



Small Business COVID-19 Fraud: **THREE YEARS LATER** *State of Play*

Ranking Member Ernst
Minority Report

NOVEMBER 14, 2023

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EXECUTIVE SUMMARY

From funding Lamborghinis, luxury vacations, extravagant jewelry, and even an alpaca farm, fraudsters abused the U.S. Small Business Administration’s (SBA) COVID-19 relief programs to the tune of more than \$200 billion in fraud—all on the dime of hardworking American taxpayers. While the SBA has claimed a zero-tolerance policy when it comes to fraud, its behavior demonstrates nothing of the sort.^{1, 2} The SBA has discounted the full extent of fraud and instead tried to cast doubt on the legitimacy of fraud estimates made by expert investigators in its own Office of Inspector General (OIG). In addition, there are certain federal entities working to restrict the ability of law enforcement agencies to address fraud. These efforts, coupled with the SBA’s lackadaisical approach to rampant fraud in its programs, have hampered recovery efforts. Flagrant fraud within government programs, especially when it is allowed to go unpunished, hurts taxpayers and harms small businesses most. The SBA OIG recently reported it has over 100,000 actionable investigative leads. A temporary surge of federal law enforcement investigators is needed to help meet this demand. Congress must restore the abilities of the Special Inspector General for Pandemic Recovery (SIGPR) to help tackle these cases and reverse the SBA’s decision to end collections on loans under \$100,000 to hold criminals responsible. Accordingly, the passage of S. 2664 the *Strengthening Taxpayer Recoveries Act*, S. 659, the *Administrative False Claims Act*, and the implementation of four key Government Accountability Office (GAO) recommendations would augment the capacity of investigators to recover taxpayer funds, ensure loans are paid back, and strengthen federal government controls when disbursing funding in the future.

¹ “Ernst Says SBA Must Be Held Accountable for Pandemic Relief Funds That Were Misspent.” The Ripon Society, April 21, 2023.

² “Hearing: Nomination of Dilawar Syed to be Deputy Administrator of the Small Business Administration.” U.S. Senate Committee on Small Business & Entrepreneurship, March 8, 2023.

Background: The Pandemic Landscape

Summary of COVID-19 Pandemic Programs at SBA

As public health authorities around the country issued lockdown orders at the onset of the COVID-19 pandemic in March 2020, this prevented millions of small businesses from operating, and sent the unemployment rate over 13 percent.³ To help prevent further economic devastation, Congress established relief programs to help small businesses remain solvent and retain their workers through the crisis.

The Paycheck Protection Program (PPP), the largest of the SBA relief programs, provided forgivable loans to small businesses, non-profits, and self-employed workers to cover payroll costs, rent, interest, and utilities. These loans were designed to tide over small businesses that faced severe economic challenges or were unable to operate due to lockdown orders. When the SBA stopped accepting new PPP applications on May 31, 2021, it had approved over 11.8 million PPP loans totaling nearly \$800 billion.⁴ The SBA's COVID-19 Economic Injury Disaster Loans (EIDL) program provided economic relief to small businesses and nonprofit organizations. Congress authorized the SBA to make low interest, fixed-rate, long-term loans to provide borrowers with working capital to meet ordinary and necessary operating expenses, as well as advance grants that did not require repayment.⁵

While the PPP and EIDL programs constituted the vast majority of pandemic relief funds, the *American Rescue Plan Act*, a bill passed along partisan lines, established the Restaurant Revitalization Fund (RRF) and expanded other SBA pandemic relief lending programs, including the Shuttered Venue Operators Grant (SVOG).⁶ Through the RRF, the SBA provided grants of up to \$5 million to restaurants and similar businesses that experienced revenue losses related to the response to the COVID-19 pandemic.⁷ The SVOG program provided grants for live venue operators, theatrical producers, and similar businesses affected by COVID-19.⁸

Fraudsters took advantage of SBA's pandemic lending and grant programs to steal taxpayer dollars for their own enrichment. What's more, these fraudulently obtained funds took resources away from legitimate small businesses struggling to survive the lockdowns. In July 2023, the SBA OIG reported that of the \$1.2 trillion of EIDL and PPP funds, over \$200 billion (17% of all funds) were disbursed to potential fraudsters.⁹

³ Smith, Sean M., Roxanna Edwards, and Hao C. Duong. "Unemployment Rises in 2020, as the Country Battles the COVID-19 Pandemic." *Monthly Labor Review*, U.S. Bureau of Labor Statistics, June 2021.

⁴ Dilger, Robert Jay. "SBA Paycheck Protection Program (PPP) Loan Forgiveness: In Brief." Congressional Research Service, October 6, 2021.

⁵ Lindsay, Bruce R. "SBA COVID-19 EIDL Financial Relief: Policy Options and Considerations." Congressional Research Service, April 18, 2023.

⁶ P.L. 117-2

⁷ Levin, Adam G. "SBA Restaurant Revitalization Fund Grants." Congressional Research Service, August 15, 2022.

⁸ Dilger, Robert Jay, and Adam G. Levin. "SBA Shuttered Venue Operators Grant Program (SVOG)." Congressional Research Service, July 5, 2022.

⁹ "Covid-19 Pandemic EIDL and PPP Loan Fraud Landscape." Report 23-09, U.S. Small Business Administration, Office of Inspector General, June 27, 2023.

There have been too many high-profile examples of egregious or bizarre federal cases of PPP and EIDL fraud to exhaustively list. Among the notable cases are:

1. The fintech Kabbage loaned over **\$7 million** to fake farms including “**Deely Nuts**” and “**Beefy King.**”¹⁰
2. Actor Austin St. John, who played the **Red Power Ranger** in the Mighty Morphin Power Rangers, was charged along with 19 others for fraudulently obtaining **\$3.5 million in PPP loans.**¹¹
3. A man in Florida plead guilty to wire fraud and engaging in an illegal monetary transaction after using PPP loans to pay off his mortgage on his home and business property, purchase an 18 karat **gold Rolex watch**, as well as **buy a Jaguar CKE Roadster** sports car.¹²
4. Former **NFL player** Joshua Bellamy used fraudulent PPP dollars on a stay at the Seminole Hard Rock Hotel and Casino and to purchase jewelry.¹³
5. A man in Florida plead guilty to wire fraud after he used **\$318,000** of the \$3.9 million PPP loan he received to **purchase a Lamborghini.**¹⁴
6. Eight members of the “Insane Crip Gang,” a subset of the national “Crips” street gang, used PPP loans to buy **weapons** which were ultimately used in various robberies, kidnappings, and murders.¹⁵
7. Actress Ion Overman, of “**Madea Goes to Jail,**” was charged—along with 21 others—for a PPP fraud scheme totaling **\$3,899,377.**¹⁶
8. **Former Olympic speed skater** Allison Baver used parts of her **\$10 million** fraudulent PPP loan to pay HOA fees and finance Lord of the Rings star Elijah Wood’s movie about Ted Bundy.^{17,18,19}
9. Disgraced fintech company Womply claimed to have Artificial Intelligence systems able to scan people’s faces to match government ID photos, but were tricked by scam artists using **barbie dolls, masks, and mannequin photos** to obtain fraudulent PPP loans.²⁰
10. **Drug trafficker** Ashford Richardson, who spent five years and three months in prison for conspiring to distribute multiple kilograms of cocaine, is back in prison after fraudulently obtaining over **\$50,000** in EIDL and PPP loans while on supervised release.²¹

¹⁰ Willis, Derek, and Lydia DePillis. “Hundreds of PPP Loans Went to Fake Farms in Absurd Places.” ProPublica, May 18, 2021.

¹¹ “18 Arrested, Charged in East Texas Paycheck Protection Program-Related Fraud.” U.S. Attorney’s Office, Eastern District of Texas, May 18, 2022.

¹² “Jacksonville Man Pleads Guilty to COVID Relief Fraud and Money Laundering.” U.S. Attorney’s Office, Middle District of Florida, February 14, 2023.

¹³ “Former NFL Player Sentenced to More than Three Years in Prison for Covid-19 Relief Fraud.” Office of Public Affairs, U.S. Department of Justice, December 10, 2021.

¹⁴ “Man Purchased Lamborghini After Receiving \$3.9 Million in PPP Loans.” Office of Public Affairs, U.S. Department of Justice, February 10, 2021.

¹⁵ “Eight Crips Gang Members and Associates Indicted for Racketeering and Numerous Violent Crimes on Long Island.” U.S. Attorney’s Office, Eastern District of New York, April 13, 2023.

¹⁶ “22 People Charged in Connection with a Multi-Million Dollar Paycheck Protection Program Fraud Scheme.” U.S. Attorney’s Office, Northern District of Georgia, February 1, 2022.

¹⁷ Carlisle, Nate. “Fox 13 Investigates: Utah Trial Starts for Olympian Who Received Pandemic Bailout.” FOX 13 News Utah (KSTU), June 26, 2023.

¹⁸ “Utah Woman Found Guilty of \$10m Worth of PPP Loan Fraud.” United States Attorney’s Office, District of Utah, June 30, 2023.

¹⁹ “Allison Baver Verdict: Former Olympic Speedskater Guilty on All Counts Related to \$10m PPP Loan.” The Salt Lake Tribune, June 30, 2023.

²⁰ Kilander, Gustaf. “Scammers used doll faces to secure in COVID pandemic aid in PPP fraud.” The Independent, June 29, 2023.

²¹ “Drug Trafficker Returns to Prison for Committing PPP and Other Pandemic Relief Fraud While on Supervised Release.” U.S. Attorney’s Office, Northern District of Georgia, June 15, 2023.

Investigation of Pandemic Fraud

The U.S. Department of Justice (DOJ) has charged over 3,000 defendants across the country with defrauding the SBA's COVID programs.²² The SBA OIG has also made it a high priority to prosecute those who engaged in schemes to illegally obtain PPP or EIDL funds. Between March 2020 and September 2023, the SBA OIG reported 1,180 indictments, 936 arrests, and 613 convictions related to PPP or EIDL fraud. As of September 2023, there are 580 ongoing investigations into fraudulent practices in the PPP or EIDL programs.²³ The SIGPR and the Pandemic Response Accountability Committee (PRAC) have also made significant strides in cracking down on abuse and fraud within these pandemic relief programs. For instance, in January 2023, the PRAC identified \$5.4 billion in potentially fraudulent EIDL and PPP loans obtained using over 69,000 questionable Social Security numbers.²⁴ Within the PRAC, the Pandemic Analytics Center of Excellence (PACE) applies the latest advances in analytic and forensic technologies to help OIGs and law enforcement pursue data-driven pandemic relief fraud investigations. Investigative work has been crucial to recovering illegally obtained and improperly disbursed taxpayer dollars.

The SIGPR and the PRAC have been essential in identifying and investigating cases of potential fraud within PPP, EIDL, and other pandemic relief programs. Congress established the SIGPR and the PRAC to safeguard Americans' tax dollars within the relief and aid programs. Congress granted the SIGPR inspector general powers and authorities to audit and investigate loans made by the Secretary of the Treasury on behalf of any program established by the *Coronavirus Aid, Relief, and Economic Security (CARES) Act*.²⁵ Congress also created the PRAC through the CARES Act, to support and coordinate independent oversight of pandemic relief spending while seeking out fraud, waste, abuse, and mismanagement.²⁶ The SIGPR and the PRAC investigations have resulted in arrests, guilty pleas, sentencing, and imprisonments. Among the success stories of the SIGPR and the PRAC's work are uncovering a \$53 million PPP fraud scheme in North Texas, a more than \$7 million fraud operation in Virginia, and a \$2.6 million EIDL, PPP, and Main Street Lending Program (MSLP) fraud case in South Florida.²⁷ These watchdogs have played—and continue to play—a crucial role in identifying fraud perpetrated against American taxpayers through pandemic relief programs, as well as holding fraudsters accountable for stealing taxpayer dollars.

However, the SIGPR's jurisdiction to investigate fraud within the SBA COVID-19 programs is contested. Amidst resistance from the U.S. Department of the Treasury to the SIGPR's oversight of the SBA COVID-19 programs, the DOJ's Office of Legal Counsel issued an opinion in which it claimed the SIGPR's jurisdiction is narrowly limited to programs established under title IV, subtitle A of the *CARES Act*.²⁸ In practice, this interpretation would preclude the SIGPR from investigating the Coronavirus Relief Fund, Payroll Support Program, and PPP, restricting the SIGPR's role in detecting fraud to the Treasury's direct loans and the Federal Reserve's lending programs.²⁹ This dispute undermines the SIGPR's critical work of detecting and responding to fraudulent abuse of taxpayer funds. In a quarterly report to Congress, Special Inspector General Brian Miller acknowledged that this work cannot continue unless Congress can, "pass legislation to clarify SIGPR's mandate to provide oversight" of the SBA's COVID-19 programs.³⁰

²² "Justice Department Announces Results of Nationwide COVID-19 Fraud Enforcement Action." Office of Public Affairs, U.S. Department of Justice, August 23, 2023.

²³ SBA OIG Congressional Update on file with author, October 2023.

²⁴ "Fraud Alert: PRAC Identifies \$5.4 Billion in Potentially Fraudulent Pandemic Loans Obtained Using Over 69,000 Questionable Social Security Numbers." Pandemic Response Accountability Committee (PRAC).

²⁵ "SIGPR Overview" U.S. Special Investigator General for Pandemic Recovery, 2023.

²⁶ "About Us | Pandemic Oversight." U.S. Special Investigator General for Pandemic Recovery, 2023.

²⁷ "Quarterly Report to the United States Congress." Office of the Special Inspector General for Pandemic Recovery, April to June, 2023.

²⁸ "Authority of the Special Inspector General for Pandemic Recovery To Oversee Programs Established Under the CARES Act." U.S. Department of Justice, Office of Legal Counsel, April 29, 2021.

²⁹ "SIGPR Quarterly Report to the United States Congress." Office of the Special Inspector General for Pandemic Recovery, January to March, 2021.

³⁰ "SIGPR Quarterly Report to the United States Congress." Office of the Special Inspector General for Pandemic Recovery, January to March, 2021.

Fraud at Fintechs

Financial technology (fintech) companies' reckless lending practices are responsible for a significant portion of the fraud and misuse of taxpayer dollars within the SBA's largest emergency pandemic lending programs: PPP and EIDL. James E. Clyburn (D-SC), when Chairman of the House Select Subcommittee on the Coronavirus Crisis, revealed in a December 2022 report that the SBA heavily delegated to fintech companies who enriched themselves with taxpayer-funded processing fees while failing to guard effectively against fraud risks:

The Select Subcommittee's investigation found that fintechs were given extraordinary responsibility in administering the nation's largest pandemic relief program, as certain SBA lenders heavily delegated applicant screening to companies that claimed to employ effective and innovative fraud control technology. However, many of these companies appear to have failed to stop obvious and preventable fraud, leading to the needless loss of taxpayer dollars. The Select Subcommittee's investigation found that several fintechs, largely existing outside of the regulatory structure governing traditional financial institutions and with little to no oversight, took billions in fees from taxpayers while becoming easy targets for those who sought to defraud the PPP.³¹

Womply and Blueacorn, two fintechs investigated by the Select Subcommittee, together facilitated about one third of PPP loans in 2021.³² These companies prioritized profit margins over responsible stewardship of taxpayer dollars during an unprecedented national economic crisis. The Select Committee investigation determined that the PPP "lacked sufficient incentives for fintechs to implement strong fraud prevention controls."³³

Traditional lending institutions generally maintain established borrower relationships due to Know Your Customer and anti-money laundering requirements. Wide-ranging *Bank Secrecy Act* compliance programs also ensure strong underwriting standards. By contrast, fintechs lack the established relationships and oversight frameworks compelling formal anti-fraud procedures.³⁴ Researchers at the University of Texas at Austin (UT Austin) found fintech-originated loans were 3.23 times as likely as traditionally-originated loans to have at least one indicator of misreporting, such as a business registry flag, a multiple loan flag, a high implied compensation flag, or reporting a higher number of jobs for EIDL advances than in a PPP application. According to the UT Austin researchers' analysis, potential misreporting rates were in excess of 25% for 10 large fintech lenders.³⁵ Fintechs enabled fraudsters and scammers to get a hold of billions in taxpayer funds, through limited oversight over their loans. Meanwhile, millions of struggling small businesses eligible for pandemic relief funds were left empty handed.

³¹ "Preparing for and Preventing the Next Public Health Emergency: Lessons Learned from the Coronavirus Crisis," Select Subcommittee on the Coronavirus Crisis, December 2022.

³² *Id.*

³³ *Id.*

³⁴ Griffin, John, Samuel Kruger, and Prateek Mahajan. "Did Fintech Lenders Facilitate PPP Fraud?" *The Journal of Finance*, February 7, 2023.

³⁵ *Id.*

Part 1: The SBA's False Narrative Discounts the Full Extent of Fraud

The SBA Publicly Understates the Amount of Fraud

In June 2023, the SBA OIG reported that the SBA likely disbursed more than \$200 billion in potentially fraudulent EIDL and PPP funds.³⁶ Rather than acknowledge the agency's subpar performance, the SBA's leadership accused its OIG of misleading the public. In response to the SBA OIG report, the SBA implausibly claimed only \$36 billion of EIDL and PPP funds were likely obtained fraudulently.^{37,38} The SBA's fraud estimate is around 600% less than the SBA OIG's estimate. The SBA alleges it conducted an "extensive analysis" to arrive at its \$36 billion figure, but has failed to provide evidence to the Committee to support this claim.^{39,40}

In a July 2023 hearing of the House Committee on Small Business, the SBA OIG Inspector General Hannibal "Mike" Ware testified that every loan within the \$200 billion figure meets the OIG's threshold for opening an investigation, resources permitting.⁴¹ The SBA OIG's work aligns with applicable quality control standards. On the other hand, the SBA's fraud estimate relied on manual reviews that fall short of the standards followed by the Inspector General community. Moreover, the SBA does not have access to the same datasets and does not possess comparable expertise in assessing fraud or conducting law enforcement investigations. The House Committee on Small Business invited the SBA Administrator Isabella Casillas Guzman to the same hearing at which Inspector General Ware testified. Regrettably, Administrator Guzman declined the opportunity to defend the SBA's bold claims, or the agency's strategy of casting aspersions on its Inspector General's estimates of rampant fraud within the SBA's programs.⁴²

The SBA's Understatement of Restaurant Revitalization Fund (RRF) and Shuttered Venue Operators Grant (SVOG) Fraud Rates

In a June 2023 report, the SBA boasted both the RRF and SVOG programs had estimated fraud rates well below 1%, at 0.75% and 0.33% respectively. However, this internal SBA estimate based on the quantity of referrals to the SBA OIG is unreliable. The SBA's failure to refer potential fraud to its OIG does not speak to the actual volume of fraud present. Instead, it is an indicator that the SBA internal controls for detecting fraud within these programs could use strengthening.

In fact, independent auditors found the SBA failed to comply with nearly all of the reporting requirements under the *Payment Integrity Information Act of 2019* (PIIA).^{43,44} The PIIA is a law requiring federal agencies to identify and review all programs and activities they administer that may be susceptible to significant improper payments. The audit report also noted the SBA's risk assessment methodology did not consider certain identified risk factors for RRF and SVOG.

Other reports also suggest the SBA may be undercounting fraud in the RRF. In June 2023, the GAO reported the SBA could take additional steps to identify and respond to fraudulent or ineligible RRF recipients. The SBA replied that RRF controls do not need to be assessed, and additional steps do not need to be taken to identify potential

³⁶ "COVID-19 Pandemic EIDL and PPP Loan Fraud Landscape." Report 23-09, Office of Inspector General, U.S. Small Business Administration, June 27, 2023.

³⁷ Id.

³⁸ "Protecting the Integrity of the Pandemic Relief Programs: SBA's Actions to Prevent, Detect and Tackle Fraud." U.S. Small Business Administration, June 2023.

³⁹ Id.

⁴⁰ "COVID-19 Pandemic EIDL and PPP Loan Fraud Landscape." Report 23-09, Office of Inspector General, U.S. Small Business Administration, June 27, 2023.

⁴¹ "Full Committee Hearing - "Stolen Taxpayer Funds: Reviewing the SBA and OIG Reports of Fraud in Pandemic Lending Programs." U.S. House Committee on Small Business, July 13, 2023.

⁴² Id.

⁴³ "Independent Auditors' Report on SBA's Fiscal Year 2022 Compliance with the Payment Integrity Information Act of 2019." Report 23-07, Office of Inspector General, U.S. Small Business Administration, May 15, 2023.

⁴⁴ P.L. 116-117

fraud, because the SBA believes strong controls are in place that align with industry practices.^{45, 46} One month after the GAO report, the SBA OIG found the SBA approved 3,790 RRF applications—totaling \$557 million—without verifying gross sales, a key fraud control designed to prevent ineligible entities from receiving awards. Many of the 3,790 applications had indicators of potential fraud, and the SBA has still not reviewed 2,172 of these RRF awards, totaling \$278.6 million.⁴⁷ In a September 2023 report, the OIG found that over 20,000 RRF recipients, receiving approximately \$3.5 billion, had not filed any of the required reports. The SBA OIG also identified that the SBA had not completed timely post award reviews.⁴⁸ After 10 months, program officials reviewed only 88 awards, fewer than one percent of the 10,050 awards selected for review.⁴⁹ For certain subcategories of the 88 completed reviews, 89% or 100% of awards went to ineligible recipients.⁵⁰

Not only was the RRF replete with fraud, but the SBA acted unconstitutionally when disbursing funds as well. Various plaintiffs sued SBA in federal court alleging SBA's use of race-based and sex-based preferences for the awarding of the RRF funds violated the Equal Protection Clause of the 14th Amendment. In each of these lawsuits, the SBA was found to be violating the Constitution.⁵¹

For SVOG, the SBA's internal 0.33% fraud rate estimate is also not indicative of the actual amount of fraud in the program. The SBA removed internal controls for the program and its fraud risk monitoring needs improvement. The SBA OIG reported that the SBA switched to a riskier payment method providing less protection against fraud. Of 10 awards to organizations the OIG reviewed, all were unauthorized commitments without proper documentation and several had inadequate support for the grant amounts.⁵² In an October 2023 report, the SBA OIG found that the SBA made 47 SVOG awards to ineligible entities—23 percent of the awards sampled by the SBA OIG. Additionally, the SBA OIG found the SBA limited or eliminated certain verification procedures, such as obtaining tax transcripts, implemented a strict 4-hour review time for applications, and stopped the practice of validating certain matches to the U.S. Department of the Treasury's Do Not Pay List. These changes weakened internal controls and allowed ineligible entities to receive SVOG grants.⁵³ According to the GAO, the SBA could improve its ability to identify and address fraud among SVOG grantees. The SBA did not fully agree with this finding.⁵⁴

45 "2023 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Billions of Dollars in Financial Benefits." GAO-23-106089, U.S. Government Accountability Office, June 14, 2023.

46 "Restaurant Revitalization Fund: Opportunities Exist to Improve Oversight." GAO-22-105442, U.S. Government Accountability Office, July 14, 2022.

47 "SBA's Administrative Process to Address Potentially Fraudulent Restaurant Revitalization Fund Awards." Report 23-10, Office of Inspector General, U.S. Small Business Administration, July 5, 2023.

48 "SBA's Oversight of Restaurant Revitalization Fund Recipients." Report 23-15, Office of Inspector General, U.S. Small Business Administration, September 29, 2023.

49 Id.

50 Id.

51 "Restaurant Revitalization Fund: Opportunities Exist to Improve Oversight." GAO-22-105442, U.S. Government Accountability Office, July 14, 2022.

52 "SBA's Award and Payment Practices in the Shuttered Venue Operators Grant Program." Report 22-15, U.S. Government Accountability Office, July 5, 2022.

53 "SBA's Internal Controls to Prevent Shuttered Venue Operators Grants to Ineligible Applicants". Report 24-02, Office of Inspector General, U.S. Small Business Administration, October 25, 2023.

54 "COVID Relief: SBA Could Improve Communications and Fraud Risk Monitoring for Its Arts and Entertainment Venues Grant Program." GAO-23-105199, U.S. Government Accountability Office, October 2022.

The SVOG and RRF were rife with fraud. Notable cases include:

1. A South Florida man was charged with fraudulently obtaining funds under SVOG and allegedly used the funds to purchase **exotic sports cars**.⁵⁵
2. San Diego restaurant owners were charged with allegedly conspiring to **underreport gross receipts** in order to qualify for RRF loans, and lied on loan applications regarding the use of the money.⁵⁶
3. Washington, D.C. restauranteurs plead guilty to tax offenses and theft of RRF funds for personal enrichment including for home construction, college tuition payments, and **vacations**.⁵⁷
4. A Massachusetts food truck business owner was sentenced to two years in prison for a \$1.5 million fraud scheme involving proceeds from RRF and other pandemic programs used to purchase **shares in technology companies**.⁵⁸
5. A Florida couple were sentenced to prison for wire fraud conspiracy, money laundering conspiracy, and making false statements relating to SVOG and other pandemic programs totaling over **\$4.8 million**.⁵⁹

The SBA Overstated the Number of Referrals to the SBA OIG

On April 26, 2023, while under oath in front of the U.S. Senate Committee on Small Business and Entrepreneurship, Mr. Patrick Kelley, the former SBA Associate Administrator for the Office of Capital Access, made unsubstantiated allegations regarding the SBA's activities. Specifically, Mr. Kelley testified that over a two-year period, the SBA referred 3.5 million applications to the SBA OIG.⁶⁰ The SBA OIG was unable to validate—and indeed contradicted—Mr. Kelley's assertion.

According to Mr. Sheldon Shoemaker, SBA's Deputy Inspector General, who also testified at the hearing, the spreadsheets SBA provides on its internal fraud reviews include information obtained from the SBA OIG and other law enforcement agencies. For example, the spreadsheets SBA gave to the OIG include applications flagged for fraud based on the over 90,000 EIDL file requests from law enforcement agencies.⁶¹ These should not be considered SBA referrals. Instead, they are already ongoing investigations. Put simply, Mr. Kelley and the SBA were trying to claim credit for the work others have already done.

⁵⁵ "South Florida Man Charged with COVID-19 Relief Fraud Allegedly Spends Loan Money on Exotic Sport Cars." U.S. Attorney's Office, Southern District of Florida, November 8, 2022.

⁵⁶ "San Diego Restaurant Owners Charged with COVID-Relief Fraud and Money Laundering." Office of Public Affairs, U.S. Department of Justice, May 24, 2023.

⁵⁷ "Georgetown Restauranteurs Plead Guilty to Tax Offenses and Theft of COVID Relief Funds." U.S. Attorney's Office, District of Columbia, August 14, 2023.

⁵⁸ "Brighton Food Truck Business Owner Sentenced to Two Years in Prison for \$1.5 Million COVID-Relief Fraud Scheme." U.S. Attorney's Office, District of Massachusetts, July 26, 2023.

⁵⁹ "Tallahassee Couple Sentenced To Federal Prison For Wire Fraud Conspiracy, Money Laundering Conspiracy, And Making False Statements Relating To COVID-19 Relief Programs." U.S. Attorney's Office, Northern District of Florida, May 3, 2023.

⁶⁰ "Hearing: Oversight of SBA's Implementation of Final Rules to Expand Access to Capital." U.S. Senate Committee on Small Business & Entrepreneurship, April 26, 2023.

⁶¹ Senate Committee on Small Business and Entrepreneurship, Answers to Questions submitted by Mr. Sheldon Shoemaker, Deputy Inspector General, U.S. Small Business Administration, Oversight of SBA's Implementation of Final Rules to Expand Access to Capital, 118th Cong. on file with author (April 26, 2023). In response to "Has the SBA referred over 3 million instances of fraud on disbursed loans?," Sheldon Shoemaker responded that "SBA has made numerous referrals of alleged fraud to OIG; however, OIG is unable to validate the SBA assertion... The spreadsheets that SBA provides encompass information they may have received from their own fraud reviews, ID theft submissions, information obtained from financial institutions, as well as information obtained from OIG and/or other law enforcement agencies. For example, the spreadsheets include applications that were flagged for fraud based on the over 90,000 EIDL file requests from law enforcement agencies. These should not be considered as referrals by SBA as they are already ongoing investigations."

In fact, contrary to Mr. Patrick Kelley’s testimony indicating a significant volume of referrals, the SBA referred few suspicious RRF awards to its OIG.^{62, 63} In July 2023, the U.S. Senate Committee on Small Business and Entrepreneurship requested Administrator Guzman either provide the underlying evidence substantiating Mr. Kelley’s claim, or correct his misrepresentation to Congress.⁶⁴ As of the date of publication of this report, Administrator Guzman has failed to do either.

The SBA states it has adopted a “Tone at The Top” for Fraud Risk Management though the SBA’s Actions Indicate Otherwise

Establishing a strong “Tone at the Top” is an essential part of the internal control environment and internal control framework overall. This includes communicating a commitment to combat fraud within pandemic relief programs. Per the Standards for Internal Control in the Federal Government, “without a strong tone at the top to support an internal control system, the entity’s risk identification may be incomplete, risk responses may be inappropriate, control activities may not be appropriately designed or implemented, information and communication may falter, and results of monitoring may not be understood or acted upon to remediate deficiencies.”⁶⁵

The SBA cites the “Tone at the Top” as one of its major principles for fraud risk management and as a key element to its Fraud Risk Management Strategic Plan.⁶⁶ However, despite its rhetoric, SBA leadership is refusing to implement the GAO and the SBA OIG recommendations designed to improve the SBA’s fraud risk management, and is discounting the full extent of fraud. This sets the wrong tone and sends the wrong message.

The SBA should do more to leverage data analytics to prevent and detect fraud

The SBA itself acknowledges “the use of data analytics across an entire portfolio helps identify potential signs of fraud,” and states it has made substantial efforts on the use of data analytics.⁶⁷ However, the SBA only performed data analytic treatment on a fragmented portion of the overall portfolio—fewer than 14% of loans, grants, and awards. The SBA indicates it performed “data analytic treatment” on 6.7 million of 49.3 million loans.⁶⁸ Additionally, the GAO has found the SBA did not fully leverage information to help identify applicants who tried to defraud multiple pandemic relief programs and would benefit from further development of its data analytics program.⁶⁹ The SBA should perform data analytics across its entire portfolio to prevent and detect ineligible and fraudulent transactions. This may also result in more efficient allocation of resources, cost savings, and reduced loan review backlogs.

⁶² “2023 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Billions of Dollars in Financial Benefits.” GAO-23-106089, U.S. Government Accountability Office, June 14, 2023.

⁶³ “Restaurant Revitalization Fund: Opportunities Exist to Improve Oversight.” GAO-22-105442, U.S. Government Accountability Office, July 14, 2022.

⁶⁴ Senator Joni Ernst. “Letter to the SBA Administrator Regarding Improper Payments.” U.S. Senate, July 26, 2023.

⁶⁵ “Standards for Internal Control in the Federal Government.” GAO-14-704G, U.S. Government Accountability Office, September 10, 2014.

⁶⁶ “Protecting the Integrity of the Pandemic Relief Programs: SBA’s Actions to Prevent, Detect and Tackle Fraud.” U.S. Small Business Administration, June 2023.

⁶⁷ Id.

⁶⁸ Id.

⁶⁹ “COVID Relief: Fraud Schemes and Indicators in SBA Pandemic Programs.” GAO-23-105331, U.S. Government Accountability Office, May 2023.

Part 2: Efforts to Recover Funds

Overview of Recovery Efforts

Recovering money fraudsters stole from American taxpayers must be a priority for the federal government. The DOJ has seized more than \$1.4 billion in stolen COVID-19 relief funds.⁷⁰ The SBA OIG’s collaboration with the U.S. Secret Service, other federal agencies, and financial institutions has resulted in EIDL and PPP funds seized or returned to the SBA.⁷¹ Meanwhile, the SIGPR has rapidly scaled up its operations to complement these efforts.^{72, 73} While law enforcement investigations and seizure of improperly obtained funds is vital, the SBA needs to do more.

For example, the SBA has refused to pursue collections of loans valued at \$100,000 as required by law, and has failed to take recommended steps to improve its fraud risk management. The SBA’s actions undermine efforts to maximize the recovery of funds for the taxpayer and could incentivize ineligible and fraudulent borrowers to obtain loans valued at \$100,000 or less in future loan programs.

There is roughly \$200 billion worth of fraud within EIDL and PPP programs.⁷⁴ Instead of letting that money stay in the hands of fraudsters, it could be put to the service of the American people. Here are some examples of what \$200 billion could buy the American taxpayer:

\$200 Billion Estimated Fraud	\$1.4 billion in funds seized by the Justice Department⁷⁵
15 USS Ford class aircraft carriers (around \$13 billion each)	10% of the cost of 1 USS Ford class aircraft carrier
Over 250 million iPhone 14’s at \$799 per phone	1.8 million iPhone 14’s
Annual U.S. health care spending for 15 million people (around \$13,000 a person)	Annual U.S. health care spending for 108,000 people
36 of the top 50 most expensive sports teams in the world at their 2023 valuation ⁷⁶	One of the 9 least valuable Major League Baseball franchises
438 million Taylor Swift Eras Tour tickets ⁷⁷	3 million Taylor Swift Eras Tour tickets

⁷⁰ “Justice Department Announces Results of Nationwide COVID-19 Fraud Enforcement Action.” Office of Public Affairs, U.S. Department of Justice, August 23, 2023.

⁷¹ “COVID-19 Pandemic EIDL and PPP Loan Fraud Landscape.” Report 23-09, Office of Inspector General, U.S. Small Business Administration, June 27, 2023.

⁷² “SIGPR Quarterly Report to the United States Congress.” Office of the Special Inspector General for Pandemic Recovery, January to March, 2021.

⁷³ “Congressional Budget Justification and Annual Performance Plan and Report.” Office of the Special Inspector General for Pandemic Recovery, FY 2023.

⁷⁴ “Covid-19 Pandemic EIDL and PPP Loan Fraud Landscape.” Report 23-09, U.S. Small Business Administration, Office of Inspector General, June 27, 2023.

⁷⁵ The SBA OIG reported its collaboration with the SBA, the U.S. Secret Service, other federal agencies, and financial institutions has resulted in nearly \$30 billion in EIDL and PPP funds being seized or returned to the SBA. This consists of over \$1 billion in seizures by the U.S Secret Service, \$9 billion returned by financial institutions, and \$20 billion paid from borrowers. The SBA OIG based the \$9 billion and \$20 billion figures on SBA reporting and does not have loan level detail to the data.

⁷⁶ Ozanian, Mike, and Justin Teitellbaum. “Baseball’s Most Valuable Teams 2023: Price Tags Are up 12% despite Regional TV Woes.” Forbes, March 23, 2023.

⁷⁷ Bhattarai, Abha, Lerman, Rachel, Sabens, Emily. “The Economy (Taylor’s Version).” The Washington Post, October 13, 2023.

The SBA's Faulty Rationale and Unlawful Decision to End Collections on Loans Under \$100,000

The SBA decided to forgo debt collections on EIDL less than \$100,000. The SBA OIG calculated the amount of delinquent and past due EIDLs to be \$62 billion as of March 24, 2023.^{78,79} This is in addition to failing to pursue collections on PPP loans under \$100,000, for an estimated \$1.1 billion.⁸⁰ In total, the SBA is intending to forgo collections on over \$63 billion of COVID program loans made with Americans' tax dollars, without justification or congressional authorization. As additional loans become due, the money being left on the table is only likely to grow.

The SBA risks violating federal law by prematurely ending active collection activities on delinquent PPP and EIDLs with balances of up to \$100,000. Federal law prohibits agencies from ending collections on fraudulent, false, or misrepresented claims.⁸¹ The SBA did not fully agree with the SBA OIG's recommendation for the SBA to attempt active collection and review loan applications for any EIDL that appears to be fraudulent, false, or misrepresented.⁸²

Under the *Debt Collection Improvement Act*, federal agencies can only suspend or end collections on claims in certain circumstances including when the cost of collection is likely to be greater than the amount recovered for loans not more than \$100,000.⁸³ The SBA cited this as justification for not collecting on its loans. However, the SBA OIG determined the SBA's April 2022 analysis was not comprehensive to sufficiently support the proposition that the cost to pursue collections on PPP loans valued at \$100,000 or less was likely more than the recovery amount. The SBA was obligated to include comprehensive estimates of the expected costs and benefits for EIDL and PPP collections per Office of Management and Budget (OMB) Circular A-94. It did not. The SBA OIG also recommended the SBA explore alternative means of collections for EIDL and PPP loans with an outstanding balance of \$100,000 or less.^{84,85} The SBA has not evaluated alternative collection techniques such as the Centralized Receivables Service (CRS) program within the Bureau of the Fiscal Service, a low-cost option available to federal agencies to manage nontax receivables.⁸⁶ The SBA could use the CRS or pursue other options to meet the Treasury Financial Manual requirement to maximize recoveries for efficiency and cost-effectiveness.⁸⁷ The SBA has not compared the cost effectiveness of alternative collection techniques as required by federal law.⁸⁸

In addition, the SBA's analysis for anticipated EIDL and PPP recoveries was flawed. The agency based its analysis on a 0.28% recovery rate—or \$65,000 total recoveries out of \$23.5 million—on SBA Express working capital loans of \$100,000 or less made to sole proprietors between 2009 and 2022. This is an unrealistic comparison, at best. The \$65,000 of SBA Express loans the SBA recovered over a 13-year period (around \$5,000 a year) is not comparable to the \$1.1 billion in PPP loans under \$100,000 on which the SBA has ended collections, or the over \$62 billion in delinquent or past due EIDLs under \$100,000. In addition, SBA Express loans to sole proprietors are materially different to EIDL and PPP. Only about half of EIDLs of which the SBA plans to end collections were made to sole proprietors. Lenders likely pursued active collections on SBA Express loans prior to those loans being referred to Treasury, whereas EIDLs were direct loans made by the SBA and PPP had higher SBA guarantee percentages. As a

⁷⁸ "Ending Active Collections on Delinquent COVID-19 Economic Injury Disaster Loans." Report 23-16, Office of Inspector General, U.S. Small Business Administration, September 29, 2023.

⁷⁹ SBA indicated the number of delinquent, past due, or charged off COVID-19 EIDLs total \$33.4 billion as of May 9, 2023. However, SBA OIG was unable to validate SBA's significantly different amount which did not sync with SBA's own loan accounting system of record and data.

⁸⁰ "Management Advisory – SBA'S Guaranty Purchases for Paycheck Protection Program Loans." Report 22-25, Office of Inspector General, U.S. Small Business Administration, September 30, 2022.

⁸¹ "31 USC 3711(b)(1): Collection and Compromise." U.S. Code.

⁸² "Ending Active Collections on Delinquent COVID-19 Economic Injury Disaster Loans." Report 23-16, Office of Inspector General, U.S. Small Business Administration, September 29, 2023.

⁸³ "31 USC 3711(a): Collection and Compromise." U.S. Code.

⁸⁴ "Management Advisory – SBA'S Guaranty Purchases for Paycheck Protection Program Loans." Report 22-25, Office of Inspector General, U.S. Small Business Administration, September 30, 2022.

⁸⁵ "Ending Active Collections on Delinquent COVID-19 Economic Injury Disaster Loans." Report 23-16, Office of Inspector General, U.S. Small Business Administration, September 29, 2023.

⁸⁶ "Part III: The Federal Nontax Debt Collection Process." Bureau of the Fiscal Service, Treasury Financial Manual, Volume I, Part 3, Chapter 5000, May 2023.

⁸⁷ Id.

⁸⁸ 31 C.F.R. § 901.10

result, higher recovery rates can be expected for PPP and EIDL. A good-faith estimate could not equate a subset of SBA Express loans to sole proprietors with these two programs.

Even the consulting firm the SBA hired to assess the EIDL portfolio determined expected recoveries to be significantly higher and inconsistent with the SBA's conclusions.⁸⁹ According to the SBA's own reporting, EIDL and PPP loans have both maintained positive recovery rates, yet the SBA refuses to comply with federal debt collection requirements.⁹⁰ The SBA is increasing the taxpayer's burden by refusing to collect on these delinquent EIDL and PPP loans. Further, ending collection prematurely sets a dangerous precedent encouraging future borrowers in stimulus programs to not repay loans under \$100,000. Continuing to pursue collections will ensure accountability for delinquent borrowers and bolster the integrity of federal lending programs.

Improvements to the SBA's Fraud Risk Management Would Assist in Recovering Funds

Due to concerns regarding the SBA's lackluster response to fraud and improper payments in its pandemic relief programs, Small Business Committee Ranking Member Joni Ernst (R-IA) wrote a letter to the SBA Administrator emphasizing the importance of SBA leadership taking improper payments seriously given the significant fraud the GAO and the SBA OIG have highlighted within the SBA's programs.⁹¹ As described within the letter, the SBA has not taken adequate steps to prevent and detect improper payments.

The SBA's failure to adequately identify improper payments within its programs makes identifying fraud and recovering funds more difficult.

⁸⁹ "Ending Active Collections on Delinquent COVID-19 Economic Injury Disaster Loans." Report 23-16, Office of Inspector General, U.S. Small Business Administration, September 29, 2023.

⁹⁰ "Small Business Administration Loan Program Performance." U.S. Small Business Administration, January 30, 2023.

⁹¹ Senator Joni Ernst. "Letter to the SBA Administrator Regarding Improper Payments." July 26, 2023.

Part 3: Opportunities for Future Legislation and Policy Changes

Congress must act to ensure criminals who defraud American taxpayers are brought to justice. Specifically, Congress should pass the *Strengthening Taxpayer Recoveries Act*, the *Administrative False Claims Act*, and legislation to enhance improper payment reporting requirements.

Strengthening Taxpayer Recoveries Act

In response to mounting warnings from the SBA OIG, the SIGPR, and throughout the small business community, Ranking Member Ernst is spearheading the *Strengthening Taxpayer Recoveries Act*, which she introduced on July 27, 2023 along with Senators Josh Hawley (R-MO), Marco Rubio (R-FL), and Todd Young (R-IN).⁹²

The *Strengthening Taxpayer Recoveries Act* would amend the *CARES Act* to provide the SIGPR with statutory authority to conduct investigations on the SBA COVID-19 relief programs and extends the SIGPR authority an additional five years to 2030. The bill allows the SIGPR to utilize funds recovered from investigations and audits. Collectively, these measures will restore the SIGPR's authorities, ensure the SIGPR can continue its critical work, and provide a temporary surge of federal law enforcement investigators to help tackle the unprecedented scale of fraud within the pandemic programs.

In addition to strengthening the SIGPR's ability to protect taxpayer funds, the legislation holds the SBA accountable to pursue fraud within its programs and recover funds for American taxpayers. Specifically, it requires the SBA Administrator to refer any claim for collection of a loan under \$100,000 to the Department of Treasury. The Department of Treasury will then render a final decision to suspend, end, or make collections on referred claims.

Furthermore, the legislation would enhance Congressional oversight of the SBA's collection efforts. It would require that the SBA Administrator to provide monthly briefings to the Senate and House Small Business Committees on the progress the SBA is making on pursuing collections, and annual testimony before the House and Senate Small Business Committees on the implementation of the collection of claims in regards to covered loans, improper payments related to covered programs, and the SBA compliance with the *Payment Integrity Information Act of 2019*.

Beyond collections, the legislation would also require the DOJ Attorney General to report to Congress on the DOJ's prosecutions of COVID relief-related fraud. The report will include data such as the total number and disposition of prosecutions, the total dollar amount recovered by prosecutions, the total number and source of referrals, and declined cases with reasons for declining prosecution.

It would also create a website with real-time data on COVID-19 program funds recovered by the federal government to help Congress and the public ensure that collections of fraudulently-acquired taxpayer funds become and remain a priority.

Finally, to ensure fraudsters who abused the SBA's COVID-19 program funds do not escape justice by running out the clock, the *Strengthening Taxpayer Recoveries Act* would extend the statutes of limitations to 10 years for Restaurant Revitalization Grants and the SVOG program in alignment with the statutes of limitations for both the PPP and EIDL programs.

⁹² *Strengthening Taxpayer Recoveries Act*, S. 2664, 118th Cong. (2023).

Administrative False Claims Act of 2023

Congress should pass the *Administrative False Claims Act*, introduced by Senator Chuck Grassley (R-IA) and cosponsored by Senators Richard Durbin (D-IL) and Gary Peters (D-MI).⁹³ The bill increases the maximum amount of a fraud claim that may be handled administratively from \$150,000 to \$1 million, allows responsibilities in the administrative process assigned to the Attorney General or an Assistant Attorney General to be delegated to other DOJ employees, and allows the government to recoup costs for investigating and prosecuting these frauds. The *Administrative False Claims Act* will improve the SBA's ability to recover funds from fraudsters and serve as a deterrent to those considering fraud against the federal government, no matter the amount.

GAO open matters for Congressional Consideration

Finally, members of the Committees of jurisdiction (U.S. Senate Committee on Homeland Security & Governmental Affairs (HSGAC) and House Committee on Oversight and Accountability) should introduce and pass legislation to enhance improper payment reporting requirements, per the following GAO open matters for congressional consideration:^{94, 95}

1. "Congress should amend the Payment Integrity Information Act of 2019 to designate all new federal programs making more than \$100 million in payments in any one fiscal year as "susceptible to significant improper payments" for their initial years of operation."⁹⁶
2. "Congress should amend the Payment Integrity Information Act of 2019 to reinstate the requirement that agencies report on their antifraud controls and fraud risk management efforts in their annual financial reports."⁹⁷
3. "Congress should clarify that (1) chief financial officers (CFO) at CFO Act agencies have oversight responsibility for internal controls over financial reporting and key financial management information that includes spending data and improper payment information; and (2) executive agency internal control assessment, reporting, and audit requirements for key financial management information, discussed in an existing matter for congressional consideration in our August 2020 report, include internal controls over spending data and improper payment information."⁹⁸
4. "Congress should require agency chief financial officers (CFO) to (1) submit a statement in agencies' annual financial reports certifying the reliability of improper payments risk assessments and the validity of improper payment estimates, and describing the actions of the CFO to monitor the development and implementation of any corrective action plans; and (2) approve any methodology that is not designed to produce a statistically valid estimate."⁹⁹

⁹³ *Administrative False Claims Act of 2023*, S. 659, 118th Cong. (2023).

⁹⁴ "Open Matters for Congressional Consideration: Action Can Produce Billions of Dollars in Financial and Other Benefits for the Nation." GAO-23-106837, U.S. Government Accountability Office, July 25, 2023.

⁹⁵ "Emergency Relief Funds: Significant Improvements Are Needed to Ensure Transparency and Accountability for Covid-19 and Beyond." GAO-22-105715, U.S. Government Accountability Office, March 17, 2022.

⁹⁶ Id.

⁹⁷ Id.

⁹⁸ Id.

⁹⁹ Id.

CONCLUSION

Rampant fraud within the SBA pandemic relief programs is hurting taxpayers and the small businesses the programs were intended to serve. The SBA has discounted the full extent of fraud and instead, needs to prioritize combatting fraud and pursue fund recoveries. During his confirmation process, the SBA Deputy Administrator provided Senator Joni Ernst, Ranking Member of the Small Business and Entrepreneurship Committee, his firm commitments on a zero-tolerance policy when it comes to fraud. However, the SBA has not lived up to its promise. It is important to avoid setting a dangerous precedent that fraud is acceptable and future borrowers do not need to repay loans. The SBA's failure to fully engage in the fight against fraud has resulted in increased caseloads for the law enforcement community and the need for a temporary surge of federal law enforcement investigators. We recommend Congress pass the *Strengthening Taxpayer Recoveries Act*, the *Administrative False Claims Act of 2023*, and implement four key GAO open matters for congressional consideration. These measures are vital for responsible use of taxpayer funds and for holding fraudsters accountable.

Appendix 1. Oversight Work Conducted

Various oversight bodies such as the GAO and the SBA OIG have conducted audits and reviews into the pandemic relief programs carried out through the SBA. These reports have provided important recommendations to improve the structure of these programs, examined the effectiveness of the programs' ability to help targeted businesses, and determined the factors that enabled fraudulent use of these programs. The Senate Committee on Small Business and Entrepreneurship, as part of its oversight work, has held hearings including:

- A March 2021 hearing on “Oversight of SBA’s COVID-19 Relief Programs”;
- A May 2021 hearing on “The Pandemic Response and the Small Business Economy”;
- An August 2022 hearing on “Oversight of SBA’s COVID Economic Injury Disaster Loan Program”; and
- An April 2023 hearing on “Oversight of SBA’s Implementation of Final Rules to Expand Access to Capital”.

Other committees, such as the Committee on Small Business of the House of Representatives, have also held relevant oversight hearings on these pandemic relief programs.