

SBA's Actions to Address Forgiven PPP Loans Subsequently Flagged as Potentially Ineligible



Management Advisory

Report 25-12

April 23, 2025



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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 may be appended to this report and posted on our public website.



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

MEMORANDUM

Date: April 23, 2025

To: Kelly Loeffler
Administrator

From: Sheldon Shoemaker
Deputy Inspector General

A handwritten signature in black ink that reads "Sheldon Shoemaker".

Subject: SBA's Actions to Address Forgiven PPP Loans Subsequently Flagged as Potentially Ineligible (Report 25-12)

The Small Business Administration's (SBA) Office of Inspector General (OIG) is issuing this management advisory to bring to your attention concerns regarding SBA's actions to address forgiven Paycheck Protection Program loans that SBA subsequently flagged as potentially ineligible using hold code 70 (potential clawback) but for which it had not completed its review to facilitate recovery of improper payments for loans deemed ineligible. It is imperative that SBA completes its review to promote program integrity and mitigate financial loss by seeking recovery of improper payments for ineligible loans.

We considered management's comments on the draft of this report when preparing the final report. SBA management agreed with both recommendations 1 and 2.

We appreciate the cooperation and courtesies provided by your staff. If you have any questions or need additional information, please contact Andrea Deadwyler, Assistant Inspector General for Audits, at (202) 205-6586 or Teresa Gray, Director, Credit Programs Group, at (202) 845-4002.

cc: Wesley Coopersmith, Chief of Staff, Office of Administrator
Ben Grayson, Deputy Chief of Staff, Office of Administrator
Thomas Kimsey, Associate Administrator, Office of Capital Access
Dianna Seaborn, Deputy Associate Administrator, Office of Capital Access
Anna M. Calcagno, Director Office of Performance, Planning, and the Chief Financial Officer
Alex H Wilson, Senior Policy Advisor-Enterprise Risk Management
Nathan Davis, Chief Financial Officer and Chief Risk Officer of Performance, Planning, and the Chief Financial Officer

Deborah Chen, Deputy Chief Financial Officer, Office of Performance, Planning, and Chief Financial Officer

Robin Wright, Chief Operating Officer, Office of the Administrator

Wendell Davis, General Counsel, Office of General Counsel

Michael Simmons, Attorney Advisor, Office of General Counsel

Peter Meyers, Senior Advisor, Office of Capital Access

Aaron Wright, Office of Capital Access & Office of Financial Program Operations Audit Liaison

Lance Ausing, Audit Liaison/Program Analyst, Office of Capital Access

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Background

On March 27, 2020, the President signed the Coronavirus, Aid, Relief, and Economic Security (CARES Act) into law to help the nation respond to and recover from the economic impact of the COVID-19 pandemic. Section 1102 of the CARES Act provided \$349 billion to create the Paycheck Protection Program (PPP) under Section 7(a) of the Small Business Act. Subsequent acts provided additional funding for the PPP, increasing total funding to \$813.7 billion.

The unprecedented demand for PPP funds and the need to quickly award loans gave way to a pay and chase environment that relied heavily on post-payment reviews and resolving subsequent hold codes to ensure program integrity. The Small Business Administration (SBA) was required to issue regulations for PPP not later than 15 days from the date the CARES Act was enacted, and lenders were to disburse loans within 10 days of approving applications. SBA launched the program on April 3, 2020 — 1 week after the enactment.¹ In response, SBA reduced or eliminated key upfront controls as it sought to expedite aid under the presumption that post-payment reviews would offset the risks posed by reducing controls and facilitate lenders quickly approving and disbursing funds.

The PPP provided fully guaranteed loans for certain eligible businesses, individuals, and nonprofit organizations that could be forgiven if loan proceeds were used as required. As of May 24, 2024, SBA had forgiven over 10.5 million PPP loans, totaling over \$750 billion. Of the 10.5 million forgiven loans, 37,938 loans, totaling approximately \$4.6 billion, had an open hold code 70 (potential clawback). A hold code is an identifier placed on a loan in the agency's system to indicate there is a potential issue that needs to be resolved. SBA uses hold code 70 to flag forgiven PPP loans for which it subsequently suspects the borrower is potentially ineligible for the loan or for loan forgiveness. There are several ways SBA identifies issues that might indicate a need for a hold code 70 including SBA's automated review process, referrals from SBA's Office of Inspector General (OIG) audits, and investigations and referrals from other agencies. Issues that could trigger use of hold code 70 include, but are not limited to, potential fraud, misuse of program funds, or evidence that a borrower knowingly violated SBA policy.

Post-payment reviews examine loans which have already been paid to the borrower and/or forgiven to verify that the loans were made and forgiven correctly. SBA may undertake a review

¹ 20811 *Federal Register* Vol. 85, No. 73, April 15, 2020.

at any time at SBA's discretion, however, the record retention window is 10 years from the time of forgiveness. SBA started using hold code 70 in July 2021.

SBA's guidance stipulates that all loans for which a forgiveness payment has been made and later determined to be potentially ineligible will be flagged using hold code 70 regardless of size; however, it also stipulates that if a forgiven loan is less than or equal to the \$25,000 de minimis threshold, it may be considered immaterial, and recovery may not be prioritized. Of the 37,938 PPP loans subsequently flagged with a hold code 70, there were 26,234 loans, totaling \$454 million, that were less than or equal to \$25,000.

SBA's Review Process to Assess Loans Flagged with Hold Code 70

SBA uses up to a four-step process to review PPP loans with a hold code 70. The first two steps consist of a Reviewing Loan Specialist and an Approving Loan Specialist determining if the identified issue is valid and if a clawback would be appropriate. The third step consists of a higher authority review (HAR) to assess the appropriateness of decisions in steps one and two and make a final loan decision about whether clawback should occur. In step four, HAR reviewers can escalate the review to the Office of Capital Access (OCA) to make the final decision about whether to clawback ineligible loans. SBA's detailed four-step review process is outlined below:

1. Reviewing Loan Specialists identify and verify ineligibility factors regarding borrower eligibility and the loan and/or forgiveness amount during a manual review, provide a detailed summary explaining the potential eligibility issue(s) and make a recommendation to either clear hold code 70 or deny the loan and/or forgiveness amounts in part or in full.
2. Approving Loan Specialists assess the appropriateness of the reviewer's recommendation and sufficiency of the supporting information. If the approver concurs that hold code 70 should be cleared, the hold code is removed, and the review process is complete. If the approver concurs that the loan and/or forgiveness amount should be denied in part or in full, or disagrees with the reviewer's recommendation, the review is escalated to a HAR.
3. The HAR consists of separate reviews by a reviewing loan specialist and an approving loan specialist (HAR reviewers). The reviewers assess the recommendation of the initial reviewer and approver regarding whether initial eligibility and the loan and/or forgiveness amount should be denied in part or in full.

The HAR reviewers are authorized to make the final decision on all loan reviews they receive unless they further escalate the review to the OCA for the final decision.

4. At their discretion and on a case-by-case basis, HAR reviewers escalate the review to OCA to make the final loan or forgiveness review decision.

We found SBA had not completed its review process for the 37,938 PPP loans, totaling approximately \$4.6 billion, that were flagged with a hold code 70 (potential clawback). Specifically, SBA only completed the first two steps of its four-step review process for loan and/or forgiveness amounts in which the reviewer and approver recommended the amount be denied in part or in full or for loans in which the approver disagreed with the reviewer's loan review recommendation. It had not completed the required step three or step four (as necessary) to ensure review decisions were appropriate and finalized to facilitate recovery of improper payments for all loans deemed ineligible.

SBA stated it had not completed the review process for loans flagged with a hold code 70 because it lacked the necessary infrastructure to perform steps three and four, which consist of the HAR and as needed, OCA reviews, in its PPP loan review platform. The agency indicated it is working on competing priorities and could not state when the updates would be completed. In addition, SBA's review plan guidance does not establish timelines for completing reviews of loans flagged with a hold code 70. Further, SBA has not established comprehensive policies and procedures to formalize how it will recover improper payments for loans deemed ineligible.

The Payment Integrity Information Act of 2019 requires agencies to have a cost-effective means of identifying and recovering overpayments if they occur to ensure effective oversight of its programs. Reviews are mechanisms agencies use to assist in identifying overpayments across the federal government. In this case, they are essential to ensuring that PPP loans are directed to the businesses Congress intended and proceeds are used for the purposes Congress required, including the CARES Act's central purposes of keeping workers paid and employed. Payments of concern for this review involved PPP loans that were forgiven for amounts of up to 100 percent of the loan.

Incomplete reviews for the 37,938 potentially ineligible PPP loans, totaling approximately \$4.6 billion, may adversely impact program integrity and increase risk of financial loss and improper payments. The ability of an agency to collect on delinquent debts generally decreases as debts

get older.² Again, SBA first used hold code 70 in July 2021. Swift action by management to identify and review potentially ineligible loans and to establish comprehensive policies and procedures to formalize how it will recover improper payments could increase the probability of recovering improper payments.

SBA May Not Seek Recovery of Ineligible PPP Loans Flagged with Hold Code 70 Valued at \$25,000 or Less

SBA intended to rely on post-payment reviews to identify issues with initial eligibility and the loan and/or forgiveness amounts to offset the risks of weakened or eliminated upfront controls while expediting aid to businesses in urgent need of pandemic relief. However, according to program officials and the agency's guidance, it may not seek recovery of disbursed and/or forgiven PPP loans, valued at \$25,000 or less, flagged with a hold code 70, and later deemed ineligible. We identified 26,234 PPP loans (a subset of the 37,938 loans discussed above), each valued at \$25,000 or less, totaling approximately \$454 million, that were made to borrowers, forgiven, and subsequently flagged by SBA with a hold code 70. SBA stated it planned to review these loans to assess the appropriateness of the hold code 70; however, it may not seek recovery of any loans that they deem ineligible. Consequently, SBA may miss opportunities to recover identified improper payments for these loans.

However, we found that the \$25,000 de minimis threshold SBA is applying is related to an internal memorandum regarding forgiveness reviews and businesses being unable to reconcile PPP loan amount calculations with the exact expenditures eligible for forgiveness.³ SBA acknowledges the possibility of small discrepancies between PPP loan forgiveness requests and supporting documentation and assumes that costs for SBA, lenders, and borrowers to reconcile these discrepancies in the loan amount and forgiveness calculations would greatly exceed any potential reduction in SBA forgiveness payments.

² U.S. Department of the Treasury, *Managing Federal Receivables: A Guide Managing Loans and Administrative Debt*, (March 2015).

³ SBA Memorandum De Minimis Threshold for PPP Forgiveness Reviews, May 12, 2021.

To qualify for forgiveness, borrowers needed to:

1. Maintain staffing and compensation levels during the covered period.
2. Spend at least 60 percent of the loan on payroll costs.
3. Use up to 40 percent of loan funds for eligible expenses such as business mortgage interest payments, rent, or utilities.
4. Apply for forgiveness through their lender and submit the necessary documentation.

However, what is in question regarding the 26,234 PPP loans with a hold code 70, valued at \$25,000 or less, is the full loan amount and related loans, where applicable, that have been made to the borrower and/or the forgiveness amount, not a discrepancy between the borrower's forgiveness request and supporting documentation. According to SBA's guidance, applying the de minimis threshold for forgiveness paid was intended to maximize program integrity and optimize use of SBA's loan review resources, considering the challenges posed by the volume of PPP loans and the statutory timeframe for completing reviews.⁴ The threshold would also increase efficiency by focusing on larger transactions with maximum recovery potential; however, the agency did not provide a cost analysis to support recovery costs.

We believe SBA is inappropriately applying the above de minimis guidance intended to mitigate reconciliation costs for loans valued at \$25,000 or less with losses associated with potential improper payments for the 26,234 PPP loans that were paid and forgiven. Further, SBA has already completed the first two steps of its four-step review process for these loans and identified them as potentially ineligible.

31 Code of Federal Regulations, Section 901.10, states that agencies should conduct periodic comparisons of costs incurred and amounts collected to establish points at which costs of further collections efforts are likely to exceed recoveries. The Debt Collection Improvement Act allows agencies to suspend or end collections on claims of not more than \$100,000 when it appears that the cost of collecting the claim is likely to be more than the amount recovered. However, the Payment Integrity Information Act of 2019 requires agencies to prevent improper payments from being made and to promptly detect and recover any improper payments that were made.

Classifying these loans as de minimis and immaterial and not seeking recovery of loans deemed ineligible adversely impacts program integrity and increases risk of financial loss for the 26,234

⁴ SBA Memorandum De Minimis Threshold for PPP Forgiveness Reviews, May 12, 2021.

loans, totaling approximately \$454 million. These are missed opportunities to collect improper payments for loans deemed ineligible. In addition, not attempting to recover the improper payments could set a precedent for future programs and incentivize ineligible borrowers to obtain loans valued at \$25,000 or less. Alternatively, pursuing recovery of improper payments will help ensure accountability from borrowers and promote program integrity.

Recommendations

To ensure borrowers met eligibility requirements and to identify loan funds that should be clawed back, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to:

Recommendation 1: Complete reviews for the 37,938 loans, totaling approximately \$4.6 billion, which includes the 26,234 loans, totaling approximately \$454 million valued at \$25,000 or less and subsequently flagged with hold code 70 to ensure borrowers met eligibility requirements and seek recovery of all ineligible loans.

Recommendation 2: Develop criteria to formalize the policies and procedures for recovering improper payments for all loans subsequently flagged with hold code 70 and later deemed ineligible.

Evaluation of Agency Response

SBA management provided formal comments to the draft report, which we considered when preparing this final report. Management agreed with recommendations 1 and 2 and their planned actions are sufficient to resolve both recommendations.

In their response, management stated that SBA never classified loans flagged with a hold code 70 as de minimis or immaterial and does not have a policy that stipulates a de minimis threshold of \$25,000 or less for post-forgiveness reviews. SBA's policy is to review loans of all sizes, including loans of \$25,000 or less. The agency has closed 4,417 loan reviews valued at \$25,000 or less and the reviews resulted in full approval. Management also stated the post-forgiveness reviews are ongoing.

Management further stated that OIG's description of SBA's four-step review process for loans flagged with a hold code 70 was inaccurate. Management explained the various loan specialists

who conduct loan reviews and provided a description of the review process, stating theirs was more accurate. Management also stated that OIG's reference to SBA only completing the first two steps of the four-step review process is not a fair representation as it implies the agency does not intend to complete steps three and four. They asserted that SBA has not closed any reviews that require steps three and four and, upon finalization of the remaining policy issues related to recovery, the agency will complete these steps to finalize denials and partial approvals.

Regarding the classification of flagged loans as de minimis or immaterial, we disagree with management's assertion that SBA provided information to OIG demonstrating that SBA has never classified loans flagged with a hold code 70 as de minimis or immaterial. When we requested SBA's review policy for loans flagged with a hold code 70 and valued at \$25,000 or less, the agency referred us to *SBA Memorandum De Minimis Threshold for PPP Forgiveness Reviews, dated May 12, 2021*, which established 5 percent of the PPP loan or \$25,000, whichever is less, as the de minimis threshold. Management clarified that it planned to review loans valued at \$25,000 or less, however it may not seek recovery of disbursed and/or forgiven PPP loans valued at \$25,000 or less, flagged with a hold code 70, and later deemed ineligible, which is what we reflected in the report.

Regarding management's statement that our description of the four-step review process is inaccurate, our description aligns with management's statements provided during the review, the explanation management provided in the agency's formal comments, and 86 Federal Register 63437, which is the guidance management referred us to during the review. Notwithstanding, in the report, we updated our reference to "reviewer" and "supervisor" in steps one and two to "reviewing loan specialist" and "approving loan specialist" respectively, to align with the 86 Federal Register 63437.

We further believe our finding that SBA only completed the first two steps of the four-step process is factual. At the time of our review, SBA had yet to complete steps three and four (as necessary) for the 37,938 loans we identified to ensure eligibility and forgiveness review decisions were appropriate and finalized to facilitate recovery of improper payments for all loans deemed ineligible. Also, during our review, SBA acknowledged lacking the necessary infrastructure to perform steps three and four. See Appendix 1 for management's comments in their entirety.

Summary of Actions Necessary to Close the Recommendations

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

Recommendation 1

Complete reviews for the 37,938 loans, totaling approximately \$4.6 billion, which includes the 26,234 loans, totaling approximately \$454 million valued at \$25,000 or less and subsequently flagged with hold code 70 to ensure borrowers met eligibility requirements and seek recovery of all ineligible loans.

Status: Resolved

SBA management agreed with the recommendation, stating that they will continue to review loans flagged with a hold code 70, including loans valued at \$25,000 or less, and follow the agency's recovery plan in effect at the time of completion of each review. Management estimates implementing its planned actions by September 30, 2025, assuming adequate resources are available.

Management's proposed action generally satisfies the intent of this recommendation. Management plans to complete its review of loans flagged with a hold code 70, including loans valued at \$25,000 or less. Management stated they would follow the agency's recovery plan in effect at the time of completion.

This recommendation can be closed when SBA provides evidence that it completed reviews for the 37,938 loans flagged with a hold code 70, to ensure borrowers met eligibility requirements and it is seeking recovery of all ineligible loans.

Recommendation 2

Develop criteria to formalize policies and procedures for recovering improper payments for all loans subsequently flagged with hold code 70 and later deemed ineligible.

Status: Resolved

Management agreed with the recommendation, stating they are actively working with the new administration to develop a recovery plan. SBA plans to complete final action by June 30, 2025.

Management's proposed action satisfies the intent of this recommendation.

This recommendation can be closed when SBA provides evidence that it developed criteria to formalize policies and procedures for recovering improper payments for all loans subsequently flagged with hold code 70 that were later deemed ineligible.

Scope and Methodology

This management advisory presents the results of our engagement on SBA's actions to address forgiven PPP loans subsequently flagged as potentially ineligible. Our objectives were to assess SBA's use of hold code 70 and the recovery of funds from ineligible borrowers. To answer our objectives, we reviewed laws, regulations, policies, and guidance pertaining to using and clearing hold code 70. Our scope of work covered 37,938 PPP loans, totaling approximately \$4.6 billion, with hold code 70 as of May 24, 2024.

We interviewed SBA officials from the OCA to gain an understanding of the four-step review process for clearing PPP loans with hold code 70, including the roles and responsibilities of the reviewers, supervisors, Higher Authority Review and OCA. We analyzed PPP loan data to identify the number and amount of forgiven PPP loans with an active hold code 70 (potential clawback). We also analyzed the 37,938 PPP loans to determine the number and amount of loans valued at or below the \$25,000 de minimis threshold.

This management advisory was prepared in accordance with OIG quality standards and the Council of the Inspectors General on Integrity and Efficiency's Quality Standards for Inspection and Evaluation. These standards require that we adequately plan and perform the evaluation to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe the evidence obtained provides a reasonable basis for our conclusions and observations based on our objectives.

Use of Computer-Processed Data

We relied on data from SBA's electronic Loan servicing system (E-Tran) to identify loans with hold code 70 to conduct our analysis. SBA provides hold code extracts to SBA OIG on a weekly basis. We performed limited testing on data extracts to ensure its reliability by verifying information in SBA's Capital Access Financial System and SBA's Paycheck Protection Platform. We also reviewed data reliability assessments from prior and ongoing SBA OIG engagements that used E-Tran data. We believe that the data used in this report are sufficiently reliable to support our findings.

Appendix 1: Agency Response

U.S. Small Business Administration Response to Draft Report



U.S. SMALL BUSINESS ADMINISTRATION

WASHINGTON, DC 20416

To: Sheldon Shoemaker
Deputy Inspector General
U.S. Small Business Administration

From: Jihoon Kim **JI KIM**
Office of Financial Program Operations, Director
Office of Capital Access

Date: March 26, 2025

Subject: Response to OIG Draft Report – SBA’s Actions to Address Forgiven PPP Loans Subsequently Flagged as Potentially Ineligible. (Project 24001)

Digitally signed by JI KIM
Date: 2025.03.26 12:07:49 -04'00'

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:

SBA previously provided information to OIG demonstrating that SBA has never classified loans flagged with a hold code 70 as de minimis or immaterial and does not have a policy that stipulates a de minimis threshold of \$25,000 or less for post forgiveness reviews. SBA’s policy is to review loans of all sizes, including loans \$25,000 or less. To date, SBA has closed the review for 4,417 loans valued at \$25,000 or less as the review resulted in a full approval.

Additionally, OIG has identified 37,938 loans in which the review was not completed. As SBA has previously explained, the post forgiveness review process is still on going and these loan reviews are in-process. These reviews will continue as resources allow, and SBA plans to work with the new administration to develop and implement a recovery plan for all ineligible loans.

OIG’s description of SBA’s 4-step review process for loans flagged with a hold code 70 is not accurate. The four-step process is divided into two stages, with two steps under each stage. However, steps 3 and 4 may not be required for every review. Reviews in each stage are conducted on the “rule of two” concept by two Loan Specialists. Supervisors do not assess the appropriateness of the reviewer’s recommendation then remove hold code 70 as described by OIG. A more accurate description of the 4-step process is outlined below:

(Required for every Post Payment Review)

- Step 1: A Loan Specialist *Reviewer* makes a recommendation to confirm the initial forgiveness decision or make a new recommendation resulting in denial or partial approval.
- Step 2: A Loan Specialist *Acceptor* makes a recommendation to confirm the initial forgiveness decision or make a new recommendation resulting in denial or partial approval.

A review which results in no change to the previously awarded forgiveness amount is closed and hold code 70 is removed. Only in the case where the first reviewer and approver determine the original review is incorrect and results in a denial or partial approval, the review moves to the second stage. These reviews are conducted by the HAR Team, known as HAR/OCA in the platform.

(Conditional, only for Partial or Denial) Not required if SBA determines the original forgiveness amount was correct.

- Step 3: A Loan Specialist (*HAR Reviewer*) makes a recommendation, and it moves to the OCA Reviewer for a final decision.
- Step 4: A Loan Specialist (*OCA Acceptor*) makes the final decision regarding loan forgiveness and finalizes the post payment review.

Stating SBA only completed the first two steps of the 4-step process is not a fair representation of the review process as it implies that SBA does not intend to complete steps three and four. SBA has not closed any reviews that require steps three and four, and upon finalization of the few remaining policy issues related to recovery SBA will be able to finalize denials and partial approvals.

Recommendation 1 – Complete reviews for the 37,938 loans, totaling approximately \$4.6 billion, which includes the 26,234 loans, totaling approximately \$454 million valued at \$25,000 or less and subsequently flagged with a hold code 70 to ensure borrowers met eligibility requirements and seek recovery of all ineligible loans.

SBA Response: SBA agrees. SBA will continue to review loans flagged with a hold code 70, including loans valued at \$25,000 or less. SBA will follow the Agency's recovery plan in effect at the time of completion of each review. SBA estimates closing this recommendation by September 30, 2025, assuming adequate resources are available.

Recommendation 2 – Develop criteria to formalize the policies and procedures for recovering improper payments for all loans subsequently flagged with a hold code 70 and later deemed ineligible.

SBA Response: SBA agrees. SBA is actively working with the new administration to develop a recovery plan. SBA estimates closing this recommendation by June 30, 2025.