁹ The Senate-passed version of the bill, which included the SSBCI but funded at \$1.5 billion instead of \$2 billion, was passed by the House on September 23, 2010, by a vote of 237-187. The enrolled bill, retitled the Small Business Jobs Act of 2010, was signed into law (P.L. 111-240) by President Obama on September 27, 2010.⁸⁰

The arguments presented during Senate floor debate, both for and against the bill's passage, were similar to those presented during House floor debate. One difference was a greater emphasis by the bill's advocates in the Senate on the SSBCI's support of state loan collateral programs. Several Senators argued that the SSBCI's support of state loan collateral programs was needed because, as one Senator pointed out, "just as the recession has battered the value of our homes, it has also battered the value of business property such as real estate, factories, and equipment. That has damaged the ability of small businesses to get bank financing because it has lowered the value of property they can offer as collateral."⁸¹

⁷⁹ On June 29, 2010, cloture on a motion to proceed to H.R. 5297 was invoked in the Senate by a vote of 66-33. That same day, Sen. Harry Reid proposed a motion to commit H.R. 5297 to the Senate Committee on Finance with instructions to report back forthwith S.Amdt. 4407, an amendment in the nature of a substitute, which included the Small Business Lending Fund (SBLF) and most of the provisions later included in S.Amdt. 4594. In response to perceived opposition to the SBLF, S.Amdt. 4407 was withdrawn on July 21, 2010. In its place, Sen. Harry Reid proposed for Sen. George LeMieux S.Amdt. 4500, to establish the Small Business Lending Fund Program. He also proposed for Sen. Max Baucus S.Amdt. 4499, an amendment in the nature of a substitute, which contained S.Amdt. 4407, with modifications, minus the SBLF. On July 22, 2010, cloture on S.Amdt. 4500 was invoked in the Senate, by a vote of 60-37. On July 27, 2010, Sen. Harry Reid withdrew S.Amdt. 4500 and introduced for Sen. Max Baucus S.Amdt. 4519, which included the SBLF, the provisions in S.Amdt. 4499, with modifications, \$1.5 billion in emergency disaster agricultural assistance, and additional revenue offsets. On July 29, 2010, a motion to invoke cloture on S.Amdt. 4519 failed by a vote of 58-42. Debate on the motion focused on differences concerning the SBLF and the number of amendments to be offered. On August 5, 2010, Sen. Harry Reid introduced for Sens. Max Baucus and Mary Landrieu S.Amdt. 4594, an amendment in the nature of a substitute. It contained the provisions in S.Amdt. 4519, except that it removed a provision to eliminate the advance payment option for the earned-income tax credit that would have raised \$1.1 billion, removed a provision that would have reallocated \$500 million in future spending from P.L. 111-5, the American Recovery and Reinvestment Act of 2009, and removed a provision to provide \$1.5 billion in emergency agricultural assistance funding. On September 14, 2010, the Senate invoked cloture on S.Amdt. 4594, by a vote of 61-37, and passed it on September 16, 2010, by a vote of 61-38. See Sen. Harry Reid, "Text of Amendments: SA 4519," *Congressional Record*, vol. 156, no. 111 (July 27, 2010), pp. S6309-S6337; Sen. Kay Hagan, "Motion to Invoke Cloture on amendment No. 4519," Roll Call Vote No. 221 Leg., *Congressional Record*, vol. 156, no. 113 (July 29, 2010), p. S6473; Sen. Harry Reid, "Small Business Lending Fund Act of 2010," Remarks in the Senate, *Congressional Record*, vol. 156, no. 113 (July 29, 2010), pp. S6472, S6473; Sen. Mitch McConnell, "Small Business Lending Fund Act of 2010," Remarks in the Senate, *Congressional Record*, vol. 156, no. 113 (July 29, 2010), pp. S 6472, S6473; Sen. Kay Hagan, "Motion to Invoke Cloture on H.R. 5297, the Small Business Lending Fund Act of 2010," Rollcall Vote No. 236 Leg., *Congressional Record*, daily edition, vol. 156, part 125 (September 16, 2010), p. S 7158; and Sen. Al Franken, "Small Business Lending Fund Act of 2010," Rollcall Vote No. 237 Leg., *Congressional Record*, daily edition, vol. 156, part 125 (September 16, 2010), p. S7158.

⁸⁰ Sen. Al Franken, "Small Business Lending Fund Act of 2010," Rollcall Vote No. 237 Leg., *Congressional Record*, daily edition, vol. 156, part 125 (September 16, 2010), p. S7158.

⁸¹ Sen. Carl Levin, "Small Business Lending Fund Act of 2010," remarks in the Senate, *Congressional Record*, vol. 156, part 124 (September 15, 2010), p. S7123.

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