Memorandum from the Office of the Inspector General

September 14, 2022

Cassidy L. Larson

REQUEST FOR FINAL ACTION – AUDIT 2022-17346 – BACK-TO-BUSINESS CREDIT PROGRAM

Attached is the subject final report for your review and final action. Your written comments, which addressed your management decision and actions planned or taken, have been included in the report. Please notify us when final action is complete. In accordance with the Inspector General Act of 1978, as amended, the Office of the Inspector General is required to report to Congress semiannually regarding audits that remain unresolved after 6 months from the date of report issuance.

If you have any questions, please contact Rick L. Taylor, Audit Manager, at (865) 633-7370 or Rick C. Underwood, Director, Financial and Operational Audits, at (423) 785-4824. We appreciate the courtesy and cooperation received from your staff during the audit.

David P. Wheeler

David P. Wheeler
Assistant Inspector General
(Audits and Evaluations)

RLT:KDS
Attachment
cc (Attachment):
- TVA Board of Directors
- Buddy Eller
- David B. Fountain
- Jim R. Hopson
- Mike R. Hynes
- Jeffrey J. Lyash
- Jill M. Matthews
- Doug Perry
- John M. Thomas III
- Ben R. Wagner
- OIG File No. 2022-17346

Office of the Inspector General

Audit Report

To the Vice President,
Contracts and Rates Strategy,
Pricing and Contracts

BACK-TO-BUSINESS CREDIT PROGRAM

Audit Team
Rick L. Taylor
Jennifer R. Bogus
Michael C. Cook

Audit 2022-17346
September 14, 2022

ABBREVIATIONS

COVID-19	Coronavirus
kW	Kilowatts
LPC	Local Power Company
OMB	Office of Management and Budget
PRAC	Pandemic Response Accountability Committee
Program	Back-to-Business Credit Program
TVA	Tennessee Valley Authority

TABLE OF CONTENTS

EXECUTIVE SUMMARY i

BACKGROUND 1

OBJECTIVE, SCOPE, AND METHODOLOGY 3

FINDINGS 4

CONTROLS WERE ADEQUATE TO ENSURE CREDITS WERE CALCULATED CORRECTLY 4

SOME LPCS DID NOT PASS ALL CREDITS TO THEIR CUSTOMERS 4

PROGRAM DID NOT HAVE NEEDED CONTROLS 5
COVID-19 Impacts Were Self-Certified 5
No Guidance to Determine When Customers Were Back to Business 5

RECOMMENDATIONS 6

APPENDICES

A. BACK-TO-BUSINESS CREDIT CALCULATION EXAMPLE

B. MEMORANDUM DATED SEPTEMBER 7, 2022, FROM CASSIDY L. LARSON TO DAVID P. WHEELER

Audit 2022-17346 – Back-to-Business Credit Program

EXECUTIVE SUMMARY

Why the OIG Did This Audit

As a response to the coronavirus (COVID-19) pandemic, the Tennessee Valley Authority (TVA) created the Back-to-Business Credit Program (Program). The objective of the Program was to provide a measure of relief to large customers who shut down or were operating at reduced levels due to the COVID-19 pandemic. Relief was provided as an on-peak demand credit, when eligible, either on the (1) directly served customer's invoice or (2) local power company's (LPC) invoice, which would then be passed to the customer's bill. According to the Program Term Sheet, the intent of structuring the Program as an on-peak demand credit was to remove a disincentive for the customer to resume operations mid-month and support a rapid return to normal operations. TVA issued a total of $13.1 million in Program credits.

We included this audit in the fiscal year 2022 Audit and Evaluation plan. Our audit objective was to determine if adequate controls were in place to ensure Back-to-Business credits were provided to businesses in compliance with Program guidelines. Our audit scope was all $13.1million in credits issued during the life of the Program (April 2020 through September 2021).

What the OIG Found

We found controls were adequate to ensure the Program credits were accurately calculated in accordance with Program guidance. However, we found some credits were not passed from the LPC to the customer. We also determined the Program did not have controls needed to more appropriately achieve the stated objective. Specifically, the Program did not include controls needed to (1) verify the reduced on-peak demand was due to a reduced level of operations as a result of COVID-19 and (2) specify how/when customers were considered back to prepandemic operating conditions.

What the OIG Recommends

We made three recommendations to TVA management to ensure (1) all Program customers received their credits and (2) future credit programs have more robust guidance.

TVA Management Comments

In response to our draft report, TVA management agreed with our recommendations and provided actions they plan to take to address each of our recommendations. See Appendix B for TVA management's complete response.

BACKGROUND

As a response to the coronavirus (COVID-19) pandemic, the Tennessee Valley Authority (TVA) created the Back-to-Business Credit Program (Program). The objective of the Program was to provide a measure of relief to large customers who shut down or were operating at reduced levels due to the COVID-19 pandemic. Relief was provided as an on-peak demand credit, when eligible, either on the (1) directly served customer's invoice or (2) local power company's (LPC) invoice, which would then be passed to the customer's bill. According to the Program Term Sheet, the intent of structuring the Program as an on-peak demand credit was to remove a disincentive for the customer to resume operations mid-month and support a rapid return to normal operations. TVA issued a total of $13.1 million in credits over the life of the Program from April 2020 through September 2021.

An April 14, 2020, memorandum requesting approval from the TVA Board of Directors listed the following information to justify the need for the Program:

- In response to the COVID-19 pandemic, there was a significant shift in customers' daily behaviors. State and local governments declared states of emergency throughout the country in an attempt to slow the spread of COVID-19, with many ordering businesses to close or curtail operations.
- Disruption in supply chains and worker shortage led industries to use electricity in a different manner – sometimes at lower levels, and often at different times than they ordinarily would. Some businesses closed, and individuals lost jobs because of shuttering business. Industry, businesses, and individuals were already beginning to realize financial hardship in this environment.
- TVA and LPCs recognized the challenge facing customers as a result of the pandemic. In order to continue providing access to reliable and low cost electricity, exigent, temporary steps to assist customers that may be facing financial distress at this time were necessary.
- TVA and LPCs expected that, in order to resume operations at a normal commercial level, companies might be required to utilize more on-peak power than they did prepandemic. Operational shifts, and the potential associated on-peak demand charge, could serve as a disincentive to resuming operations. The Program was intended to mitigate the operational and economic impact of the pandemic on large customers by providing credits based on the on-peak demand to customers who sought to restart normal commercial operations as emergency conditions improved. For eligible LPC-served customers, TVA would provide the credits to the LPC through its wholesale bill, which the LPC would in turn pass through to its customers.

The memorandum also noted, "A conservative estimate of the total credit outlays, assuming no benefit in terms of earlier return to operations is $5 million." TVA requested notational approval by the TVA Board of Directors, "because of the need to quickly develop and implement the Program while there is still time for it to be effective in combating the pandemic's impact on large customers." On April 16, 2020, the individual Board members approved the Program via notational approval.

The Program Term Sheet provided all Program operating guidance and guidelines. The term sheet listed three Program controls:

- LPC-served[1] and TVA direct-served customers with contract demands greater than 5,000 kilowatts (kW) as well as customers served under specific listed rate schedules[2] were eligible for the Program.
- TVA established a baseline on-peak demand quantity for each eligible customer (Baseline Demand).
- For each billing period that a customer's highest on-peak metered demand exceeded 110 percent of its Baseline Demand, they were eligible to receive a credit.

An example of how credits were calculated under Program guidance is provided in the Appendix.

On April 21, 2021, The Office of Management and Budget (OMB) and the Pandemic Response Accountability Committee (PRAC) issued the first in a series of alerts[3] to agencies to raise awareness on key issues related to preventing waste, fraud, and abuse to strengthen oversight and promote transparency of pandemic spending. This alert identified the following risk factors to payment integrity that also apply to the Program, (1) creation of a new program and (2) a limited amount of time to disburse. The report from the PRAC, *Lessons Learned in Oversight of Pandemic Relief Funds*,[4] noted that the disbursement of funds quickly alone puts the money at a higher risk of fraud.

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1 The LPC was required to opt into the Program in order for their LPC-served customers to be eligible.

2 LPC-served customers served under schedules TDGSA (Time-of-Use General Power) and TDMSA (Time-of-Use Manufacturing), and TVA direct-served customers served under schedules TDDSA (Time-of-Use Direct Service) and TDDSMA (Time-of-Use Direct Service Manufacturing) were eligible for the Program.

3 Chief Financial Officers Council, *Payment Integrity Alert: Risk Factors and Suggested Mitigating Strategies from the Office of Management and Budget (OMB) Office of Federal Financial Management and the Pandemic Response Accountability Committee (PRAC)*, April 21, 2021, <https://www.cfo.gov /payment-integrity-alert-prac/>, accessed on July 21, 2022.

4 Pandemic Response Accountability Committee, *Lessons Learned in Oversight of Pandemic Relief Funds*, June 8, 2022, <https://www.pandemicoversight.gov/media/file/prac-lessons-learned-update-june -2022pdf>, accessed on July 21, 2022.

OBJECTIVE, SCOPE, AND METHODOLOGY

Our audit objective was to determine if adequate controls were in place to ensure Program credits were provided to businesses in compliance with Program guidelines. Our audit scope was all $13.1 million in credits issued during the life of the Program, April 2020 through September 2021. We performed our fieldwork between March and July 2022. To meet our objective we:

- Reviewed the *Back-to-Business Credit Program Term Sheet – Directly Served Customers* and the *Back-to-Business Credit Program Term Sheet – Distributors* to identify Program requirements and key controls.
- Inquired of TVA Commercial Energy Solutions personnel to obtain an understanding of the credit calculation and key Program controls.
- Obtained an understanding of internal controls associated with the Program. We identified three controls related to customer eligibility and credit calculation as significant to the audit objective. Our primary method for testing the operating effectiveness of these controls was recalculating sampled credits.
- Obtained a listing of all Program credits and performed data analysis to assess the reliability of the data (534 credits totaling $13,106,798).
- Selected a judgmental sample of 40 Program credits totaling $6,722,851 (51.3 percent of the population) to determine if the credits were calculated in accordance with Program guidance. The sample consisted of 30 credits and 10 $0 dollar credits, chosen to represent 17 of the 18 months the Program was in operation. Additionally, 28 of the sampled credits were from LPC-served customers, while the remaining 12 were from TVA direct-served customers. Since this was a judgmental sample, the results of the sample cannot be projected to the population.
- Obtained (1) credit calculation and demand support, (2) LPC and customer invoices, (3) wholesale rate schedules, (4) large general power rate schedules, (5) retail rate schedules, (6) Adjustment Addendums, and (7) customer information on COVID-19 shutdown and estimated restart dates for each of the 40 sampled Program credits.
- Obtained contract demand amounts for each of the 40 sampled customers.
- Reviewed the *Payment Integrity Alert: Risk Factors and Suggested Mitigating Strategies from the Office of Management and Budget (OMB) Office of Federal Financial Management and the Pandemic Response Accountability Committee (PRAC)*. We reviewed this guidance due to it addressing risks and issues identified with COVID-19 stimulus programs as well as mitigating strategies that agencies can consider when assessing impact to their respective programs.
- Reviewed *Lessons Learned in Oversight of Pandemic Relief Funds* issued by PRAC because it identifies lessons learned in the PRAC's oversight of

pandemic relief and recovery programs similar to TVA's Program to provide relief from the impacts of the pandemic.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

FINDINGS

We found controls were adequate to ensure the Program credits were accurately calculated in accordance with Program guidance. However, we found some credits were not passed from the LPC to the customer. We also determined the Program did not have controls needed to more appropriately achieve the stated objective. Specifically, the Program did not include controls to (1) verify the reduced on-peak demand was due to a reduced level of operations as a result of COVID-19 and (2) specify how/when customers were considered back to prepandemic operating conditions. Details of our findings are discussed below.

CONTROLS WERE ADEQUATE TO ENSURE CREDITS WERE CALCULATED CORRECTLY

We determined the Program credits were calculated in accordance with the Program Term sheet specifications. We judgmentally selected a sample of 40 credits totaling $6,722,851 from the population of $13,106,798. We obtained all necessary credit calculation and demand support from TVA personnel. We recalculated all 40 sampled credits according to the Program Term Sheet specifications without exception.

Additionally, the Term Sheet stated Program eligibility was limited to customers with contract demand greater than 5,000 kW or served under a list of specific rate schedules. We obtained contract demand and rate schedule information for each of the 40 sampled customers and determined all customers were eligible for the Program.

SOME LPCS DID NOT PASS ALL CREDITS TO THEIR CUSTOMERS

The Program Term Sheet required the participating LPCs to reflect the credit received from TVA on their customer's next power invoice, time permitting. However, there were no stated controls in the Term Sheet to ensure the LPC passed the credit to the customer. We obtained invoices for the 28 LPC-served customers in our sample of 40 credits to ensure they received their Program credits. We identified three credits at three LPCs where the credits were included on the LPC's TVA invoice, but the LPCs did not pass the credits to the customer. These three credits totaled $186,463. Because we identified those three credits, we asked TVA personnel to contact the three LPCs regarding all other Program credits invoiced to them. It was determined an additional $108,253 was not appropriately passed on to their customers. Although the $294,716 credits were subsequently passed to the customers during our audit fieldwork, the credits were outstanding for between 11 to 22 months, which was not in accordance with Program guidance.

PROGRAM DID NOT HAVE NEEDED CONTROLS

The objective of the Program was to provide a measure of relief to large customers who shut down or were operating at reduced levels due to the COVID-19 pandemic. We determined the Program did not have controls needed to (1) verify the reduced on-peak demand was due to a reduced level of operations as a result of COVID-19 and (2) specify how/when customers were considered back to pre-pandemic operating conditions. TVA relied on customer self-certification that COVID-19 caused the customer to close or operate at reduced levels, with no consideration for the nature of the business. Additionally, there were no prescribed procedures or controls to determine when the customer should be considered back to business.

COVID-19 Impacts Were Self-Certified

The Program Term Sheet stated the Program would apply to customers known to be operating at reduced levels due to COVID-19, as compared to before March 2020. TVA required LPCs to sign a contract to “join” the Program, and the contract stated the objective of the Program and customer eligibility. The contract placed the burden on the LPC to submit any eligible customers to TVA to become part of the Program. TVA relied on the customer requests provided by the LPCs or TVA direct-served customers and did not verify if the customer was operating at reduced levels due to COVID-19. According to TVA personnel, the goals of the Program were to be quick to market with a low administrative burden. TVA personnel also stated the program showed a commitment to TVA’s public power model.

The PRAC report stated that self-certified information needs to be validated before payments are sent. However, TVA did not take any steps to validate an organization’s reduced demand was due to shut down or operating at reduced levels due to COVID-19. An evaluation of the industry or individual customer may have shown their business continued to operate at or near prepandemic levels despite a reduction in on peak demand.

No Guidance to Determine When Customers Were Back to Business

The Program Term Sheet did not provide guidance on how or when to evaluate if a customer was “back to business,” or operating at prepandemic levels. According to TVA personnel, the Program was expected to last six months at the onset. Therefore, TVA did not anticipate needing controls in place to evaluate when/how to determine when customers were no longer eligible for the Program. However, the Program was extended twice and lasted 18 months. TVA personnel explained how they began to perform data analyses once customers appeared to reach on-peak demand readings similar to their prepandemic levels.

However, TVA personnel would contact the company to ask if they were back to prepandemic levels, once again relying on self-certification by the customer.

The PRAC report stated that recipients and administrators need timely and clear guidance to get benefits out efficiently and accurately. Program guidance should have included a method for evaluating continued company eligibility for the Program as it was extended. This would ensure a consistent method of evaluation, and that credits were provided only to companies still being negatively impacted by COVID-19.

RECOMMENDATIONS

We recommend the Vice President, Contracts and Rates Strategy:

1. Work with TVA's Regulatory Assurance to ensure all Program credits given to LPCs were passed through to the end customers.

   TVA Management's Comments – In response to our draft report, TVA management agreed with the recommendation and stated Regulatory Assurance agrees to test the Back-to-Business Credits in FY 2023 to ensure credits were passed through to end-use customers on all LPCs not previously reviewed. See Appendix B for TVA management's complete response.

2. Develop guidance for any future programs to include:
   a. Methods for validating any customer self-certifications prior to issuance of credits or payments.
   b. Criteria for both eligibility and when a participant becomes ineligible.
   c. Procedures to address whether core components of the program, approved by the TVA Board of Directors, are accomplished.

   TVA Management's Comments – In response to our draft report, TVA management agreed with the recommendations and stated they will consider enhanced procedures for future programs for all three items. In response to the findings associated with recommendations 2.b and 2.c, TVA management provided responses to clarify information included in the draft report.

   In response to recommendation 2.b, TVA management stated Rate Design and Administration did verify the reduction in load as part of determining whether a credit was appropriate or not. Credit eligibility was dependent on the restart date provided by the LPC or TVA direct-serve account manager and a determination was made on objective customer usage data.

   In response to recommendation 2.c, TVA management stated the intent of the term sheet was to develop a formulaic approach to determine credits, which would eliminate subjective decision making. They stated TVA staff used objective load criteria to determine credit completion, but also agreed that a defined term such as Final Credit would have been an enhancement to the term sheet and program. See Appendix B for TVA management's complete response.

Auditor's Response – While TVA verified reduction in customer load, they did not perform any review beyond customer self-certification to determine if the reduction in load was due to customers' normal operating cycles or operating at reduced levels due to the COVID-19 pandemic. Reductions in load do not necessarily coincide with reduced operations for all types of customers.

3. Consider consulting with the Office of the Inspector General regarding tracking, reporting, and financial controls for new programs or changes to existing programs as recommended by the joint OMB/PRAC Payment Integrity Alert.

   TVA Management's Comments – In response to our draft report, TVA management agreed with the recommendation and stated Pricing and Contracts will review the *Lessons Learned in Oversight of Pandemic Relief Funds* report and make considerations for current and future programs. See Appendix B for TVA management's complete response.

BACK-TO-BUSINESS CREDIT CALCULATION EXAMPLE

Below is an example of how a Back-to-Business Credit Program (Program) credit was calculated. Company "ABC" received their first and only credit in July 2020 totaling $152,812.18. In the company's request to enter the Program, they stated their anticipated restart date as July 6, 2020. Meter reading data showed their actual on-peak demand readings decreased significantly on June 23, 2020, and then increased on July 8, 2020. Their July 2020 Credit was calculated as follows:

- <u>Baseline Demand</u>: TVA calculated the average high 18 on-peak demand readings for each week during the billing period. The average for the week of June 29 (the week prior to the company's anticipated restart date of July 6) was used as the baseline demand. This amount was 4,920 kilowatts (kW).
- <u>On-peak demand</u>: The company's highest on-peak demand during the billing period is the "on-peak demand" for purposes of the credit calculation. This amount was 25,000 kW.
- <u>Credit Demand</u>: If the company's on-peak demand (25,000 kW) was at least a 110 percent increase from the baseline demand (4,920 kW), then the company was eligible for the credit. In this case, the company was eligible based on the 508 percent increase. The "credit demand" amount used in the credit calculation was 20,080 kW, the difference between the two amounts.
- <u>Credit Multiplier</u>: TVA customers are charged retail rates based on their rate classification and the billing period. This customer's retail on-peak demand rate for the billing period was $10.24. The Program adjustment amount for all Program customers was $2.63. The "credit multiplier" was the adjustment amount subtracted from the retail on-peak demand rate. This amount was $7.61.
- $152,812.18 credit = Credit Demand (20,080 kW) * Credit Multiplier ($7.61) – Note: The credit demand amount includes multiple decimal places, resulting in an immaterial difference between the calculated amount and the actual credit amount noted here.

TVA

Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902-1401

September 7, 2022

Sent via email

David P. Wheeler
Assistant Inspector General
Audits and Evaluations
Office of the Inspector General

David:

TVA Pricing and Contracts organization in cooperation with the Regulatory Assurance organization are pleased to be given the opportunity to comment on the DRAFT Audit report of the Back-To-Business Credit Program.

The above organizations agree to all three recommendations and firmly believe that all programs, current and future, can benefit from enhanced program criteria and controls.

Our comments are laid out in a format requested by the OIG. Specifically for each recommendation Pricing and Contracts indicate our position on the recommendation, the status, and any additional facts, conclusions, or recommendations relative to the DRAFT Audit Report on the Back-To-Business Credit Program.

Sincerely,

Cassidy L. Larson
Vice President, Contracts and Rates Strategy
Pricing & Contracts

Attachment

cc: Jay Erickson (via email)
Melanie Farrell (via email)
Michael Hynes (via email)
John Reitz (via email)
Rick Taylor (Office of Inspector General – via email)
Sharon Williams (via email)

OIG DRAFT Audit Report

Back-To-Business Credit Program:

Recommendation #1:	**Work with Regulatory Assurance to ensure all Program credits given to LPCs were passed through to end customers.**
Pricing & Contracts Position:	Pricing and Contracts is in agreement with the recommendation. Regulatory Assurance agrees to test the Back-to-Business Credits in FY23 to ensure credits were passed through to end-use customers on all LPCs not previously reviewed.
Status:	Regulatory Assurance confirmed that any discrepancies identified as outlined in the OIG report have since been passed to retail customers for three samples identified. Regulatory Assurance included the back to Business credits on the Rates and Credit Checks program for FY22 and tested a limited number of these credits in FY22 as part of the risk-based portfolio priotrization plans
Facts / Conclusions /	
Recommendations:	None.

Recommendation #2:	**Develop guidance on future programs to include:**
	a. Methods for validating any customer self-certifications prior to issuance of credits or payments b. Criteria for both eligibility and when a participant becomes ineligible c. Procedures to address whether core components of the program approved by the TVA Board of Directors, are accomplished.
Pricing & Contracts Position:	Pricing and Contracts is in agreement with the recommendation.
Status:	Pricing and Contracts will consider enhanced procedures for future programs for all three items.
Facts / Conclusions /	
Recommendations:	Pricing and Contracts staff agree that additional controls are worth considering, and that future programs can be enhanced with additional controls. We do, however, wish to clarify some items of the draft report.

b. Verification of Reduction in Load: Rate Desing & Administration did verify the reduction in load. This was completed as part of the determining whether a credit was appropriate or not. Credit eligibility was dependent on the restart date provided by the LPC or TVA direct-serve account manager and a detemination was made on objective customer usage data. The establishment of the baseline demand and credit calculation also required a minimum of 110% above the baseline demand.

c. Lack of controls to specify how/when customers were considered back to Pre-pandemic operating conditions and guidance to determine when customers were back to business: The intent of the term sheet was to develop a formulaic approach to determine credits which would eliminate subjective decision making. While TVA staff did use objective load criteria to determine credit completion, we agree that a defined term such as Final Credit would have been an enhancement to the term sheet and program.

Recommendation #3:	**Consider consulting with the Office of the Inspector General regarding tracking, reporting, and financial controls for new programs or changes to existing programs as recommended by the joint OMB/PRAC Payment Integrity Alert.**
Pricing & Contracts Position:	Pricing and Contracts is in agreement with the recommendation.
Status:	Pricing and Contracts will review the referenced report and make considerations for current and future programs.
Facts / Conclusions / Recommendations:	The Back to Business program was originally developed with the understanding that it would run from April 2020 through September 2020. The Lessons Learned in Oversight of Pandemic Relief Funds was published on June 8, 2022. These Lessons Learned can provide insight and suggestions to improve future and existing TVA programs.