Views and Estimates of the Committee on Small Business on Matters to be set forth in the Concurrent Resolution on the Budget for Fiscal Year 2019

Pursuant to clause 4(f) of Rule X of the Rules of the House and § 301(d) of the Congressional Budget Act of 1974, 2 U.S.C. § 632(d), the Committee on Small Business is transmitting herein: (1) the views and estimates on the priorities within its jurisdiction or functions to be set forth in the concurrent resolution on the budget.

The United States Small Business Administration (SBA) has responsibility for programs that help create jobs and grow the economy of the United States. Entrepreneurs continue to depend heavily on these programs not only to provide capital, but also advising, mentoring and training. SBA tools have helped companies such as Nike, Chobani, FedEx, Ben and Jerry's, Apple, Under Armour and Outback Steakhouse, grow from small businesses to the large businesses they are today. It is essential that SBA programs are efficient, effective and achieve real results for small businesses and America's taxpayers. Entrepreneurs and taxpayers deserve nothing less.

The Committee reiterates its ongoing concerns about SBA-created initiatives. Many of these efforts have not been reviewed, approved or sanctioned by this Committee and often duplicate longstanding small business outreach efforts funded through SBA's annual appropriation. In addition, often these SBA-created initiatives have not been adequately assessed by SBA prior to or after their implementation. In the Committee's view, this funding could be eliminated without hindering outreach to small businesses, and the funds saved could be reallocated to technology improvements, hiring appropriate SBA employees to assist small businesses gain their fair share of federal government contracts, or implementing the priorities that Congress has mandated for SBA.

The Committee believes SBA and its programs can operate more efficiently and effectively with this reassignment and reallocation of existing resources. The SBA's financing programs operate with zero subsidy and minimal administrative cost, and any program reform legislation would not have a significant budgetary impact.

I. Introduction -- SBA Mission and Management

Since America's founding, it has relied on small businesses to shape and grow the economy. Our nation's economic policies have been tailored to assist small firms. The numbers are telling: according to the SBA, the 29 million small businesses in America account for 54% of all U.S. sales. Small businesses provide 55% of all jobs and 62% of all net new jobs from 1993 to 2016. The number of small businesses in the United States has increased 49% since 1982, and since 1990, as other businesses have eliminated jobs, small businesses have added 8 million new jobs.

As a result, more small businesses than ever are counting on the SBA and its programs to deliver assistance with access to capital, counseling, and other services.

The SBA was created in 1953 by President Eisenhower to replace the Small Defense Plants Administration[1] and the Reconstruction Finance Corporation.[2] According to the Small Business Act, 15 U.S.C. §§ 631-57s, the SBA's mission is to "aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns…."[3] The SBA meets its statutory mission through three major components: 1) assisting small businesses in obtaining needed capital; 2) helping small businesses to navigate the federal procurement marketplace; and 3) offering managerial counseling and assistance to small businesses. Each component is carried out through Congressionally-mandated programs, sometimes in conjunction with private sector partners. Specifically, the SBA provides loans and loan guarantees to credit-worthy small businesses; entrepreneurial counseling and technical assistance; and disaster services to disaster survivors. The majority of these services are delivered, either by SBA or one of its partner organizations, through SBA's district offices throughout the United States.

In January of 2016, the Committee received testimony from the Government Accountability Office (GAO) regarding GAO's comprehensive assessment of SBA's overall management, which was undertaken at the Committee's request.[4] In its audit, GAO found many long standing SBA management deficiencies, including deficits in strategic planning, human capital organizational structure and information technology. GAO recommended a number of specific steps to SBA, such as increased training, procedural guidance, strategic and workforce planning and oversight of information technology investments. Although GAO noted that SBA had "generally agreed" with its recommendations, over the years SBA "had made limited progress" in implementing most of them. As of January of 2017, 55 of GAO's recommendations made in prior years had not been implemented.[5]

At a hearing before the Committee on April 6, 2017, the newly confirmed SBA Administrator, Linda McMahon, testified that her priorities would be to revitalize the SBA; deliver SBA services efficiently and effectively; and ensure that SBA is offering the services that small businesses need. The Committee is pleased that Administrator McMahon has traveled across the United States and its territories to meet with SBA personnel and small business owners and hear about their ideas, successes, challenges and needs. She said she is committed to increasing access to capital, creating jobs and empowering small businesses.

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[1] The Small Defense Plants Administration was created during the Korean War to help maintain a robust small business industrial base for providing goods to the United States military services. United States Small Business Administration (SBA), https://www.sba.gov/about-sba/what-we-do/history.

[2] The Reconstruction Finance Corporation began in 1932 as a federal lender to businesses. United States Small Business Administration (SBA), https://www.sba.gov/about-sba/what-we-do/history.

[3] 15 U.S.C. § 631(a).

[4] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE (GAO), LEADERSHIP ATTENTION NEEDED TO OVERCOME MANAGEMENT CHALLENGES (GAO-15-347) (2015) (hereinafter "GAO SBA Management Report").

[5] As of January 2017, 30 of GAO's recommendations from reports before the GAO's 2015-2016 comprehensive management review were still open, 8 recommendations from the management review were still open, and 17 recommendations from other recent reports are open, for a total of 55 open recommendations. GAO Auditor conversation with House Committee on Small Business staff, Jan. 24, 2017.

On October 12, 2017, SBA's Office of the Inspector General (IG) released a report outlining SBA's most significant challenges.[6] The report cited weaknesses in small business contracting programs and inaccurate procurement data;[7] technology capabilities;[8] human capital,[9] and risk management and oversight practices.[10] The report also noted that SBA needs to improve its loan programs to reduce improper payments and that disaster assistance should balance competing priorities to deliver timely assistance. Finally, the report found that SBA must more effectively manage its own acquisition program to ensure the agency obtains quality goods and services.[11] The Committee trusts that the agency will make progress in addressing its challenges in Fiscal Year 2019.

SBA released its draft FY 2018-2022 Strategic Plan on October 30, 2017.[12] The plan, which SBA called the principal document within the agency's comprehensive management framework, summarizes the strategies that SBA intends to use to accomplish its four strategic goals.[13] The goals are: 1) increase the number of loans by 5% to small businesses in socially and economically disadvantaged areas; 2) maximize the percent of federal contracts set aside for small businesses; 3) increase the number of unique 8(a) small business contracts awarded; and 4) increase the average number of disaster loan applications processed from three to six applications per loan specialist.[14] The Committee will closely follow SBA's efforts to accomplish its goals during the upcoming five year period.

II. Capital Access Programs

When testifying before the Committee, small business owners consistently cite the lack of available capital as a significant problem. Although the economy has improved, small firms still do not have access to readily available capital to grow and create jobs. SBA administers four major capital financing programs: the 7(a) Guaranteed Loan; the Certified Development Company Loan Program; the Small Business Investment Company (SBIC) Program; and the Microloan Program. In these programs, SBA does not lend funds directly to small businesses, but through government guarantees, SBA works with private-sector and non-profit partners and intermediaries on the repayment of issuance of credit and equity. The SBA must operate its capital access programs within the Federal Credit Reform Act, 2 U.S.C. §661-661f (FCRA).

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[6] SBA, OFFICE OF INSPECTOR GENERAL, REPORT ON THE MOST SERIOUS MANAGEMENT AND PERFORMANCE CHALLENGES FACING THE SMALL BUSINESS ADMINISTRATION (Oct. 12, 2017), *available at* https://www.sba.gov/sites/default/files/oig/SBA_OIG_Report_18-01.pdf?utm_medium=email&utm_source=govdeliver.
[7] *Id.* at 1.
[8] *Id*. at 4.
[9] *Id.* at 6.
[10] *Id*. at 8.
[11] *Id.* at 21.
[12] SBA, DRAFT STRATEGIC PLAN FOR FY2018-2022 (Oct. 30, 2017), *available at* https://www.sba.gov/sites/default/files/aboutsbaarticle/ready_4_508_Draft_SBA_FY_2018_2022_Strategic_Plan_Oct_30_2017_WCAG2_2.pdf. SBA requested public comment on the plan until November 30, 2017. https://regulations.justia.com/regulations/fedreg/2017/10/31/2017-23678.html.
[13] *Id*. at 6.
[14] *Id.* SBA stated that the goals were developed through the Administrator and in consultation with the Office of Management and Budget and SBA's committees in Congress. *Id.*

Under FCRA, the budget records the federal government's estimated long-term cost (its subsidy cost) in the year the direct loan or loan guarantee is made. Agencies generally update these subsidy costs annually to reflect loan performance. To the extent that the President's budget states the need for appropriations to cover the cost of loan programs, the Committee believes that the budget resolution should provide sufficient funds to do so.

Many of the SBA's programs are designed to operate without a federal government subsidy. However, if SBA does require a subsidy to operate these programs, the rationale has been that because small businesses create much needed jobs, it would be counterproductive to increase the cost of making loans to them. In 2015, SBA's 7(a) Program experienced unprecedented demand and reached its $18.75 billion authorized loan limit. Unfortunately, SBA did not inform Congress until the lending ceiling was reached, and lending was temporarily delayed until Congress took emergency action. In legislation to raise the lending level to $23.5 billion, Congress required SBA to regularly report on loan levels so in the future, emergency action will not be needed. The Committee will continue to monitor the authorized lending limit.

In addition to multiple Congressional hearings and Congressional inquiries, the SBA Inspector General in recent years identified SBA's failure to provide effective lender oversight as one of the most serious issues facing the agency. It is critical for SBA to improve its oversight of its lending program participants and ensure that it can provide proper oversight of the capital access programs so that the underlying policy goals are met. Because so many small businesses rely on the 7(a) Program in particular, the Committee plans to continue its robust oversight this year. In addition, after months of hearings and meetings with key stakeholders, on January 9, 2018, Chairman Steve Chabot and Ranking Member Nydia Velázquez introduced H.R. 4743, the Small Business Lending Oversight Reform Act of 2018. The legislation was informed by a series of hearings the Committee held on the 7(a) Program over several years. Most recently, on March 9, 2017, the Subcommittee on Investigations, Oversight, and Regulations held a hearing which provided an overview of the SBA 7(a) Loan Program; on May 17, 2017, the full Committee held a hearing that encompassed a detailed review of the 7(a) Program; and on January 17, 2018, the full Committee held a legislative hearing on H.R. 4743. H.R. 4743 was referred to the Committee, and the Committee plans to consider the bill later in 2018.

In the past, the Committee has noted that appropriate lender oversight requires a robust technology system. In 2017, the Committee held an oversight hearing with the SBA's new chief technology officer to examine the agency's plan to modernize its technology infrastructure and technology workforce. The Committee expects to continue its oversight of these functions to ensure that SBA can provide the data needed to measure the efficacy of its programs, protect it from cyber attacks, and meet the goals of the Small Business Act.

Beyond the four main capital access programs, the SBA is the primary provider of disaster assistance to small businesses and homeowners after a disaster. Congress permanently authorized the SBA to transfer unused disaster loan funds for the administration of the disaster loan program. When funding levels exceed the amount requested by an agency due to serious and extensive disaster events, emergency funding would be needed to support disaster lending. As a result of numerous disaster events last year, including major Hurricanes Harvey, Irma and

Maria, emergency supplemental appropriations were authorized to deliver assistance. The Committee will continue to monitor SBA's disaster lending efforts.

III. Entrepreneurial Development Programs

A significant portion of SBA's budget is allocated to providing technical assistance and outreach to small businesses. This is carried out through a number of programs that SBA operates at the express direction of Congress. The major SBA entrepreneurial development counseling programs authorized by Congress are: the Small Business Development Center (SBDC) Program, the SCORE Program, and the Women's Business Center (WBC) Program.

Over time, the SBA has also created, using its general authority to "aid small businesses," initiatives that duplicate the services of programs that Congress has specifically directed the SBA to implement. In recent years, these SBA-created initiatives have comprised a significant portion of SBA's entrepreneurial development budget and believes no such funds should be allocated to these often duplicative efforts in FY 2019. In addition, to the extent that these SBA-created programs impose new outreach duties on SBA's Congressionally-mandated entrepreneurial development programs, the Committee suggests that SBA reprogram funds from SBA's general salaries and expenses account to cover incurred costs. SBA's programmatic duplication has been exacerbated by its failure to measure the effectiveness of its programs.[15] This has been particularly true in the area of entrepreneurial development programs in which SBA offers technical assistance to small business owners. In fact, §18 of the Small Business Act expressly prohibits duplication of effort by SBA if a program is already offered by another federal agency unless Congress expressly authorizes the duplication. The Committee will continue to work with SBA to ensure priority is given to Congressionally-mandated initiatives.

The SBDC Program is operated through cooperative agreements with either state agencies or institutions of higher education. Most state agency grantees subcontract operations to institutions of higher education in that state. The grantees have established over 1,000 service centers that provide technical assistance to small businesses for business strategy; technology transfer; government procurement; engineering; and accounting. The SBDC Program is an important and time tested program on which small businesses depend. The Committee has stated in the past that it believes the SBA undervalues the SBDC Program, and the Committee has supported a small increase of funding to be reallocated from SBA-created initiatives to the SBDC Program.

The SCORE Program provides face-to-face counseling by over 300 chapters with more than 11,000 SCORE volunteers. SCORE volunteers provide a full range of business consultation services, such as business plan development; strategic marketing; and financing ideas. SBA's SCORE database enables small businesses to find SCORE volunteers that best match the needs of the business. As with the SBDC Program, should SBA-created initiatives place additional

[15] In its most recent comprehensive report on SBA management, GAO noted that SBA lacked effective metrics to assess the quality of its programs. GAO SBA Management Report, *supra* note 4, at 39. It is important to note that metrics are an essential component of the strategic planning requirements set forth in the Government Performance and Results Act. Pub. L. No. 103-62, 107 Stat. 285 (1993) (codified, as amended, at 3 U.S.C. § 305, 31 U.S.C. §§ 1105(a), 1115-19, 9703-04, and 39 U.S.C. §§ 2801-05).

burdens on SCORE volunteers, the Committee recommends that SBA reprogram funds from SBA's general salaries and expenses account to cover these services.

Women's Business Centers (WBC or Centers) provide training, counseling, and mentoring to women entrepreneurs. WBCs are public/private partnerships in which the federal government provides funds that are matched by private donors. There are currently over 100 Centers across the country. Many WBCs seek to provide their clients with flexible training opportunities, offering courses at night or on weekends and often in more than one language. The Committee believes that WBCs could further increase their impact by locating in areas not already served by SBDCs and tailoring their training to women. Again, this goal could be achieved through reprogramming funds and focus from SBA-created initiatives to the WBC program.

The Committee will continue to work with Congressional appropriators to ensure that priority is given to statutory mandates rather than optional initiatives that SBA has created on its own and without Congressional authorization.

IV. Cyber Security Programs for Small Businesses

Small businesses are increasingly victims of cyber attacks, and improving cyber security for small businesses has been a priority for the Committee over the last two Congresses. In 2016, the House passed H.R. 5064, the Improving Small Business Cyber Security Act, bipartisan legislation introduced by Chairman Steve Chabot and Ranking Member Nydia Velázquez. In the 115th Congress, the Committee held cyber security hearings on March 8, 2017, July 26, 2017 and November 15, 2017. On December 18, 2017, Chairman Steve Chabot and Ranking Member Nydia Velázquez introduced H.R. 4668, the Small Business Advanced Cybersecurity Enhancements Act, bipartisan legislation to provide for the establishment of enhanced cybersecurity assistance and protections for small businesses. H.R. 4668 was referred to the Committee, and the Committee plans to consider the bill later in 2018.

V. Federal Procurement Programs

To assist small businesses that want to contract with the federal government, Congress created a number of programs designed to increase their contracting opportunities. Traditionally, SBA has broken out the funds for these programs in its budget; instead, the funds are subsumed in SBA's general salaries and expenses accounts.

The Committee has long been concerned that SBA has failed to implement regulatory changes necessitated by Congress that would enhance the participation of small businesses in the marketplace, and has failed to devote sufficient funds to the hiring and retention of personnel that is vital to maximizing the participation of small businesses in federal contracting programs.

The Historically Underutilized Business Zone (HUBZone) Program was designed to direct federal contracts to small businesses in distressed areas and promote the economic development of those businesses. Federal contracting officers are permitted to set aside contracts for limited competition among HUBZone eligible small businesses, sole source or use bid preferences when

HUBZone small businesses and large businesses are in competition. HUBZones are distressed urban and rural areas with chronically high unemployment, low household income, or both. Numerous investigations over several years by the Government Accountability Office (GAO) found weaknesses and vulnerabilities in the Program, including inadequate vetting of participants, fraudulent awards, and falsified documents and employee information.[16]

At the Committee's hearing on the HUBZone Program in March, 2017, GAO testified that SBA was slow to take action on its recommendations, and although the agency has made improvements, it still faces significant challenges with certification and reporting, making the program vulnerable to fraud and abuse.[17] SBA's Office of the Inspector General (OIG) identified weaknesses in small business contracting programs and inaccurate procurement data as a top management challenge.[18] Those weaknesses and inaccuracies, the SBA IG testified, undermine the reliability of contracting goal achievement reporting to Congress.[19] Other witnesses testified that because it has been more than fifteen years since changes have been made to the Program, it should be modernized to reach its potential.[20]

The Committee has worked to strengthen the program. Ranking Member Velázquez and Chairman Chabot introduced H.R. 3294, the HUBZone Unification and Business Stability Act of 2017, to remedy weaknesses in the existing law and strengthen its provisions. H.R. 3294 was included in the Fiscal Year 2018 National Defense Authorization Act with minor changes. The Committee expects to work with SBA to implement the requisite changes and further improve the program.

Vitally important to procurement and SBA as a whole is the successful implementation of information technology (IT). In fact, over the years, SBA has had challenges in implementing information technology, and has struggled to fulfill one of the SBA Office of the Chief Information Officer's (OCIO) most important duties, effective oversight of the agency's technology investments and IT security. Government watchdogs have issued numerous reports detailing the SBA's failure to prioritize IT and outlining the OCIO's many flaws and failures.[21] In addition, the SBA has experienced high turnover at the position of OCIO; SBA is on its eighth

[16] *See* UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE (GAO), HUBZONE PROGRAM: FRAUD AND ABUSE IDENTIFIED IN FOUR METROPOLITAN AREAS (GAO-9-440) (2009); GAO, SMALL BUSINESS ADMINISTRATION: UNDERCOVER TESTS SHOW HUBZONE PROGRAM REMAINS VULNERABLE TO FRAUD AND ABUSE (GAO-10-759) (2010); GAO, HUBZONE PROGRAM: ACTIONS TAKEN ON FEBRUARY 2015 GAO RECOMMENDATIONS (GAO-16-423R) (2016); and HUBZONE PROGRAM: OPPORTUNITIES EXIST TO FURTHER IMPROVE OVERSIGHT (GAO-16-866T) (2016).
[17] *Learning from History: Ideas to Strengthen the HUBZone Program: Hearing Before the House Comm. on Small Business*, 115th Cong. (2017) (statement of William Shear, Director of Financial Markets and Community Investment, GAO).
[18] *Learning from History: Ideas to Strengthen the HUBZone Program: Hearing Before the House Comm. on Small Business*, 115th Cong. (2017) (statement of Hannibal "Mike" Ware, Acting Inspector General, SBA).
[19] *Id.*
[20] *Learning from History: Ideas to Strengthen the HUBZone Program: Hearing Before the House Comm. on Small Business*, 115th Cong. (2017) (statement of Shirley Bailey, Co-owner, EVP and COO at GCC Technologies LLC and Board Chair, HUBZone Contractors National Council).
[21] See GAO Management Report, *supra* note 4 at 39; Small Business Administration Inspector General (SBA IG), WEAKNESSES IDENTIFIED DURING THE FY 2014 FEDERAL INFORMATION SECURITY MANAGEMENT ACT REVIEW (Evaluation Report 15-07) (2015); and SBA IG, WEAKNESSES IDENTIFIED DURING THE FY 2016 FEDERAL INFORMATION SECURITY MODERNIZATION ACT REVIEW (Report No. 17-14) (2017).

CIO since 2005.[22] On July 12, 2017, the Committee held a hearing to examine the Office and receive testimony from its newly-appointed chief, Maria Roat. At the hearing, the Committee heard that Ms. Roat is making progress in her work to improve the OCIO and strengthen its leadership.[23]

Committee Members have continued to explore the effect of changes in federal agency construction contracts with small businesses. On May 25, 2017, the Subcommittee on Contracting and Workforce and Subcommittee on Investigations, Oversight, and Regulations held a joint hearing to probe this issue and discuss possible solutions to alleviate the financial burden on small businesses caused by agency delays in approving payment of change orders. The Committee will continue to collaborate with other House Committees on this issue and potential legislation.

VI. Regulatory Reform and Paperwork Reduction

Under Rule X, Cl. 1(q) of the Rules of the House,[24] the Committee's legislative jurisdiction includes the protection of small businesses related to regulatory flexibility. This Rule recognizes that federal regulations may pose significant challenges for small businesses, which have less revenue and a smaller employee base over which regulatory and paperwork compliance costs can be spread.

America's entrepreneurs believe regulations are necessary, and they want to comply, but they cannot do so if the regulations are crafted in a way that makes it impossible for them to do so. Recognition that small businesses are disproportionately burdened by one-size-fits-all regulations and underrepresented in the federal rulemaking process encouraged Congress to enact the Regulatory Flexibility Act (RFA)[25] in 1980. The RFA requires federal agencies to assess the economic impacts of regulations and to consider alternatives to reduce burdens on small businesses. The RFA has been amended twice, in 1996 and 2010, to improve agency compliance with the statute's analytical requirements. Those amendments made marginal changes, but agency compliance has remained inconsistent.

The Committee has been at the forefront of efforts to strengthen the RFA so that the nation's regulatory process will work better for entrepreneurs. Chairman Chabot drafted H.R. 33, the Small Business Regulatory Flexibility Improvements Act, to remedy weaknesses in the existing law and strengthen its provisions. H.R. 33 was included as Title III of H.R. 5, the Regulatory Accountability Act, which has passed the House. The Committee expects that no additional funds will be needed to implement the Act because federal agencies already engage in the type of outreach and analysis that is required by the legislation.

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[22] Memorandum from Committee on Small Business staff to Committee Members on Hearing: Help or Hindrance? A Review of SBA's Office of Chief Information Officer (July 12, 2017), *available at* https://smallbusiness.house.gov/uploadedfiles/7-12-17_ocio_hearing_memo.pdf.

[23] *Help or Hindrance? A Review of SBA's Office of Chief Information Officer, Hearing Before the House Comm. on Small Business*, 115th Cong. (2017) (statement of Maria Roat, Chief Information Officer, SBA).

[24] Rules of the United States House of Representatives, 115th Congress (2017), *available at* https://rules.house.gov/sites/republicans.rules.house.gov/files/115/PDF/House-Rules-115.pdf.

[25] 5 U.S.C. §§ 601-612.

Federal paperwork can also pose a substantial burden on small businesses. The amount and complexity of information collection requests can be daunting, and minor mistakes can often result in significant fines. While the federal government needs accurate information on the economy and activities of small firms, small businesses have fewer resources to absorb the paperwork burden. In addition, time spent on paperwork diverts resources from growing the business, creating jobs, and benefiting the economy as a whole.

Recognition of these challenges led Congress to enact the Paperwork Reduction Act (PRA)[26] in 1980. The PRA was revised in 1986 and 1995, and in 2002, the Small Business Paperwork Relief Act (SBPRA)[27] was enacted. Despite those efforts, the paperwork burden for small businesses continues to grow. The Committee held two hearings on the Paperwork Reduction Act, on March 29, 2017 and October 11, 2017, to evaluate the Paperwork Reduction Act and learn how paperwork burdens on small firms may be reduced.[28]

VII. Conclusion

The Committee will continue to work with SBA and Congressional appropriators to ensure that small business owners receive the services that they need to start and grow their businesses. For much of its history, the United States has formulated policies that focused on the facilitation of economic growth. As a result, most new jobs created in the United States have been generated by small businesses and about 50 percent of America works for small businesses. The Committee will do all in its power to help small businesses to compete in the ever-expanding global economy.

[26] 44 U.S.C. §§ 3501-3521.
[27] 5 U.S.C. § 601.
[28] *Evaluating the Paperwork Reduction Act: Are Burdens Being Reduced? Hearing Before the House Comm. On Small Business*, 115th Cong. (Mar. 29, 2017) and *Evaluating the Paperwork Reduction Act Part II: Are Burdens Being Reduced? Hearing Before the House Comm. On Small Business*, 115th Cong. (Oct. 11, 2017).