Principles of Federal Credit

How Government Loan Programs are Operated, Governed, and Scored

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Contact Information

Anthony Curcio
Partner
202.407.8303
Anthony.Curcio@summitllc.us
Agenda

• Summit Consulting

• Survey of Federal lending

• Federal Credit Reform Act of 1990 (FCRA)

• The role of key players, including the Office of Management and Budget (OMB) Circulars A-11 and A-129

• An overview of governing circulars

• Case studies
About Summit

- Located in Washington, D.C., Summit is an analytics advisory firm that uses quantitative techniques to model risk and evaluate program performance with 90 staff and experts.
- Summit offers an all-inclusive suite of specialized Federal Credit advisory and risk analytics services.
- I am a former member of the OMB Credit Crew, a published Federal Credit Expert, and served as a credit subsidy expert (detailee) on the House Budget Committee.
- Summit is the only firm to have worked on the three federal credit programs developed in the last ten years:
  - Department of Energy Title XVII
  - Department of the Treasury Community Development Financial Institutions (CDFI) Bond Guarantee Program
  - EPA Water Infrastructure Finance and Innovation Act (WIFIA)
## Fed Credit and Risk Analysis Services

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How many Federal Credit Programs Exist?

186 Reported Line Items

57 Unique Loan Programs

18 Managed Programs (No Longer Extending New Loans)

39 Active Programs (Currently Extending New Loans)
Major Policy Areas of Federal Credit

- Small Business
- Energy and Infrastructure
- Farm Credit
- Higher Education Credit
- Housing Credit
- International/Export
Total Lending Since 1992 Also Reveals Housing As the Largest Policy Area (excluding Ginnie Mae: 1992-2015)
Federal Credit Is Growing

The new administration may be cutting non-defense discretionary spending, but not Federal Credit!

Federal Credit Reform Act (FCRA)

- Legislation that created Federal Credit budgeting
- Brought budget parity to guaranteed and direct loan programs
- Places the cost of credit programs on a budgetary basis equivalent to other federal spending
- Places OMB at the center of the estimates:
  - “§ 503(a)-For the executive branch, the (OMB) Director shall be responsible for coordinating the estimates required by this title. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.”
  - “§ 503(b)-The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this title.”
Does FCRA Apply to the Pension Benefit Guaranty Corporation (PBGC)?

• § 506 TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS
  – “§ 506(a) IN GENERAL.-This title shall not apply to the credit or insurance activities of the FDIC, NCUA, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.”

• This exemption is pursuant to the PBGC’s role as an insurer
• It would be unprecedented if Congress were to allow a new loan program to avoid FCRA treatment
• Avoiding FCRA seems highly unlikely for a new loan program no matter which agency is chosen to administer it
• If FCRA did not apply, the fallback may be cash scoring of the full value of the loan
The Role Of OMB, The Auditors, and the Agency

**OMB**
- Retains approval authority for all credit subsidy rates
- Oversees and approves the Cash Flow Model used by each credit program

**Auditors**
- Audit Financial Statements to verify that loss reserve balances and footnotes are fairly stated and that OMB Circulars and Accounting Guidance are followed

**Agency**
- Runs the program, issues application guidelines, underwrites the applicants, monitors the loans, reports to the Congress
• **Main source of guidance for preparation of the President’s Budget**
  – Updated each July

• **Section 185 is dedicated to Federal Credit and includes guidance on:**
  – Budget formulation reporting requirements
  – Apportionment and reapportionment
  – Budget execution reporting requirements
  – Financing account interest expense and income
  – MAX schedules
OMB Circular A-129

• High-level guidance and policies for establishing Federal Credit programs
  – Last updated in January 2013 in the wake of the Solyndra default
  – Calls for greater credit risk management
• Includes guidance on:
  – Responsibilities of Departments and Agencies
  – Budget and legislative policy for credit programs
  – Credit extension and management policy
  – Managing the Federal Government’s receivables
  – Delinquent debt collection
  – Very important when standing up a new program
EPA lends up to 35 years and may finance up to 49% of project costs
Interest rates are set to equal Treasury rates of a comparable maturity and the borrower must demonstrate dedicated revenue source for repayment
Rating letters from independent rating agencies are required to establish that the applicant is Investment Grade
Loans are internally underwritten at EPA and creditworthiness is independently verified by a third-party financial advisor under contract with EPA
Overall, credit quality was high and interest rates were set at Treasury rates: OMB allowed for low scoring
Troubled Asset Relief Program, Capital Purchase Program (TARP, CPP)

- Government made an investment of 1–3% of their risk-weighted assets, up to $25 billion
- Dividends were paid at a rate of:
  - S-Corps: 7.7% the first 5 years and 13.8% for the remaining years
  - The rest paid 5% for the first 5 years, then paid 9% for the remaining years
  - This dividend/interest income represented a huge spread for the government over its cost of capital, which offset the risk of default
- Government insisted upon warrants and control over executive compensation
- Overall, the Government insisted on high repayment interest rates (triple the Treasury rate), limited each participant to $25 billion, exerted control over executive compensation and a very high initial score was still imposed by OMB
Considerations For Loan Program Proposals For Pensions

- Authorization by statute creates a program on paper, but it doesn’t ensure that loans are extended
- Historically, many authorized loan programs have been unable to make loans in a timely manner or at all
- For a loan to be made from an authorized program, applicants must demonstrate a strong source of repayment and strong collateral in the event of default. Without these features, OMB is unlikely to score the loan reasonably or even allow an obligation to occur
- Loans with concessionary borrower interest rates (< Treasury rates) are scored expensively and are even more reliant upon high credit quality as well as the ability to impose fees
• It is possible that a loan program that allows for aggressive credit assumptions can be enacted into law
• However, enactment is not the same as loan making
• Once a program is authorized, prudent credit policies must be followed
• Risk-conscious Agency and OMB officials can greatly hinder or even stop the progress of any loan deemed too risky

Be sure that any proposal that is pushed can survive a rigorous credit test, otherwise, it may be a waste of time