

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6315

MEMORANDUM

To: Members, Committee on Small Business
From: Nydia M. Velázquez, Chairwoman
Date: April 20, 2021
Re: Full Committee Hybrid Hearing: “Update on SBA’s Pandemic Response Programs”

The Committee on Small Business will meet for a hybrid hearing titled “Update on SBA’s Pandemic Response Programs.” The hearing is scheduled to begin at **10:00 A.M. on Tuesday, April 20, 2021, in person in 2360 Rayburn House Office Building, and virtually via the Zoom platform (information to be provided)**. This hearing will give Members the opportunity to discuss reports from the Small Business Administration’s (SBA) Office of Inspector General (OIG) and the Government Accountability Office (GAO) related to the lack of internal controls and the potential for fraud within the Paycheck Protection Program (PPP) and the Economic Injury Disaster Loan (EIDL) programs. Members will hear directly from OIG and GAO about their findings and SBA’s progress on implementing their recommendations for improving its controls and reducing fraud.

Panel:

- Mr. William Shear, Director, Financial Markets and Community Investment, U.S. Government Accountability Office (GAO)
- Mr. Hannibal “Mike” Ware, Inspector General, Office of Inspector General (OIG), U.S. Small Business Administration (SBA)

Background

To assist small businesses that were impacted by the COVID-19 pandemic, the SBA has approved nearly 9.6 million loans totaling approximately \$755 million (as of April 11, 2021) through the Paycheck Protection Program (PPP),¹ and approved 3.77 million loans totaling \$202.3 billion, and 5.78 million advances totaling \$20 billion (as of April 8, 2021) through the Economic Injury Disaster Loan (EIDL) programs.² The total amount of PPP and EIDL loans and advances made in

¹ See U.S. SMALL BUS. ADMIN, PPP DATA (Apr. 11. 2021) <https://www.sba.gov/funding-programs/loans/covid-19-relief-options/paycheck-protection-program/ppp-data#section-header-2>.

² See U.S. SMALL BUS. ADMIN, Economic Injury Disaster Loans (EIDL) Data as of 04/08/21, <https://www.sba.gov/sites/default/files/2021-04/2021.04.09%20-%20SBA%20COVID%20Relief%20Program%20Report%20-%20vFINALSHARE-508.pdf>.

Fiscal Year 2020 (FY20) was more than “all disasters combined in the Agency’s 67-year history,”³ and included “over 14 years’ worth of lending within 14 days.”⁴

While millions of America’s small businesses have benefited from these programs, GAO and the SBA’s OIG have repeatedly warned that the speed in which these programs were implemented left the agency with limited safeguards to identify and respond to risks, such as improper payments and potential fraud.

GAO has released six reports since March 2020 and has testified in front of this Committee⁵ that SBA’s reliance on self-certification, lack of safeguards in its programs and processes, and lack of internal controls make the agency susceptible to fraud. Due to the amount of money flowing through the PPP and EIDL programs, the potential for fraud, significant program integrity risks, and need for much greater program management and oversight, GAO added PPP and EIDL to its annual “High-Risk List” in March 2021.⁶

At the same time, SBA’s OIG has issued sixteen reports and has testified in front of this Committee⁷ that SBA “lowered the guardrails or relaxed internal controls,” which significantly increased the risk of program fraud.

SBA has made some improvements, including the implementation of a loan review plan that compared loan data with publicly available information, applying eligibility and fraud detection rules,⁸ obtaining tax transcripts from the IRS, and checking for matches against Treasury’s Do Not Pay List.⁹ Yet, the agency has yet to fully implement some of the recommendations suggested by GAO and SBA’s OIG.

³ U.S. SMALL BUS. ADMIN., SBA ACHIEVES HISTORIC SMALL BUSINESS LENDING FOR FISCAL YEAR 2020 (Oct. 28, 2020) <https://www.sba.gov/article/2020/oct/28/sba-achieves-historic-small-business-lending-fiscal-year-2020>.

⁴ *Preventing Fraud and Abuse of PPP and EIDL: An Update with the SBA Office of the Inspector General and the Government Accountability Office: Before the Subcomm. on Investigations, Oversight, and Regul. of the H. Small Bus. Comm.*, 116th Cong. (2020) (statement of Hannibal “Mike” Ware, Inspector General, Office of Inspector General, U.S. Small Business Administration), https://smallbusiness.house.gov/uploadedfiles/10-01-20_mr_ware_testimony.pdf.

⁵ *Preventing Fraud and Abuse of PPP and EIDL: An Update with the SBA Office of the Inspector General and the Government Accountability Office: Before the Subcomm. on Investigations, Oversight, and Regul. of the H. Small Bus. Comm.*, 116th Cong. (2020) (statement of William B. Shear, Director, Financial Markets and Community Investment, Government Accountability Office) <https://www.gao.gov/assets/710/709912.pdf>.

⁶ See U.S. GOV’T ACCOUNTABILITY OFF., GAO-21-119SP, HIGH-RISK SERIES: DEDICATED LEADERSHIP NEEDED TO ADDRESS LIMITED PROGRESS IN MOST HIGH-RISK AREAS (2021) <https://www.gao.gov/assets/720/712647.pdf>.

⁷ See Ware *supra* note 3.

⁸ *Oversight of SBA’s COVID-19 Relief Programs: Before the S. Comm. on Small Bus. & Entrepreneurship*, 117th Cong. (2021) (statement of Patrick Kelley, Associate Administrator, Office of Capital Access, U.S. Small Business Administration) https://www.sbc.senate.gov/public/_cache/files/5/1/511a71b1-7bcb-469f-adaf-07f343db8277/D98AD0D83EF145D552CDAB3A4343F624.kelley-testimony.pdf.

⁹ *Oversight of SBA’s COVID-19 Relief Programs: Before the S. Comm. on Small Bus. & Entrepreneurship*, 117th Cong. (2021) (statement of James Rivera, Associate Administrator, Office of Disaster Assistance, U.S. Small Business Administration) https://www.sbc.senate.gov/public/_cache/files/8/3/831f380a-da0f-4c6f-855c-e17c99df7164/A122259E66F251F5DAA3E417B243E4FD.rivera-testimony.pdf.

Current Issues and Recommendations from the OIG

SBA Approved \$14.3 Billion in Potentially Fraudulent Loans to Accounts that Differed from the Original Bank Accounts Listed on Applications

In its October 2020 report, the OIG identified that SBA had approved 281,414 EIDLs totaling approximately \$14.3 billion to applicants who later changed their bank account number from an account number listed on the original application. OIG recommended that SBA review all loans that had a bank account number changed from the original application to determine if the changes were legitimate or fraudulent. They also recommended that the agency establish or strengthen controls to ensure loan deposits are made to legitimate bank accounts for eligible borrowers. SBA disagreed with the OIG's findings in their report and responded that OIG had overlooked the fact that SBA had created a process for updating bank account information that is subject to strong internal controls and that there are legitimate reasons why an applicant may change their bank account information. Additionally, SBA noted that in mid-August 2020 that the system controls were changed to required applicants to revalidate their bank account information if it is changed.¹⁰

SBA Approved Billions of Dollars in Potentially Fraudulent Loans to Applicants Using Duplicate Information (IP Addresses, E-mail Addresses, Business Addresses, and Bank Accounts)

The OIG found that as of July 31, 2020, SBA had approved multiple loans to applicants that used the same IP addresses, e-mail addresses, business addresses, or bank accounts. They recommended that SBA review duplicate loans to the same IP addresses, email addresses, business addresses, and bank accounts to determine if there are undisbursed funds that should be suspended until the duplicate loans are addressed for eligibility. Additionally, they recommended that the agency strengthen or establish controls to ensure multiple loans are provided only to eligible applicants. And that the agency prevents the erroneous duplication of loans, strengthens data integrity to make it possible to determine if the inaccurate information allowed loans to be made to ineligible entities, and strengthens their ability to service loans appropriately. In response to the OIG report, SBA disagreed with the OIG's findings and stated that the OIG's report overlooked legitimate reasons why applicants commonly used shared IP addresses, e-mail addresses, business addresses and bank accounts.¹¹

SBA Approved Approximately \$1.1 Billion in EIDL Loans and Advance Grants to Potentially Ineligible Entities

The OIG estimates in its October 2020 report that SBA approved approximately 22,706 EIDL loans totaling \$917.7 million and 45,385 EIDL advances totaling \$135.1 million to potentially ineligible applicants who had registered an employer identification number (EIN) with the Internal Revenue Service after February 1, 2020. Additionally, the OIG found that that SBA had approved loans to ineligible entities, including adult entertainment businesses. To resolve these issues, OIG made four recommendations, including one recommending that SBA review the advance grants to

¹⁰ U.S. SMALL. BUS. ADMIN, OFFICE OF INSPECTOR GEN., INSPECTION OF SMALL BUSINESS ADMINISTRATION'S INITIAL DISASTER ASSISTANCE RESPONSE TO THE CORONAVIRUS PANDEMIC (Oct. 28, 2020) <https://www.sba.gov/sites/default/files/2020-10/SBA%20OIG%20Report%2021-02.pdf>.

¹¹ *Id.*

determine if the application was legitimate and the business met CARES Act eligibility requirements. They also recommended that SBA strengthen its controls for verifying an entity's start date to ensure that applicants meet eligibility requirements. SBA disagreed with the OIG's findings and noted that the OIG wrongly equated having an EIN with being "in business." Additionally, SBA pointed out that the OIG failed to account for legitimate reasons why an eligible business may have registered an EIN after January 31, 2020.¹²

SBA Could Improve its Subsidy Payment Controls

The OIG found in its December 2020 report that even though SBA quickly provided debt relief to small businesses during the COVID-19 pandemic, additional internal controls were needed to ensure that subsidy payments were accurately paid out to only eligible loans. They recommended that SBA adopt procedures to verify the accuracy and reasonableness of the loan status, principal, interest, and any fees of loans before approving any subsidy payments. OIG also recommended that SBA establish post-payment audit procedures—using a risk-based approach—to verify the accuracy and completeness of all subsidy payments to lenders. SBA responded to the OIG that it partially agreed with their recommendations and that it would put into place additional steps to validate gross payment amounts and that the agency is in the process of implementing post-payment audit procedures.¹³

SBA Could Use Treasury's Do Not Pay List to Reduce Fraud in the PPP Program

OIG collaborated with the U.S. Department of the Treasury's Do Not Pay (DNP) Business Center in January 2021, which identified approximately \$3.6 billion in PPP loans to potentially ineligible loan recipients. OIG recommended that SBA promptly identify PPP loans that have not been fully disbursed; follow-up with lenders to stop \$280 million in potential improper loan disbursements; strengthen SBA controls to ensure that loans to ineligible recipients are not forgiven; review prepayment and pre-award procedures; and work with Treasury to formulate a technical approach to use Treasury's DNP portal to determine loan applicant eligibility and prevent improper payments before the release of any federal funds. SBA responded to the OIG that prior to its Management Alert, the agency developed systems to screen potential borrowers against the DNP list, which would be implemented when the PPP resumed lending in early 2021.¹⁴

Ineligible Businesses Received PPP Loans

The OIG found in January 2021 that nearly 55,000 loans for approximately \$7 billion in PPP loans went to potentially ineligible businesses. These businesses obtained a TIN after February 15, 2020, exceeded the maximum loan amount based on the number of employees, and/or exceeded maximum size standards. In order to prevent this from occurring in the future, the OIG recommended that the agency review the loans identified as potentially ineligible to determine if

¹² *Id.*

¹³ U.S. SMALL. BUS. ADMIN, OFFICE OF INSPECTOR GEN., EVALUATION OF CARES ACT DEBT RELIEF TO 7(A) BORROWERS (December 1, 2020) <https://www.sba.gov/sites/default/files/2020-12/SBA%20OIG%20Report%2021-03.pdf>.

¹⁴ U.S. SMALL. BUS. ADMIN, OFFICE OF INSPECTOR GEN., PAYCHECK PROTECTION PROGRAM LOAN RECIPIENTS ON THE DEPARTMENT OF TREASURY'S DO NOT PAY LIST (January 11, 2021) <https://www.sba.gov/sites/default/files/2020-10/SBA%20OIG%20Report%2021-06.pdf>.

the businesses met eligibility requirements. Additionally, the OIG recommended that for future rounds of PPP lending, SBA should assess vulnerabilities in internal controls and strengthen or implement necessary internal controls to address ineligible loans and potential fraud. The agency responded to the OIG that they were already undertaking a robust loan review process of existing loans and implementing enhanced internal controls for the next round of PPP lending.¹⁵

SBA's Publicly Reported and Internal Loan-Level Data was Inaccurate and Incomplete

The OIG identified in a January 2021 report that SBA's publicly reported and internal loan-level data was inaccurate and incomplete. It found that SBA data regarding: the number of current employees, the number of jobs retained, the North American Industry Classification System (NAICS) codes identifying the business, and the demographic information of borrowers was incorrect for numerous PPP loans. The OIG recommended in future rounds of PPP that the agency: revise the borrower application to include the jobs retained field, collect the demographic information of borrowers, and provide fields for NAICS codes and business descriptions. SBA agreed with all of the OIG's recommendations, except the recommendation to include the jobs retained field. The agency stated that given the current economic circumstances, the number of jobs retained cannot be captured at the loan application stage.¹⁶

Duplicate Loan Numbers in the PPP Program

On May 19, 2020, SBA's Office of Capital Access notified the OIG that its PPP loan processing method did not detect duplicate loan applications that had been submitted through a one-time use of bulk loan processing, causing a number of duplicate loan numbers. SBA also notified the OIG that there were numerous loans that were provided duplicate loan numbers due to issues with an SSN, rather than a TIN, when the application was submitted. SBA officials stated that as of August 4, 2020, it identified 40,209 duplicate loan numbers, which included 5,377 due to batch processing and 34,832 due to the SSN/TIN issue. As a result, the OIG recommended that the agency review any potential duplicate disbursements and take action to recover any improper payments; review SBA controls related to PPP loan reviews to ensure that duplicate loans are not forgiven; strengthen E-Tran controls for future PPP-like programs; and review lender requirements to prevent these issues in the future. SBA agreed with all of the OIG's recommendations.¹⁷

Current Issues and Recommendations from GAO

Improper Payment Reporting

GAO in a November 30, 2020 report identified government-wide issues with delays in improper payment reporting. It specifically recommended that the Administrator of the SBA should expeditiously estimate improper payments and report estimates and error rates for the PPP due to

¹⁵ U.S. SMALL. BUS. ADMIN, OFFICE OF INSPECTOR GEN., INSPECTION OF SBA'S IMPLEMENTATION OF THE PAYCHECK PROTECTION PROGRAM (January 14, 2021) <https://www.sba.gov/sites/default/files/2021-01/SBA%20OIG%20Report-21-07.pdf>.

¹⁶ *Id.*

¹⁷ U.S. SMALL. BUS. ADMIN, OFFICE OF INSPECTOR GEN., DUPLICATE LOANS MADE UNDER THE PAYCHECK PROTECTION PROGRAM (March 15, 2021) https://www.sba.gov/sites/default/files/2021-03/SBA%20OIG%20%20Report%2021-09.pdf?utm_medium=email&utm_source=govdelivery.

concerns about improper payments, including those from fraudulent activity. The Office of Management and Budget and SBA neither agreed nor disagreed with GAO's recommendation.¹⁸

Management of Internal Controls and Fraud Risks in the EIDL Program

GAO noted in its report dated January 28, 2021 that SBA rapidly processed loans and advances to millions of small businesses impacted by COVID-19. GAO's work, as well as the OIG and Department of Justice, indicate potential gaps in SBA's internal controls that may have led to fraud and the issuance of EIDLs to ineligible entities. Their analysis found SBA approved at least 3,000 loans totaling \$156 million to potentially ineligible businesses, as of September 20, 2020. GAO recommended that SBA develop and implement portfolio-level data analytics across the EIDL loan and advance portfolio. SBA neither agreed nor disagreed with GAO's recommendation.¹⁹

Fraud Risk Management in the EIDL Program

GAO, in its most recent report dated March 25, 2021, stated that the Department of Justice and other federal law enforcement agencies have reported systemic patterns of fraud across their EIDL investigations including identity theft, false attestations on loan documents, fictitious and inflated employee counts, falsified tax documentation, and misuse of loan proceeds. Because of these patterns, GAO recommends the SBA should conduct and document a fraud risk assessment for the EIDL program, develop a strategy that outlines specific actions to address assessed fraud risks in the EIDL program on a continuous basis, and implement a comprehensive oversight plan to identify and respond to risks in the EIDL program to ensure program integrity, effectiveness and to address potential fraud. The agency agreed with all three of GAO's recommendations.²⁰

Conclusion

PPP and EIDL were timely and necessary programs to mitigate the economic crisis created by the COVID-19 pandemic. However, it is clear that the speed and size of PPP and EIDL made them vulnerable to fraud. Even though SBA has taken steps to mitigate fraud in the PPP and EIDL programs, the agency still has not fully implemented some of the OIG and GAO's recommendations. Additionally, the agency has yet to implement a comprehensive oversight plan that can resolve the issues raised by its auditor, KPMG. Ensuring that these recommendations are comprehensively addressed will require ongoing oversight.

¹⁸ U.S. GOV'T ACCOUNTABILITY OFF., GAO-21-191, COVID-19: URGENT ACTIONS NEEDED TO BETTER ENSURE AN EFFECTIVE FEDERAL RESPONSE (2020) <https://www.gao.gov/assets/gao-21-191.pdf>.

¹⁹ U.S. GOV'T ACCOUNTABILITY OFF., GAO-21-265, COVID-19: CRITICAL VACCINE DISTRIBUTION, SUPPLY CHAIN, PROGRAM INTEGRITY, AND OTHER CHALLENGES REQUIRE FOCUSED FEDERAL ATTENTION (2021) <https://www.gao.gov/assets/gao-21-265.pdf>.

²⁰ U.S. GOV'T ACCOUNTABILITY OFF., GAO-21-387, COVID-19: SUSTAINED FEDERAL ACTION IS CRUCIAL AS PANDEMIC ENTERS ITS SECOND YEAR (2021) <https://www.gao.gov/assets/gao-21-387.pdf>.