U.S. SMALL BUSINESS ADMINISTRATION OFFICE OF INSPECTOR GENERAL

# SBA's Guaranty Purchases for Paycheck Protection Program Loans

**Inspection Report**

**Report 24-20**

**July 9, 2024**

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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.

# U.S. Small Business Administration
# Office of Inspector General

## EXECUTIVE SUMMARY

## SBA's Guaranty Purchases for Paycheck Protection Program Loans (Report 24-20)


### What OIG Reviewed

The Coronavirus Aid, Relief, and Economic Security (CARES) Act established the Paycheck Protection Program (PPP), an $813.7 billion program that provided guaranteed U.S. Small Business Administration (SBA) loans for eligible businesses, individuals, and nonprofits adversely impacted by the Coronavirus Disease 2019 pandemic.

SBA can forgive PPP loans if borrowers use loan proceeds as required. If the loan is not forgiven and the loan payment becomes more than 60 days past due, the lender should request a guaranty purchase, which is SBA's purchase of the guaranteed portion of the loan.

SBA simultaneously purchases and charges off delinquent loans when the borrower is 60 days or more past due on a loan payment, permanently closed, bankrupt or deceased. Charge-off status means SBA removes the outstanding balance of the loan from its accounting records. From July 23, 2021 to December 31, 2022, SBA charged off 203,101 PPP loans totaling $7.3 billion.

Our objective was to assess SBA's guaranty purchase process for PPP loans. To accomplish our objective, we reviewed SBA's reporting and referring of charged-off PPP loans to commercial credit reporting agencies and the U.S. Department of the Treasury (Treasury); and oversight of lender communication, servicing, and debt collection activities.

### What OIG Found

SBA did not always report and refer charged-off PPP loans to commercial credit reporting agencies and Treasury, as required. Specifically, SBA did not report 14,739 loans totaling $945.3 million to commercial credit reporting agencies and did not refer 7,550 loans totaling $2.2 billion to Treasury.

Further, SBA did not effectively oversee lender communication, servicing, and debt collection activities to ensure lenders met their required responsibilities. For all of the 203,101 charged-off loans totaling $7.3 billion, SBA did not ensure lenders met their requirements to 1) communicate with the borrower to determine the status of the business, 2) notify the borrower that the loan payment was due, and 3) demand payment in full when the borrower becomes more than 60 days past due.

### What OIG Recommended

We made seven recommendations to improve SBA's reporting and referring of charged-off PPP loans to commercial credit reporting agencies and Treasury; and to ensure lenders comply with SBA's requirements for their communication, servicing, and debt collection activities.

### Agency Response

SBA management agreed with recommendations 1 through 5 and 7 and partially agreed with recommendation 6. Management's planned actions satisfy the intent of recommendations 1 through 5. However, management's proposed actions do not satisfy the intent of recommendations 6 and 7. OIG will seek resolution of recommendations 6 and 7 in accordance with our audit follow-up policy.

OFFICE OF INSPECTOR GENERAL
U.S. SMALL BUSINESS ADMINISTRATION

# MEMORANDUM

**Date**: July 9, 2024

**To**: Isabella Casillas Guzman
Administrator

**From**: Hannibal "Mike" Ware
Inspector General

**Subject**: SBA's Guaranty Purchases for Paycheck Protection Program Loans (Report 24-20)

This report presents the results of our inspection of *SBA's Guaranty Purchases for Paycheck Protection Program Loans.* We considered management's comments on the draft of this report when preparing the final report. SBA management agreed with six recommendations and partially agreed with one recommendation. Two recommendations are pending resolution.

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

cc: Dilawar Syed, Deputy Administrator, Office of the Administrator
Arthur Plews, Chief of Staff, Office of the Administrator
Isabelle James, Deputy Chief of Staff, Office of the Administrator
Kathryn Frost, Associate Administrator, Office of Capital Access
Therese Meers, General Counsel, Office of General Counsel
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# Introduction

This report presents the results of our inspection of the Small Business Administration's (SBA) Guaranty Purchases for Paycheck Protection Program (PPP) loans. The SBA Office of Inspector General (OIG) conducted this review to assess SBA's guaranty purchase process for PPP loans. We assessed whether SBA reported and referred charged-off PPP loans to commercial credit reporting agencies and the U.S. Department of Treasury (Treasury) in accordance with applicable regulations, policies, and procedures. We also assessed whether SBA effectively oversaw lender communication, servicing, and debt collection activities to ensure lenders met their responsibilities in accordance with applicable regulations, policies, and procedures.

## Background

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was enacted on March 27, 2020, to provide $349 billion to create the PPP under Section 7(a) of the Small Business Act. The PPP provided guaranteed, forgivable SBA loans for certain eligible borrowers who used loan proceeds as required. Additional legislation increased total program funding to $813.7 billion. By the end of the program in 2021, SBA had processed 11.8 million PPP loans through more than 5,400 lenders, including banks, credit unions, financial technology companies, small business lending companies, and microlenders.

Lenders are responsible for servicing PPP loans, including collaborating with borrowers seeking forgiveness within 10 months after the end of the loan's covered period and collecting loan payments. The lender must communicate with the borrower to determine the status of the business and notify the borrower that payment is due. If a borrower does not submit a forgiveness application after the 10-month deferral period and the borrower's debt becomes more than 60 days delinquent, the lender should demand payment in full and request a guaranty purchase in accordance with SBA procedures.

A guaranty purchase is SBA's purchase of the guaranteed portion of the loan. SBA's guaranty purchase for PPP loans was 100 percent of the outstanding loan amount if the lender met all applicable PPP requirements. On July 15, 2021, SBA began allowing lenders to submit PPP guaranty purchase requests using the PPP Platform. Lenders requesting a guaranty purchase must certify that they are submitting documentation and information that accurately reflects their PPP loan records; the data in SBA's systems (including loan status and outstanding loan amount) are true and accurate; the PPP loan is evidenced by a legally enforceable promissory note; and the lender has made, closed, and serviced the loan in accordance with PPP requirements.

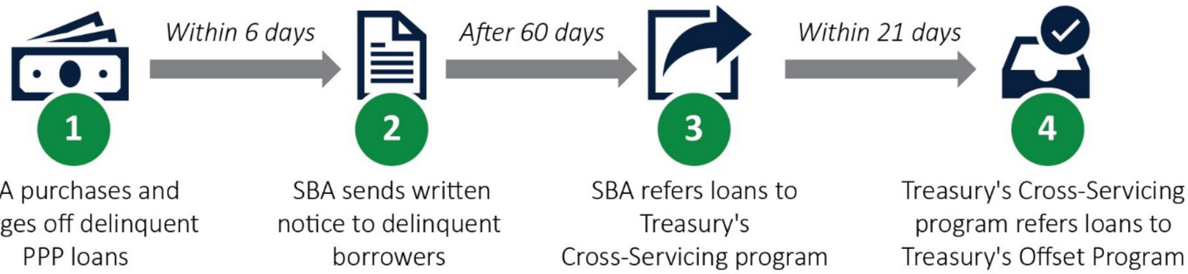
In certain circumstances, lenders are responsible for servicing PPP loans after a guaranty purchase. If the lender receives a forgiveness application after SBA purchases the loan, the lender must submit its forgiveness decision to SBA. If the loan is eligible for any amount of forgiveness, that amount will be subtracted from the loan's outstanding balance. A borrower may apply for forgiveness at any time up to the maturity date of the loan, even after guaranty purchase.[1] On November 14, 2022, SBA began allowing lenders to submit forgiveness decisions for SBA-purchased loans.

SBA simultaneously purchases and charges off delinquent loans when the borrower is 60 days or more past due on a loan payment, permanently closed, bankrupt or deceased. A charge off is defined as an SBA administrative action whereby a loan is reclassified to "charge-off" status, meaning the agency removes the outstanding balance of the loan from its accounting records. A charge off has no impact on the borrower's liability for the loan balance.

Prior to Treasury referral, SBA is required to send written notification to delinquent borrowers providing them notice of the debt and the opportunity to review loan records and repay the amount owed. If the borrower does not contact SBA to resolve the debt, SBA refers the loan to the Treasury's Cross-Servicing program for collection, unless there is a valid legal defense, such as bankruptcy. Cross-Servicing collects delinquent debt using a variety of methods, such as wage garnishment, negotiated repayment, private collection agencies, and the Treasury Offset Program (TOP). Under TOP, delinquent debt is collected through funds that are due to the delinquent borrower from government sources, such as tax refunds, wages, and payments owed to government contractors. Borrowers reported to TOP are generally barred from receiving additional federal financial assistance.[2] See Figure 1 for an overview of SBA's referral process to Treasury and related timeframes.

[1] SBA PPP Frequently Asked Questions dated May 9, 2024, states all borrowers have five years from the date that SBA issued the SBA loan number to apply for forgiveness, including borrowers with a 2-year maturity on its PPP loan.
[2] 31 U.S.C. §3720B, states that a person generally may not obtain any federal financial assistance in the form of a loan or loan insurance or guarantee administered by the agency if the person has an outstanding debt with any federal agency which is in a delinquent status.

**Figure 1: Overview of SBA's Referral Process to Treasury**




*Source:* SBA OIG analysis

On April 27, 2022, SBA decided to formally end collections on purchased PPP loans with an outstanding balance of $100,000 or less, stating that the cost of collections would be more than the recovery amount. In a prior SBA OIG report, we identified concerns with this decision.[3] SBA agreed with our recommendation and planned to use a third-party contractor to do a cost benefit analysis assessing whether the cost of collections would be more than the recovery amount. SBA also stated that its decision to end collections does not prevent it from reporting borrowers to credit reporting agencies.

On December 28, 2023, the SBA Administrator informed Congress that SBA would begin referring PPP and COVID Economic Injury Disaster Loan small business borrowers with loans under $100,000 in default to Treasury for IRS-led and third-party collection activities. The SBA Administrator stated that, based on SBA's latest analysis, referrals to Treasury showed a likely positive return.

However, in May 2024, SBA notified us that it requested — and Treasury approved — an exemption from referring certain delinquent PPP loans to Treasury's Cross-Servicing program in March 2024. According to SBA, Treasury asked SBA to request the exemption. SBA stated the exemption was requested, in part, to allow PPP borrowers the ability to seek forgiveness of the loan, to include the appeals process when forgiveness is denied. We will continue monitoring SBA's processes and actions regarding this matter.

In accordance with Office of Management and Budget (OMB) Circular A-129, SBA must report delinquent commercial loans to credit reporting agencies. Although OMB Circular A-129 does not specify which and how many credit-reporting agencies SBA must report to, it has historically reported charged-off loans to three major commercial reporting agencies — monthly to one

[3] OIG Report No. 22-25, *SBA's Guaranty Purchases for Paycheck Protection Program Loans*, September 30, 2022.

agency and quarterly to the other two.[4] According to the *Treasury Financial Manual*, agencies should report commercial debts on a quarterly basis; however, an agency may report more frequently to maintain the integrity and accuracy of the information reported.[5] Reporting debt provides a more complete depiction of a borrower's credit activities and assists other agencies and lenders who use data from multiple commercial reporting agencies when evaluating borrower creditworthiness.

As of December 31, 2022, SBA purchased and charged off 203,101 PPP loans totaling $7.3 billion. The scope of this review covers charged-off PPP loans between July 23, 2021, and December 31, 2022.

## Objective

Our objective was to assess SBA's guaranty purchase process for PPP loans.

# Results

SBA did not always report and refer charged-off PPP loans to commercial credit reporting agencies and Treasury, as required. Specifically, SBA did not report 14,739 loans totaling $945.3 million to commercial credit reporting agencies or refer 7,550 loans totaling $2.2 billion to Treasury.[6] Additionally, SBA did not effectively oversee lender communication, servicing, and debt collection activities to ensure lenders complied with applicable regulations, policies, and procedures.

As a result, the agency is missing opportunities to collect on delinquent PPP loans, reduce taxpayer burden, and hold borrowers and lenders accountable. Not always reporting and referring loans as required increases the risk that delinquent borrowers could inappropriately

[4] One major credit reporting agency requested SBA to report commercial debt information monthly instead of quarterly to reflect more current payment information.
[5] *Treasury Financial Manual*, Volume I, Part 3, Chapter 4000, Section 4040.20, Frequency of Commercial Debt Reporting and Updates, August 2, 2021.
[6] Loans not reported to commercial credit reporting agencies and referred to Treasury could overlap. Each report sent to commercial credit reporting agencies and Treasury is unique because requirements for the reporting, timing, and content of each report are different.

obtain funds from other lenders and federal programs. Further, not effectively overseeing lenders increases the risk of lender noncompliance in similar future programs.

## Finding 1: Reporting of Charged-Off PPP Loans to Commercial Credit Reporting Agencies

SBA did not always report charged-off PPP loans to three major commercial credit reporting agencies in accordance with federal guidance and SBA policy. Overall, we found that out of 39,434 charged-off loans from June to December 2022 totaling $2.6 billion, SBA did not report 14,739 (or 37 percent) totaling $945.3 million to any of the three commercial credit reporting agencies.[7] Additionally, when specifically reporting to the three major commercial reporting agencies, we found that SBA did not sufficiently report all charged-off PPP loans to one major commercial credit reporting agency on a monthly basis and to two major commercial reporting agencies on a quarterly basis. Our analysis showed that of the 39,434 charged-off loans that SBA should have reported monthly and quarterly, it did not report 38,060 (or 97 percent) totaling $2.4 billion in its monthly commercial credit reports, and 15,164 (or 38 percent) totaling $977.3 million in its quarterly reports.[8]

OMB Circular A-129 states that agencies shall refer all current and delinquent commercial accounts (non-tax related) to credit reporting agencies. SBA policy states the agency is responsible for reporting the entire amount of all loans that it has charged off to the appropriate credit reporting agencies.[9] Although OMB Circular A-129 and SBA policy do not identify the specific credit reporting agencies SBA must report to, SBA has historically reported charged-off loans to the three major commercial reporting agencies designated by Treasury guidance.[10] Additionally, the Treasury Financial Manual states that agencies should report commercial debt

[7] We excluded charged-off PPP loans that were forgiven after charge off from our analysis. We also excluded loans owed by sole proprietors, independent contractors, and self-employed individuals from our analysis of loans reported in monthly and quarterly commercial credit reports, respectively. Some of these loans are potentially reportable to consumer credit reporting agencies rather than commercial credit reporting agencies.

[8] SBA provided quarterly reports from January to December 2022 and monthly reports from June to December 2022.

[9] SBA SOP 50 57 2, *Loan Servicing and Liquidation*, December 1, 2015.

[10] See *Treasury Financial Management Service*, Guide to the Federal Credit Bureau Program, November 2005, Appendix 3 identifying three designated credit reporting agencies for commercial accounts. This guidance was superseded with the *Treasury Financial Manual*, Volume I, Part 3, Chapter 4000, dated August 2, 2021, which no longer identifies designated credit reporting agencies.

information to credit bureaus on a non-exclusive basis.[11] All three commercial credit reporting agencies indicated that they want to continue receiving credit reports from SBA in order have a complete picture of a borrower's credit profile. We believe SBA's credit reporting requirements need strengthening to ensure SBA is consistently reporting all current and delinquent commercial loans to the appropriate credit reporting agencies, particularly those relied upon by SBA's lending partners.

SBA did not report these charged-off PPP loans to commercial credit reporting agencies because it relied on its automated process used to report loans to credit reporting agencies and did not periodically monitor or conduct reviews to ensure loans were reported, as required. When we asked SBA officials why they did not report all loans to credit reporting agencies, they stated that all charged-off PPP loans should be reported, and that SBA's Office of Capital Access was in the process of reviewing and updating its system to correctly identify PPP loans eligible for reporting. SBA uses an automated process to generate consolidated files containing current and delinquent loan data from multiple SBA programs, including PPP and disaster program loans.

As a result of not reporting charged-off PPP loans to commercial credit reporting agencies, SBA is not holding all delinquent borrowers accountable and is increasing the risk that delinquent borrowers could inappropriately obtain other loans. SBA is also missing the opportunity to identify and prevent fraudulent activities and hold fraudulent borrowers accountable. For example, not reporting these loans to credit reporting agencies could further victimize individuals subject to identity theft because victims would not be notified that their identity was stolen to obtain fraudulent loans.

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[11] *Treasury Financial Manual*, Volume I, Part 3, Chapter 4000, Section 4040.30, Method and Format for Reporting Commercial Debts, August 2, 2021.

## Recommendations

To address improvements needed in SBA's reporting of charged-off PPP loans to credit reporting agencies, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to:

Recommendation 1: Review charged-off PPP loans to ensure all eligible loans are reported to commercial credit reporting agencies, as required.

Recommendation 2: Require personnel to conduct periodic monitoring and reviews of SBA's automated processes for PPP and future stimulus loan programs to ensure all eligible loans are reported to commercial credit reporting agencies, as required.

Recommendation 3: Identify the credit reporting agencies to whom SBA must report current and delinquent loans for PPP and future stimulus loan programs.

## Finding 2: Referral of Charged-Off PPP Loans to Treasury

SBA did not always refer charged-off PPP loans to Treasury in accordance with federal regulations and SBA policy. Specifically, as of December 31, 2022, SBA did not refer 7,550 of 8,308 charged-off PPP loans (or 91 percent) valued above $100,000 and totaling $2.2 billion to Treasury's Cross-Servicing program.[12] All of the 7,550 loans (or 100 percent) SBA did not refer to Treasury were at least 120-days delinquent and 5,557 of those (or 74 percent) were 180 days or more delinquent.

According to federal regulations, SBA must transfer loans to the Treasury Cross-Servicing program for collection by no later than 120 days delinquent if it relies on the program to transfer the loan for centralized offset[13] on its behalf, or otherwise, by no more than 180 days

[12] We excluded from our analysis charged-off PPP loans that were forgiven or partially forgiven (with an outstanding value of $100,000 or less) after charge-off, potentially fraudulent loans, and loans where the borrower was permanently closed, bankrupt or deceased. We excluded loans with an outstanding value of $100,000 or less because SBA decided to formally end collections on these loans on April 27, 2022. (Note: This decision was reversed in December 2023.) Additionally, because SBA was required to send a written notice to delinquent borrowers at least 60 days prior to Treasury referral, we reviewed loans that were charged off as of October 31, 2022.
[13] 31 CFR §285.5(b) defines centralized offset as the offset of Federal payments through the Treasury Offset Program.

delinquent,[14] unless there is an exception, such as the debt being in litigation.[15] Additionally, according to federal law, SBA is required to refer debts that are more than 180 days delinquent to Treasury for debt collection.[16] In addition, SBA policy requires the agency to refer loans to Treasury for further collection efforts after charge off, if further collection is not barred by a valid legal defense, such as bankruptcy.[17] Further, according to an agreement with Treasury, SBA does not refer loans to Treasury that appear to involve fraud.

We also found that SBA did not always send required written notices to borrowers to initiate the Treasury referral process for 5,456 loans totaling $1.5 billion. These loans were charged off from July 19 to December 31, 2022, and valued above $100,000. At least 60 days prior to Treasury referral, SBA is required to send a written notification to delinquent borrowers providing them notice of the debt and the opportunity to inspect, review, and copy loan records and repay the amount owed.[18] According to its policy, SBA sends a written notice to borrowers providing 60 days to either pay the loan in full or negotiate an acceptable payment plan.[19]

These charged-off loans were not referred to Treasury because SBA relied on its automated Treasury referral process without monitoring or reviewing its effectiveness. After July 2022, SBA did not refer loans to Treasury or send required written notices. SBA officials stated that a system bypass was left in place due to an oversight, which resulted in no new PPP written notices being issued after July 2022. SBA removed the system bypass during our inspection and resumed the Treasury referral process in January 2023. However, SBA did not monitor the effectiveness of its internal controls over the automated referral process as recommended in the *Standards for Internal Controls in the Federal Government*.[20] SBA was unaware that its automated system was not referring eligible charged-off PPP loans to Treasury after July 2022, until OIG brought this issue to its attention.

As a result of not referring loans to Treasury and not sending written notices to delinquent borrowers, SBA increased the taxpayer burden by missing the opportunity to collect on delinquent PPP loans. Although it is difficult to quantify the effect of not promptly initiating collection actions, according to Treasury guidance, the ability of an agency to collect on

[14] 31 CFR §285.12(c)(2).
[15] 31 CFR §285.12(d)(1)(i).
[16] 31 U.S.C. §3711(g)(1).
[17] SBA SOP 50 57 2, *Loan Servicing and Liquidation*, December 1, 2015.
[18] 31 U.S.C. §3716(a); 31 CFR §285.5(d)(6).
[19] SBA SOP 50 57 2, *Loan Servicing and Liquidation*, December 1, 2015.
[20] GAO-14-704G, Standards for Internal Controls in the Federal Government (September 2014).

delinquent debts will generally decrease as debts get older. There is also an increased risk that delinquent borrowers could inappropriately obtain additional loans and assistance from SBA and other federal programs in the future. Continuing to pursue collections will help ensure accountability from delinquent borrowers and promote program integrity.

## Recommendations

To address improvements needed in SBA's referral of charged-off PPP loans to Treasury, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to:

**Recommendation 4**: Review charged-off PPP loans to ensure that all eligible loans are referred to Treasury, as required.

**Recommendation 5**: Require personnel to conduct periodic reviews of its automated Treasury referral process for PPP and future stimulus loan programs to ensure all eligible loans are referred to Treasury, as required.

### Finding 3: SBA Oversight of Lender Communication, Servicing, and Debt Collection Activities

SBA did not effectively oversee lender communication, servicing, and debt collection activities to ensure lenders performed their required responsibilities for 203,101 charged-off loans totaling $7.3 billion. Specifically, SBA did not ensure that lenders met their requirements to:

- Communicate with borrowers to determine the status of the business.
- Notify the borrower that their loan payment is due.
- Demand payment in full when the borrower becomes more than 60 days past due.[21]

According to 13 CFR §120.1000, SBA is responsible for monitoring, supervising, examining, regulating, and enforcing laws against SBA-supervised lenders and the SBA operations of SBA lenders.[22] SBA's Office of Credit Risk Management (OCRM) is responsible for overseeing SBA lender servicing activities; and the Office of Financial Program Operations (OFPO) is responsible for originating, servicing, and liquidating loans and managing its loan portfolio. However, neither office reviewed lender communication, servicing, and debt collection activities in the PPP loan purchase process. According to OCRM officials, OFPO was tasked with purchase-related activities. OFPO officials stated they performed purchase-related reviews to confirm lender compliance with SBA and federal requirements; however, these reviews did not assess the lenders' communication, servicing, and debt collection activities.

This occurred because SBA relied on lenders' 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. While SBA required lenders to retain evidence of communication with borrowers in lender loan files, SBA did not require lenders to submit evidence of this communication when requesting guaranty purchase. Lenders were only required to submit the following three items in the electronic guaranty purchase application, which did not address lender's communication with borrowers:

[21] SBA Procedural Notice 5000-812316, SBA Guaranty Purchases and Lender Servicing Responsibilities for PPP Loans, states that if a borrower does not submit for forgiveness within 10 months of the end of the covered period, the lender must communicate with the borrower to determine the status of the business and notify the borrower of the date the first payment is due. The lender must document communication attempts and results in its files. Additionally, if the borrower becomes more than 60 days past due, the lender should make demand for payment in full and submit a request for guaranty purchase.

[22] 13 CFR §120.10 states SBA-supervised lenders are 7(a) lenders that can be either small business lending companies or non-federally regulated lenders. An SBA lender is an institution that has executed a participation agreement with SBA under the guaranteed loan program.

- A bank note proving existence of the debt.
- A transcript of the account specifying the loan's outstanding balance.
- Assignment of note authorizing SBA to make referral to Treasury for further collection if applicable.

Therefore, SBA did not have sufficient information to determine whether lenders complied with their communication responsibilities with the borrower.

Standards for Internal Control in the Federal Government recommends management create documented processes and policies for an organization's internal controls. In addition, the Federal Claims Collection Standards states that before terminating collection of a claim, the agency should have pursued all appropriate means of collection and determined that, based on these efforts, the debt is uncollectable.

Because SBA did not have procedures for reviewing lenders' compliance with their communication, servicing, and debt collection responsibilities, the agency had no reasonable assurance that lenders attempted to collect on delinquent loans and that lender assertions of business status were accurate. As a result, SBA could be missing an opportunity to hold noncompliant lenders accountable, which could lessen the taxpayer burden and promote compliance in future similar programs.

Further, lenders who did not attempt to communicate with borrowers increased the risk that potential identity theft could remain undetected, as these individuals may not be aware that their identity was stolen to obtain fraudulent loans. Because SBA did not effectively oversee lenders, it could be missing the opportunity to help identify identity theft early on and mitigate this type of fraud. The Pandemic Response Accountability Committee (PRAC) also identified many of the charged-off PPP loans as potentially fraudulent in its *Fraud Alert: PRAC Identifies $5.4 Billion in Potentially Fraudulent Pandemic Loans Obtained Using Over 69,000 Questionable Social Security Numbers* report, dated January 30, 2023. We compared our list of charged-off PPP loans to the loans listed in the PRAC's report and found that 1,641 of the 203,101 charged-off loans, totaling $64.5 million, were identified in the PRAC's report as potentially fraudulent.

Additionally, we compared our list of charged-off PPP loans to the loans identified in our *COVID-19 Pandemic EIDL and PPP Loan Fraud Landscape* report[23] and found that 169,589 loans totaling $5.8 billion were also reported in the fraud landscape report as potentially fraudulent. This

[23] OIG Report No. 23-09, COVID-19 Pandemic EIDL and PPP Loan Fraud Landscape, June 27, 2023.

overlap further emphasizes the importance of SBA's oversight of lender communication, servicing, and debt collection activities to help ensure program integrity and mitigate the risk of fraud and financial loss.

## Recommendations

To address SBA not effectively overseeing lenders communication, servicing, and debt collection activities, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to:

**Recommendation 6:** Conduct lender reviews to ensure lenders complied with their communication, servicing, and debt collection activity requirements. If not, require the lender to bring the loan into compliance or seek recovery of the guaranty paid by SBA as appropriate.

**Recommendation 7:** Require lenders to submit evidence of communication, servicing, and debt collection activities with the borrower prior to guaranty purchase for PPP and future similar programs to foster and maintain program integrity.

# 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, 2, 3, 4, 5, and 7 and partially agreed with recommendation 6. Management's planned actions are sufficient to resolve recommendations 1 through 5. However, management's proposed corrective actions for recommendations 6 and 7 did not satisfy the intent of the recommendations. Therefore, these recommendations are unresolved. In accordance with our follow-up policy, we will attempt to reach agreement with SBA management on the unresolved recommendations within 60 days after the date of this final report. If we do not reach agreement, OIG will notify the audit follow-up official. We also noted that for several of the recommendations, management stated they have already implemented the recommended actions; however, during our review, management did not provide evidence of these processes and procedures. Management will need to provide evidence that these actions are fully implemented for the recommendations to be closed. Finally, in subsequent correspondence, management stated the targeted final action date for all recommendations is May 30, 2025.

See Appendix 2 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

To address improvements needed in SBA's reporting of charged-off PPP loans to credit reporting agencies, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to review charged-off PPP loans to ensure all eligible loans are reported to commercial credit reporting agencies, as required.

#### Status: Resolved

SBA management agreed with the recommendation, stating that SBA is already performing these reviews. Management stated SBA will continue to conduct reviews of charged-off PPP loans to ensure eligible loans are reported to commercial credit reporting agencies through the automated process as required.

This recommendation is resolved and can be closed when SBA management provides evidence that they reviewed charged-off PPP loans and reported all eligible loans to commercial credit reporting agencies, as required.

### Recommendation 2

To address improvements needed in SBA's reporting of charged-off PPP loans to credit reporting agencies, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to require personnel to conduct periodic monitoring and reviews of SBA's automated processes for PPP and future stimulus loan programs to ensure all eligible loans are reported to commercial credit reporting agencies, as required.

#### Status: Resolved

SBA management agreed with the recommendation, stating they are already performing these reviews. Management stated that SBA will continue to conduct periodic reviews of its automated processes for current and future stimulus loan programs for reporting to commercial credit agencies, as required.

This recommendation is resolved and can be closed when program officials provide 1) evidence of ongoing periodic monitoring and reviews of SBA’s automated processes for reporting PPP loans to commercial credit agencies, as required, and 2) evidence that SBA implemented a periodic monitoring and review process to ensure all eligible loans in future stimulus programs are reported to commercial credit agencies, as required.

### Recommendation 3

To address improvements needed in SBA’s reporting of charged-off PPP loans to credit reporting agencies, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to identify the credit reporting agencies to whom SBA must report current and delinquent loans for PPP and future stimulus loan programs.

#### Status: Resolved

SBA management agreed with the recommendation. Management stated that SBA has identified the credit reporting agencies for reporting current and delinquent loans and has an automated process for reporting to these agencies.

This recommendation is resolved and can be closed when program officials provide evidence that they have clearly identified the commercial and consumer credit reporting agencies to whom SBA must report current and delinquent loans for PPP and future stimulus loan programs.

### Recommendation 4

To address improvements needed in SBA’s referral of charged-off PPP loans to Treasury, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to review charged-off PPP loans to ensure that all eligible loans are referred to Treasury, as required.

#### Status: Resolved

SBA management agreed with the recommendation, stating they are already performing these reviews. Management stated they will continue to conduct reviews of charged-off PPP loans to ensure eligible loans are referred to Treasury through the automated process, as required.

This recommendation is resolved and can be closed when program officials provide evidence that they reviewed charged-off PPP loans and referred all eligible loans to Treasury, as required, or implemented another viable solution. In May 2024, SBA notified us that it requested — and Treasury approved — an exemption from referring certain delinquent PPP loans to Treasury’s

Cross-Servicing program in March 2024. We will continue to assess and monitor the effect of this exemption as it relates to the implementation of this recommendation.

### Recommendation 5

To address improvements needed in SBA's referral of charged-off PPP loans to Treasury, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to require personnel to conduct periodic reviews of its automated Treasury referral process for PPP and future stimulus loan programs to ensure all eligible loans are referred to Treasury, as required.

#### Status: Resolved

SBA management agreed with the recommendation, stating they already perform these reviews. Management stated it will continue conducting periodic reviews of automated processes for reporting to Treasury, as required.

This recommendation is resolved and can be closed when program officials provide 1) evidence of ongoing periodic reviews of SBA's automated processes for reporting PPP loans to Treasury, as required, and 2) evidence that SBA implemented a periodic review process that will ensure all eligible loans in future stimulus loan programs are referred to Treasury, as required. We will continue to monitor the effect of SBA's March 2024 exemption from Treasury regarding referrals, referenced under Recommendation 4 above, as it relates to the implementation of this recommendation.

### Recommendation 6

To address SBA not effectively overseeing lenders communication, servicing, and debt collection activities, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to conduct lender reviews to ensure lenders complied with their communication, servicing, and debt collection activity requirements. If not, require the lender to bring the loan into compliance or seek recovery of the guaranty paid by SBA as appropriate.

#### Status: Unresolved

SBA management partially agreed with the recommendation, stating it does not currently have the PPP funding or a contract to support the level of oversight recommended. In addition, going forward, if a similar program is implemented, SBA will obtain both funding and contract(s) to ensure that lenders meet their obligations pertaining to communication, servicing, and debt collection activities. Finally, management stated, that in the interim, if SBA becomes aware that a lender is materially deficient in its obligations, it will determine whether an agreed-upon third-party practitioner can perform a review using SBA's review protocol.

We maintain our position that SBA should conduct lender reviews to ensure compliance with their communication, servicing, and debt collection activity requirements. Specifically, SBA should validate that lenders meet their requirements to communicate with borrowers to determine the status of the business, notify the borrower that their loan payment is due, or demand payment in full when the borrower becomes more than 60 days past due.

SBA is responsible for overseeing that lenders participating in its loan programs meet their responsibilities; however, management's proposed actions are not sufficient because they only address lenders identified as materially deficient in their obligations and does not provide assurance that other lenders are complying with their responsibilities. In addition, it is unclear how SBA may become aware of noncompliant lenders without conducting sufficient lender reviews for compliance with their communication, servicing, and debt collection activity program requirements.

This recommendation is unresolved. In accordance with our follow-up policy, we will attempt to reach agreement with SBA management on the unresolved recommendations within 60 days after the date of this final report. If we do not reach agreement, OIG will notify the audit follow-up official.

### Recommendation 7

To address SBA not effectively overseeing lenders' communication, servicing, and debt collection activities, we recommend the Administrator direct the Associate Administrator for the Office of Capital Access to require lenders to submit evidence of communication, servicing, and debt collection activities with the borrower prior to guaranty purchase for PPP and future similar programs to foster and maintain program integrity.

#### Status: Unresolved

SBA management agreed with the recommendation, stating they currently require lenders to confirm that they have made, closed, and serviced any PPP loan submitted for guaranty purchase in accordance with PPP loan program requirements. In addition, management stated that if SBA discovers an issue during a lender review of servicing performance, it will seek additional documentation.

Management’s actions do not satisfy the intent of this recommendation. During this review, SBA relied on lenders’ certification and did not require sufficient supporting evidence for compliance with PPP loan program requirements prior to guaranty purchase. This practice does not provide adequate assurance that lenders complied with their communication, servicing, and debt collection responsibilities. Specifically, SBA does not have sufficient information to validate whether lenders met their requirements to communicate with borrowers to determine the status of the business, notify the borrower that their loan payment is due, or demand payment in full when the borrower becomes more than 60 days past due.

In addition, SBA’s practice of only seeking additional documentation from a lender when it identifies an issue with the lender’s servicing performance is not sufficient as there is no assurance that the requested information is specifically related to the lender’s communication, servicing, and debt collection activities.

This recommendation is unresolved. In accordance with our follow-up policy, we will attempt to reach agreement with SBA management on the unresolved recommendations within 60 days after the date of this final report. If we do not reach agreement, OIG will notify the audit follow-up official.

# Appendix 1: Scope and Methodology

This report presents the results of our inspection of the Small Business Administration's (SBA) Guaranty Purchases for Paycheck Protection Program (PPP) loans. The SBA's Office of Inspector General (OIG) conducted this review to assess SBA's guaranty purchase process for PPP loans. Our scope of work covered charged-off PPP loans between July 23, 2021, and December 31, 2022.

To answer our objective, we reviewed laws, regulations, policies, procedures, and guidance pertaining to the reporting and referring of charged-off PPP loans to credit reporting agencies and Treasury. We also reviewed criteria related to SBA and lender communication, servicing, and debt collection responsibilities.

We interviewed SBA officials from various offices within the Office of Capital Access, including the Office of Credit Risk Management, Office of Financial Program Operations, Office of Financial Assistance, Office of Performance and Systems Management (OPSM), Office of Financial Operations and Acquisition Management, and Office of Administrative Services. We gained an understanding of the involvement and roles of these offices in lender oversight for PPP loan guaranty purchases and in the processes of reporting and referring loans to credit reporting agencies and Treasury, including related criteria.

We also interviewed officials from three major commercial credit reporting agencies and Treasury on SBA's reporting of delinquent loans.

Further, we analyzed charged-off PPP loan data to identify the number and amount of PPP loans and charged off as of December 31, 2022. We also compared charged-off PPP loan data to loan information included in reports sent to commercial credit reporting agencies and Treasury to determine if PPP loans were reported and referred to these agencies. Additionally, we analyzed charged-off PPP loan data to determine the number of delinquent borrowers to whom SBA did not send required written notices.

We conducted this inspection in accordance with 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 objective.

We believe that the evidence provides a reasonable basis for our conclusions based on our objective.

## Use of Computer-Processed Data

We relied on data from SBA's electronic Loan servicing system (E-Tran) and data from the OPSM to conduct our analysis. We performed limited testing on data extracts as of December 31, 2022, and verified information in the data extracts to SBA's Capital Access Financial System, SBA's Paycheck Protection Platform, and reports sent to commercial and consumer credit reporting agencies and Treasury. We also reviewed data reliability assessments from recent prior audits that used E-Tran data.

We did not validate the accuracy of the data extracts to source documents because doing so would involve reviewing lender loan files and would be outside the scope of our review. However, we believe that the data are sufficiently reliable to support our findings.

## Prior Audit Coverage

The following lists OIG's previous audit coverage related to the objective of this report:

| Report Number | Report Title | Report Date |
|---|---|---|
| SBA OIG Report 23-13 | *SBA's Reporting of Loan Data to a Commercial Credit Reporting Agency* | September 21, 2023 |
| SBA OIG Report 23-02 | *Independent Auditors' Report on SBA's FY 2022 Financial Statements* | November 15, 2022 |
| SBA OIG Report 22-25 | *SBA's Guaranty Purchases for Paycheck Protection Program Loans* | September 30, 2022 |

# Appendix 2: Agency Response

SBA RESPONSE TO REPORT

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, DC 20416

**To:** Hannibal “Mike” Ware
Inspector General
U.S. Small Business Administration

**From:** Jihoon Kim, Director, Office of Financial Program Operations, OCA
Susan Streich, Director, Credit Risk Management, OCA
Steven Kucharski, Director, OPSM

STEPHEN KUCHARSKI Digitally signed by STEPHEN KUCHARSKI
Date: 2024.05.28 16:58:09 -04'00'

**Date:** May 29, 2024

**Subject:** Response to OIG Draft Report – SBA’s Guaranty Purchases for Paycheck Protection Program Loans – Project 22013A

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:

**Recommendation 1:** Review charged-off PPP loans to ensure all eligible loans are reported to commercial credit reporting agencies, as required.

**SBA Response:** SBA agrees and is already performing these reviews. The SBA will continue to conduct reviews of charged-off PPP loans to ensure eligible loans are reported to commercial credit reporting agencies through the automated process as required.

**Recommendation 2:** Require personnel to conduct periodic monitoring and review of SBA’s automated processes for PPP and future stimulus loan programs to ensure all eligible loans are reported to commercial credit reporting agencies, as required.

**SBA Response:** SBA agrees and is already performing these reviews. SBA will continue to conduct periodic reviews of SBA’s automated processes of current and future stimulus loan programs for reporting to commercial credit agencies as required.

**Recommendation 3:** Identify the credit reporting agencies to whom SBA must report current and delinquent loans for PPP and future stimulus loan programs.

**SBA Response:** SBA agrees. SBA has identified the credit reporting agencies for reporting current and delinquent loans and has an automated process for reporting to these agencies.

**Recommendation 4:** Review charged-off PPP loans to ensure that all eligible loans are referred to Treasury, as required.

**SBA Response:** SBA agrees and is already performing these reviews. SBA will continue to conduct reviews of charged-off PPP loans to ensure eligible loans are referred to Treasury through the automated process as required.

**Recommendation 5:** Require personnel to conduct periodic reviews of its automated Treasury referral process for PPP and future stimulus loan programs to ensure all eligible loans are referred to Treasury, as required.

**SBA Response:** SBA agrees and is already performing these reviews. SBA will continue to conduct periodic reviews of automated processes for reporting to Treasury as required.

**Recommendation 6:** Conduct lender reviews to ensure lenders complied with their communication, servicing, and debt collection activity requirements. If not, require the lender to bring the loan into compliance or seek recovery of the guaranty paid by SBA as appropriate.

**SBA Response:** SBA Partially Agrees. SBA does not currently have the PPP funding or a contract to support the level of oversight recommended above. Going forward, if a similar program is implemented, SBA will obtain both funding and contract(s) to ensure that Lenders meet their obligations as it pertains to communication, servicing, and debt collection activities. In the interim, if SBA becomes aware that a Lender is materially deficient in its obligations, SBA will determine if an "Agreed Upon Procedure" review can be performed by a third-party practitioner, upon which SBA and the Lender agrees, with the review protocol prescribed by SBA.

**Recommendation 7:** Require lenders to submit evidence of communication, servicing, and debt collection activities with the borrower prior to guaranty purchase for PPP and future similar programs to foster and maintain program integrity.

**SBA Response:** SBA agrees. SBA currently requires lenders to confirm that they have made, closed, and serviced any PPP loan submitted for guaranty purchase in accordance with the PPP loan program requirements. If SBA discovers during a lender review of servicing performance that there is an issue, SBA will seek additional documentation.