

Ending Active Collections on Delinquent COVID-19 Economic Injury Disaster Loans



Management Advisory

Report 23-16

September 29, 2023



Make a Difference

To report fraud, waste, or mismanagement, contact the U.S. Small Business Administration's Office of Inspector General Hotline at 800-767-0385 or visit <https://www.sba.gov/oig/hotline>. You can also write to the U.S. Small Business Administration, Office of Inspector General, 409 Third Street, SW (5th Floor), Washington, DC 20416. In accordance with Sections 7 and 8L(b)(2)(B) of the Inspector General's Act, confidentiality of a complainant's personally identifying information is mandatory, absent express consent by the complainant authorizing the release of such information.

NOTICE:

Pursuant to the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Public Law 117-263, Section 5274, any nongovernmental organizations and business entities identified in this report have the opportunity to submit a written response for the purpose of clarifying or providing additional context as it relates to any specific reference contained herein. Comments must be submitted to AIGA@sba.gov within 30 days of the final report issuance date. We request that any comments be no longer than two pages, Section 508 compliant, and free from any proprietary or otherwise sensitive information. The comments will be appended to this report and posted on our public website.



**OFFICE OF INSPECTOR GENERAL
U.S. SMALL BUSINESS ADMINISTRATION**

MEMORANDUM

Date: September 29, 2023
To: Isabella Casillas Guzman
Administrator
From: Hannibal "Mike" Ware 
Inspector General
Subject: Management Advisory on Ending Active Collections on Delinquent COVID-19
Economic Injury Disaster Loans (Report 23-16)

The Office of Inspector General (OIG) is issuing this management advisory to bring to your attention concerns regarding the U.S. Small Business Administration's (SBA) decision to end active collections on delinquent Coronavirus Disease 2019 (COVID-19) Economic Injury Disaster Loans (EIDL) with an outstanding balance of \$100,000 or less.

First, SBA's decision to cease collections risks violating the Debt Collection Improvement Act of 1996, which prohibits ending collections on fraudulent, false, or misrepresented claims, because SBA OIG and other oversight agencies are continuing to work on identifying COVID-19 EIDL fraud that may not have been identified by the agency. It is also unclear whether SBA plans to end active collections on loans for borrowers who received multiple COVID-19 EIDLs of \$100,000 or less that, when combined, exceed \$100,000.

Second, SBA based its decision to end active collections on a cost-benefit analysis that used a dissimilar loan program and a private-sector loan servicing model to estimate proceeds from collections and collection costs. The cost-benefit analysis did not include periodic comparisons of costs incurred and amounts collected as federal regulations require.

Finally, SBA does not appear to have fully evaluated its consultant's recommendation to sell a portion of the COVID-19 EIDL portfolio to maximize the return to taxpayers.

We appreciate the cooperation and courtesies provided by your staff. If you have any questions or need additional information, please contact John Provan, Director of Disaster Assistance Programs Group, at (817) 688-9780 or Andrea Deadwyler, Assistant Inspector General for Audits, at (202) 205-6586.

cc: Katherine Aaby, Associate Administrator, Office of Performance, Planning, and the Chief
Financial Officer
Kathryn Frost, Acting Associate Administrator, Office of Capital Access
Therese Meers, General Counsel, Office of General Counsel
John Miller, Deputy Associate Administrator, Office of Capital Access
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Cynthia Pitts, Acting Director, Office of Continuous Operations & Management
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Background

In response to the adverse economic effects caused by the Coronavirus Disease 2019 (COVID-19) pandemic, Congress provided lending authority for more than \$470 billion to support the COVID-19 Economic Injury Disaster Loans (EIDL) program. The COVID-19 EIDL program provided loans of up to \$2 million to help businesses pay for expenses that could have been met had the pandemic not occurred, including working capital needs such as fixed debt payments and operating expenses such as payroll. Loans over \$25,000 required the borrower to provide collateral. The U.S. Small Business Administration (SBA) stopped accepting COVID-19 EIDL applications in January 2022 and is no longer accepting requests for loan increases or reconsiderations. As of September 30, 2022, SBA had approved approximately 4.05 million COVID-19 EIDLs totaling \$387 billion. According to SBA, over 3 million of these COVID-19 EIDLs, totaling \$70.9 billion, are \$100,000 or less.

Decision to End Active Collection Activities

SBA intends to provide past due notices,¹ due process letters, and demand letters to delinquent COVID-19 EIDL borrowers with loan balances of \$100,000 or less. SBA also plans to continue to process Uniform Commercial Code financing statement modifications and release requests, refer borrowers to credit bureaus, and ensure they are included on the U.S. Department of the Treasury's Do Not Pay list. However, on April 27, 2022, SBA decided to cease other active collection activities, such as foreclosure on property collateral and wage garnishment, on all delinquent COVID-19 EIDLs with an outstanding balance of \$100,000 or less. Active collection means the debt is being collected through appropriate debt collection remedies, including but not limited to, repossession of equipment collateral, litigation, and referral to Treasury's Bureau of the Fiscal Service for centralized collection and offset (through Treasury's Cross-Servicing program and the Treasury Offset Program [TOP] described below). SBA has decided it will not be performing most of these active collection activities with Treasury.²

Under Treasury's Cross-Servicing program, delinquent debt is collected via a variety of methods: wage garnishment, negotiated repayment, and use of private collection agencies. The Debt Collection Improvement Act of 1996 (DCIA) requires credit-granting agencies to 1) report

¹ SBA past due notices will be provided via emails, letters via U.S. mail, and automated phone calls.

² The DCIA centralized the collection of delinquent debt with Treasury through the Treasury's Cross-Servicing program and TOP.

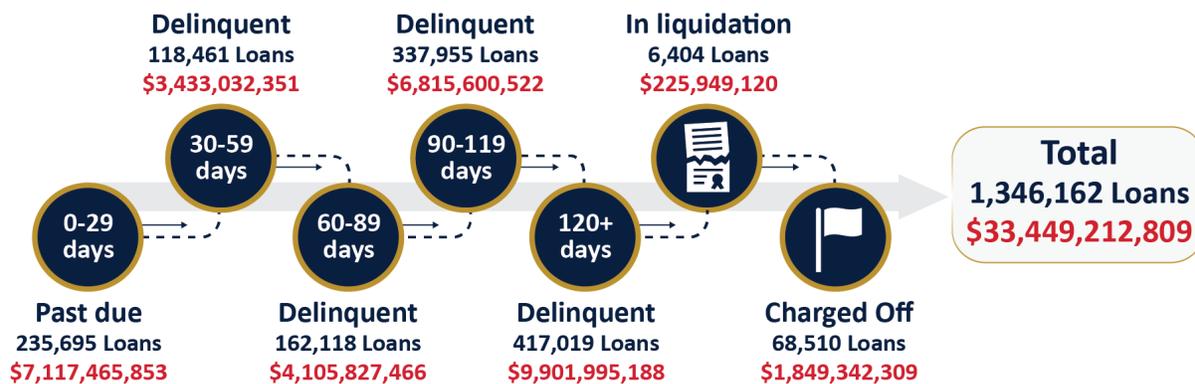
delinquent debts to credit bureaus, 2) refer to Treasury eligible debts more than 180 days delinquent that the agency has been unable to collect, and 3) bar debtors from receiving federal direct, guaranteed, or insured loans until their delinquent debts owed to the United States are resolved. Also, federal debts determined by an agency to be uncollectible should be closed out and reported to the Internal Revenue Service (IRS) as potential taxable income to the debtor. Under TOP, delinquent debt is collected through funds due to the delinquent borrower from government sources such as IRS tax refunds.

SBA's rationale to end most active collection activities on delinquent COVID-19 EIDLs valued at \$100,000 or less was that the cost (over \$250 million per year according to SBA) to collect delinquent COVID-19 EIDLs would likely be more than the recovery amount. SBA asserted its rationale for ending active collections was also to provide equitable treatment to smaller sole proprietor borrowers who are not protected by an incorporation shield like incorporated borrowers. SBA estimates that about half of the 3 million COVID-19 EIDLs of \$100,000 or less were made to sole proprietors.

SBA's decision not to pursue all available collection activities for these loans does not hold those who borrowed upon the public trust accountable and could incentivize other COVID-19 EIDL recipients to stop paying on their loans, creating a larger chain of delinquency. At the time of SBA's decision to end active collection, it projected 30 to 50 percent of the 3 million borrowers with loans of \$100,000 or less would become 90 days delinquent.³ Using SBA's loan accounting system of record data, we calculated the number of delinquent and past due COVID-19 EIDLs of \$100,000 or less at \$62 billion as of March 24, 2023. In January 2023, we requested a monthly report of all past due and delinquent COVID-19 EIDLs from SBA. By March 2023, we had not received the requested data nor a clarification on the methodology used to identify delinquent loans in the program. SBA has since calculated the number of past due and delinquent loans using data that does not sync with the loan accounting system of record and data that OIG does not have access to. SBA indicated there were about 1.3 million COVID-19 EIDLs (51 percent) either past due, delinquent, in liquidation, or charged off, for a total of \$33.4 billion as of May 9, 2023 (see figure 1). We are unable to validate this data. SBA has already ended, or will end, collections on these loans if they remain delinquent, and as additional loans become due, this number is likely to grow.

³ After our exit conference with SBA, agency managers revised their projection to 25 percent of the 3 million borrowers with loans \$100,000 or less that would become 90 days delinquent; however, the agency did not provide an updated estimate of the cost to service the loan portfolio with the revised default rate.

Figure 1: COVID-19 EIDL (\$100,000 or less) Data as of May 9, 2023



Source: Formula-based data provided by SBA

Additionally, it is important that SBA identify all borrowers with multiple loans of \$100,000 or less which, when combined, exceed \$100,000 and subject them to continued collection activities. We found \$9.6 billion COVID-19 EIDLs of \$100,000 or less made to 164,826 borrowers who may have received multiple COVID-19 EIDLs exceeding \$100,000 in total.⁴

Estimating Collection Costs and Potential Recoveries

SBA told us that servicing the delinquent loan portfolio of COVID-19 EIDLs of \$100,000 or less will cost over \$250 million per year, with an insubstantial expected recovery. Based on SBA’s estimate of expected delinquencies, the delinquent portfolio could range between \$21 billion to \$35 billion.

SBA explained that it based its conclusion of insubstantial recoveries on collection efforts made for only \$23.5 million of SBA Express loans to sole proprietors that it referred to Treasury over a 14-year period (2009 – 2022), of which only \$65,000 was recovered. The relatively small sample of SBA Express loans used to draw this conclusion, in addition to the fact that the eligibility requirements for COVID-19 EIDLs significantly differ from SBA Express loans, makes the basis of SBA’s estimate of recoveries unreliable for these reasons:

⁴ We used employer identification numbers (EIN) and Social Security numbers (SSN) to identify borrowers who may have received multiple COVID-19 EIDLs. Because SBA’s database commingled borrowers’ EINs and SSNs, some of the \$9.6 billion of loans made to the 164,826 borrowers we identified as receiving multiple COVID-19 EIDLs may have been disbursed to separate entities with matching EINs and SSNs.

- COVID-19 EIDLs over \$25,000 required collateral, whereas with SBA Express loans, lenders conform to procedures used for their similarly sized non-SBA-guaranteed commercial loans under \$350,000, meaning lending thresholds for collateral would vary between lenders.
- COVID-19 EIDLs were direct loans made by SBA, whereas SBA Express loans are made by lenders and guaranteed by SBA, meaning lenders likely pursued active collections on SBA Express loans prior to those loans being referred to Treasury.
- The SBA Express loans used to estimate recoveries were made only to sole proprietors, and only about half of the 3 million COVID-19 EIDLs of which SBA plans to end collections were made to sole proprietors.
- SBA's conclusion that expected recoveries on COVID-19 EIDLs are insubstantial appears inconsistent with the determination by the SBA-hired consulting firm (the consultant) that calculated that even the riskiest loans in the portfolio (those loans to borrowers with credit scores below 500) were worth 14.2 percent of the principal loan balance.

SBA's determination that portfolio servicing costs would exceed \$250 million per year also appears unreliable. The consultant used private sector servicing estimates to determine the number of employees SBA needed to service the portfolio; however, SBA refers delinquent debts to Treasury within 180 days of becoming delinquent to continue collection actions, which is not an option for private sector servicers. Once the debt is referred to Treasury, SBA monitors the loan to ensure it remains valid and responds to borrower requests, but it does not continue any active collection actions. Thus, the portfolio servicing cost estimate may be inflated because SBA could require fewer employees than estimated to service the portfolio. Treasury regulations require cost studies that show a periodic comparison of costs incurred and amounts collected in performing a cost-benefit analysis for terminating debt collection.⁵ SBA's servicing cost estimate does not reflect that the size and servicing demands of the COVID-19 EIDL portfolio should decrease over time as loans are repaid, defaulted loans are written off as uncollectible, and collection actions are transferred to Treasury.

⁵ 31 C.F.R. § 901.10.

Recommendations

To address concerns in the COVID-19 EIDL program, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to:

Recommendation 1: Perform a comprehensive cost-benefit analysis, consistent with federal regulations, to include periodic comparisons of costs incurred and amounts collected on the portfolio of COVID-19 EIDLs of \$100,000 or less to assess whether collection costs exceed recovery amounts.

Recommendation 2: Reevaluate and amend as appropriate the April 27, 2022 decision to end active collections contingent on the outcome of the more comprehensive cost-benefit analysis.

Recommendation 3: Ensure SBA does not end active collections pursuant to the April 27, 2022 decision on any COVID-19 EIDL of \$100,000 or less made to borrowers who received multiple COVID-19 EIDLs that, when combined, exceed \$100,000.

Fraudulent, False, or Misrepresented Claims

By prematurely ending active collection activities on delinquent COVID-19 EIDLs with balances of \$100,000 or less, SBA risks violating the federal law prohibiting agencies from ending collections on fraudulent, false, or misrepresented claims, given that the full extent of fraudulent loans in the portfolio is unknown. An agency has the affirmative responsibility to try to collect delinquent debts that are owed to them by engaging in active collection. Federal law allows agencies to suspend or end collections on claims of not more than \$100,000 when 1) it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or 2) the cost of collecting the claim is likely to be more than the amount recovered.⁶ Treasury regulations require that before terminating collection activity, the agency should have pursued all appropriate means of collection and determined, based upon the results of collection activity, that the debt is uncollectible.⁷ Agencies may not end collections on any claim that appears to be fraudulent, false, or misrepresented by a party with interest in the claim.⁸

⁶ 31 U.S.C. § 3711(a).

⁷ 31 C.F.R. § 903.3.

⁸ 31 U.S.C. § 3711(b)(1).

SBA indicated it will not end collection efforts on any amount that appears to be, or has been, reported as fraudulent, false, or misrepresented. To ensure collections continue on such loans, SBA needs a process in place to check each delinquent COVID-19 EIDL at the time it intends to end active collections against all loans that have been identified as potentially fraudulent by the agency or by oversight entities, such as SBA OIG, the Government Accountability Office, and the Pandemic Response Accountability Committee (PRAC). Even if SBA can effectively continue collections on all loans previously identified as potentially fraudulent, prematurely ending active collections on delinquent COVID-19 EIDLs will inhibit the additional fraud detection that could be attained through collection efforts. Additionally, SBA plans to end active collections on these loans at the same time it would normally refer the loans to Treasury to undergo extensive collection efforts through the TOP and Cross-Servicing programs, which can take years. Only after Treasury determines that further collections are unwarranted would the loans be returned to the agency to be written off as uncollectable. By foregoing referral to Treasury and ending active collections earlier, SBA is limiting the time available for oversight entities to identify additional fraudulent loans through ongoing or future reviews before SBA ends collections on the loans.

As of January 17, 2023, we found SBA had flagged 455,126 COVID-19 EIDLs with loan balances of \$100,000 or less, totaling \$11.2 billion, as potentially fraudulent. While SBA will not end active collections on those loans, hold codes have not been assigned to all loans identified as potentially fraudulent. Therefore, unless SBA adds a hold code for the loans identified by the PRAC and OIG as potentially fraudulent, we are concerned the agency will end active collections on these loans. Specifically, the [January 2023 Fraud Alert](#) issued by the PRAC identified \$5.4 billion in potential identity fraud in COVID-19 EIDL and Paycheck Protection Program (PPP) loan disbursements paid to borrowers with questionable and unverified Social Security numbers. Of this number, \$549 million were COVID-19 EIDLs of \$100,000 or less. In our June 2023 white paper *COVID-19 Pandemic EIDL and PPP Loan Fraud Landscape* ([Report 23-09](#)), we identified over \$136 billion in COVID-19 EIDLs with attributes that indicate potential fraud. Of this number, \$25.9 billion were COVID-19 EIDLs of \$100,000 or less.⁹

⁹ SBA OIG, 23-09, *COVID-19 Pandemic EIDL and PPP Loan Fraud Landscape* (June 27, 2023).

Recommendation

To address concerns in the COVID-19 EIDL program, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to:

Recommendation 4: Ensure SBA does not end active collections on any COVID-19 EIDL that appears to be fraudulent, false, or misrepresented, including loans identified as such by OIG or other federal oversight entities, without 1) reviewing the loan application for fraud and 2) attempting active collection, at a minimum, regardless of the outcome of a comprehensive cost-benefit analysis.

Consultant's Recommendation to Sell the COVID-19 EIDL Portfolio

The Debt Collection Improvement Act specifies that an agency may sell any nontax debt that is delinquent for more than 90 days. It also states that an agency shall sell nontax delinquent debt after terminating collection actions if the Secretary of the Treasury determines sale of the debt is in the best interest of the United States. In deciding to end active collection on delinquent debt, a consultant was hired in May 2021 to assess the COVID-19 EIDL portfolio. Note: This evaluation was of a smaller COVID-19 EIDL portfolio (\$226 billion of loan commitments through July 31, 2021) early in the SBA response and not on the current portfolio of more than \$375 billion.

The consultant evaluated and summarized four alternatives to servicing the loan portfolio: 1) self-service by SBA, 2) outsourced service, 3) hybrid service (a combination of self-servicing and outsourced servicing), and 4) sale of the debt. They recommended SBA sell the debt through a holistic disposition plan to ensure an exit strategy that would maximize the value of the portfolio. Due to the unique characteristics of the loan program, the large number of loans, and the enormous portfolio balance, the consultant recommended a multiphase loan sale strategy for the COVID-19 EIDL portfolio. We asked SBA officials if they considered selling the delinquent COVID-19 EIDL portfolio, but SBA management responded that they reserve the right to refer the subject loans to the Treasury's Cross-Servicing program without providing further explanation about why they chose not to pursue the consultant's recommendation to sell the portfolio.

Recommendation

To maximize the return to taxpayers, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to:

Recommendation 5: Evaluate the COVID-19 EIDL portfolio, in collaboration with Treasury, to determine if selling the portfolio, including delinquent loans of \$100,000 or less, is in the best interest of the government.

Evaluation of Agency Response

SBA management provided formal comments that are included in their entirety in Appendix 1. SBA management agreed with recommendations 3, contingently agreed to recommendation 2 based on the outcome of recommendation 1, partially agreed with recommendations 1 and 4, and disagreed with recommendation 5. In their response, SBA management expressed concerns that the title of the report and references to “ending collections” would be confusing to the reader. They requested that OIG modify the report title from “Ending Active Collections on Delinquent COVID-19 EIDLs” to “Ending Treasury Referrals on Delinquent COVID-19 EIDLs under \$100,000.” OIG notes that SBA is ending active collections in which there will not be foreclosure on property collateral, wage garnishment, negotiated repayment, and use of private collection agencies rather than solely ending treasury referrals. Since “ending active collections” is accurate, we have retained the original title of our report.

The following section summarizes the status of our recommendations and the actions necessary to close them.

Recommendation 1

To address concerns in the COVID-19 EIDL program, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to perform a comprehensive cost-benefit analysis, consistent with federal regulations, to include periodic comparisons of costs incurred and amounts collected on the portfolio of COVID-19 EIDLs of \$100,000 or less to assess whether collection costs exceed recovery amounts.

Status: Unresolved

SBA management partially agreed with this recommendation stating that they will determine if a separate cost-benefit analysis will be necessary to make an informed decision to refer the COVID-19 EIDLs of \$100,000 or less to Treasury. This recommendation is unresolved because

management only agreed to determine if conducting a cost-benefit analysis was necessary but didn't agree to conduct the analysis. The recommendation can be closed when management provides evidence they have either conducted a comprehensive cost-benefit analysis or they have reversed the April 27, 2022 decision to end active collection on the portfolio of COVID-19 EIDLs of \$100,000 or less.

In accordance with our audit follow-up policy, we will attempt to reach agreement with management on the unresolved recommendation. If agreement is not reached, we will elevate the disputed issue to the designated audit follow-up official.

Recommendation 2

To address concerns in the COVID-19 EIDL program, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to reevaluate and amend as appropriate the April 27, 2022 decision to end active collections contingent on the outcome of the more comprehensive cost-benefit analysis.

Status: Unresolved

SBA agreed with this recommendation; however, because it was contingent on their determination of whether they would perform a comprehensive cost-benefit analysis in accordance with recommendation 1, this recommendation is unresolved. Recommendation 2 can be closed when management provides evidence of a comprehensive cost-benefit analysis, and evidence of reevaluating the April 27, 2022 decision to end active collections, or evidence that they have reversed the April 27, 2022 decision to end active collection on the portfolio of COVID-19 EIDLs of \$100,000 or less.

In accordance with our audit follow-up policy, we will attempt to reach agreement with management on the unresolved recommendation. If agreement is not reached, we will elevate the disputed issue to the designated audit follow-up official.

Recommendation 3

To address concerns in the COVID-19 EIDL program, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to ensure SBA does not end active collections pursuant to the April 27, 2022 decision on any COVID-19 EIDL of \$100,000 or less made to borrowers who received multiple COVID-19 EIDLs that, when combined, exceed \$100,000.

Status: Resolved

SBA agreed with this recommendation to the extent that this is technologically feasible to implement a system flag that identifies multiple loans to one borrower. This recommendation can be closed when management provides evidence that SBA has implemented a process to ensure that borrowers with COVID-19 EIDLs exceeding \$100,000 in aggregate are referred to Treasury as required.

Recommendation 4

To address concerns in the COVID-19 EIDL program, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to ensure SBA does not end active collections on any COVID-19 EIDL that appears to be fraudulent, false, or misrepresented, including loans identified as such by OIG or other federal oversight entities, without 1) reviewing the loan application for fraud and 2) attempting active collection, at a minimum, regardless of the outcome of a comprehensive cost-benefit analysis.

Status: Unresolved

SBA partially agreed with this recommendation but asserts that OIG and other federal oversight entities have denied SBA's request to share data. While we are not able to provide data for other federal oversight entities, on July 28, 2023, OIG provided SBA with a list of COVID-19 EIDLs of \$100,000 or less from our June 2023 *COVID-19 Pandemic EIDL and PPP Loan Fraud Landscape* white paper, as well as those borrowers we had identified as receiving multiple COVID-19 EIDLs that, when combined, exceed \$100,000. To close this recommendation, SBA will need to provide evidence that it implemented system flags that identify these loans to ensure that they are appropriately reviewed during the liquidation review process.

In accordance with our audit follow-up policy, we will attempt to reach agreement with management on the unresolved recommendation. If agreement is not reached, we will elevate the disputed issue to the designated audit follow-up official.

Recommendation 5

To maximize the return to taxpayers, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to evaluate the COVID-19 EIDL portfolio, in collaboration with Treasury, to determine if selling the portfolio, including delinquent loans of \$100,000 or less, is in the best interest of the government.

Status: Unresolved

SBA disagreed with this recommendation. SBA management asserted that after reviewing the report from their contractor, who reviewed the COVID-19 EIDL portfolio and made

recommendations for servicing the loans including selling a portion of the portfolio, the agency also performed an additional analysis and evaluated the possibility of selling the portfolio. SBA management said they determined it was not in the best interest of the government to proceed with the sale at the time. During our audit, we inquired whether any consideration had been given to the sale of these loans to private collection firms. SBA officials stated that they reserved the right to sell these loans at a later date but did not provide a copy of the analysis they conducted. To close this recommendation, SBA will need to provide evidence that an analysis of selling the portfolio was performed including support for their conclusion that it was not in the best interest of the government.

In accordance with our audit follow-up policy, we will attempt to reach agreement with management on the unresolved recommendation. If agreement is not reached, we will elevate the disputed issue to the designated audit follow-up official.

Scope and Methodology

We prepared this management advisory to bring attention to serious concerns about SBA's decision to end active collections on delinquent COVID-19 EIDLs with an outstanding balance of \$100,000 or less, excluding interest. We reviewed federal laws, regulations, policies, procedures, and internal memos pertaining to SBA COVID-19 EIDLs and federal debt collection procedures. We met with officials from the SBA Office of Capital Access to discuss ending the collections. We submitted a formal request for information about SBA's plan and procedures for ending collections on these loans to SBA Office of Capital Access management and evaluated their response. We also obtained and analyzed COVID-19 EIDL data to evaluate the potential impact of the policy decision to end such collections.

We used employer identification numbers (EIN) and Social Security numbers (SSN) to identify borrowers who may have received multiple COVID-19 EIDLs. Because SBA's database commingled borrowers' EINs and SSNs, some of the \$9.6 billion of loans made to the 164,826 borrowers we identified as receiving multiple COVID-19 EIDLs may have been disbursed to separate entities whose EINs and SSNs matched.

This management advisory was prepared in alignment with OIG's quality control standards and the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Federal Offices of Inspector General*, which requires that we conduct our work with integrity, objectivity, and independence.

Appendix 1: Agency Response

U.S. Small Business Administration
Response to Report



U.S. Small Business
Administration

To: Hannibal “Mike” Ware, Inspector General

From: Jihoon Kim, Director, Office of Financial Program Operations

JI KIM

Digitally signed by JI KIM
Date: 2023.09.21 09:36:24
-0400'

Date: September 21, 2023

Subject: Response to OIG Draft Memorandum – Ending Collections on Delinquent COVID-19 EIDLs – Project 22803

We appreciate the role the Office of Inspector General (OIG) plays in working with management in ensuring that our programs are effectively managed, and for the feedback provided in this draft report. We offer the following comments to the draft and Recommendations:

The Draft Memorandum references “ending collections” in the title and numerous times throughout the document—this phrase is misleading, as SBA is not referring these loans to Treasury but is actively conducting collection activities on all delinquent COVID-19 EIDLs. When SBA used the phrase in the approved 606, the action would better be described as not referring loans to Treasury. SBA requests OIG modify this statement to “end Treasury referrals” or similar. Note that the draft directly references SBA’s collections activities on page 5, including “provide past due notices, due process letters, and demand letters to delinquent COVID-19 EIDL borrowers with loan balances of \$100,000 or less.... process UCC financing statement modifications and release requests, refer borrowers to credit bureaus, and ensure they are included on the U.S. Department of the Treasury’s (Treasury) Do Not Pay list.”

Recommendation 1

To address concerns in the COVID-19 EIDL program, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to perform a comprehensive cost-benefit analysis, consistent with federal regulations, to include periodic comparisons of costs incurred and amounts collected on the portfolio of COVID-19 EIDLs of \$100,000 or less to assess whether collection costs exceed recovery amounts.

Response – SBA partially agrees. SBA is currently evaluating the cost-benefit analysis of collections on the related, but different, PPP program. SBA will determine if a separate cost-benefit analysis is necessary to make an informed decision to refer the COVID-19 EIDLs of \$100,000 or less to Treasury.

Recommendation 2

To address concerns in the COVID-19 EIDL program, we recommend the Administrator direct the

Associate Administrator for the Office of Capital Access to reevaluate and amend as appropriate, the April 27, 2022, decision to end active collections contingent on the outcome of the more comprehensive cost-benefit analysis.

Response – SBA agrees. SBA will reevaluate and amend as appropriate, the decision contingent on the outcome of the more comprehensive cost-benefit analysis performed on PPP and/or COVID EIDL, as set forth in the response to Recommendation 1.

Recommendation 3

To address concerns in the COVID-19 EIDL program, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to ensure SBA does not end active collections pursuant to the April 27, 2022, decision on any COVID-19 EIDL of \$100,000 or less made to borrowers who received multiple COVID-19 EIDL loans that, when combined, exceed \$100,000.

Response – SBA agrees to the extent that this is technologically feasible. SBA is working to implement a system to flag the multiples.

Recommendation 4

To address concerns in the COVID-19 EIDL program, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to ensure SBA does not end active collections on any COVID-19 EIDL that appears to be fraudulent, false, or misrepresented, including loans identified as such by OIG or other federal oversight entities, without (1) reviewing the loan application for fraud and (2) attempting active collection, at a minimum, regardless of the outcome of a comprehensive cost-benefit analysis.

Response: SBA partially agrees, as this is already the process for suspected fraud.

SBA cannot do this for confirmed identity theft because of the unknown identity of the fraudster.

SBA cannot do this for potentially fraudulent loans identified as such by OIG or other federal oversight entities because OIG and other federal oversight entities have denied SBA's request to share this data. SBA cannot take action on data other entities refuse to share.

If a loan is flagged for suspected fraud, SBA does a review prior to the liquidation review to ensure that the hold is appropriate and then proceeds with actions that can include charging off the loan. SBA does continue other actions against these charged-off COVID-19 EIDL Obligor, such as issuing a 1099-C to the obligors and reporting the obligors to CAIVRS and to credit reporting bureaus. The loan is then referred to SBA OIG.

Recommendation 5

To maximize the return to taxpayers, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to evaluate the COVID-19 EIDL loan portfolio, in collaboration with Treasury, to determine if selling the portfolio, including delinquent loans of \$100,000 or less, is in the best interest of the government.

Response: SBA disagrees. After receipt of the report from the contractor, SBA performed additional internal group analysis and evaluated the possibility of selling the portfolio. This analysis was ongoing from December 2021 through February 2022. It included not only the contractor recommendations but also the OMB approved subsidy methodology, and the GAO Reports on prior SBA asset sales. SBA concluded that it was not in the best interest of the government to proceed with the sale at that time.

Final Action Date – September 29, 2023