



April 6, 2011

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Thank you for your response to my letter of Feb. 8, 2011, which objected to SBA's sponsorship of a study by Dr. Nicole Crain and Dr. Mark Crain, *The Impact of Regulatory Costs on Small Firms*.<sup>1</sup> As you will recall, our objection was based on the fact that the public does not have access to the data, equations, assumptions, extrapolations, and calculations that are necessary to understand and verify the methodologies, data, and assumptions that were employed in report.

You respond, "[T]he data used in the report are publicly available and fully documented in the report" and that you "therefore believe [our] concern over the quality of the report's conclusions or the availability of the data unwarranted." But even a quick look at the report verifies that it is impossible to replicate the calculations that were undertaken based on the data provided in the report. As you well know, the gold standard of scientific research is whether someone else can replicate the results using the same data.

Since SBA cannot verify the results of the report in any way, not even to check its arithmetic, you appear to be relying on your peer review process to ensure the reliability of the report. But, as we stated in the original letter, of the two peer reviews, one raised a significant criticism about a fundamental aspect of the report, to which the authors did not respond, and the other offered an eight-word review. Your letter offers an additional, and frankly not very reassuring, insight: that SBA "offered the study for review to a number of individuals with expertise in regulatory cost-benefit analysis, including former heads of Federal regulatory agency economic analysis offices and academics who have published in the field." Evidently you sent the report to a number of individuals for peer review, but it is not clear that any responded. SBA apparently takes their silence as approval, but we are not prepared to make this leap of faith.

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<sup>1</sup> NICOLE V. CRAIN & W. MARK CRAIN, THE IMPACT OF REGULATORY COSTS ON SMALL FIRMS (2010), available at <http://www.sba.gov/sites/default/files/rs371tot.pdf>.

After the official at SBA who was responsible for contracting with Professors Crain and Crain told us that your agency did not have the information that we were seeking, we asked them for it. They eventually responded by sending us several spreadsheets that contained hundreds of numbers, but they made no effort to indicate to what these rows and columns of data refer or how they relate to the study. Such disclosure falls far short of what responsible researchers do. Responsible scientists do not expect others to put together a 5,000-piece jigsaw puzzle in which each and every piece is a blank containing no picture on the top.

In short, it remains impossible to verify the data and calculations used in the report, forcing the conclusion that it fails any reasonable standard of transparency for a product bearing the imprimatur of a government agency. That is particularly distressing because the conclusions of the report are so severely at odds with other efforts to calculate the costs (and benefits) of federal regulation. I recognize that the Office of Advocacy has a unique and broad charter, but I am certain you will agree that it has an obligation to use taxpayer dollars to present facts in a straightforward, even-handed way and to do so with a healthy respect for the public's right to know.

I therefore:

- Renew my request that SBA withdraw its sponsorship of the report until the agency makes available to the public the data, equations, assumptions, extrapolations, and calculations that are necessary to understand and verify the methodologies, data, and assumptions that were employed in the report;
- Ask that you provide a complete list of the people who you asked to peer review the draft report, a copy of the draft they were sent, and any responses you received beyond the two peer reviews that SBA has identified.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Sidney A. Shapiro', with a stylized flourish at the end.

Sidney A. Shapiro  
Associate Dean for Research and Development,  
Wake Forest University School of Law  
Vice-President, Center for Progressive Reform