



HOUSE COMMITTEE ON
SMALL BUSINESS
CHAIRMAN ROGER WILLIAMS

EST. 1941

BUREAUCRATIC MISMANAGEMENT:

INSIDE THE SBA'S DECISION TO END COLLECTIONS ON NEARLY A QUARTER OF ITS COVID-19 LENDING PORTFOLIO

**The House Committee on Small Business
Staff Report 2024**

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Executive Summary

The COVID-19 pandemic ravaged America's economy and subjected small businesses to aggressive government shutdowns, inflation, supply chain shortages, and sale restriction on goods and services. Small business owners struggled to pay their employees and rent as restrictions were put on their operations by federal, state, and local mandates. In an effort to provide relief, the federal government passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), American Rescue Plan Act (ARPA), and other legislation creating four pandemic funding programs intended to support small businesses: the Paycheck Protection Program (PPP), COVID-19 specific Economic Injury Disaster Loans (COVID EIDL), the Restaurant Revitalization Fund (RRF), and the Shuttered Venue Operational Grants (SVOG), each managed by the Small Business Administration (SBA).¹

The value and size of these programs compared to those the SBA had previously managed is astronomical. For example, the SBA approved \$1.1 billion in disaster loans in response to hurricanes Harvey, Irma, and Maria combined.² For the pandemic programs, the SBA managed nearly \$1.2 trillion. The SBA executed over 14 years' worth of lending in just the first 14 days of the PPP and COVID EIDL programs, exponentially more work than the agency had ever previously had to handle.³ The SBA was stretched incredibly thin as it began to service the resulting behemoth pandemic lending portfolio while simultaneously attempting to recoup the reported \$200 billion in potential fraud associated with those programs.

By the time the COVID EIDL program closed, the SBA had processed approximately 4 million loans totaling just under \$390 billion. The PPP distributed approximately 11.5 million loans totaling nearly \$800 billion (potentially) forgivable loans to small businesses. Out of these almost \$1.2 trillion pandemic loans, there were about \$228.7 billion worth of PPP and approximately \$70.9 billion worth of COVID EIDL loans valued at \$100,000 or less —totaling roughly \$299.6 billion.⁴

In a momentous decision, in April 2022, the SBA wrote a memorandum stating that it was “ending collections” on delinquent PPP and COVID EIDLs valued at \$100,000 or less using its authority under the Debt Collection Improvement Act (DCIA).⁵ The House Committee on Small Business (Committee) launched an investigation into this decision on March 15, 2023. While PPP loans were designed to be forgiven, COVID EIDLs were always meant to be repaid. In response to the investigation, the SBA claimed that this decision was not meant to end collections, as the memo stated, but rather was a decision to not refer these loans to the Department of Treasury (Treasury) for offset and cross servicing.

This Committee heard repeatedly over the course of this investigation that the SBA's estimated recovery of these loans would be “nearly zero” even if it were to use all available measures to pursue them.⁶ Yet, time and again, the SBA failed to provide convincing arguments for this decision to either the SBA's Office of Inspector General (OIG) or this Committee. While the SBA, through subsequent analyses produced to the Committee, bolstered its cost benefit analysis for PPP, it never provided an adequate cost-benefit analysis on the decision to end collection on COVID EIDLs valued at 100,000 or less.

In the face of immense pressure from this Committee, the SBA reversed this decision and notified the Committee on December 28, 2023, of its intention to begin referring these loans to Treasury for offset and cross servicing. While the SBA reversing this policy brings the agency back in line with the DCIA, the decision-making and lack of accountability to the taxpayer is alarming.

Over the course of the 18-month investigation, the Committee sent letters to Treasury, the Office of Management

¹ Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (2020); American Rescue Plan Act of 2021, Pub. L. 117-2 (2021).

² U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 20-12, SECOND WHITE PAPER: RISK AWARENESS AND LESSONS LEARNED FROM AUDITS AND INSPECTIONS OF ECONOMIC INJURY DISASTER LOANS, 2 (Apr. 3, 2020).

³ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 23-09, COVID-19 PANDEMIC EIDL & PPP LOAN FRAUD LANDSCAPE, 3 (Jun. 27, 2023).

⁴ U.S. Small Bus. Admin., Office of the Inspector Gen., Rep. 23-16, Ending Active Collections on Delinquent COVID-19 Economic Injury Disaster Loans, 1 (Sept. 29, 2023).

⁵ Memorandum, from Jihoon Kim, Director, Office of Fin. Program Operations, U.S. Small Bus., Admin. to Isabella Casillas Guzman, Admin., U.S. Small Bus. Admin. (Apr. 5, 2022) (on file with Committee).

⁶ See e.g. Memorandum, from Jihoon Kim, Director, Office of Fin. Program Operations, U.S. Small Bus., Admin. to Isabella Casillas Guzman, Admin., U.S. Small Bus. Admin. (Apr. 5, 2022) (on file with Committee).

and Budget (OMB), and the SBA seeking information and documents on this matter. The Committee also attended two briefings with SBA staff and conducted one transcribed interview to gather information. In addition, Committee staff visited the SBA's loan servicing facility in California to better understand how it was processing delinquent debt. Throughout this investigation, the SBA slow rolled productions and ignored the Committee's requests, leading the Committee to issue its first subpoena for documents in more than a decade.

According to Treasury guidance, the ability of an agency to collect delinquent debt will generally decrease as the debt ages. In deciding to forgo collections on these loans, the SBA allowed these debts to further age and ceased the government's ability to retrieve taxpayer funds. This poor decision-making cost the taxpayer millions of dollars. This report will review the Committee's investigation into the SBA's disastrous decisions regarding delinquent debt in the PPP and COVID EIDL portfolios and explore potential solutions to ensure the SBA is a proper steward of taxpayer funds moving forward. The Committee's investigation revealed a few key weaknesses in making this decision to end collections of these pandemic portfolios.

Finding 1: The SBA lacked proper analysis of both PPP and COVID EIDL portfolios in its initial decision to end collection on subject loans valued at \$100,000 or less.

Finding 2: The SBA conducted subsequent analyses on PPP but did not conduct subsequent analysis of the COVID EIDL portfolio, in violation of the DCIA.

Finding 3: The SBA's decision not to sell all or portions of the COVID EIDL portfolio lacked sufficient justification, expanded the SBA beyond its capabilities, and will cost taxpayers billions of dollars over the next 30 years.

Finding 4: The SBA failed to appropriately cooperate with legitimate Congressional oversight efforts.

I. Background

a. Summary of PPP and COVID EIDL

The Small Business Act authorizes the SBA to make EIDLs to eligible small businesses and nonprofit organizations located in disaster areas.⁷ On March 6, 2020, Congress designated COVID-19 as a disaster in Title II of the Coronavirus Preparedness and Response Supplemental Appropriations Act of 2020, allowing the SBA to make EIDLs available to small businesses and nonprofit organizations suffering substantial economic injury as a result of the COVID-19 pandemic.⁸

The CARES Act, signed into law on March 27, 2020, provided \$349 billion to create the PPP under Section 7(a) of the Small Business Act.⁹ Through additional legislation, the total program funding increased to \$813.7 billion.¹⁰ The CARES Act also: (a) expanded eligibility and waived certain rules and requirements for COVID EIDLs; (b) permitted the SBA to waive rules related to personal guaranties on COVID EIDLs of not more than \$200,000 and the requirement that an applicant be unable to obtain credit elsewhere; and (c) provided the SBA with the authority to approve applicants based solely on their credit score or use alternative appropriate methods to determine an applicant's ability to repay.¹¹

Given the urgent need for money to reach small businesses, speed was prioritized over security; eligibility was expanded, and risk controls reduced in funding these loans. Standard measures in place to ensure that applicants were legitimate and that the loans could be repaid were forgone in order to get the money out the door quickly to struggling businesses. This resulted in an unprecedented amount of fraud across pandemic lending programs, and an absence of traditional methods used to ensure repayment.

The PPP ran from April 3, 2020, to May 31, 2021.¹² The SBA was not the direct lender for the PPP as it was with the COVID EIDL program. Instead, prospective borrowers could submit applications to intermediary lenders with the understanding that: (a) the loan would be fully guaranteed by the SBA, meaning that the SBA would purchase the loan if it became delinquent and the lender complied with all applicable PPP requirements; and (b) if PPP rules were properly followed, loans would be eligible for forgiveness. The final value of the PPP portfolio was approximately \$800 billion.¹³ Borrowers have up to five years to submit an application for forgiveness.

The COVID EIDL program stopped accepting applications on January 1, 2022.¹⁴ The SBA approved approximately 4.05 million COVID EIDLs totaling roughly \$387 billion.¹⁵ Unlike PPP, COVID EIDLs were not designed to be forgiven, and the SBA was the direct lender. COVID EIDLs were low-interest fixed-rate 30-year loans carrying a 3.75 percent fixed interest rate for businesses and a 2.75 percent fixed rate for private nonprofit organizations.¹⁶ As of May 6, 2022, the SBA had exhausted all COVID EIDL funds and stopped accepting requests for loan increases.¹⁷ The maximum loan amount for COVID EIDLs fluctuated after the program started due to budgetary concerns.¹⁸ Some key maximum limit changes include:

- a. On May 3, 2020, the SBA set the maximum loan amount for a COVID EIDL to \$150,000;
- b. On March 24, 2021, the SBA increased the maximum loan amount from \$150,000 to \$500,000 (effective

⁷ 15 U.S.C. 636(b)(2).

⁸ Coronavirus Preparedness and Response Supplemental Appropriations Act, Pub. L. 116-123 (2020).

⁹ U.S. Small Bus. Admin., Office of the Inspector Gen., Rep. 22-25, SBA's Guaranty Purchases for Paycheck Protection Program Loans, 1 (Sep. 30, 2022); Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (2020).

¹⁰ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 22-25, SBA'S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 1 (Sep. 30, 2022); American Rescue Plan Act of 2021, Pub. L. 117-2 (2021).

¹¹ Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (2020).

¹² U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 22-25, SBA'S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 1 (Sept. 30, 2022).

¹³ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 24-01, TOP MANAGEMENT AND PERFORMANCE CHALLENGES FACING THE SMALL BUSINESS ADMINISTRATION IN FISCAL YEAR 2024, 2-3 (Oct. 16, 2023).

¹⁴ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 23-16, ENDING ACTIVE COLLECTIONS ON DELINQUENT COVID-19 ECONOMIC INJURY DISASTER LOANS, 1 (Sep. 29, 2023).

¹⁵ *Id.*

¹⁶ *About COVID-19 EIDL*, SMALL BUS. ADMIN. (last visited Dec. 6, 2023), <https://www.sba.gov/funding-programs/loans/covid-19-relief-options/covid-19-economic-injury-disaster-loan/about-covid-19-eidl#id-loan-details>.

¹⁷ BRUCE R. LINDSAY, ET. AL, CONG. RESEARCH SERV., R47509, SBA COVID-19 EIDL FINANCIAL RELIEF: POLICY OPTIONS AND CONSIDERATIONS, 2 (Apr. 18, 2023).

¹⁸ *Id.* at 4.

- as of April 6, 2021); and
- c. On September 8, 2021, the SBA increased the COVID EIDL maximum loan amount from \$500,000 to \$2 million (effective as of October 8, 2021).¹⁹

Repayment for COVID EIDLs was deferred for a total of 30 months, meaning the earliest loans (those approved in April 2020) did not become due until October 2022. COVID EIDLs of \$25,000 or greater required the borrower to provide collateral, including filing a Uniform Commercial Code (UCC) security interest which typically expires after five years.²⁰ COVID EIDLs valued at \$200,000 or more required personal guarantees from all individuals and entities owning 20 percent or more of the applicant business.²¹ COVID EIDLs valued at \$500,000 or more required a security agreement on business assets and real estate owned by the business.²²

b. SBA delinquent debt procedures generally

Under ordinary circumstances, initial measures for the SBA to obtain loan repayment include sending notices of amounts due, phone calls, and then alerting borrowers when payments become delinquent. After loans become delinquent and go into default, the agency attempts liquidation actions.

Disaster Loan Life Cycle Prior to Charge-Off/Liquidation

Delinquent Loan Servicing Timeline

- A. 11 to 59 Days Delinquent:** Resolution of the account is attempted by a combination of the IVR, Predictive Dialer, Call Center Staff, and Designated Staff. The Automatic Message System (AMS) generates the AMS/Collection Letter and automatically updates the electronic General Login System (CAFS), and the IVR system contacts the borrower(s) weekly.
- B. Computer Generated Letters are issued on a timeframe:**
 - i. 25 Days Delinquent:** AMS Code 21 Letter
 - ii. 40 Days Delinquent:** AMS Code 22 Letter
 - iii. 60 Days Delinquent:** AMS Code 24 Letter
 - iv. Due Process Notice:** Sent to all Obligor(s) at 60 Days Delinquent if not previously sent on the account within the preceding 18 months
- C. 90 to 120 days Delinquent:** Continued collections by designated team members in addition to supplementary systems. If no resolution, a recoverable value review will be completed to assess future collection steps such as charge-off or transfer to liquidation. Continued phone and collection call efforts continue at the servicing center until delinquency is resolved.



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If a borrower defaults, the SBA can request the collateral. For the regular SBA EIDL program, the loan moves from regular servicing to liquidation. The SBA Disaster Loan Servicing Center in Santa Ana, CA, then manages the loan. Liquidation efforts can include phone calls, negotiations for repayment, Hardship Accommodation Plans (HAPs), and collecting and selling collateral, to the extent it exists.

Once a loan is more than 120 days delinquent, it is eligible for charge-off. A charge-off is an administrative action whereby a loan is reclassified to “charge-off” status, meaning the outstanding balance of the loan is removed from the agency’s accounting records.²⁴ When a loan is charged off, the SBA issues a 1099-C notifying the IRS of the cancelled debt.

¹⁹ *Id.*
²⁰ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 23-16, ENDING ACTIVE COLLECTIONS ON DELINQUENT COVID-19 ECONOMIC INJURY DISASTER LOANS, 1 (Sep. 29, 2023); Letter from Kathryn Frost, Acting Associate Administrator, Office of Capital Access, U.S. Small Bus. Admin., to Roger Williams, Chairman, H. Comm. on Small Bus., 3 (Nov. 1, 2023); Section 1110(c) of the CARES Act required blanket UCC collateral for COVID-EIDLs \$25,000 - \$200,000, rather than any of the personal responsibility measures in the SBA’s non-COVID EIDL programs.
²¹ Letter from Kathryn Frost, Acting Associate Administrator, Office of Capital Access, U.S. Small Bus. Admin., to Roger Williams, Chairman, H. Comm. on Small Bus., 1 (Nov. 1, 2023).
²² *Id.*
²³ On File with Committee.
²⁴ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 22-25, SBA’S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 1 (Sep. 30, 2022).

The loan is then referred to Treasury’s Bureau of Fiscal Service for collection through its two delinquent debt programs, the Treasury Offset Program and the Cross-Servicing Program. In Treasury Offset, delinquent debt is collected through funds that are due to the delinquent borrower from government sources, such as tax refunds and wages and payments if the borrower is a government employee or contractor.²⁵ The Cross-Servicing program collects delinquent debt using a variety of methods, such as wage garnishment, negotiated repayment, and use of private collection agencies.²⁶ Treasury may also take action to prevent borrowers from receiving additional federal financial assistance.²⁷

Given that the SBA was the direct lender for the COVID EIDL program, but not the PPP, the SBA’s responsibility for collection measures differs between the two programs. However, the general pathway of a loan is the same, regardless of which party is responsible for the initial collection attempts and servicing the loan. The SBA provided the following collection steps for both PPP and COVID EIDL. The SBA told Committee staff that it was performing all except the last step— nine and 14 for PPP and COVID EIDL, respectively.

SBA Collection Cycle – PPP

SBA follows nine steps in the collection cycle for delinquent loans

1. End of Forgiveness Period (Step 1 conducted by PPP Lender)
 - PPP Lender works with Borrower to seek forgiveness
 - PPP Lender to collect payments from Borrower for amounts not forgiven
 - PPP Lender issues billing notices and Past Due/Delinquent notices (e.g., emails, calls, letters)
2. 60 Days Delinquent – Demand payment (Step 2 conducted by PPP Lender)
 - PPP Lender to make demand on Borrower for payment in full
 - PPP Lender can simultaneously request guaranty purchase and charge off from SBA due to Borrower default
3. 60 Days Delinquent – **SBA guaranty purchase**
4. 60 Days Delinquent – **Charge off**
5. 60 Days Delinquent – **Due Process Notice** is created and sent by mail to the borrower
6. 120 Days Delinquent – Borrower added to **credit bureau reporting**, negatively impacting credit score
7. 120 Days Delinquent – Borrower **flagged in CAIVRS**, preventing future federal assistance
8. 120 Days Delinquent – Borrower **reported to IRS** (1099)
9. 120 Days Delinquent – Borrower **referred to Treasury for Offset and Cross Servicing**



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²⁵ *Id.* at 2.

²⁶ *Id.*

²⁷ *Id.*

SBA Collection Cycle – COVID-EIDL Loans

SBA follows fourteen steps in the collection cycle for delinquent loans

1. 25 Days Delinquent – **Past Due Notice** is created and sent
2. 30 Days Delinquent – Weekly automated payment reminder calls begin
3. 40 Days Delinquent – Past Due Notice is created and sent
4. 60 Days Delinquent – Past Due Notice is created and sent
5. 60 Days Delinquent – **Due Process Notice** is created and sent by mail to the borrower and guarantors.
6. 60 Days Delinquent – Twice weekly automated payment reminder calls begin
7. 75 Days Delinquent – **Demand and Acceleration Letter** is created and sent
8. 90 Days Delinquent – **Past Due Notice** is created and sent
9. 90 Days Delinquent – Three times weekly automated payment reminder calls begin
10. 120 Days Delinquent – **Charge off**
11. 120 Days Delinquent – Borrower added to **credit bureau reporting**, negatively impacting credit score
12. 120 Days Delinquent – Borrower **flagged in CAIVRS**, preventing future federal assistance
13. 120 Days Delinquent – Borrower **reported to IRS (1099)**
14. 120 Days Delinquent – Borrower **referred to Treasury for Offset and Cross Servicing**



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The main difference between collection for regular EIDLs and collection for COVID EIDLs was the SBA’s lack of liquidation attempts and ending Treasury referrals. The SBA repeatedly told the Committee that it was doing “all other steps” in the delinquent debt process outlined in the slide above “except referral to Treasury.”

As a credit-granting agency, the SBA is obligated to follow the steps required by the DCIA and take the following actions if a borrower has a loan that they are unable to repay:

- a. Report delinquent debts to credit bureaus;
- b. refer to Treasury eligible debts more than 180 days delinquent that the agency has been unable to collect; and
- c. bar debtors from receiving federal direct, guaranteed, or insured loans until their delinquent debts owed to the United States are resolved.²⁸ Also, federal debts determined by an agency to be uncollectible should be closed out and reported to the IRS as potential taxable income to the debtor in the form of a 1099-C.²⁹

²⁸U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 23-16, ENDING ACTIVE COLLECTIONS ON DELINQUENT COVID-19 ECONOMIC INJURY DISASTER LOANS, 1-2 (Sep. 29, 2023).

²⁹ Debt Collection Improvement Act (DCIA), 31 U.S.C. § 3711(2023).

II. Decision not to collect on pandemic loans worth \$100,000 or less

a. The SBA's Failure to effectively evaluate and justify its decision to end collections under the DCIA.

1. Decision to End Collections

On April 5, 2022, SBA staff sent a memo to Administrator Guzman approving the decision to “end collection on delinquent purchased PPP Loans with an outstanding principal balance of \$100,000 or less...and to end collection and abandon collateral on delinquent COVID EIDL Loans with an original loan balance amount of \$100,000 or less.”³⁰ On March 15, 2023, the Committee launched a formal investigation into the SBA’s decision to end collection on delinquent PPP and COVID EIDLs valued at \$100,000 or less. For PPP, approximately 10.1 million loans, totaling \$228.7 billion, are valued at \$100,000 or less. For COVID EIDL, three million loans totaling \$70.9 billion are worth \$100,000 or less.



To: Isabella Casillas Guzman, Administrator
Through: [REDACTED]
From: [REDACTED]
Date: April 5, 2022
Subject: Ending Collection on Delinquent Unsecured Purchased Paycheck Protection Program Loans (PPP Loans) with an outstanding principal balance of \$100,000 or Less - Excluding Interest, and Delinquent Economic Injury Disaster Loans Made in Response to the COVID-19 Pandemic (COVID-EIDL Loans)¹ with an Original Loan Balance Amount of \$100,000 or Less - Excluding Interest

I. Statement - Ending Collections and Abandoning Collateral on Delinquent Loans of \$100,000 or Less (Excluding Interest)

In anticipation of a vast number of delinquent purchased PPP Loans and COVID-EIDL Loans beginning at the termination of deferment this year, the U.S. Small Business Administration (SBA) is documenting approval of its decision to end collection on delinquent purchased PPP Loans with an outstanding principal balance of \$100,000 or less - excluding interest, and to end collection and abandon collateral² on delinquent COVID-EIDL Loans with an original loan balance amount of \$100,000 or less - excluding interest (collectively, the Subject Loans).³ The decision to end collection and to abandon collateral allows for a streamlined charge-off process of the Subject Loans, with no referrals to Treasury.

According to the April 2022 memo shown above, the “SBA will **not** take collection action, **including** referral to Treasury on the Subject Loans [PPP loans and COVID EIDLs of \$100,000 or less] because the SBA has determined that such efforts are inequitable and not cost-effective.”³¹ While PPP loans were always expected to be forgiven, COVID EIDLs were not. The PPP and COVID EIDLs valued at \$100,000 or less amount to approximately \$299.6 billion.³²

For COVID EIDL, the memo states that the “SBA will send out demand letters for delinquent COVID EIDL Loans and thereafter terminate collections on any that remain delinquent greater than 90 days.”³³ However, the SBA continuously

³⁰ Letter from Jihoon Kim, Director, Office of Financial Program Operations, U.S. Small Bus. Admin., to the Honorable Isabella Casillas Guzman, Administrator, U.S. Small Bus. Admin (Apr. 5, 2022).

³¹ Debt Collection Improvement Act (DCIA), 31 U.S.C. § 3711(i)(2)(2023). The SBA typically refers loans to Treasury after a loan is delinquent for 120 days, but the DCIA allows for up to 180 days.

³² SMALLBUS.ADMIN.OFFICEOFINSPECTORGEN., REP. NO. 23-16, ENDING ACTIVE COLLECTIONS ON DELINQUENT COVID-19 ECONOMIC INJURY DISASTER LOANS (Sept. 29, 2023).

³³ Letter from Jihoon Kim, Director, Office of Financial Program Operations, U.S. Small Bus. Admin., to the Honorable Isabella Casillas Guzman, Administrator, U.S. Small Bus. Admin (Apr. 5, 2022).

argued that this never meant that it “ended” collections, rather the SBA was simply not referring these loans to Treasury for cross servicing and offset. Yet, it is clear through emails produced to the Committee, even at the time of the decision, SBA loan servicing center staff read the memo and understood that the practical implementation meant that they would not expect anyone to pay if their loan was less than \$100,000. Furthermore, terminating collections after 90 days, without referral to Treasury, suggests the SBA’s last remaining step would be to charge off these loans. This is not meaningfully different than ending collections.

From: Kim, Jihoon <jihoon.kim@sba.gov>

Sent: Thursday, April 28, 2022 10:22 AM

To: [REDACTED]

Subject: RE: FINALCLOSEOUT - 830098 - Ending Collection on Delinquent COVID (Intranet Quorum IMA00230971)

We will not be releasing this to public. Thanks

From: [REDACTED]

Sent: Thursday, April 28, 2022 10:57 AM

To: Kim, Jihoon <jihoon.kim@sba.gov> [REDACTED]

Subject: RE: FINALCLOSEOUT - 830098 - Ending Collection on Delinquent COVID (Intranet Quorum IMA00230971)

Thanks Jihoon. For understanding as I haven't seen this previously, do we expect that when lenders know this for PPP they will be pushing through a lot more purchases especially for those with remaining balances? Also, is this going to be public information for COVID EIDL loan recipients...so that once their loan balance is less than \$100k, and there was no real estate collateral they may stop paying?

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The SBA claims this policy decision was permitted under the DCIA. Federal Claims Collection Standards require agencies to pursue all appropriate means of collection and determine, based on these efforts, that the debt is uncollectible before terminating collection of a claim.³⁵ However, the vast majority of the subject loans were not due at the time of this decision, thus, the SBA had not yet had the opportunity to pursue any collection action on these loans at all. Further the OIG found no evidence that the SBA made any attempts to collect on PPP loans.³⁶ When purchasing the PPP loans in July 2021, the SBA did not take any actions against the borrowers to try recoup the lost funds.³⁷ The SBA delegated collection efforts to the lenders, however, the OIG found no evidence that the SBA had a formal process to review lender compliance with collection activities, even though the SBA is ultimately responsible for ensuring that adequate collection efforts were in place and pursued. Nonetheless, the SBA decided to continue with its decision to “end collections.”

The DCIA allows agency heads to suspend or end collections on claims of not more than \$100,000 under limited circumstances. This is allowable only when it appears that either (a) no person liable on the claim has the present or prospective ability to pay a significant amount of the claim, or (b) when it appears that the cost of collecting the claim is likely to be more than the amount recovered.³⁸ As it relates to the COVID EIDL portfolio, it appears that neither of these circumstances could have been applicable when the decision to end collections by the SBA was made. The SBA released its memo in April of 2022, when majority of COVID EIDLs were still in deferment.³⁹ Therefore, it would be questionable for the SBA to make a sound determination about the borrowers’ ability to repay the debt when so few people had been required to repay their loans yet.

This would mean that the SBA focused solely on the second part of that law in making this decision—the cost to collect appears to be more than the expected recovery. While the statute does not specify the exact parameters of a cost

³⁴ On File with Committee.

³⁵ Termination of Collection Activity, 31 C.F.R. §903.3 (2023).

³⁶ SMALL BUS. ADMIN. OFFICE OF INSPECTOR GEN., SBA OIG 23-16, SBA’S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 3 (Sept. 30, 2022).

³⁷ *Id.*

³⁸ SMALL BUS. ADMIN. OFFICE OF INSPECTOR GEN., SBA OIG 23-16, ENDING ACTIVE COLLECTIONS ON DELINQUENT COVID-19 ECONOMIC INJURY DISASTER LOANS, 1 (Sept. 29, 2023).

³⁹ SMALL BUS. ADMIN. OFFICE OF INSPECTOR GEN., SBA OIG 23-16, ENDING ACTIVE COLLECTIONS ON DELINQUENT COVID-19 ECONOMIC INJURY DISASTER LOANS, 1 (Sept. 29, 2023).

benefit analysis, the Office of Management and Budget (OMB) provides guidance for agencies to ensure proper analyses are conducted. OMB Circular A-94—which specifically applies to benefit-cost or cost-effectiveness of Federal policies—states that analyses should include comprehensive estimates both of the expected benefits and costs and the following elements:

- a. **Policy rationale** should be clearly stated.
- b. Analyses should be explicit about the **underlying assumptions** used to arrive at estimates of future benefits and costs. The analysis should include a statement of the assumptions, the rationale behind them, and a review of their strengths and weaknesses as appropriate.
- c. Analyses should also consider **alternative means** of achieving project objectives to the extent feasible and appropriate. Analyses should include estimates of benefits and costs of each alternative considered.
- d. **Retrospective studies** to determine whether anticipated benefits and costs have been realized. Such studies can be used to determine necessary corrections in existing programs and to improve future estimates of benefits and costs in these programs or related ones.
- e. As appropriate, to encourage **transparency**, agencies should seek to make available to the public their methods, data sources, and analytic choices on individual projects.⁴⁰

The Committee’s investigation found that the April 2022 memo contained insufficient analyses to justify the decisions for both PPP and COVID EIDL and it did not comply with the OMB Circular A-94 guidance presented above:

- a. As a **policy rationale**, both for PPP and COVID EIDL, the SBA justified its actions by claiming it would be inequitable to pursue active collection on these loans because it would unfairly punish sole proprietors in comparison to larger businesses with a corporation shield.⁴¹ The SBA offers no quantitative statistics comparing these types of entities. The SBA did not provide a breakdown of individual and corporate borrowers, nor any assessment of the effect on each type of borrower, thus, there was no data provided showing this would result in inequitable treatment because.
- b. For PPP, the **underlying assumptions** were based on the cost estimate. The SBA estimated the costs would be \$7.8 million per year for Treasury referrals only and that recovery would be nearly zero from corporate borrowers due to lack of personal liability. The rationale was that the cost to pursue collections was likely to be more than the recovered amount. However, the SBA lacked comprehensive analysis of these estimates—thus the rationale was insufficient. Further, the SBA rationalized that because loans are unsecured, the SBA is unlikely to be able to collect on them. However, the only estimate was about corporate borrowers. Additionally, while unsecured loans are undoubtedly harder to collect, there was no analysis done that would look at ways it could be done to maximize return to the taxpayers. For the COVID EIDL, the **underlying assumptions** were based on costs. The SBA estimated cost would be \$250 million per year for servicing and Treasury referrals. As a rationale, the SBA relied on a private sector consultant’s calculation the SBA hired to estimate the cost for servicing and Treasury referrals.⁴² However, this estimate does not reflect that the size and servicing demands of the portfolio decrease over time as loans are repaid, defaulted loans are written off as uncollectible, and collection actions are transferred to Treasury. Thus, the costs were inflated and collections underestimated.

As for the PPP loans, the SBA estimated that the recovery for COVID EIDLs would be nearly zero from corporate borrowers—which make up about half of the 3 million borrowers—due to lack of personal liability. The rationale was that the loans are unsecured and unlikely to recover on UCC collateral. However, there was no evidence to support the claim that unsecured loans are unlikely to recover on UCC collateral, nor was there an attempt to establish how to best recover on these unsecured loans. Further, the only estimate was on corporate borrowers.

⁴⁰ Office Of Mgmt. & Budget, Exec. Office of The President, OMB Circular A-94, Memorandum for Heads of Executive Departments and Establishments, (revised, Nov. 9, 2023.)

⁴¹ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 22-25, SBA’S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 4 (Sep. 30, 2022).

⁴² THE WILLIAM ADLEY REPORT FOR THE U.S. SMALL BUS. ADMIN., CARES ACT BPA—TASK ORDER 4, EIDL-COVID PORTFOLIO SERVICING ANALYSIS, TASK 2: ANALYSIS OF ALTERNATIVES REPORT (Including updates to cash flow assumptions), 7 (Sep. 29, 2021).

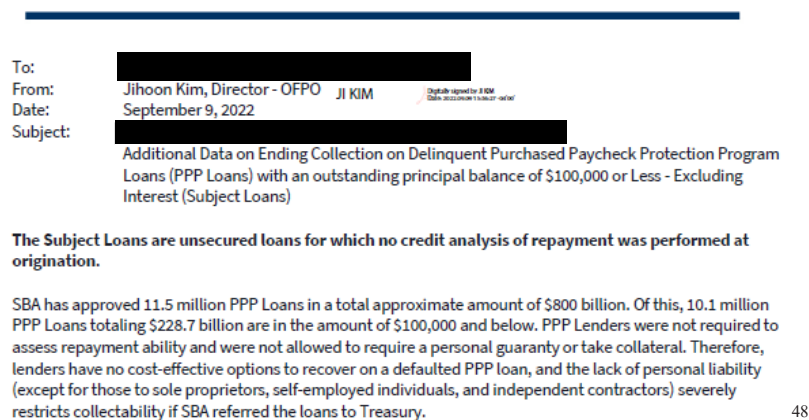
- c. The OIG found no evidence the SBA sufficiently considered **alternative collection** options for PPP and there is no **alternative means** mentioned for COVID EIDLs.
- d. The SBA has conducted **retrospective studies** for PPP but has failed to do so for COVID EIDLs.
- e. The SBA has not been **transparent** about its analysis regarding either PPP or COVID EIDLs.

On September 29, 2022, the OIG released a report that the SBA’s analysis provided insufficient justification for the decision for PPP. The OIG stated:

Based on our review of SBA’s documentation to support ending collections on PPP loans, we determined that SBA’s **analysis conducted in April 2022 was not comprehensive to sufficiently support that the cost to pursue collections on PPP loans valued at \$100,000 or less was likely more than the recovery amount.** Specifically, SBA did not include comprehensive estimates of the expected costs and benefits for PPP collections as recommended by Office of Management and Budget (OMB) Circular A-94.⁴³

The OIG detailed how the SBA failed to analyze quantitative data of the potential cost of collecting PPP loans nor did the SBA assess any estimated recovery amounts for sole proprietors. These factors, according to the OIG, are needed to “substantiate that the cost to pursue collections on PPP loans valued at \$100,000 or less was likely more than the recovery amount and a potential break-even point.”⁴⁴ Perhaps most concerning is the SBA telling the OIG that it “did not prepare a formal written cost-benefit analysis...they informally discussed key factors.”⁴⁵ Further, to the argument of equity, the OIG found that the “SBA’s analysis did not support equitable treatment as it did not provide any specific data on the breakdown of individual and corporate borrowers nor any quantitative assessment of effect to each type of borrower.”⁴⁶

On September 9, 2022, about five months after the initial decision to end collection on delinquent loans of \$100,000 or less, the SBA circulated an internal memo that provided additional data on ending these collections. The Committee reviewed this memo *in camera* on October 11, 2023, and the SBA provided the actual memo to the Committee on November 3, 2023. Unfortunately, this September 2022 memo is not only based on a flawed comparison to the SBA Express Loan Program (Express), but it also turns solely on analysis of the PPP and provides no reliable evidence for comparison to the COVID EIDL program. The SBA claims that “lenders have no cost-effective options to recover on a defaulted PPP loan, and the lack of personal liability... severely restricts collectability if SBA referred the loans to Treasury.”⁴⁷



⁴³ *Id.*
⁴⁴ *Id.*
⁴⁵ *Id.* at 4.
⁴⁶ *Id.* at 5.
⁴⁷ Memorandum from Jihoon Kim, Director, Office of Financial Program Operations, U.S. Small Bus. Admin., to Patrick Kelley, Associate Administrator, U.S. Small Bus. Admin, 1 (Sept. 9, 2022).
⁴⁸ SMALL BUS. ADMIN. OFFICE OF INSPECTOR GEN., SBA OIG 23-16, SBA’S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 5 (Sept. 30, 2022).

The OIG found that the memo was “not comprehensive and did not sufficiently support SBA’s conclusion that the costs to collect would exceed recoveries.”⁴⁹ Particularly because, while the SBA identified borrowers who would be liable for debt, it “never attempted to collect on these purchased PPP loans or ensured lenders pursued collection” making it unclear how the SBA determined that it did not have the ability to pay a significant amount of the debt.⁵⁰

The SBA noted in the memo that it delegated all PPP collection efforts to lenders—as stated in SBA rules, regulations, and procedures.⁵¹ However, as discussed below, the SBA failed to oversee these lenders’ activities and to ensure that lenders’ collections attempts were sufficient. Failing to oversee lenders’ activities is another reason this memo is flawed; it adds to the inaccuracy of the cost benefit analysis since the SBA did not ensure that the lenders efficiently attempted to collect on the subject loans. The SBA concluded that “[t]he obligation to make demand on the defaulted debt was already met by the PPP Lender.”⁵² However, as the OIG found, the lenders’ demand letters were not always adequate, thus the obligation was not met.⁵³

The SBA claimed that the costs to collect on subject loans would exceed recovery. Due to lack of personal liability, the SBA expected the recovery amount through Treasury referral from corporate borrowers to be nearly zero. Additionally, according to the memo, lack of funds on a failed business and competing priority lien creditors diminish collection on individual borrowers. The SBA also took into account the PPP loans forgiveness in analyzing the recovery and expected that at least 10 percent of remaining PPP loans will be forgiven, further impacting the SBA’s ‘calculation’ that the collection would not be cost effective.

The SBA inaccurately compared the PPP loans to the Express Loan program, a different program with different characteristics. To appreciate how inappropriate this comparison was, it is important to understand the major differences between Express, PPP, and COVID EIDL Loan programs. The Express loans offer a lower government guarantee and smaller loan amounts with higher interest rates than both PPP and COVID EIDL. Lenders issued and serviced PPP loans for borrowers, and EIDL loans were issued and serviced directly by the SBA. PPP loans were 100 percent government-guaranteed up to \$10 million with the promise of 100 percent forgiveness and no personal guarantees or collateral were required. The maximum COVID EIDL loan amount was \$2 million and had to be repaid. No personal guarantee was required for COVID EIDL loans under \$200,000. The interest rate for PPP loans was 1 percent and for COVID EIDLs 2.75-3.75 percent. To the contrary, Express loans were maximum 50 percent government-guaranteed up to \$500,000 loan amount with an interest rate of 6.5-14.5 percent. Lenders issued and serviced Express loans for borrowers and lenders were not required to take collateral for loans up to \$50,000.

Collections on Express loans of \$100,000 or less made to sole proprietors between 2009 and 2022 was 0.28 percent from Treasury offsets. This was out of only \$23.5 million worth of loans that were referred for further collection.⁵⁴ This amount is significantly less than the value of PPP and COVID EIDL loans of \$100,000 or less that was \$299.6 billion. The scope of these loans was entirely different.

The SBA believed it would be likely that recoveries on PPP loans would be generated from the same type of borrower than Express loans. However, as showed above, since the Express program significantly differs from the PPP program, the SBA incorrectly assumed that the recovery on PPP loans would be similar to Express loans. The SBA used the Express loans’ recovery rate to estimate the PPP loans’ recovery, and based on this rate, concluded that the recovery would be only \$3.8 million out of \$2.275 billion. This is a ridiculous comparison, and this analysis never should have been used to justify such a large decision by the SBA to satisfy the DCIA requirements.

The DCIA allows agencies to suspend or end collections on claims of amount of \$100,000 or less **if** it appears the cost of collecting the claim is likely to be more than the amount recovered. Additionally, Circular A-94 provides extensive guidance on how to conduct a cost benefit analysis and what it should include. Even though Circular A-94 is not referenced in the DCIA, it should be used as a best practice for conducting a comprehensive cost benefit analysis. However, the SBA

⁴⁹ *Id.* at 4.

⁵⁰ *Id.*

⁵¹ Memorandum from Jihoon Kim, Director, Office of Financial Program Operations, U.S. Small Bus. Admin., to Patrick Kelley, Associate Administrator, U.S. Small Bus. Admin, 2 (Sept. 9, 2022).

⁵² Memorandum from Jihoon Kim, Director, Office of Financial Program Operations, U.S. Small Bus. Admin., to Patrick Kelley, Associate Administrator, U.S. Small Bus. Admin (Sept. 9, 2022).

⁵³ SMALL BUS. ADMIN. OFFICE OF INSPECTOR GEN., SBA OIG 23-16, SBA’S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 3 (Sept. 30, 2022).

⁵⁴ *Id.* at 11.

did not complete a sufficient cost benefit analysis. Moreover, the SBA stated to the OIG that, in its opinion, it is not even required to do a cost benefit analysis because the DCIA only requires the agency demonstrate that “the cost of collecting the claim is likely to be more than the amount recovered.”⁵⁵ Nevertheless, it seems contrary to the DCIA’s requirement, and highly suspect, that an agency would be able to determine whether collection efforts would be cost positive without conducting a comprehensive cost benefit analysis. Furthermore, the SBA claims that “[t]he obligation to make demand on the defaulted debt was already met by the PPP Lender and the cost of referring the Subject Loans is likely to be significantly more than the amount recovered.”⁵⁶

During a meeting with Members of this Committee on December 4, 2023, Administrator Guzman asserted that it would cost too much to refer these loans to Treasury which is why it decided just to not take that final step. To date, the SBA has failed to produce any convincing evidence to support that claim. According to a Committee staff call with Treasury staff on October 27, 2023, it can cost the agency money to refer these loans but “these amounts are generally passed on to debtors as a cost of collection and doesn’t necessarily hit the agency’s pocketbook.”⁵⁷

In this call with Treasury staff in October 2023, Treasury staff informed the Committee that, to the best of its knowledge, the SBA did not include them in any of these decisions but instead the Treasury learned of them in passing.⁵⁸ The Committee sent a letter requesting further clarification and information about Treasury’s knowledge of and role in this decision on November 14, 2023.⁵⁹ The deadline for response was November 28. Treasury responded to the Committee’s request finally on January 12, 2024, however, instead of providing answers to the Committee’s questions, Treasury directed the Committee to talk with the SBA about the Treasury’s knowledge of and role in this decision.

i. Flaws in SBA’s Cost-Benefit Analysis

As discussed above, the SBA failed to provide adequate cost benefit analysis for ending collections on delinquent PPP and EIDL loans \$100,000 and under. The SBA overestimated the costs, underestimated recoveries, and used dissimilar loan program to calculate the projected recoveries and justify the decision not to pursue all avenues of debt collection. Significantly, the SBA’s cost benefit analysis did not include Treasury Cross-Servicing recovery which distorted the analysis. The inadequate cost-benefit analysis was the major driving force for the SBA’s decision to end collection on pandemic loans worth \$100,000 or less. Below is a more detailed breakdown on the cost-benefit analysis, or more accurately, the lack of thereof.

a. The SBA lacked proper data to conduct accurate cost-benefit analysis

In order for the SBA to legally end collections on these loans, the SBA had to show that it is more costly to the taxpayer for the SBA to continue collecting on subject loans than to end collection. This showing would require the SBA to maintain sufficient data with which to make adequate cost benefit analysis and reasoned decisions, but findings from the OIG and an independent auditor, KPMG LLP, show the SBA lacked proper data and controls for the PPP and COVID EIDL program. Many of these issues pre-dated COVID-19 and were flagged by the OIG before the SBA had issued any pandemic loans. Despite being aware of these problems, the SBA failed to adequately improve its data and control environment throughout the pandemic. With such substandard data, the SBA will struggle to make informed decisions in these programs.

Annually, the OIG contracts with an independent auditor, KPMG LLP, to conduct an audit of the SBA’s consolidated balance sheets. The most recent report, in 2023, exposed and explained the SBA’s numerous inadequate processes and lackluster data controls.⁶⁰ These shortcomings caused the SBA to be unable to provide adequate evidence to support a significant number of PPP and COVID EIDL transactions and account balances and displays the SBA’s concerning lack of quality data.⁶¹ These deficiencies and weaknesses in the SBA’s processes caused it to lack proper data controls for PPP and EIDL loan programs, which, in turn, led to the SBA having insufficient data to manage these loan programs.⁶² According

⁵⁵ *Id.* at 6.

⁵⁶ *Id.* at 1.

⁵⁷ Phone call between H. Comm. on Small Bus. and U.S. Dep’t. of Treasury (Oct. 27, 2023).

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 24-03, INDEPENDENT AUDITORS’ REPORT ON SBA’S FISCAL YEAR 2023 FINANCIAL STATEMENTS (Nov. 15, 2023).

⁶¹ *Id.*

⁶² *Id.*

to KPMG, these deficiencies with both PPP and COVID EIDL loan controls, “may result in material misstatements to the Loan Guarantee Liabilities, Downward Reestimate Payable to Treasury line items and related elements in the consolidated financial statements.”⁶³ This means that SBA lacked proper data to make decisions about the PPP and EIDL loans; thus, the decision to end collections on loans \$100,000 or less was based on inadequate data.

Furthermore, besides lacking data and internal controls over financial reporting for PPPs and COVID EIDLs, the SBA also lacked the quantitative data on these loans needed to make decisions about collectability. At the time of writing April 2022 memo, none of the COVID EIDL loans were due so the SBA did not have actual data on how the collection of these loans would be. According to Mr. Jihoon Kim, Director of Office of Financial Program Operations at the SBA, the SBA met the threshold of determining that it had pursued all appropriate means of collection, and that the debt was uncollectible by “knowing the characteristics of the loans, the \$100,000 or less, no personal guarantees, no collaterals, and very limited value in the UCC valuation.”⁶⁴ Knowing the characteristics of a type of loan is hardly sufficient data to make a decision that had the potential to lose billions of taxpayer dollars.

Making matters even worse, the SBA proceeded with its decision to end collections on loans at or under \$100,000 even though it was aware that it was missing information. As seen below, in an email conversation among the SBA disaster loan servicing center staff, they admit that they had over 100,000 borrower accounts without an email address, acknowledging that they cannot e-bill those accounts without valid email addresses. Missing 100,000 email addresses making it impossible to bill these accounts is deeply concerning. Not just that the SBA could not comply with legal requirements to pursue all avenues of debt collection, but it also was not equipped to handle as simple tasks as ensuring the borrower accounts had the required information to bill them. Missing massive amounts of simple data as email addresses raises concerns about the SBA’s capabilities to handle more complex data to efficiently service and collect on loans.

From: [REDACTED]
Sent: Tuesday, March 15, 2022 10:24 AM
To: [REDACTED]
Kim, Jihoon <Jihoon.Kim@sba.gov>
Cc: [REDACTED]
Subject: RE: Communication with applicants re: covid-EIDL deferral

Thank you.

In the theme of “no good deed goes unpunished,” I now have another question :)

How are we going to do e-billing for the 100K accounts without an email?

⁶³ *Id.*
⁶⁴ Transcribed Interview with Mr. Jihoon Kim, Director, Office of Fin. Program Operations, U.S. Small Bus., Admin., Before H. Comm. On Small Buss., in Washington, D.C., 118th Cong., 62 (June 7, 2024).
⁶⁵ On file with Committee.

From: [REDACTED]
Sent: Tuesday, March 15, 2022 10:04 AM
To: Kim, Jihoon <jihoon.kim@sba.gov>; [REDACTED]
Cc: [REDACTED]
Subject: RE: Communication with applicants re: covid-EIDL deferral

Yes – we will attempt to send to all valid emails we have on record. The list we received from [REDACTED] had just over 100k accounts without an email.

Thank you,

[REDACTED]
U.S. Small Business Administration



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b. Deficiencies in the PPP cost-benefit analysis

The SBA estimates that referring the PPP loans \$100,000 or less that had already been charged-off as of August 2022 would require \$7.8 million from fiscal years 2023 to 2026.⁶⁷ The majority of the estimate is comprised of labor costs of hiring additional staff, as well as information technology and telecommunications costs, administrative wage garnishment hearings, and mailing due process notices.⁶⁸

While drafting its September 30, 2022, report on the SBA’s decision as it relates to PPP, the OIG met with the SBA to discuss its recommendations. During the exit briefing on September 8, 2022, SBA management acknowledged that it did not prepare a formal, written cost/benefit analysis for its decision not to pursue active collections on PPP loans \$100,000 or less.⁶⁹ The SBA told the OIG that the DCIA does not require that the agency conduct a **comprehensive** cost-benefit analysis, only that the agency demonstrate that the cost of collecting is likely to be more than the amount recovered.⁷⁰ However, the SBA informally discussed key factors that would contribute to the estimated recovery and cost amounts associated with Treasury referrals.⁷¹ Subsequently, on September 9, 2022, SBA management provided the document described more in detail in section “Decision to end collections,” explaining its rationale for ending collection on purchased PPP loans valued at \$100,000 or less.

The SBA estimated recovery factors, including: (a) expected recovery amounts from corporate borrowers, sole proprietors, and independent contractors; (b) historical Treasury collections for the Express Loan program working capital loans of \$100,000 or less made to sole proprietors; and (c) the SBA’s expectation that at least 10 percent of borrowers that

⁶⁶ On file with Committee.

⁶⁷ Letter from Jihoon Kim, Director, U.S. Small Bus. Admin., Office of Financial Program Operations, to Patrick Kelley, former Associate Administrator, U.S. Small Bus. Admin., Office of Capitol Access, 3 (Sep. 9, 2022) (On file with Committee).

⁶⁸ *Id.*

⁶⁹ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 22-25, SBA’S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 4 (Sep. 30, 2022).

⁷⁰ *Id.* at 5.

⁷¹ *Id.* at 4.

had not yet submitted forgiveness applications would do so within five years.⁷² The estimated cost factors the SBA provided include staffing and labor costs, information technology and communication expenses, administrative wage garnishment hearing fees, and mailing costs.⁷³

The SBA included the estimated costs associated with Treasury referral on subject loans in its cost-benefit calculation. The estimate of \$7.8 million was grossly overestimated. This estimate included costs of \$5.6 million for labor costs, \$1.3 million for information technology, \$620,000 for Administrative Wage Garnishment hearing process, and \$160,000 for mailing due process notices. As Mr. Kim pointed out in the transcribed interview with this Committee, this estimate did not reflect the reality, and the actual costs were significantly less than this estimation.⁷⁴

The OIG determined that the memo overall was not comprehensive and did not sufficiently support the SBA's conclusion that the costs to collect these loans would exceed recoveries.⁷⁵ The SBA did not include comprehensive estimates of the expected costs and benefits for PPP collections as recommended by OMB Circular A-94, which recommends that cost-benefit analysis should include comprehensive estimates of expected benefits and costs based on established practices for program and policy evaluation.⁷⁶ The OIG determined that the SBA did not conduct a sufficient initial or periodic cost-benefit analysis on PPP purchase guarantees, and that the document did not contain supporting data to substantiate SBA's assertions and conclusions.⁷⁷

As previously noted, the DCIA allows agencies to suspend or end collections on claims of not more than \$100,000 when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim.⁷⁸ The OIG found that SBA's analysis did not sufficiently support this in instances where it had purchased PPP loans.⁷⁹ Specifically, OIG's analysis identified borrowers who would be liable for the debt, including sole proprietors, self-employed individuals, and independent contractors. However, since the SBA never attempted to collect on these purchased PPP loans or ensured lenders pursued collection, it is unclear how SBA determined that these persons did not have the present or prospective ability to repay the debt.⁸⁰

As noted, the SBA rested its calculation of likely recovery of delinquent PPP loans on a comparison to its Express Loan Program. The SBA did so as it considers the Express Loan Program the most analogous to PPP loans of \$100,000 or less.⁸¹ However, during Committee staff's October 27, 2023 call with Treasury on the matter, Treasury staff noted difficulties comparing one program within an agency to another.⁸² Structural differences of the programs aside, the sheer magnitude of the PPP portfolio makes it fundamentally different than the Express Loan Program.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Transcribed Interview with Mr. Jihoon Kim, Director, Office of Fin. Program Operations, U.S. Small Bus., Admin., Before H. Comm. on Small Bus., in Washington, D.C., 118th Cong. 68 (June 7, 2024).

⁷⁵ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 22-25, SBA'S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 4 (Sep. 30, 2022).

⁷⁶ *Id.* at 2. OMB Circular A-94 provides guidance for agencies conducting cost/benefit analyses of federal programs. The circular is only mandatory in submissions to the OMB, but the guidelines are suggested for use in the internal planning of executive branch agencies.

⁷⁷ *Id.* at 4.

⁷⁸ Debt Collection Improvement Act, 31 U.S.C. 3711(a)(2)-(3).

⁷⁹ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 22-25, SBA'S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 4 (Sep. 30, 2022).

⁸⁰ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 22-25, SBA'S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 4 (Sep. 30, 2022).

⁸¹ Letter from Adrienne Grierson for Jihoon Kim, Director, Office of Fin. Program Operations, U.S. Small Bus. Admin., to Roger Williams, Chairman, H. Comm. on Small Bus. (Mar. 27, 2023).

⁸² Call between H. Comm. on Small Bus. Staff and Dep. Of Treasury Staff (Oct. 27, 2023).

c. Weaknesses in COVID EIDL cost-benefit analysis

Regarding COVID EIDL loans, as the basis of its minimal cost-benefit analysis, the SBA estimated that it would cost over \$250 million per year to collect delinquent COVID EIDLs, and that the recovery would be “nearly zero.”⁸³ The April 2022 memo was the only analysis for the COVID EIDL portfolio, and it was a very bare bone analysis consisting only of four short paragraphs of high-level estimates of costs and recoveries.

The SBA anticipated that the staffing requirement to make phone calls, send letters, run credit reports, and track down borrower information for collections on COVID EIDLs would require the SBA to hire an estimated 3,000 to 10,000 additional full-time employees (FTE), or their equivalent.⁸⁴ In the transcribed interview with the Committee, Mr. Kim said that 3,000-10,000 employees did not seem reasonable even at the time of this estimation and the SBA did not need that many employees to collect on loans.⁸⁵ The SBA started off at about 1,800 employees when it began servicing loans and as of June 7, 2024, it has only about 1,650.⁸⁶ Mr. Kim considers this number still to be high and explains that the SBA has a lot of “clean-up,” hence the high number of employees.⁸⁷ The SBA’s goal is to go down to 1,000 employees by 2026 and to about 600 in subsequent years.⁸⁸

The SBA used the estimate of 3,000 FTE to calculate the labor-related costs which ended up being highly overestimated—almost twice as much as the actual costs. The SBA estimated the labor-related cost to be \$217.2 million annually, excluding training costs.⁸⁹ The information technology and telecommunications cost is \$16,500 annually, per FTE, coming to \$16.5 million annually for the 3,000 FTE estimate.⁹⁰ Background checks, onboarding, and other related costs would be created as well. Mailing costs were estimated at approximately \$69.6 million annually.⁹¹

The OIG found that the SBA’s estimated annual servicing cost of over \$250 million to be unreliable.⁹² In its analysis, the consultant SBA relied on for its estimates used private sector servicing costs to determine the requisite staffing increase.⁹³ However, once the SBA refers loans to Treasury for active collection, Treasury staff would be responsible for those steps, not the SBA. The portfolio servicing cost estimate may therefore be inflated because the SBA could require fewer employees than estimated to service the portfolio. Treasury regulations require cost studies showing a periodic comparison of costs incurred and amounts collected when performing a cost-benefit analysis for terminating debt collection.⁹⁴ The SBA’s cost estimate does not reflect that the size and servicing demands should decrease over time as loans are repaid, defaulted loans are charged-off and transferred to Treasury.⁹⁵

As with the PPP loans, the SBA similarly used Treasury’s 0.28 percent recovery rate of the Express loans to justify its decision not to refer COVID EIDLs \$100,000 or less to Treasury.⁹⁶ The Express Loan program and COVID EIDL have practically nothing in common. As stated, COVID EIDLs \$25,000 or greater required collateral.⁹⁷ Unlike PPP and Express loans, COVID EIDLs were direct loans made by the SBA.⁹⁸ Further, the Express loans that were used to estimate recovery

⁸³ Letter from Jihoon Kim, Director, U.S. Small Bus. Admin., Office of Financial Program Operations, to the Honorable Isabella Casillas Guzman, Administrator, U.S. Small Bus. Admin., 6 (Apr. 5, 2022). On file with the Committee.

⁸⁴ *Id.* at 6.

⁸⁵ Transcribed Interview with Mr. Jihoon Kim, Director, Office of Fin. Program Operations, U.S. Small Bus., Admin., Before H. Comm. On Small Buss., in Washington, D.C., 118th Cong., 18 (June 7, 2024).

⁸⁶ *Id.* at 18, 68.

⁸⁷ *Id.* at 18.

⁸⁸ *Id.* at 69.

⁸⁹ Letter from Jihoon Kim, Director, U.S. Small Bus. Admin., Office of Financial Program Operations, to the Honorable Isabella Casillas Guzman, Administrator, U.S. Small Bus. Admin., 6 (Apr. 5, 2022) on file with the Committee.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 23-16, ENDING ACTIVE COLLECTIONS ON DELINQUENT COVID-19 ECONOMIC INJURY DISASTER LOANS, 4 (Sep. 29, 2023).

⁹³ THE WILLIAM ADLEY REPORT FOR THE U.S. SMALL BUS. ADMIN., CARES ACT BPA – TASK ORDER 4, EIDL-COVID PORTFOLIO SERVICING ANALYSIS, TASK 2: ANALYSIS OF ALTERNATIVES REPORT (Including updates to cash flow assumptions), 7 (Sep. 29, 2021).

⁹⁴ 31 C.F.R. § 901.10.

⁹⁵ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 23-16, ENDING ACTIVE COLLECTIONS ON DELINQUENT COVID-19 ECONOMIC INJURY DISASTER LOANS, 4 (Sep. 29, 2023).

⁹⁶ *Id.* at 3.

⁹⁷ *Id.* at 4.

⁹⁸ *Id.*

were made only to sole proprietors; only roughly half of COVID EIDLs the SBA intends to cease active collections on were made to sole proprietors.⁹⁹ Using the Express Loan Program in estimating recovery on COVID EIDLs is therefore improper.

It is unclear why the SBA was content with performing such limited and shoddy analysis. Whether it was due to the SBA's lack of reliable data in these programs, the SBA failing to appreciate the differences between the PPP and COVID EIDL program, or the SBA seeking to swiftly offload its servicing burden, the SBA was not an effective steward of taxpayer dollars in these programs. The taxpayers deserve to have their funds used responsibly; that includes conducting effective analysis of programs, their costs, and benefits.

2. *Failure to comply with Debt Collections Rules*

Federal Claims Collection Standards require agencies to pursue all appropriate means of collection.¹⁰⁰ If an agency determines, based on these efforts, that the debt is uncollectible, it may terminate collection of a claim.¹⁰¹ However, the SBA did not pursue all avenues of debt collection.

In its September 2022 report, the OIG stated that it found no evidence that SBA sufficiently explored alternative collection options, such as contracting out collection efforts.¹⁰² When the OIG suggested that the SBA explore alternative means of collection, the SBA declined, arguing that alternative means of enforced collection would not be cost effective.¹⁰³ However, without providing any evidence or quantitative analysis to base this assumption on, it is unclear if this analysis was ever carried out.

Additionally, under 13 CFR §120.1000, the SBA must supervise, monitor, examine, regulate, and enforce laws against SBA supervised lenders and the SBA operations of these lenders.¹⁰⁴ Thus, although the SBA delegated collection efforts to the intermediary lenders, the SBA was ultimately responsible for oversight of those efforts and ensuring that adequate collection measures were in place and pursued. However, the OIG found that the SBA failed to effectively oversee lender servicing, communication, and debt collection activities to ensure that the lenders performed their responsibilities.¹⁰⁵ These lenders were handling 203,101 charged-off loans totaling \$7.3 billion.¹⁰⁶ According to the OIG findings in both of its September 2022 and July 2024 reports, the SBA relied on “lender’s certifications in the electronic guaranty purchase application and did not establish procedures to obtain and review lenders’ compliance with their communication, servicing, and debt collection responsibilities.”¹⁰⁷

In its July 2024 report, the OIG found that the SBA did not request lenders submit evidence of communication with the borrowers when requesting guaranty purchase, thus, the SBA did not have adequate evidence to assess whether the lenders complied with their debt collection responsibilities.¹⁰⁸ This finding was consistent with the OIG’s September 2022 report. Without evidence of communication and procedures in place to oversee the lenders’ compliance with their communication, servicing, and debt collection responsibilities, the SBA could not be sure if the lenders sufficiently attempted to collect the delinquent loans or if their assertions of business status were accurate.¹⁰⁹ Instead, the SBA charged-off these loans and at the time decided not to refer them to Treasury to utilize Treasury’s collection methods.¹¹⁰ This means that the SBA missed an avenue to hold noncompliant lenders accountable and collect delinquent debt.

⁹⁹ *Id.*

¹⁰⁰ Termination of Collection Activity, 31 C.F.R. §903.3(b) (2023).

¹⁰¹ *Id.*

¹⁰² U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 22-25, SBA’S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 3 (Sep. 30, 2022).

¹⁰³ *Id.* at 6.

¹⁰⁴ U.S. SMALL BUS. ADMIN. OFFICE OF INSPECTOR GEN., REPORT 24-20, SBA’S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 5 (Jul. 9, 2024).

¹⁰⁵ *Id.* at 9.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at 10.

¹⁰⁸ *Id.* at 10-11.

¹⁰⁹ *Id.* at 11.

¹¹⁰ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 22-25, SBA’S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 2 (Sep. 30, 2022).

In its July 2024 report, the OIG gave the SBA seven recommendations to address the deficiencies and effectively use all avenues of debt collection. In its response, the SBA agreed with six out of seven recommendations.¹¹¹ The SBA's management stated that it had already implemented some of the recommended actions.¹¹² However, the SBA did not provide any evidence to the OIG on these claims, thus, the OIG had nothing else than the SBA's word that the needed processes and procedures had been implemented.¹¹³

The DCIA requires federal agencies to report delinquent consumer debts to credit bureaus and bar debtors from receiving further government guaranteed loans until they have repaid their debt. Thus, to protect taxpayer dollars and ensure that people who do not pay off their debts will not receive further government guaranteed loans, it is vital that these section of the DCIA are complied with. However, the OIG found that the SBA failed to consistently report charged-off PPP loans to commercial credit reporting agencies as required.¹¹⁴ This allowed the debtors who did not repay their debt to avoid accountability of their actions. Besides being required by law, the SBA's own policy also states that it must report the entire amount of charge-off loans to the appropriate credit reporting agencies.¹¹⁵ However, the OIG found that from June to December 2022, the SBA did not report 14,739 charged-off PPP loans totaling \$945.3 million to credit reporting agencies.¹¹⁶ This is 37 percent of all charge-off loans during this time period. Furthermore, the OIG stated that the SBA failed to report 38,060 charged-off PPP loans totaling \$2.4 billion, 97 percent of the loans, in its monthly commercial credit reports, and 15,164 totaling \$977.3 million, 38 percent, in its quarterly reports.¹¹⁷ According to the OIG, the SBA relied on its automated process to report loans but did not monitor or conduct reviews to make sure that the loans were actually reported, causing billions of dollars of loans to go unreported.¹¹⁸ Because of these unreported loans, many of the delinquent borrowers are not held accountable for their loans.

b. Decision reversal

In December 2023, a third-party vendor, FI Consulting (FI), issued a report stating that it was cost effective to refer delinquent PPP loans to Treasury.¹¹⁹ Subsequently, on December 28, 2023, the SBA informed the Committee that it had reversed the decision not to collect pandemic loans under or at \$100,000. Going forward, the SBA would begin referring PPP and COVID EIDL loans under \$100,000 in default to the Treasury. According to the SBA, "with this latest analysis, and using recent, updated data, SBA's debt collections forecast for the PPP and COVID EIDL portfolio now show a likely positive return to the taxpayer with a referral to Treasury, the final step of collection."¹²⁰

In the SBA's December 2023 letter to this Committee, Administrator Guzman said that the SBA is implementing the final step of collection, step 14, for all COVID EIDLs and step 9 for all PPP loans; referring loans for Treasury's offset and cross servicing.¹²¹ However, this decision did not last for long. The SBA changed this position in April 2024 and informed the Committee that it is only referring loans to the Treasury's Offset program but not cross-servicing; Mr. Kim also confirmed in his transcribed interview.¹²² This is because the Treasury has temporary exempted the loans from referral to the cross-servicing.¹²³ As of September 2024, the SBA has referred 903,481 COVID EIDLs valued at \$100,000 or less in the amount of \$58.1 billion to the Treasury Offset Program for collection and as for the delinquent PPP loans, the SBA is

¹¹¹ U.S. SMALL BUS. ADMIN. OFFICE OF INSPECTOR GEN., REPORT 24-20, SBA'S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 12 (Jul. 9, 2024).

¹¹² *Id.* at 12-17.

¹¹³ *See Id.* at 12.

¹¹⁴ *Id.* at 5.

¹¹⁵ SBA SOP 50 57 2, *Loan Servicing and Liquidation* (Dec. 1, 2015).

¹¹⁶ *Id.* at 5.

¹¹⁷ *Id.*

¹¹⁸ U.S. SMALL BUS. ADMIN. OFFICE OF INSPECTOR GEN., REPORT 24-20, SBA'S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS, 5 (Jul. 9, 2024).

¹¹⁹ FI Consulting, *Paycheck Protection Program Recovery Cost Benefit Analysis* (Dec. 8, 2023).

¹²⁰ Letter from Isabella Guzman, Adm'r., U.S. Small Bus. Admin., to Roger Williams, Chairman, H. Comm. on Small Bus. (Dec. 28, 2023).

¹²¹ Letter from Isabella Guzman, Adm'r., U.S. Small Bus. Admin., to Roger Williams, Chairman, H. Comm. on Small Bus. (Dec. 28, 2023).

¹²² Transcribed Interview with Mr. Jihoon Kim, Director, Office of Fin. Program Operations, U.S. Small Bus., Admin., Before H. Comm. On Small Bus., in Washington, D.C., 118th Cong., 41 (June 7, 2024).

¹²³ *Id.* at 10.

working with Treasury to refer them to the Offset Program.¹²⁴

However, the SBA has not provided the Committee any comprehensive “updated data” for COVID EIDL—the December 2023 analysis was strictly about PPP. In fact, the SBA told the Committee that because PPP was worth collecting now, COVID EIDL must also be worth collecting. Yet, the SBA failed to directly compare PPP and COVID EIDL for collectability. Furthermore, as mentioned above, in the Committee’s transcribed interview with Mr. Kim, he stated that continuing to collect on these loans would have been cost positive if cross-servicing would have been included in the April 2022 memorandum cost analysis.¹²⁵ The internal assessment included only Treasury Offset recovery at the time, which, according to Mr. Kim, SBA did not realize was the case.¹²⁶ Thus, the main driver of the new finding that led to the reversal was the fact that the SBA’s original analysis included recovery only from the referral to Treasury Offset Program, and not referral to Treasury’s Cross Servicing Program.¹²⁷ It is likely that the decision to end collections in April 2022 would have been different had the SBA been more inclusive of data in its calculations.

Mr. Kim further explained that the main differences between the April 2022 and December 2024 analyses are the staffing costs, the overall costs went down, and the recoveries went up.¹²⁸ The SBA’s initial analysis and FI’s new analysis used different methodologies to calculate the costs and recoveries. FI’s methodology was more thorough, separating out the recoverable portion of the portfolio.¹²⁹

Additionally, the SBA is inconsistent about whether, prior to this reversal, it was referring loans over \$100,000 or loans at \$100,000 *and over* to the Treasury. In the reversal letter, Administrator Guzman says that the “SBA will begin referring PPP and COVID EIDL small business borrowers with loans *under* \$100,000 in default to the Treasury for IRS-led and third-party collection activities. As you are aware, currently those with loans \$100,000 *and over* in default are already referred to the Treasury... In the spring of 2022, SBA analyzed the cost effectiveness of the final step of collection [] on loans *under* \$100,000.”¹³⁰ To the contrary, in the April 2022 memo and in other subsequent communications, the SBA said that it was ending collection on delinquent loans with an original loan balance *amount of* \$100,000 *or less*.¹³¹ Thus, due to this inconsistent language, it is unclear whether or not the SBA was referring loans specifically at \$100,000 to the Treasury prior to the December 2023 reversal decision.

¹²⁴ Email from George Holman, Assoc. Admin. Office of Cong. & Legislative Affairs, U.S. Small Bus. Admin., to Heidi High, Counsel, H. Comm. on Small Bus. (Sep. 13, 2024); Transcribed Interview with Mr. Jihoon Kim, Director, Office of Fin. Program Operations, U.S. Small Bus., Admin., Before H. Comm. On Small Buss., in Washington, D.C., 118th Cong. 10 (June 7, 2024).

¹²⁵ Transcribed Interview with Mr. Jihoon Kim, Director, Office of Fin. Program Operations, U.S. Small Bus., Admin., Before H. Comm. On Small Buss., in Washington, D.C., 118th Cong. 132, 6-9 (June 7, 2024).

¹²⁶ *Id.* at 39.

¹²⁷ *Id.* at 10.

¹²⁸ *Id.* at 106.

¹²⁹ *Id.* at 107.

¹³⁰ Letter from Isabella Guzman, Adm’r., U.S. Small Bus. Admin., to Roger Williams, Chairman, H. Comm. on Small Bus. (Dec. 28, 2023).

¹³¹ Memorandum, from Jihoon Kim, Director, Office of Fin. Program Operations, U.S. Small Bus., Admin. to Isabella Casillas Guzman, Admin., U.S. Small Bus. Admin., l (Apr. 5, 2022) (on file with Committee).



Date: January 4, 2024
From: Katie Frost, Associate Administrator, Office of Capital Access
To: Administrator Guzman
Subject: 3711 Authority Decision

This is a memo to file documenting the decision made on December 18, 2023 concerning forgoing 3711 Authority for Paycheck Protection Program (PPP) loans and COVID Economic Injury Disaster Loans (COVID EIDLs) under \$100,000.

Based on the latest cost benefit analysis and reconciliation completed on December 8, which showed the cost of collecting these claims through Treasury referrals is not likely to be more than the amount recovered, SBA will begin referring all PPP and COVID EIDL defaults, including those under \$100,000, to Treasury. This process update aligns with the Agency's longstanding policy of using all cost-effective methods to collect on these defaulted loans.

Further, SBA will build on previous communications with these borrowers by conducting a comprehensive outreach campaign in January and February of 2024 with the goal of bringing as many borrowers back into compliance as possible (PPP forgiveness, PPP repayment, and/or COVID EIDL repayment). SBA will work with Treasury to explore opportunities to support this effort, including longer Treasury workout periods.

Importantly, forgoing the 3711 Authority has no impact on likely fraudulent borrowers. SBA always has and will continue to use all legal means to collect or otherwise recover fraudulently obtained funds through law enforcement.

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It appears likely that pressure from this Committee and the OIG encouraged the SBA to conduct a more comprehensive analysis of the PPP and resulted in the SBA reversing its decision. While this is a step in the right direction, it does not excuse the SBA's mismanagement between April 2022 and December 2023. Moreover, it does nothing to resolve the fact the SBA never conducted a specific analysis for the COVID EIDL program.

¹³² On file with Committee.

III. Decision not to sell the COVID EIDL portfolio

a. Failure to follow consultant's recommendation

In determining the method of action that would be most beneficial to the U.S. government and thereby in the best interest of the taxpayer, the SBA retained a consultant to examine viable options for the COVID EIDL portfolio.¹³³ Of the four suggestions the consultant discussed, the recommended action was a staggered sale of the portfolio, beginning with the smaller loans that made up the bulk of the portfolio that would alleviate most of the servicing strain on the SBA.¹³⁴ Given the time it would take to carry out the sale (roughly 4 years to completely offload the portfolio), the consultant recommended a hybrid interim servicing strategy (SBA services the loans it is still in possession of) to leverage SBA resources and the commercial market until the sale is complete.¹³⁵

The nine alternatives the consultant discussed included combination options of in-house servicing, outsourced servicing, loan sale, and hybrid models. Each was evaluated in terms of cost. Each alternative included an estimated timeline which reflected that the SBA and any other participating servicers would need time to hire, onboard, train a significant number of new staff, facilitate a transfer of customer loan data, and test for system functionality.¹³⁶ The consultant noted that one risk factor that could not be quantified was the degradation of assets in the deferral period, and that any further deferral was viewed as heightening the financial risk of the portfolio.¹³⁷ The consultant's report was conducted before the SBA decided to defer payments two additional times, first on September 9, 2021 when it deferred for 24 months, and again on March 15, 2022 when it extended the deferment to 30 months.¹³⁸ Below is a chart that walks through the timeline of a potential sale of the portfolio.



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The likelihood of recovery of delinquent debts decreases over time. The SBA's decision not to pursue a sale at the time of this report led to a loss to the taxpayer. In fact, if the SBA followed the consultant's advice at the time, the SBA

¹³³ THE WILLIAMS ADLEY REPORT FOR THE U.S. SMALL BUS. ADMIN., CARES ACT BPA – TASK ORDER 4, EIDL-COVID PORTFOLIO SERVICING ANALYSIS, TASK 2: ANALYSIS OF ALTERNATIVES REPORT (Including updates to cash flow assumptions) (Sep. 29, 2021). The report date was after the decision to defer loans, however, that announcement was after the work on the report had already been conducted.

¹³⁴ THE WILLIAMS ADLEY REPORT FOR THE U.S. SMALL BUS. ADMIN., CARES ACT BPA – TASK ORDER 4, EIDL-COVID PORTFOLIO SERVICING ANALYSIS, TASK 2: ANALYSIS OF ALTERNATIVES REPORT (Including updates to cash flow assumptions) (Sep. 29, 2021).

¹³⁵ THE WILLIAMS ADLEY REPORT FOR THE U.S. SMALL BUS. ADMIN., CARES ACT BPA – TASK ORDER 4, EIDL-COVID PORTFOLIO SERVICING ANALYSIS, TASK 2: ANALYSIS OF ALTERNATIVES REPORT (Including updates to cash flow assumptions) (Sep. 29, 2021).

¹³⁶ *Id.* at 7.

¹³⁷ *Id.* at 24.

¹³⁸ On file with Committee.

¹³⁹ *Id.* at 14.

would be nearing completion of the sale instead of facing the immense burden of trying to get a 30-year portfolio back under control.

Further, the consultant assumed, it turns out wrongfully, that the SBA would be following the proper procedures for loan servicing, including referral to Treasury for Offset and Cross Servicing. The consultant noted that this was a large potential benefit that the SBA would forgo by going through with the sale, yet still recommended the sale as the best course of action. The fact that the SBA chose not to refer these loans to Treasury therefore further supports the assertion that the sale was the best course of action.

The consultant also stated that assumptions it made in order to write its report would change over time, potentially causing the preferred method of action (sale) to become less advantageous. If the SBA delayed the sale, loans would be less valuable as it would become harder to collect. Further, fraud issues would be exposed after the deferral cliff, resulting in large charge-offs, and reducing the need to sell or service the loan. The consultant did note, however, that the eventual seasoning of the larger loans may result in a different, higher valuation of the portfolio.¹⁴⁰ In order to combat these changes, the consultant recommended that the SBA update this analysis and its underlying assumptions on an ongoing basis. The Committee has no concrete evidence that the SBA complied with the consultant's recommendation or conducts any such analysis with any regularity.

Further, in the transcribed interview with Mr. Kim, he said that after getting the consultant's report, from the operation side, they "wanted to pursue asset sales."¹⁴¹ They were told that they need to get OMB's approval for the asset sales and Mr. Kim and his team recommended to the management to get this approval.¹⁴² However, subsequently, Mr. Kim was told that the asset sales were off the table but he did not know the reason. Mr. Kim continued that they "wanted to get [OMB's] approval so [they] at least have an option that [they] could consider."¹⁴³ The options would have been to conduct a full or partial asset sale and Mr. Kim indicated he would have recommended a full asset sale.¹⁴⁴

b. Failure to provide adequate justification for decision not to sell

In its September 2023 report on the SBA's mishandling of the sub \$100,000 portion of the COVID EIDL portfolio, the OIG recommended that the SBA evaluate the portfolio, in collaboration with Treasury, to determine if selling is in the best interest of the government.¹⁴⁵ The SBA disagreed with its OIG's recommendation, saying that it performed its own analysis after receipt of the consultant's report and concluded it was not in the best interest of the government to proceed with the sale at that time.¹⁴⁶ The SBA did not provide the OIG with further explanation when prompted, other than to say that it reserves the right to refer the subject loans to the Treasury's Cross-Servicing program without providing further explanation about why it chose not to pursue the consultant's recommendation to sell the portfolio.¹⁴⁷ Further, though the Committee requested this analysis multiple times, including under a subpoena on June 5, 2024, the SBA refused to turn it over. Whether this is because the analysis was never conducted or because it was flawed remains to be seen.

In defense of its decision not to sell, during a briefing with Committee staff on January 31, 2024, SBA Associate Administrator Katie Frost told the Committee that one of the reasons that it declined to follow the recommendation from the consultant was because the consultant had a conflict of interest. This conflict stemmed from the consultant being a potentially interested buyer of the debt. However, when the Committee conducted a transcribed interview of Mr. Kim, the individual tasked with overseeing handling the portfolio, he never heard such an objection being raised.¹⁴⁸ Mr. Kim said that to the best of his knowledge, the conflict of interest **was not** one of the reasons the SBA decided not to sell:

¹⁴⁰ *Id.* at 22.

¹⁴¹ Transcribed Interview with Mr. Jihoon Kim, Director, Office of Fin. Program Operations, U.S. Small Bus., Admin., Before H. Comm. On Small Buss., in Washington, D.C., 118th Cong., 24 (June 7, 2024).

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.* at 119.

¹⁴⁵ U.S. SMALL BUS. ADMIN., OFFICE OF THE INSPECTOR GEN., REP. 23-16, ENDING ACTIVE COLLECTIONS ON DELINQUENT COVID-19 ECONOMIC INJURY DISASTER LOANS, 8 (Sep. 29, 2023).

¹⁴⁶ *Id.* at 10-11.

¹⁴⁷ *Id.* at 7.

¹⁴⁸ Transcribed Interview with Mr. Jihoon Kim, Director, Office of Fin. Program Operations, U.S. Small Bus., Admin., Before H. Comm. On Small Buss., in Washington, D.C., 118th Cong., 21 (June 7, 2024).

13 Q Okay. So the Williams Adley report recommended the orderly sale of all
 14 the loans, right? When we talked with your boss, Katie Frost, back in January, she said
 15 that the reason the SBA did not sell was because there was a conflict of interest between
 16 Williams Adley's interests and the SBA's, because Williams Adley had an interest in,
 17 quote/unquote, "buying the debt."
 18 Did you hear anything about that at the time, a conflict of interest between
 19 Williams Adley?
 20 A Not that I can recall.
 21 Q Okay. To the best of your knowledge, was that one of the reasons you
 22 decided not to sell, was the conflict of interest?
 23 A No.
 24 Q Okay. Is this the first time you're hearing of the conflict of interest?
 25 A Yes.

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During the Committee's December 5, 2023, tour of the SBA, and again while testifying before this Committee on March 20, 2024, Administrator Guzman indicated that the SBA was in the process of re-evaluating the sale. On May 22, 2024, the SBA notified the Committee that It again decided against selling the portfolio.¹⁵⁰ Yet, once again, this decision was made without providing any analysis on the current portfolio to justify this decision. Instead of providing the actual analysis, the SBA summarized the decision in the letter and forewent providing the supporting data. Unfortunately, the information provided in this summary is flawed. The SBA stated the "SBA has not sold assets in our loan portfolio in more than two decades because past sales in the early 2000s lost nearly \$1 billion according to the Government Accountability Office."¹⁵¹ The SBA conveniently left out that it was an SBA calculation error that caused this loss in early 2000s.

This loss in the early 2000s asset sale was caused by four main issues. First, the cash flow model used to estimate the cost of the disaster loan program was unreliable and underestimated the cost.¹⁵² Second, the hold model used to determine whether sales were beneficial had errors and incorrectly indicated that loans were sold at gains.¹⁵³ Third, incorrect loan values used to calculate the results of loan sales led to inaccurate reporting in the SBA's financial statements.¹⁵⁴ Lastly, incomplete tools provided by OMB to calculate interest payments on borrowings from Treasury resulted in excess payments to Treasury and an insufficient balance in SBA's financing account and subsidy allowance.¹⁵⁵ While this series of errors may suggest that the SBA lacks the capacity to effectively sell loans, it does not suggest that the COVID EIDL program nor the PPP program could not be successfully sold provided sufficient corrective actions were subsequently taken. Given the SBA's history of struggling to understand such decisions, its decision not to follow the consultant's recommendation to sell delinquent EIDL loans is suspect.

Further, while the SBA claimed that taxpayers would lose tens of billions on the sale, the SBA failed to calculate the costs it had already incurred to stand up the new COVID EIDL Servicing Center (CESC), the cost to implement the new technology, and all of the labor costs over the 30-year life of the loans. In addition, the SBA's multi-year delay in determining how to handle this portfolio has cost the taxpayer millions of dollars already, and could have undermined the value of the portfolio at sale. As stated before, the longer delinquent debts sit, the harder they are to collect. The SBA failed to factor in the losses it had already incurred on behalf of the taxpayer.

Finally, the SBA argues that selling the portfolio now would negatively impact borrowers. The Committee has seen evidence that the SBA holding the portfolio is actually harming borrowers more. The SBA, due to its indecision and poor

¹⁴⁹ *Id.*
¹⁵⁰ Letter from George Holman, Assoc. Admin. Office of Cong. & Legislative Affairs, U.S. Small Bus. Admin., to Roger Williams, Chairman, H. Comm. On Small Bus. (May 22, 2024).
¹⁵¹ *Id.*
¹⁵² U.S. GOV. ACCOUNTABILITY OFFICE, SBADISASTER LOAN PROGRAM, ACCOUNTING ANOMALIES RESOLVED BUT ADDITIONAL STEPS WOULD IMPROVE LONG-TERM RELIABILITY OF COST ESTIMATES, GAO-05-409 (April 2005).
¹⁵³ *Id.*
¹⁵⁴ *Id.*
¹⁵⁵ *Id.*

communication with borrowers, have sent out confusing collection emails and have failed to properly support borrowers in their attempts to manage their debts. Additionally, confusing rhetoric from the SBA allowed interest to accrue on their loans when they were in deferment. From talking with effected entities, many thought that as their loans were being deferred, interest was not accruing. Further, sending these loans to Treasury for cross servicing adds up to a 30 percent fee in addition to their outstanding debt in order to cover the cost.

The DCIA states that credit agencies with over \$100 million in loan assets are expected to sell delinquent or defaulted loan assets that are more than one year delinquent that have not been submitted to Treasury for offset.¹⁵⁶ OMB circular A-11 indicates that agencies should sell loan assets that are delinquent for more than one year unless the cost of collections exceeds the likely return or if there is a sufficient policy reason to do so.¹⁵⁷ After terminating collection action, the head of an executive, judicial, or legislative agency shall sell, using competitive procedures, any nontax debt or class of nontax debts owed to the United States, **if the Secretary of the Treasury determines** the sale is in the best interests of the United States.¹⁵⁸

It appears from conversations with Treasury staff that the SBA did not consult with Treasury on its decision not to pursue a full or partial sale of the COVID EIDL portfolio but told Treasury “in passing” of its consideration of the partial sale.¹⁵⁹ Treasury stated that it did not have any formal or substantial communications with the SBA regarding this specific decision. Considering the requisite language in the statute that the agency **must** sell if Treasury so determines, it stands to reason that the SBA did not confer with Treasury fearing Treasury would determine an outcome inconsistent with the SBA’s decision not to sell.

As noted, the SBA has yet to provide sufficient cost benefit analysis to show that the cost of collections exceeds the likely return on COVID EIDLs, so compliance with OMB Circular A-11 cannot be determined. Whether the SBA has a sufficient policy reason not to sell all or part of the COVID EIDL portfolio is unclear. The SBA did not provide its OIG with an adequate explanation when asked for its reasoning not to sell.¹⁶⁰ As of September 13, 2024, the SBA has provided the OIG a verbal update regarding the cost-benefit assessment, however, the OIG has not received a written response on this.¹⁶¹ Additionally, the OIG has not received any written information regarding the SBA’s discussions with Treasury about potentially selling the EIDL portfolio.¹⁶² The Committee similarly has yet to receive sufficient explanation from the SBA on its decision not to sell all or part of the COVID EIDL portfolio.

OMB Circular A-11 indicates that such policy decisions should be made in consultation with OMB.¹⁶³ While this is not technically a requirement, it is unclear whether any such consultation between the SBA and OMB occurred, or whether OMB played any role in the policy decisions made by the SBA to end collections. The Committee sent a letter to OMB to that effect on December 1, 2023.¹⁶⁴ The OMB relayed to Committee staff that “for questions on the specific policy decisions by SBA to not refer delinquent debts to Treasury and to not sell portions of the EIDL portfolio” OMB would refer the Committee “to SBA as these were decisions made by SBA.”¹⁶⁵ This response suggests that the SBA did not confer with OMB about the decision not to sell all or part of the COVID EIDL portfolio.

According to OMB staff, OMB relies on an agency’s analysis of the characteristics of the cohort in question and the estimated net present value of the options available to the government during its review of agency credit management and debt collection plans. Agencies use OMB’s Circular A-129 and the Federal Claims Collection Standards, the latter of

¹⁵⁶ Debt Collection Improvement Act, 31 U.S.C. § 3711(i)(2) (2023).

¹⁵⁷ Office Of Mgmt. & Budget, Exec. Office Of The President, OMB Circular A-11, Preparation, Submission, and Execution of the Budget (2023).

¹⁵⁸ 31 U.S. Code § 3711(i)(1-2).

¹⁵⁹ H. Comm. on Small Bus. staff conversation with Treasury staff (Oct. 27, 2023).

¹⁶⁰ U.S. SMALL BUS. ADMIN., OFFICE OF INSPECTOR GEN., REP. 23-16, ENDING ACTIVE COLLECTIONS ON DELINQUENT COVID-19 ECONOMIC INJURY DISASTER LOANS, 7 (Sep. 29, 2023).

¹⁶¹ Email from Farrah Saint-Surin, Director of Congressional and External Affairs, Office of Inspector General, U.S. Small Bus. Admin., to Heidi High, Counsel, H. Comm. on Small Bus. (Sep. 13, 2024).

¹⁶² *Id.*

¹⁶³ Office Of Mgmt. & Budget, Exec. Office of The President, OMB Circular A-11, Preparation, Submission, and Execution of the Budget (2023).

¹⁶⁴ Letter from Roger Williams, Chairman, H. Comm. on Small Bus., to the Honorable Shalanda Young, Director, Office of the Management & Budget, Executive Office of the President (Dec. 1, 2023).

¹⁶⁵ Email from Janice Nsor, Deputy Associate Director for Legislative Affairs, Office of the Management & Budget, Executive Office of the President, to Lauren Holmes, General Counsel, H. Comm. on Small Bus. (Dec. 1, 2023).

which is jointly maintained by Treasury and the Department of Justice, when making determinations on debt collections. In terms of potential loan asset sales, agencies must estimate the cost effect of the proposed sale in determining the best value to the government. OMB reviews these estimates and the corresponding modification costs. When making decisions about whether to continue collection efforts for defaulted loans, agencies must evaluate the potential for providing returns to the government that exceed the cost of collection.¹⁶⁶ Evidence suggests that the SBA failed to appropriately take the necessary steps to decide on whether to sell all or a portion of this portfolio against the recommendations of paid-third party contractors.

¹⁶⁶ *Id.*

IV. The SBA's Obstruction of Congressional Oversight Efforts

Over the course of the 18-month investigation, the SBA slow rolled productions, ignored legitimate oversight document requests, and took months before making staff available for transcribed interviews. The SBA was more concerned with breaking from past precedent than from being held accountable for its actions. The SBA's continual obstruction obscured important information from the Committee as it sought to legislate on matters directly related to this investigation.

The Committee's initial requests for documents and information were made on March 15, 2023. The SBA provided a letter response which did not address the Committee's concerns and failed to provide any of the requested documents. A few weeks later, the SBA provided the Committee with a staff level briefing but zero requested documents.

On June 5, 2023, the Committee sent a follow-up letter reiterating the document requests and requesting additional documents and information. Based on new information that came to light through the Committee's hearing with the SBA Office of Inspector General (OIG) on July 13, 2023, the Committee continued to discuss with SBA staff its lack of response for the requested documents.

After negotiations between the Committee and the SBA, on September 28, 2023, the Committee accepted the SBA's offer to view one of the relevant documents *in camera*. Further negotiations led to a second *in camera* review of another document on October 11, 2023. These two documents together totaled just 15 pages. From these *in camera* reviews, it was clear that these documents, as well as another report that the Committee became aware of during the *in camera* review, struck at the heart of the Committee's investigation.

Despite repeated attempts to obtain those three documents, the SBA continued to withhold them. On October 18, 2023, the Committee sent a follow-up letter to the SBA reiterating the outstanding requests and, as a further accommodation, extending the deadline to produce those three documents by October 25, 2023.¹⁶⁷ The SBA failed to provide the documents by that date. Finally, under threat of subpoena, the SBA produced those three documents to the Committee on November 3, 2023.¹⁶⁸ The remaining requests in the October letter expanded upon the initial requests from March to include all internal and external communications related to the decision on the sub-\$100,000 COVID EIDLs as well as the related documents. Eventually, nearly five months after the June 5 request, the SBA agreed to provide a narrative response to the Committee, but still refused to produce the documents.

On December 22, 2023, the SBA finally produced its first responsive email chain: a single thread, totaling 11 pages. That same 11-page thread was repeated over subsequent pages making the total production 140 pages long.¹⁶⁹ This minimal production after nine months of negotiations did little to satisfy the Committee's multiple legitimate oversight requests. That same day, the SBA notified the Committee that it ran a search for the requested OMB communications but had inadvertently included a typo in the search and needed to re-run it. The SBA has yet to produce a single document from that search.

Next, the SBA contacted Committee staff on December 28, 2023, seeking a meeting that same day, which the Committee accommodated. In this virtual meeting, the SBA announced it had "new information" that led it to reverse its prior policy of not referring PPP and COVID EIDLs valued at \$100,000 or less to Treasury. During the meeting, Committee staff asked for the new information that led to this policy change. It seemed the SBA believed that the reversal of the decision was sufficient to satisfy the Committee's investigation. The Committee made clear that the decision-making process remained under investigation and continued to seek relevant documents and communications to better inform the legislative efforts of the Committee. The SBA continued to obstruct those efforts.

The Committee sent a follow-up letter to the SBA on January 4, 2024, narrowing its outstanding requests and requesting a transcribed interview with the SBA employee who authored the initial decision memoranda that ended collections on PPP and COVID EIDLs valued at \$100,000 or less, Mr. Kim.¹⁷⁰ The SBA responded in narrative form on January 12, 2024, and produced 276 pages of information—252 pages of which were simply a re-transmission of letters and

¹⁶⁷ Letter from Roger Williams, Chairman, H. Comm. on Small Bus., to Isabella Guzman, Adm'r., U.S. Small Bus. Admin. (Oct. 18, 2023).

¹⁶⁸ Letter from George Holman, Assoc. Adm'r, to Roger Williams, Chairman, H. Comm. on Small Bus. (Nov. 3, 2023) (on file with Committee).

¹⁶⁹ On file with Committee.

¹⁷⁰ Letter from Roger Williams, Chairman, H. Comm. on Small Bus., to Isabella Guzman, Adm'r., U.S. Small Bus. Admin. (Jan. 4, 2024).

narrative information the SBA had already provided to the Committee.¹⁷¹ Although the Committee maintained the need to interview Mr. Kim, as an accommodation to the SBA, the Committee accepted the SBA's offer for a briefing with the current SBA Office of Capital Access Associate Administrator, Katie Frost, which took place on January 31, 2024. Unfortunately, Ms. Frost was unable to answer several key questions about the decision, claiming multiple times that because she was not in her role at the time of the underlying events, she did not know the answers to the Committee's questions. If this briefing had any value, it was to underscore the Committee's need to talk to Mr. Kim.

On January 7, 2024, Committee staff met with SBA staff to discuss the outstanding document requests. At that meeting, the Committee again agreed to narrow its requests. Unfortunately, even after yet another attempt to accommodate the SBA, the SBA's next production was not sent to the Committee until March 19, 2024, nearly two months after the January 12, 2024, deadline and the day before the Administrator was scheduled to testify before the Committee.¹⁷² Of the 4,000 pages produced, 3,980 were a fragmented spreadsheet. The entire production was from a search of a single email inbox of a former employee that the SBA was already reviewing for a different investigation.

Under threat of subpoena, the SBA then produced a letter and 90 pages of documents on May 22, 2024. This production contained none of the requested communications, neither of the two requested internal analyses, and only two of the requested reports related to the third-party recommendations that the SBA sell the portfolio, including an eight-page report that had already been provided to the Committee in November 2023. Further, nearly one-third of the documents the SBA produced appear to be in response to a different request by a Member in the Committee's March 23, 2023, hearing.¹⁷³

On June 5, 2024, the Committee issued a subpoena to the SBA requesting communications surrounding the SBA's decision to end collections on PPP and COVID EIDLs valued at \$100,000 or less—the Committee's first subpoena for documents for over a decade. The same week, after four months of negotiations the SBA finally made Mr. Kim available for the requested transcribed interview on June 7, 2024. Even though Mr. Kim's transcribed interview was informative, that did not satisfy the Committee's informational need for the requested communications surrounding the decision.

On June 21, 2024, the SBA provided the first response to the subpoena. However, this was a simply a re-production of all documents and letters the SBA had already produced to the Committee. The SBA agreed to produce in response to the subpoena every two weeks but has been unable to maintain this schedule. The second production was provided on July 8, 2024. Unfortunately, the production consisted mainly of unresponsive documents and the emails that were provided were missing the email attachments. The document production included some documents that were already provided to the Committee and general information about debt collection and sales, for example, CFPB's FDCA Report and snapshot of online debt sales, and Office of Thrift Supervision 2009 examination handbook. The Committee was looking for communications surrounding the decision to end collections, however, documents like SEC's Form 10-k for debt buyers or general information about debt buyers and collection agencies, was not responsive.

On September 17, 2024, the SBA provided another document production. However, these 8 pages were just a re-production of some documents the SBA had produced earlier. Thus, the Committee still has not seen a comprehensive document production about communications surrounding the SBA's decision to end collections on PPP and COVID EIDLs valued at \$100,000 or less that were first requested on March 15, 2023. These communications are critical to assessing how and why this decision was made in the first place, the justification behind the reversal in December 2023, whether the SBA acted in accordance with the Debt Collection Improvement Act, and whether legislative reforms are needed to protect taxpayer dollars in future small business lending programs and loan collection processes. The SBA continues to obstruct these efforts.

¹⁷¹ Letter from George Holman, Assoc. Adm'r, to Roger Williams, Chairman, H. Comm. on Small Bus. (Jan. 12, 2024)(on file with Committee).

¹⁷² On file with Committee.

¹⁷³ Oversight of the Small Business Administration, Hearing before the H. Comm. on Small Bus., 118th Cong. (Mar. 23, 2023).

V. Conclusion

During the Committee’s 18-month investigation, the Committee identified many issues with the SBA’s handling of the pandemic lending programs relating to its decision to end collections on loans at or under \$100,000. Federal Claims Collection Standards require agencies to pursue all appropriate means of collection and determine, based on these efforts, that the debt is uncollectible before terminating collection of a claim.¹⁷⁴

As previously noted, the SBA took on an outsized role during the COVID-19 pandemic. Given it was suddenly overseeing a portfolio that is significantly larger than it had ever dealt with before, it is imperative that there are laws in place to ensure taxpayers are not writing off unnecessary amounts of debt. It appears that the current debt collection rules are insufficient to protect taxpayer dollars and should be strengthened. For example, the DCIA, which is intended to ensure that government debts are adequately recouped for the taxpayers, failed here. Unfortunately, many of those safeguards in the statute were ignored in order to justify the decision to end collections.

To ensure the intent of the DCIA is upheld, the law should be strengthened to require the cost-benefit analysis of a loan portfolio to be done comprehensively, as guided by OMB Circular A-94, and data used in the analysis should be from that specific portfolio, not from different loan programs. The Committee saw many times how the SBA inappropriately attempted to use unrelated loan programs to measure the collectability of both the PPP and COVID EIDL programs. This allowed both of these lending portfolios to linger on the governments balance sheet as they became less collectable.

The SBA has failed to aptly communicate with other agencies and Congress. It appears from conversations with Treasury staff that the SBA did not consult, as required by law, with Treasury on its decision not to pursue a full or partial sale of the COVID EIDL portfolio but told Treasury “in passing” of its consideration of the partial sale.¹⁷⁵ Furthermore, it seems that the SBA did not confer with OMB about the decision not to sell all or part of the COVID EIDL portfolio either. In order to prevent this type of negligence in the future, there should be requirement for a written reporting mechanism to the relevant government agencies and Congress, so that agencies cannot attempt to avoid pursuing all avenues of debt collections.

A consequence of the SBA’s poor decision-making regarding delinquent PPP and EIDL loans valued at \$100,000 or less is the taxpayer money being left on the table. According to Treasury guidance, the ability of an agency to collect delinquent debt will generally decrease as the debt ages. In deciding to forgo collections on these loans, the SBA allowed these debts to further age and ceased the government’s ability to retrieve taxpayer funds. This poor decision-making cost the taxpayer millions of dollars. Small loans they may be individually, but together, they represent an amount larger than any set of loans the SBA has managed.

This portfolio aside, choosing to not actively pursue these loans will have unintended consequences for future government loan programs. Borrowers will be less motivated to repay loans at or under \$100,000 if they know that the government is less likely to impose consequences for failing to repay. This will encourage a pattern of delinquency; it does not hold borrowers accountable and could incentivize others not to repay their loans. While it may be impossible to fully account for the loss of taxpayer dollars from this poor decision making, it is clear that the SBA’s handling of these portfolio’s limited the ability to recoup the maximum value for the taxpayers.

¹⁷⁴ Termination of Collection Activity, 31 C.F.R. §903.3 (2023).

¹⁷⁵ H. Comm. on Small Bus. staff conversation with Treasury staff (Oct. 27, 2023).

VI. Appendix

a. Timeline

May 2021:	The SBA hired a Consultant to help determine best action to take for COVID EIDL portfolio.
Sept. 21, 2021:	The SBA received completed Consultant’s report recommending a sale of some or all of the EIDL portfolio. SBA decided not to sell.
April 5, 2022:	Internal SBA memo recommending ending collection on PPP and COVID EIDLs valued at \$100,000 or less.
Sept. 9, 2022:	The SBA issues a supplemental memo providing additional justification for decision to end collection on PPP only.
Sept. 30, 2022:	OIG releases report criticizing the SBA’s decision to end active collections on PPP \$100,000 or less.
Mar. 15, 2023:	Committee launches investigation.
Mar. 27, 2023:	The SBA responds with narrative but does not provide requested documents.
Apr. 6, 2023:	SBA briefing with Committee staff on Mar. 15 letter. No documents produced.
Jun. 5, 2023:	Committee sends follow up letter.
July 13, 2023:	OIG hearing before Committee. OIG reiterates concerns over this policy.
Sept. 28, 2023:	The SBA provides in-camera review of initial decision but does not produce the document to Committee.
Sept. 29, 2023:	OIG releases report criticizing the SBA’s decision to end active collections on COVID EIDLs \$100,000 or less.
Sept. 29, 2023:	The SBA presents slide deck to Committee titled “How SBA collects.”
Oct. 11, 2023:	The SBA provides in-camera review of supplemental PPP justification.
Oct. 12, 2023:	The SBA briefs Committee staff on appropriations and requests an additional \$300 million a year to service pandemic loans.
Oct. 18, 2023:	Committee sends follow up letter to the SBA threatening a subpoena for three documents.
Nov. 1, 2023:	The SBA responds to June 5 letter with narrative, no documents.
Nov. 3, 2023:	The SBA responds to Oct. 18 letter and includes three documents under subpoena threat.
Nov. 14, 2023:	Committee sends letter to Treasury about their involvement in the decision.
Nov. 15, 2023:	OIG releases results of KPMG audit of SBA finds SBA out of compliance with DCIA due to this policy.

Dec. 1, 2023: Committee sends letter to OMB about their involvement in the decision.

Dec. 22, 2023: Committee sends follow up letters to Treasury and OMB after receiving no response.

Dec. 22, 2023: The SBA produces a single email responsive email chain between the SBA and Treasury.

Dec. 28, 2023: The SBA briefs Committee staff on their intent to begin referring subject loans to Treasury to Committee staff based on new analysis of PPP portfolio only.

Jan. 4, 2024: Committee sends follow up letter to SBA reiterating all outstanding requests and requesting a transcribed interview.

Jan. 12, 2024: The SBA responds to Jan. 4 letter—produces two additional responsive documents but refuses to consider possibility of transcribed interview.

Jan. 25, 2024: Committee staff travels to CA to visit the SBA disaster loan processing center.

Jan. 31, 2024: The SBA staff provides a briefing for Committee staff on Jan. 4 letter.

Feb. 7, 2024: Committee & SBA staff meet to discuss outstanding document requests.

Feb. 9, 2024: The SBA provides some of the requested documents but no communications.

Mar. 15, 2024: The SBA provides first of the requested communications.

Mar. 20, 2024: Administrator Guzman testifies before the Committee and is unable to provide basic answers to questions about the decisions and the SBA’s failure to cooperate with the Committee’s investigation.

May 22, 2024: Under threat of subpoena, the SBA produced a letter and 90 pages.

Jun. 5, 2024: Subpoena issued for documents.

Jun. 7, 2024: Transcribed interview with Mr. Jihoon Kim.

Jun. 21, 2024: First response to the subpoena – simply a re-production of all documents and letters the SBA had already produced to the Committee. The SBA agrees to produce in response to the subpoena every two weeks.

Jul. 8, 2024: Production under the subpoena – re-production of some of the documents already produced to the Committee, general information about loans, and email chains without the relevant attachments.

Sep. 17, 2024: Production under the subpoena – re-production of two documents already produced to the Committee.

b. Committee Action

- Letters sent to SBA – 4
 - March 15
 - June 5
 - Oct. 18
 - Jan. 4
- To Treasury – 2
- To OMB – 2
- Pages reviewed by Committee Staff – 11, 376
- Inspected SBA disaster lending service center in California
- Briefings – 2
- Transcribed interviews – 1
- Subpoena – 1