PREVENTING FRAUD AND ABUSE OF PPP AND EIDL: AN UPDATE WITH THE SBA OFFICE OF INSPECTOR GENERAL AND THE GOVERNMENT ACCOUNTABILITY OFFICE

HEARING

BEFORE THE

SUBCOMMITTEE ON INVESTIGATIONS, OVERSIGHT, AND REGULATIONS

OF THE

COMMITTEE ON SMALL BUSINESS UNITED STATES HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

HEARING HELD
OCTOBER 1, 2020

Small Business Committee Document Number 116–097
Available via the GPO Website: www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE
41–471 WASHINGTON : 2021

HOUSE COMMITTEE ON SMALL BUSINESS

NYDIA VELÁZQUEZ, New York, *Chairwoman*
ABBY FINKENAUER, Iowa
JARED GOLDEN, Maine
ANDY KIM, New Jersey
JASON CROW, Colorado
SHARICE DAVIDS, Kansas
KWEISI MFUME, Maryland
JUDY CHU, California
DWIGHT EVANS, Pennsylvania
BRAD SCHNEIDER, Illinois
ADRIANO ESPAILLAT, New York
ANTONIO DELGADO, New York
CHRISSY HOULAHAN, Pennsylvania
ANGIE CRAIG, Minnesota
STEVE CHABOT, Ohio, *Ranking Member*
AUMUA AMATA COLEMAN RADEWAGEN, American Samoa, *Vice Ranking Member*
TROY BALDERSON, Ohio
KEVIN HERN, Oklahoma
JIM HAGEDORN, Minnesota
PETE STAUBER, Minnesota
TIM BURCHETT, Tennessee
ROSS SPANO, Florida
JOHN JOYCE, Pennsylvania
DAN BISHOP, North Carolina

MELISSA JUNG, *Majority Staff Director*
JUSTIN PELLETIER, *Majority Deputy Staff Director and Chief Counsel*
KEVIN FITZPATRICK, *Staff Director*

CONTENTS

OPENING STATEMENTS

WITNESSES

APPENDIX

PREVENTING FRAUD AND ABUSE OF PPP AND EIDL: AN UPDATE WITH THE SBA OFFICE OF INSPECTOR GENERAL AND THE GOVERNMENT ACCOUNTABILITY OFFICE

THURSDAY, OCTOBER 1, 2020

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON INVESTIGATIONS,
OVERSIGHT, AND REGULATIONS,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:01 a.m., via Webex, Rayburn House Office Building, Hon. Judy Chu [chairwoman of the Subcommittee] presiding.

Present: Representatives Chu, Velázquez, Crow, Evans, Craig, Burchett, and Spano.

Chairwoman CHU. Good morning. I call this hearing to order. I thank everybody for joining us today both virtually and in the hearing room. I would also like to thank the witnesses for their participation in this important and timely oversight hearing.

Before we begin, I would like to take this opportunity to note some important requirements. Let me begin by saying that standing House and Committee rules and practice will continue to apply during hybrid proceedings. All members are reminded that they are expected adhere to these standing rules, including decorum. During the covered periods designated by the Speaker, the Committee will operate in accordance with House Resolution 965 and the subsequent guidance from the Rules Committee in a manner that respects the rights of all members to participate.

House regulations require members to be visible through a video connection throughout the proceeding. So, please keep your cameras on. Also, please remember to remain muted until you are recognized to minimize background noise. If you must participate in another proceeding, please exit this one and log back in later.

In the event a member encounters technical issues that prevent them from being recognized for their questioning, I will move to the next available member of the same party and I will recognize that member at the appropriate timeslot provided they have returned to the proceedings. For those members physically present in the Committee room today, we will also be following the health and safety guidelines issued by the attending physician. This includes social distancing and especially the use of masks. I urge members and staff to wear masks at all times while in the hearing room. I thank you in advance for your commitment to a safe environment for all here today.

The COVID-19 pandemic has fundamentally altered the way American small businesses operate. Mandatory closures to protect the public health has significantly impacted their bottom line and visibility. To help small businesses weather the pandemic, Congress has passed a series of legislative packages. On March 6th, the Coronavirus Preparedness and Response Supplemental Appropriations Act became law and authorized SBA's Disaster Assistance Program to use available funds to issue economic injury disaster loans, or EIDL, to small businesses affected by the pandemic.

On March 27th, the CARES Act was signed into law and created the Paycheck Protection Program, or PPP, and the Economic Injury Disaster Loan emergency advance. And SBA acted extremely quickly to implement these critical economic relief programs in order to deliver emergency funding to small business owners to keep them afloat.

Over the past 6 months, more than 5.2 million PPP loans and approximately 3.5 million EIDL applications have been approved. That is an incredible amount of Federal assistance to America's small businesses. And I commend SBA's staff for creating the infrastructure to set up these programs so quickly. SBA was asked to undertake an enormously challenging task to implementing these programs in just a few days. And this Committee recognizes that some mistakes were expected. But the Congress and the American people must have confidence that the Administration is taking seriously their responsibility to mitigate fraud and ensure that this assistance is available to all eligible small businesses.

Today, I hope to learn more from the SBA Inspector General and the Government Accountability Office about your findings and discuss ways to improve the delivery of SBA services to small businesses.

On July 28th, the SBA Office of Inspector General released a report detailing potential incidents of fraud in the EIDL program. Initial investigations found tens of millions of dollars in duplicate loans and serious concerns about suspected fraud, including instances of accounts established with stolen identities and attempted award transfers to foreign accounts and deposits into personal accounts that have no evidence of business activity. And without swift action from SBA, these fraudulent activities will only become more widespread as Congress debates legislation to allocate more emergency assistance as the economic impact of the pandemic stretches on.

I understand that SBA responded to this report by stating they have internal controls in place to address these types of fraud. Yet, recent reporting from the Project on Government Oversight, or POGO, cast doubt on how effective these internal controls are. The POGO report stated that anti-fraud policies were not fully implemented during EIDL processing. Software was not up to date and that SBA was struggling in mid-August to handle fraudulent applications. As the Chairwoman of the Investigations, Oversight, and Regulations Subcommittee, I am concerned with these reports and hope we can have a constructive discussion to address these findings today.

In addition to the IG's report, the GAO released reports on August 31st and September 21st detailing concerns with SBA's oversight of the PPP and their ability to collect and interpret applicant data. The September report outlines extremely concerning gaps in the availability of demographic information and serious data reliability issues. The report also details potential fraud that the SBA referred to both the IG and the Department of Justice.

More than 40 fraud-related cases are currently under investigation. Additionally, the report finds that SBA has failed to adequately prepare borrowers and lenders for the PPP forgiveness process. Demonstrating the seriousness of this problem, last week SBA announced that they had received 96,000 forgiveness applications representing less than 2 percent of the loans that were disbursed, but they still have not processed a single one.

Perhaps most troubling to me are reports that GAO has had difficulty even completing their audit objectives because SBA has not been forthcoming with documentation and access to data. Today, I would like to learn more about where SBA stands in implementing internal fraud controls, where the deficiencies lie, and what this Subcommittee can do to support SBA in their efforts to prevent fraud in both EIDL and PPP.

Again, I want to thank the witnesses for participating both virtually and in-person. And I now yield to the Ranking Member Mr. Spano for his opening statement.

Mr. SPANO. Thank you, Madam Chairwoman, and thank you, Chair Velázquez, for holding today's timely hearing to combat the economic impact of the coronavirus pandemic. This Committee has worked to create and optimize economic relief programs administered by the SBA. Through bipartisan cooperation and interagency negotiations, we created the Paycheck Protection Program, or PPP. We revitalized the pre-existing Economic Injury Disaster Loan Program, EIDL. I would like to take a moment to thank everyone for their work. Both programs have been a lifeline for our Nation's small businesses.

As of August the 8th 2020, the date that the program reached its authorized deadline, the SBA had approved over 5.2 million loans totaling more than $525 billion. The average loan size was around $100,000, and there were nearly 5,500 participating lenders. Florida small businesses received nearly 432,000 PPP loans for a total of more than 32 billion. And in my district, Florida's 15th District, 10,254 businesses have received $304 million loans in PPP funds. These loans have helped small business owners keep the lights on and keep their employees on the payroll.

I have talked with many small business owners since the launch of the PPP, like Tom Powell, owner of Bolder Athletic Wear in Plant City, Florida, a manufacturer of women's athletic wear in my district. The loan was absolutely essential and crucial for Mr. Powell's business because it provided the critical capital necessary to retain his employees through the retail closures.

In addition to creating the new PPP program, the CARES Act and its subsequent legislation expanded the pre-existing EIDL program administrated by the SBA's Disaster Loan program. And as of September the 13th 2020, the SBA has approved 3.5 million EIDL loans for approximately $190 billion, with an average loan size of $53,000. The EIDL advance grant, which is not required to be paid back, provided 6 million small businesses with $20 billion in grants. Florida small businesses had approximately 450,000 EIDL loans approved for nearly $20 billion.

With only the basic statistics, Congress cannot fully measure the impact of these programs. That is for sure. We need to ensure that loans went to the intended businesses and that the loan proceeds were used properly. Fortunately, we have fantastic allies in the SBA's Office of Inspector General and the Government Accountability Office. Today, each office has sent a representative, and we are grateful for that, to represent their initial—or to present, I should say, their initial reviews of PPP and EIDL. We look forward to working together to make sure that taxpayer dollars are spent appropriately and to reduce waste, fraud, and abuse in these critical SBA relief programs.

And with that, Madam Chair, I yield back.

Chairwoman CHU. Thank you, Mr. Spano. The gentleman yields back. And if other Subcommittee members have an opening statement, we would ask that they be submitted for the record.

I would like to just take a moment to explain how this hearing will proceed. Each witness will have 5 minutes to testify and each member will have 5 minutes for questions. Please ensure that your microphone is on when you begin speaking and that you return to mute when finished.

I would now like to introduce our witnesses. Our first witness is the Honorable Hannibal "Mike" Ware, Inspector General of the SBA. Mr. Ware was sworn in as the Inspector General in May 2018 and has been an effective leader in his role and an asset to this Committee. He has 28 years of experience in the IG community, rooting out fraud, waste, and abuse in Federal programs. He has received numerous awards throughout his career, including several awards from the Counsel of the Inspectors General on Integrity and Efficiency in recognition for his significant portfolio of oversight work. Welcome, Mr. Ware.

Mr. WARE. Thank you, Chairwoman Chu.

Chairwoman CHU. Thank you. Our second witness is Mr. William Shear, Director of Financial Markets and Community Investment Team at the Government Accountability Office. He leads GAO's work community and economic development, small business, and SBA's COVID-19 response programs. Mr. Shear joined GAO more than 20 years ago. He has a master's degree in public policy and a Ph.D. in economics, both from the University of Chicago. He also served as an adjunct faculty member in the graduate program in city and regional planning in the University of Pennsylvania. Welcome, Mr. Shear.

I would like to begin today's hearing by recognizing Mr. Ware for 5 minutes.

STATEMENTS OF HANNIBAL "MIKE" WARE, INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL, UNITED STATES SMALL BUSINESS ADMINISTRATION; WILLIAM SHEAR, DIRECTOR, FINANCIAL MARKETS AND COMMUNITY INVESTMENT, UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE

STATEMENT OF HANNIBAL "MIKE" WARE

Mr. WARE. Chairwoman Chu, Ranking Member Spano and distinguished members of the Subcommittee, thank you for inviting me to speak with you today and for your continued support of my office. Believe me when I say that. The men and women of the Office of Inspector General have been working diligently to provide oversight of SBA's pandemic response. I am always proud to represent them publicly and to speak to you about our important work.

I come before you today in the wake of a historic crisis posed by the COVID-19 pandemic and an ensuing unprecedented role for SBA to mitigate the damages to the Nation's economic vitality. SBA is managing over a trillion dollars in lending authority through PPP and the EIDL program. The speed and lowered guardrails relative to eligibility verification controls surrounding the PPP and the EIDL lending authorities brought with it substantially increased risk. As indicated in my written statement, we sought to inform SBA's efforts through three White Paper reports offering lessons learned and known risks to implementing PPP and EIDL based on prior oversight of the Recovery Act and other disasters. At the same time, we focused on preventing and deterring fraud by raising public awareness of fraud schemes and scams.

At the outset, we initiated several reviews to include the PPP and EIDL reviews. During the course of these reviews, we had alarming findings causing us to issue a flash report on PPP in May and a management alert on EIDL in July. As oversight work carried on, we solidified our preliminary results and identified additional findings.

On September 14th, we provided SBA leadership two draft reports. One containing our findings related to SBA's implementation of PPP and one containing findings of SBA's initial disaster assistance response to COVID-19. Our review standards require that we consider SBA's official comments prior to issuing these reports in final. We anticipate publishing these reports in mid-October, following the 30-day review and comment period by SBA's leaders. As such, my comments today regarding those findings must be considered preliminary so we can account for SBA's official comments before finalizing our reports.

Nonetheless, our findings are significant and speak to the need for strengthening internal controls and for combatting potential fraud in the programs. Our reports speak to significant potential fraud in both PPP and EIDL. It is remarked as potential only because we have not reviewed each loan associated with the area of finding. However, the amount of dollars we cite as being subject to potential fraud are not based on projections. Rather, they are based on buckets of loans meeting criteria for a weak internal control environment where in many instances, we have active criminal investigations of fraud to substantiate the concern.

Our office has received tens of thousands of complaints of wrongdoing on our hotline. Hundreds of investigations involving complaints of fraud have been initiated by my office and are ongoing with noteworthy results being reported daily by the United States Department of Justice, which has been a tremendous partner.

Among these accomplishments was the first in the Nation charges against individuals fraudulently seeking PPP loans, which was announced on May 5th. More than 57 defendants have been charged with PPP fraud since the CARES Act passage as announced by the Department of Justice on September 10th. I want to assure SBA's lending partners and the Nation's small business owners that if they followed the guidelines and acted in good faith, we are not focused on your actions. The findings we report do not diminish the feat that the men and women of SBA and their lending partners accomplished. At one point in the crisis, it was reported that SBA performed as 14 years' worth of lending in just 14 days. However, our oversight work confirms SBA did not have sufficient controls to address risks and provide assurance that PPP loans and EIDL grants and loans were only being received by eligible recipients.

We will continue our efforts to keep the administrator and this Congress currently and fully informed of our findings. We are not alone in this effort. Programs of this magnitude require a whole of government response. As a statutory member of the Council of the Inspectors General on Integrity and Efficiency Pandemic Response Accountability Committee, I am working with my inspector general colleagues to leverage the collective power of joint oversight efforts to increase transparency of SBA's pandemic response. Rest assured the men and women of my office understand that nothing short of the public's trust is at stake, as well as the vitality of the Nation's economy.

Thank you for the opportunity to speak to you today. I am happy to answer any questions you may have of me.

Chairwoman CHU. Thank you, Mr. Ware. Mr. Shear, you are now recognized for 5 minutes.

STATEMENT OF WILLIAM SHEAR

Mr. SHEAR. Thank you. I am pleased to be here this morning to discuss our work on SBA's Paycheck Protection Program and Economic Injury Disaster Loan Program. Through these programs, SBA has made or guaranteed more than 14.5 million loans and grants providing about $729 billion to help small businesses adversely affected by COVID-19. In April 2020, SBA moved quickly to implement PPP. Given the immediate need for these loans, SBA worked to streamline the program so that lenders could begin distributing these funds as soon as possible. For example, lenders were permitted to rely on borrowers' self-certifications for eligibility in use of loan proceeds. As a result, there was significant risk that some fraudulent or inflated applications were approved.

In our June report, we recommended that SBA develop and implement plans to identify and respond to risk in PPP to ensure program integrity, achieve program effectiveness, and address potential fraud. According to Federal internal control standards and GAO's fraud risk framework, managers and executive branch agencies are responsible for managing fraud risk and implementing practices for mitigating those risks. When fraud risk can be identified and mitigated, fraud may be less likely to occur.

In June 2020, we reported that reliance on applicants' self-certifications can leave a program vulnerable to exploitation by those who wish to circumvent eligibility requirements or pursue criminal activity. Since May 2020, the Department of Justice has publicly announced charges in more than 50 fraud-related cases associated with PPP funds. In April 2020, SBA announced it would review all loans of more than $2 million to confirm borrower eligibility. And SBA officials subsequently stated that they would review selected loans of less than $2 million to determine, for example, whether the borrower is entitled to loan forgiveness. However, SBA did not provide details on how it would conduct either of these reviews.

As of September 2020, SBA reported that it was working with the Department of the Treasury and contractors to finalize the plans for the reviews. Because SBA had limited time to implement safeguards up front for loan approval, we believe that planning and oversight by SBA to address risk in the PPP program is crucial moving forward. We continue to be concerned about the potential for fraud in PPP and are continuing to conduct work on the program, including on internal controls and fraud risk management.

SBA's efforts to expedite processing of economic injury disaster loans such as the reliance on self-certification, may have contributed to increased fraud risk in that program as well. In July 2020, as Mike Ware just stated, SBA's Office of Inspector General reported indicators of widespread potential fraud, including thousands of fraud complaints, and found deficiencies with SBA's internal controls. The Department of Justice in conjunction with other Federal agencies, has also taken actions to address potential fraud.

We continue to be concerned about the potential for fraud in the EIDL program and are currently conducting work on the program, including on internal controls and fraud risk management. However, we have experienced delay in obtaining data and information requested from SBA, including access to application level EIDL data. We continue to take actions to obtain records needed to move forward with our work.

Chairwoman Chu, Ranking Member Spano, and members of the Subcommittee, this concludes my statement. I would be pleased to respond to any questions you may have.

Chairwoman CHU. Thank you, Mr. Shear. We will begin the questioning and I will begin by recognizing myself for 5 minutes.

Well, frankly, I am shocked by these findings. Our two main loan and grant programs are EIDL and PPP and in both programs, you have said that there are not the internal controls in existence to prevent fraud. So, I have many questions. First, I would like to start with Mike Ware, our Inspector General. And just to summarize, you said that there was fraud and also that there was a lack of internal controls. So, that for number one, there were $250 million worth of loans in the EIDL program, loans and grants in the EIDL program that were given despite the fact that they were clearly ineligible. That is, no business was eligible if they created their business after January 1st of this year. And yet, loans were given in the amount of 250 million, and grants, to these particular businesses.

The second problem, the duplicate loans, I mean, there were no internal controls. And as a result, duplicate loans in the amount of 45.6 million were approved. And then, third, is the shocking social media fraud schemes in which they use social media to recruit applicants and then split the advanced money with the ringleaders. And, in fact, there was advertising of their ability to secure SBA money for clients to start businesses and then the sharing of this money.

I am just astounded that these terrible acts took place when legitimate deserving businesses could have used that help. So, again, Inspector General Ware, in your report you stated that despite the internal controls that SBA has claimed are in place, fraud and the potential for fraud still exist in the Economic Injury Disaster Loan or the EIDL program. Can you identify the weak points in SBA's internal controls and how can SBA improve these existing controls in the time ahead?

Mr. WARE. I certainly can. And I have identified those to SBA's leadership. So, the challenge that SBA always has, especially in their disaster lending program, is they have to balance, balance is a key word here, the need of speeding aid to people in desperate need while balancing against a proper control environment.

In this instance, SBA's efforts to hurry capital to businesses were at the expense of controls that would have mitigated the risks of ineligible or fraudulent businesses obtaining PPP or EIDL loans. And that's why we have the problems that we have. The SBA said for themselves that to get funds to eligible entities quickly, they lowered the guardrails for the EIDL program specifically by removing or weakening of controls. And we have found for a fact through thousands of contacts from banks, tens of thousands of hotline complaints, our own data analytics, that those actions increased fraud risk significantly.

Now, again, they have that balance to deal with. One part of the balancing act cannot be sacrificed for the other. And the type of things that we were finding in terms of controls lowered, of course, the self-certification part was one. But the contractor that they got had some built-in controls, but these things—the loan applications came in huge batches. So, that batch process and the speed to get it out allowed a lot of things to be missed. And then there were a lot of things, other controls, that were not in place. Such as what happens after the contractor says, okay, this is a legitimate bank account, but they allowed on the back end the applicant to change the bank account before the money was disbursed and there was no control in place to at least doublecheck or make sure that those were going to an eligible recipient.

Now, the Agency in these meetings especially on EIDL, they have taken a lot of action already. And before the alert went out, we had been meeting with them because we thought it was critical that they knew this information and that they take action immediately. So, they shored up the control where it reverifies the bank account information every time it is changed. And if they didn't find issues or the loan application are only minor issues, then they would come to SBA in much smaller batches. And then they now have a team lead approving the batches and, I mean, they have done that.

Let me see what else. They have done quite a bit. They found a logic issue with the system of control that they said they had in place, where it wasn't identifying all the duplicative information. And now they have addressed that issue.

And now the big thing that they have put in place is that they have began automatically declining loan applications where the system identifies suspicious online activity. That wasn't happening at all. For example, related applications by the same bank accounts that are not the same person. Email addresses or phone numbers in somebody else's name. Weird email addresses, but like odd period location like mi.ke.wa.re, for example, along with the regular mike.ware.

Now, that may force any legitimate applicants into the loan application reconsideration process to allow for supporting documentation before the applicant gets their loan approval.

And, yes, so, they have pivoted pretty quickly on implementing the controls, I have to say. I don't know if the time is up or not. But fraudsters are going to do what fraudsters are going to do. And we have to continue to meet with the Agency when we find new schemes so that they can pivot quickly to mitigate a lot of the risks and to shore up their controls. And I think that they have been pretty responsive to that.

Chairwoman CHU. Well, thank you for that thorough answer. And now, we have our Ranking Member Mr. Spano from Florida.

Mr. SPANO. Thank you, Madam Chair. The CARES Act set up an intricate web of oversight mechanisms utilizing preexisting offices and creating new ones like the Pandemic Response Accountability Committee and the Office of the Special Inspector General for Pandemic Recovery. My question is how do your offices contribute to the larger pandemic oversight system? If you could answer that first, Mr. Shear?

Mr. SHEAR. We have a major responsibility in the CARES Act. And it was actually articulated to each of the affected agencies in letters from the Comptroller General as far as our role in overseeing CARES Act programs broadly, and the need for us to report on a bimonthly—generally, a bimonthly basis to the Congress on a wide variety of issues.

So, in contrast, I would just say that we focus on issues just as my colleague Mike Ware does dealing with fraud risk and things of that nature. But we deal with broader issues having to do with the integrity of the programs. So, we do look at responsiveness. We have issued reports in June, August, and September that deal with a wide range of CARES Act programs. And addressing them in a broad way and doing detailed audit work.

Mr. SPANO. Mr. Ware, would you like to——

Mr. WARE. Sure.

Mr. SPANO.—respond to that?

Mr. WARE. Yeah, I will. And this is actually like one of the questions that I was hoping that I would get mainly because of the prominent role that I play on the PRAC. I am the audit committee Chair on the PRAC. And we meet regularly like every single week.

I am a statutory member of that committee. So, in our meetings, we work constantly to determine how we can help the community and how we could move the whole of government approach forward.

If you have noticed the press releases concerning our investigative work, it is always joint. We have been working with the FBI, FDIC, Federal Reserve Board, HHS. I mean, this has been an all hands on deck approach to this oversight because no single one of our offices could handle this alone due to the magnitude of issues that we are finding.

Regarding Mr. Miller's new shop, he is just standing that up. Him and I have had several one-on-one meetings particularly to pass on certain things to my office that he is not able to do at this time as he stands up his office. But we are all in communication and all working in a collaborative manner to ensure that the proper level of oversight is undertaken.

Mr. SPANO. Do you feel like you need any additional guidance or clarity in terms of the roles that you are playing respectively?

Mr. WARE. Sir, I do not. I believe that the act that stood up, the PRAC as we refer to it as, was pretty clear. I do believe that, well, you know what, in some teams we have discussed quicker access to data for the PRAC. But I am pretty sure that is something that the executive director——

Mr. SPANO. Mr. Shear, would you like to respond to that?

Mr. SHEAR. I think that the CARES Act—beyond just relying on our access authority and our role generally as Congress' watchdog—made it very clear that we had very expansive access authority. We also had very expansive responsibilities and we, led by our Comptroller General, Gene Dodaro, have gone on in that direction. We generally have had very good cooperation with the agencies that are included. So, it's an expansive role and it very clearly states what our role is and what our authorities are in terms of access to information.

Mr. SPANO. Thank you. Madam Chair, I yield the remainder of my time.

Chairwoman CHU. Thank you. The gentleman's time has expired, and the gentleman yields back. Now, the gentlelady from New York, our Chairwoman, Nadia Velázquez is recognized for 5 minutes.

Ms. VELÁZQUEZ. Thank you, Chairwoman Chu, and Mr. Spano, Ranking Member. This is a very important oversight responsibility that we have in this Committee regarding the CARES Act. So, Mr. Shear, we understand that you had issues and problems accessing EIDL data from SBA. Why do you think that happened?

Mr. SHEAR. We and I always try to avoid trying to say what is going through people's minds, but what we can observe is a situation that is not a cooperative one. We have experienced a more cooperative environment with SBA dealing with other matters, but not when it comes to CARES Act. As you know that with PPP data——

Ms. VELÁZQUEZ. Would you——

Mr. SHEAR. Yeah.

Ms. VELÁZQUEZ. Excuse me, sir.

Mr. SHEAR. Sure.

Ms. VELÁZQUEZ. Would you characterize the actions out of the SBA as obstructionist?

Mr. SHEAR. There was obstruction when we were trying to obtain loan-level PPP data. That went on for weeks. Getting access to people to talk about how they were implementing PPP, that went on for weeks. We still aren't getting a lot of cooperation from SBA. And yet, they accuse us of not giving them credit for what oversight they have in place when they provide very little information and don't respond to what we are asking. With EIDL, it is more extreme. We have asked, a very long time ago, for application level EIDL data.

Ms. VELÁZQUEZ. So, let me ask you. You know, it is clear that you have expand authority and the comptroller general has expand authority to demand and to have the access to the information, to have access to the data. And so, I, myself, have to call the administrator to ask her to expedite or to allow for the comptroller general to have the information that he was requesting.

He personally called me and I believe that even called the Ranking Member. Can you imagine? It is our responsibility to protect taxpayers' money and to make sure that the program is implemented. And what we have seen is not only a case of fraud and abuse committed in the EIDL and both the PPP, but mismanagement probably the obstruction coming out of the SBA is because they knew that they didn't take or implement the kind of controls to prevent fraud and abuse.

So, what can we do? What can Congress can do to help you do your job——

Mr. SHEAR. As you——

Ms. VELÁZQUEZ.—going forward?

Mr. SHEAR. As you and——

Ms. VELÁZQUEZ. Do you think that, for example, withholding agency funding that that will be an option?

Mr. SHEAR. It is like this could be an option and I would hope it wouldn't come down to that. But if you go back to the issues that we had with just getting loan-level PPP data, I am sure you and Ranking Member Chabot and other members of Congress were surprised when Gene Dodaro, the Comptroller General, was making personal calls to you seeking your support. And we appreciate your support greatly. It is unfortunate it was necessary.

With EIDL, it is not just data that we know should be readily available. But there are certain things like contracts—there is a tremendous delegation of authority to contractors—where we are just asking for contracts and that is very straightforward information to provide. So, we certainly hope it doesn't have to go up to people at higher levels. We are close to being at the stage where you might be hearing from the Comptroller General again and the Administrator at SBA might be hearing from the Comptroller General again. Our general counsel will be reaching out to the general counsel at SBA. It is an extreme situation.

Ms. VELÁZQUEZ. So, the Agency is not collecting demographic data that we have requested. And that was the intent and a sense of the Senate when we passed the legislation. It is clearly stated. And so, how difficult does that make your job and our job in determining whether or not we are making sure that the loans are going to deserving businesses? And particularly, minority and businesses in underserved communities?

Mr. SHEAR. This is an issue we have dealt with involving numerous programs including now with PPP as far as demographic data. And the SBA takes a certain view toward the authority to collect data on race and ethnicity. And we have been dealing with that. So, the workaround, I think, becomes for SBA and for us is to geocode where we are not saying who are the borrowers, for example, are they minority owned small businesses? But at least what communities are they operating in. And that becomes the best we can do with that situation.

Ms. VELÁZQUEZ. Chairwoman, with your indulgence, I just need to ask one more question. And if you consider that necessary, please allot the same amount of time to the minority.

There are 4,226 loans that went to businesses with over 500 employees. In your work, have you been able to examine whether SBA has confirmed that these businesses employed the number of employees stated in their application?

Mr. SHEAR. We are still at the stage and we have been waiting for a meeting that is now scheduled for next week just dealing with what we consider extreme data reliability issues, which affects our ability to do work that is associated with evaluating what Mike Ware was talking about, data analytics. It is affecting our ability to evaluate who the programs are serving. And we are trying to move forward on that, but we aren't at that stage yet. And part of that is the extended delays we get in dealing with SBA.

Ms. VELÁZQUEZ. Thank you. I yield back.

Chairwoman CHU. Thank you. The gentlelady's time has expired, and the gentlelady yields back.

Now, the gentleman from Tennessee, Mr. Burchett, is recognized for 5 minutes.

Mr. BURCHETT. Thank you, Chairlady, and I appreciate the panel. I guess my first question would be what is the—been the economic impact of this? And I will open that up to anybody who would care to answer that positive or negative, overall.

Mr. WARE. Will? Sorry, Will, you want to talk?

Mr. SHEAR. Please, Mike, go ahead.

Mr. WARE. Okay. By economic impact I think you are talking about the economic impact of the fraud?

Mr. BURCHETT. No.

Mr. WARE. Okay.

Mr. BURCHETT. Of both sides of it. I would like to hear both sides of it.

Mr. WARE. Oh, there is absolutely no doubt that this program, both programs reach out to people who are definitely in need. We know that for certain. But we also know for certain that there is no assurance that all that money went to the small businesses it was intended to go to. And this a fact. I do believe that there is a balance that could be struck in order to mitigate much of the risk of fraud and to shore up vulnerabilities that both of us have identified for SBA.

But on the one side, I am telling you that SBA's employees have worked long and hard to get this money into the hands of people who badly needed it. Fraudsters do what fraudsters do. We have identified many of the schemes. We have worked with the Agency to mitigate much of that risk. So, I know that there is a large part—there is no doubt that there is a large part that have gone to ineligible and fraudulent recipients.

Mr. BURCHETT. Since we have identified those, are we going to be—do you think it is in place? I am sorry to interrupt you, but—and I like what you said about fraudsters are going to fraud. I think that is a pretty accurate every time you do something, some new plan or some horrible tragedy occurs in our country, these dirtbags get out and take advantage of the situation. But is something in place to go after these people? And do you feel like we will go after them? Or are we just going to say, ah, let it go?

Mr. WARE. No. So, like the Department of Justice, what is it called, the press conference that we had just a few weeks ago, we had it to note it to signify the 50th arrest made of these type of these fraudsters. There are hundreds of investigations already in process by my office. The FBI at our press conference stated that they had over 500 investigations initiated. And if you know how fraud works and fraud investigations work, that normally doesn't take place until 12 to 18 months after these loans have gone out. The fact that we have moved so very quickly to catch people has been pretty remarkable. A great deal has to do with the Department of Justice and their partnership with us and other law enforcement entities. But we are on this and we are going to keep going.

Mr. BURCHETT. Good, I appreciate that. What I am afraid is is that we move on to the next calamity in our country and we forget about the working folks who didn't get the money they should have because, again, as my favorite term, these dirtbags got the money and they shouldn't have. And we have got hardworking business folks, especially our smaller business in our rural and our inner city areas will not receive that funding. And thank you for your answer. Sir, I know you are wanting to say something too as well, please?

Mr. SHEAR. I won't pull this out from the fraud issue, but I am just saying who are the intended beneficiaries of this program? And how is it serving these small businesses in the communities they operate in over time? It was clear that PPP is trying to both keep businesses in business and to allow businesses to keep payroll. Where EIDL is a little bit more of a focus on keeping businesses sustainable. So, they are slightly different approaches. They serve slightly different issues.

But let me take PPP. We have serious concerns about data reliability having to do with jobs reported. But nonetheless, it is clear that PPP has, as you know, the federal government has spent a large amount of resources to support a large number of small businesses that employ a lot of people. And so, it has been a lifeline. So, we can observe that. And what also became clear is that where originally it was an 8-week period before forgiveness, it was recognized that the pandemic would continue for a longer period of time and Congress made legislative changes to expand that period.

What we don't know yet in terms of economic impact is basically to what degree it has helped various segments of the economy. And it is a very difficult question to answer and it might not be possible until we have gone through much, if not all of loan forgiveness. But there are a lot of questions over the long haul where there are still uncertainties about what will happen with the pandemic. There are still a lot of questions of what the economic impact ultimately will be. But it has certainly been a lifeline for a very large number of small businesses.

Mr. BURCHETT. Right, as in my district. Chairlady, I have gone over. But if you could issue my distaste of the fact that this is such an important issue and we have so much—I have to go to another committee, and we are marking up bills. But if you could tell them to prioritize these things. Both parties do it. This should be prioritized. We should not be scheduling other meetings. We go hours during the day where nothing is going on. Nothing, absolutely nothing. And they stack these dadgum committees on top of each other. And it is a disservice to you, as the Chairlady, and disrespectful to you and it is disrespectful to the dadgum taxpayers. And I am going to talk to my leadership, and I would hope that you would do the same because this a very important issue. And I apologize that I have to go to another committee. But I am very passionate about this issue.

So, thank you, Ma'am, and always your courtesy to me and friendship.

Ms. VELÁZQUEZ. Thank you.

Chairwoman CHU. Well, thank you. And the gentleman's time has expired. The gentleman yields back. And now, the gentleman from Pennsylvania, Mr. Evans, is recognized for 5 minutes.

Mr. EVANS. Thank you, Madam Chairperson. Mr. Shear, SBA is relying on heavy contractors to process EIDL applications. What information has SBA provided to you of the contractual responsibility of contractors or subcontractors and why such important information for GAO works?

Mr. SHEAR. This is one of the areas we had a meeting with SBA last Wednesday to discuss. So, just 8 days ago where there at least was a meeting to talk about what we are requesting from the Agency. So, that was a step forward. But there was no timeline put on providing material. And in both of these programs, but you asked with respect to EIDL, there is heavy reliance on contractors. So, we just asked for the contracts themselves. And that will lead to questions about what the contractors are doing, but it will get us started.

In terms of information that should be readily available, we are still waiting for a response. And as I said to Chairwoman Velázquez, we are taking actions to push this forward just like we did with PPP and access to PPP data. But we are still seeking information from SBA on the contracts and what the contractors are doing.

Mr. EVANS. Do you get any real sense of cooperation or not?

Mr. SHEAR. No. The cooperation has been poor. And I don't like stating this, but we haven't had good cooperation in conducting this work. There was some improvement when the Agency then decided that they would provide us loan-level PPP data. But it is not the usual cooperation that we have received from SBA, and for that matter, other agencies with respect to both of these programs.

Mr. EVANS. Mr. Ware, it is my understanding that SBA did not put in internal controls in place for PPP and EIDL on the front end of loans because of the speed in which the CARES Act money needed to get to small businesses. Many businesses in my district needed the money right away to stay afloat. Mr. Ware, if Congress authorized additional—and the Chairwomen have overall sort of asked you this, authorized additional funding, can you be specific what you recommend Congress take to ensure internal controls are placed at the beginning of the approval process of the new loans?

Mr. WARE. Great, so, thanks for the question. I recommend that Congress put in place just the need to have the type of controls that at the very least, if an application falls into the high risk where we know there is fraud buckets, where we know there is rampant fraud buckets, it requires an automatic second look to verify. So, the lowering of the guardrails needs to come up particularly on those that fall in the high risk areas. And those that have multiple loans and the same type of NAICS code categories from the same IP addresses. Those that have random email generator accounts. Those where the bank accounts are changed after the approval process is over. Those that are in the name of, for example, like prominent politicians, prominent business leaders that we would all know their names and other clearly ineligible entities. And the type of controls that capture the ineligible entities. If the date does not meet this or if the TIN does not meet this date, it is automatically declined. Those upfront controls are necessary.

Mr. EVANS. Thank you, Madam Chair. I yield back the balance.

Chairwoman CHU. Thank you. The gentleman's time has expired. The gentleman yields back. And now the gentlelady from Minnesota, Ms. Craig, is recognized for 5 minutes.

Ms. CRAIG. Thank you so much, Chairwoman Chu, and good morning, everyone. Chairwoman and Ranking Member Spano, I am so grateful we are having this hearing today. This issue is incredibly important to me, the issue of fraud and improper payments and government waste.

Since the beginning of the COVID pandemic, I have worked hard. I know all of us have, to make sure that we are providing the businesses in our community the absolute best of resources and especially to those hard-hit small businesses through the PPP program. You know, these fraudulent activities that have now been incredibly well documented, it steals resources from taxpayers, and it steals resources from the small businesses who still need that help.

Improper payments are exactly why I introduced the Payment Integrity Information Act, which I am proud that President Trump signed this into law earlier this year. It strengthens protections against improper payments in Federal programs. So, currently, there are a number of resources and tools available out there in the market developed to detect exactly the kind of fraudulent activity that seems to have gotten through the SBA. In fact, a division of Thomson Reuters located right in my congressional district has that kind of technology and system.

So, in light of this, Mr. Ware, I have a first question for you. Do you feel at this stage that SBA has the necessary tools and resources and funding and oversight to be able to accelerate your efforts to prevent fraud and waste? And if not, what specifically do you need from our Subcommittee and the U.S. Congress to put you in a better position to manage your activity in this Agency?

Mr. WARE. Thank you. I am being told that I got a call from the House that said that my camera is coming and going. I don't know why I am looking at myself. So, I don't know what is going on. So, I apologize.

So, when you ask about the resources, are you asking about SBA OIG or are you asking about SBA proper the Agency?

Ms. CRAIG. I am asking more generally do you and the Agency have what you need to be able to do better? Because, obviously, if there is technology out there that can help you detect and improve the accountability here. And I am asking is for an active effort to make sure that that happens. Because, sadly, this pandemic is not going away anytime soon. And I suspect unless we are able to effectively suppress this virus in a way that we clearly haven't been, we are going to have to continue to ask SBA to do some very difficult things that, obviously, we are not in a position to stop fraudulent activity at this moment.

Mr. WARE. We are extremely fortunate that maybe what two years ago Congress gave us additional money to stand up our data analytics capability. And we are very fortunate that that investment was made because that group is doing excellent work in identifying fraud trends and quickly reporting out to the Agency. As far as the Agency, well, I am still speaking about my resources, right? We are coordinating with the PRAC and with other law enforcement entities to approach this is a more whole of government manner.

As far as the Agency, like I said earlier, they have taken some steps. I will give you one of the steps in terms of their resources. Initially, in that first report that we issued where we were talking about all of these thousands of calls we were getting from the banks saying, hey, guys there is fraud here. We don't know what to do with this. We have stopped this. We have held this money. How do we give the money back to the government? This, that, and the other. We pulled everybody into a meeting and initially what I required was a secondary review that we were asking SBA to round up to make sure. Because sometimes there are reasons why things happen and it could be an eligible loan. They only had a couple of people assigned to doing that. They grew that to immediately 25 people to do that. And then I think it was 54, and now, I believe, that number is even higher.

So, they have put the bodies necessary to have these secondary reviews. We have not reviewed how that has gone on yet. This is what has been reported to us. But in terms of resources, I can't speak to what SBA has to do things. I just know that they have moved things around to address and to mitigate some of this fraud risk.

Ms. CRAIG. Thank you, Mr. Ware. It appears my time has expired. So, I will yield back to the Chairwoman.

Chairwoman CHU. Thank you. The gentlelady's time has expired, and she yields back.

And now we actually have time for a second round of questions if anybody desires to do so. I believe the topic is so important that

I would like to go a second round. And so, I will start by recognizing myself for 5 minutes.

Mr. Shear, I wanted to ask about the loan forgiveness process. You described in your September report that SBA has not provided clear guidance to lenders on the PPP loan forgiveness process and as a result, SBA may be using unreliable data to process loan forgiveness. And I would say that the description that you provide describes a situation that is at best fragmented. And that is the guidance comes on a rolling basis. They are not specific review requirements for lenders who are processing these applications, but as a result, what we have is a situation where SBA has announced it has received 96,000 forgiveness applications, but has yet to process and approve one single one.

I mean, there are lots of businesses that are hanging on the edges of their seats wondering if they are going to get loan forgiveness. So, what specific steps should SBA take now to improve the quality of this data and what can be done to make sure that there is a loan forgiveness process that is functional?

Mr. SHEAR. There has to be clear guidance and responsibilities of who is responsible for what. And the role of SBA's oversight of that process, you have banks that are interested in certain types of safe harbor and that has always been an issue. You have had reliance on borrower certifications. And again, we were very receptive to the fact that loans had to be gotten out very quickly, like immediately. In our first report we made a pretty broad recommendation that SBA needed certain controls in place and there has to be some clarity for the participants in the program rather than this rolling guidance.

So, there has to be clearer processes and procedures that banks and borrowers can go on. And I say this especially with respect to the smallest businesses that might not have the most resources available for accounting and legal assistance. So, there just has to be greater clarity.

And we need, again, we wish they would look at us as a asset in terms of trying to improve the integrity of this program. And that they would let us look like they let us do with other programs in our experience at SBA and actually be in a position to evaluate and to make recommendations for how those processes can be improved.

Chairwoman CHU. Thank you, Mr. Shear. Now, I would like to ask about the first phase of PPP being dominated by large borrowers and even some publicly traded companies. SBA had issued guidance to emphasize the economic necessity requirements, but then this came after many larger companies, even publicly traded companies, had already been approved. So, first, how many publicly traded companies returned the money? And what is the dollar amount that this represents? And how would you suggest SBA prevent large companies from accessing a program designed for America's smallest companies?

Mr. WARE. If that question is for me, I don't have the exact figures. I definitely could get back to you within a very short period of time on the exact figures. But in terms of what happened there was how it was initially set up in terms of the 500 employees in a single place. And that allowed some of these larger companies to get in within the confines of the law. Now, so if you understand like the NAICS code that they use I believe it is 72. You are considered small if the businesses had fewer than 500 employees in one location. So, that happened. So, if there is a shoring up of that to ensure—I believe there was in the amended or the next act that came out. But that is how they can ensure that these companies don't get it. And like I said, I will get back to you with the exact amount of companies and the exact amount of dollars.

Chairwoman CHU. My time has expired. But, yes, I am very, very interested in that information. I think so many others would be as well. So, please come back with that information.

I yield back and now the Ranking Member from Florida, Mr. Spano, is recognized for 5 minutes.

Mr. SPANO. Thank you, Madam Chair. What is the percentage of fraudulent loans approved in proportion to the 5.2 million loans approved?

Mr. SHEAR. I will at least start with that. We don't know. Just realize that we make a very big distinction between fraud and the management of fraud risk and a lot of things we have talked about in this hearing have been about data analytics and other actions to look at fraud risk management. And so, we look at that. We are not a law enforcement agency. But one of the things that we emphasize is how do you prevent this? How do you set up the fraud risk framework along the lines that we have—actually, we have had a report now since 2015 spelling it out that is widely used by agencies. How do you set it up? Because the cost of setting up prevention right out of the starting gate or even now when we are talking about what happens as we proceed with loan forgiveness and other aspects of the program. Prevention tends to be the most efficient thing to do.

Mr. SPANO. I get that and I apologize for interjecting. I only have 5 minutes left.

Mr. SHEAR. Okay, I'm sorry.

Mr. SPANO. But here from the very beginning what has been articulated as the balance that has to be struck between, in this particular situation, getting money out quickly and preventing against fraud. They are both important. We obviously experienced personally how important that was when we were getting in our congressional offices dozens and dozens of calls from small businesses owners every day that said what in the world are you doing? I have got to know what is going on. I don't know whether to let my staff go. So, there was this inexorable push to the SBA to get this stuff done quickly, okay?

So, and the last thing I want is fraud. Don't want fraud. But when we acknowledge that there are two competing interests in this scenario, to get it out quickly and prevent fraud. It seems to me that an important question we should ask and an answer that we should have, if both are important, is how many loans were fraudulent and how much of the over 525 billion loans was extended was fraudulent? That will help us determine how much, if any, additional measures should be taken to prevent fraud in the future. Does that make sense?

Mr. SHEAR. Yes. Let me try to be brief on this. It will be a long time until we know how much fraud there was in the program and you can think of the adjudication of Department of Justice and other law enforcement agencies. But part of our emphasis has been—while we very much recognize that there was a push to get loans out, but with the passage of time, it becomes much more troubling when the fraud framework is not in place to try to mitigate the risk of fraud existing in the program——

Mr. SPANO. Yeah.

Mr. SHEAR.—and being practiced. And even more generally improper payments occurring because of the lack of oversight. At some point in time and we think that time has come and that is what we are looking for is what has SBA put in place? So, that is where our emphasis has been.

Mr. SPANO. Understood. What do you, if you know, what is the statute of limitations for prosecution of fraud under the CARES Act? I will let you answer that first.

Chairwoman CHU. No, well, if you want to make a question for the record, I don't know it. Maybe Mike Ware does. But I don't know, but if you make a question for the record, I would be glad to respond.

Mr. SPANO. Mr. Ware, can you answer that question?

Mr. WARE. Great. I don't—it appears that it didn't specify a particular amount of time in terms of it. Normally, we were looking at 7 to 10 years that we are dealing with on these fraud investigations. And these loans are going to perform in a portfolio for decades. So, I mean, there will be a time to go back and deal with this. But if I may, I don't know if we still have time for me to——

Mr. SPANO. Yeah, I have 30 seconds.

Mr. WARE.—okay, quickly. So, the issue with this is that in terms of the fraud framework that needs to be in place, we know for a fact that there is fraud mainly because of the thousands of calls in the hotline. Particularly having to do with identity theft where people are finding out for the very first time that their identities were stolen when they hear from SBA that their loan payments are going to be deferred, and they are like what loan payments? I have never had a loan from SBA. This is routine. We are getting this, dozens every single day. We are hearing some heartbreaking stories out there. And all these things fall into the same buckets where we are talking about this fraud environment.

Mr. SPANO. Thank you, Mr. Ware. And I know my time is up. I would say it seems to me if the CARES Act didn't specify what the appropriate statue of limitations is that is something that we should follow-up on. I think that would give us the opportunity to be able to plan long term for what the window of time would be in which we need to go back after these folks.

Thank you, Madam Chair. I yield back.

Chairwoman CHU. Thank you. The gentleman's time has expired, and the gentleman yields back. And now, our Chairwoman from New York, Ms. Velázquez, is recognized for 5 minutes.

Ms. VELÁZQUEZ. Thank you very much. Mr. Ware, I would like to ask the same question that I asked Mr. Shear, but because of technical difficulties I was unable to ask the same question to you. And it is regarding the GAO's September report that shows that 4,226 loans went to businesses with over 500 employees. So, in your work, have you been able to examine whether or not SBA has confirmed that these businesses employed the number of employees stated in their application?

Mr. WARE. Have we confirmed of this?

Ms. VELÁZQUEZ. Yes.

Mr. WARE. Yes, our work has confirmed that some of that did take place. The thing is that I don't have the exact figures in front of me. I definitely could get you that though. And I already see that looking at the screen that the request for that information already popped up.

Ms. VELÁZQUEZ. So, several loans that were granted to companies with over 500 employees, notwithstanding the rules that they needed exemption for the lodging and food industry, does your office plan to examine how these companies were eligible to receive these loans?

Mr. WARE. Certainly. I believe that is covered in our supplemental overview plan that we have publicly. And will be definitely looking into that and its eligibility. As a matter of fact, some of that will be reported publicly later in this month.

Ms. VELÁZQUEZ. Okay. And, Mr. Ware, in SBA's official response to your report, Administrator Carranza stated that, and I quote, "Loan decisions are ultimately made by people, namely, Loan Officers." During your investigation or in the time since, have you reviewed whether there are adequate training protocols in place for SBA loan officers?

Mr. WARE. Initially, no. Now, yes.

Ms. VELÁZQUEZ. Okay. Because money was provided. Funding was provided to the Agency to execute and implement the PPP and EIDL programs.

Mr. Shear, in GAO's report in September, you stated that the Department of Justice has publicly announced charges in over 50 fraud-related cases related to the PPP. These cases were referred to the DOJ by SBA, but the Agency has yet to implement additional internal controls to mitigate risk. Can you expound on the risk SBA is incurring by not implementing internal controls for PPP? And what is your assessment as to why they, to this point, after we enacted the first trench of money, they have not been able to put in place a control mechanism?

Mr. SHEAR. With the lack of information provided to us, we presume that controls are not in place. We would hope that, while I don't want to speak for the Inspector General, but I would hope that they could view us in a more constructive way in terms of helping to identify how you can create a better control environment for this.

So, with the passage of time, again, right out of the gate, we thought that something very serious was needed with the limited upfront controls. And we just don't see it yet. We see references on pages 8 and 9 of my written statement as far as how they are going to use contractors, but we don't even have contracts now. And as auditors, we asked the question what is the Agency trying to hide? And there are just too many questions that go unanswered.

Ms. VELÁZQUEZ. Well, we just need to be on record, you know, basically pointing out the attitude of this Administration. You know, you could go out there and it just, yes, we do not deny that the Agency must do everything they can to put money into the hands of deserving businesses, but not at the expense of compromising the fact that they have to take every control or put in place every mechanism to make sure that we avoid mismanagement, fraud, and abuse. And it is not happening.

Chairwoman, thank you, I yield back.

Mr. WARE. Chairwoman, you are muted.

Chairwoman CHU. Thank you. The gentlelady yields back. And now, the gentleman from Pennsylvania, Mr. Evans, is recognized for 5 minutes.

Mr. EVANS. Thank you, Madam Chairperson. My issue is to Mr. Shear again. Many lenders in my home city of Philadelphia have expressed frustration with the piecemeal release of PPP rules. Despite SBA issuing rules to PPP forgiveness, there is still much confusion about the lender's role in the process. SBA is supposed to send the forgiveness amount to the lenders no later than 90 days from receipt of the lender's decision on loan forgiveness. That means for any application submitted on August the 10th, the first day SBA started accepting them, SBA has little more than over a month to send the funds to the lender. This is especially concerning because lenders already operate on a tight margin. Mr. Shear, what do you believe SBA will be able to do to meet this deadline? And if not able to meet the 90-day deadline for distribution of forgiveness funds, will it dissuade lenders from participating in the PPP future?

Mr. SHEAR. I will first start with saying that SBA might actually meet those deadlines. Our concern in meeting those deadlines is that we are looking for some type of control environment under which the forgiveness process will proceed. But, SBA could meet the deadlines. It is the question of whether it will protect the integrity of the program in how they go about it.

So, now, if they don't meet those deadlines, then you are creating more uncertainty for the lenders. We have spent a lot of time talking to lenders and their trade groups and the concerns with the rolling guidance, I will call it, and just changes in the program and the whole question of how much lenders will be held harmless based on certifications by borrowers. The situation keeps changing. So, we are very cognizant of the strain that this has put on lenders and you could say they are being compensated for it, but in a sense, they are being compensated for something that wasn't clear to them when they started participating in the program. They may not have known what their responsibilities would be. So, I hope that is responsive to your question.

Mr. EVANS. Madam Chair, thank you. I yield back the balance of my time.

Chairwoman CHU. Thank you. The gentleman yields back. And now, I would like to make a closing statement.

I would like to thank our witnesses for joining us both virtually and in person to share their important testimony today. The oversight work of the OIG and GAO is vital to ensuring that we root out instances of fraud and abuse and spend America's tax dollars wisely especially since our small businesses need so much help. Your work helps inform the Subcommittee on existing problems within the SBA's COVID-19 programs and gives us insight into these issues as they unfold in real time.

It is my hope that considering what we learned today that the SBA will fully cooperate with the GAO and the OIG to improve these programs for our Nation's small businesses. Our witnesses today showed that with proper input and cooperation, it can be done. I look forward to continuing our oversight efforts with all of you as partners.

I ask unanimous consent that members have 5 legislative days to submit statements and supporting materials for the record. Without objection, so ordered.

And if there is no further business before the Committee, we are adjourned.

Mr. SHEAR. Thank you very much.

[Whereupon, at 11:22 a.m., the Subcommittee was adjourned.]

A P P E N D I X

HANNIBAL "MIKE" WARE
INSPECTOR GENERAL
U.S. SMALL BUSINESS ADMINISTRATION

BEFORE THE

SUBCOMMITTEE ON INVESTIGATIONS, OVERSIGHT, AND REGULATIONS
COMMITTEE ON SMALL BUSINESS
U.S. HOUSE OF REPRESENTATIVES

OCTOBER 1, 2020

INTRODUCTION

Chairwoman Chu, Ranking Member Spano, and distinguished members of the Subcommittee, thank you for inviting me to testify before you today and for your continued support of the Office of Inspector General (OIG). The hearing is titled, "Preventing Fraud and Abuse of PPP and EIDL: An Update with the SBA Office of Inspector General and Government Accountability Office." I am proud of the dedication and hard work of the men and women of OIG to not only prevent fraud in these programs, but also to detect, deter, and combat fraud.

OIG provides auditing, investigative, and other services to support and assist SBA in achieving its mission. As a result of its oversight efforts, OIG provides dozens of recommendations each year to SBA leadership aimed at improving the integrity, accountability, and performance of SBA and its programs for the benefit of the American people. Similarly, OIG's investigative efforts result in dozens of convictions and indictments as we aggressively pursue evidence of fraud in SBA's programs. In doing so, OIG provides taxpayers with a significant return on investment as it roots out fraud, waste, and abuse in SBA programs. During fiscal year (FY) 2019, OIG achieved $111.0 million in monetary recoveries and savings—a fivefold return on investment to the taxpayers. The monetary recoveries and savings for all of FY 2020 are anticipated to be exponential to OIG's base operating costs.

BACKGROUND

SBA was given a tremendous role in the nation's response to mitigate the economic impact of social distancing and other negative effects of the COVID-19 outbreak. Over a trillion dollars in lending authority was made available to SBA through public law.

The Coronavirus Preparedness and Response Supplemental Appropriations Act deemed COVID-19 a disaster. The Act authorized SBA to provide Economic Injury Disaster Loans (EIDLs) to eligible entities under the Small Business Act in geographic locations declared disaster areas. In addition, the Coronavirus Aid, Relief, and Economic Security (CARES) Act provided $10 billion for a new vehicle—emergency advance grants. The Paycheck Protection Program and Healthcare Enhancement Act provided another $10 billion for the emergency advance grants and $50 billion in loan credit subsidy to support approximately $366 billion in additional disaster loans.

The President signed the CARES Act into law on March 27, 2020, to provide economic relief from the impact of COVID-19. One of the Act's most significant provisions, Section 1102, provided $349 billion for the PPP under section 7(a) of the Small Business Act. The PPP provides fully guaranteed SBA loans for certain eligible small businesses, individuals, and nonprofit organizations that can be forgiven if loan proceeds were used as required by the Act. Eligible expenses include payroll, rent, utility payments, and other limited uses.

On April 24, 2020, the President signed the Paycheck Protection Program and Health Care Enhancement Act to provide an additional $310 billion to the PPP. SBA initiated this round of additional funding on April 27. The deadline for PPP borrowers to apply for a loan was originally June 30, 2020. However, Congress passed legislation that extended the program until August 8, 2020.

SBA's role in the nation's pandemic response has provided an oversight challenge for which this OIG nor any OIG in history has ever faced. OIG is grateful that the Congress and the Administration recognized the need for oversight and the value of OIG in performing this oversight. The CARES Act appropriated $25 million dollars to OIG to supplement its resources for a limited time. However, billions of dollars in loans will perform in SBA's portfolios for up to 30 years, and statute of limitations for fraud associated with CARES Act lending and programs will allow for prosecutions for more than a decade into the future.

Through the CARES Act, Congress also established the Pandemic Response Accountability Committee (PRAC) within the Council of the Inspectors General for Integrity and Efficiency (CIGIE). SBA OIG was designated as a statutory member of the PRAC, which provides increased oversight capacity to the pandemic response efforts. The PRAC's initial successes have been in consolidating the whole of government oversight reports and offering a window of transparency into the pandemic response funds across government.

OVERSIGHT OF SBA'S PANDEMIC RESPONSE PROGRAMS

SBA is exercising over a trillion dollars in lending authority and entrepreneurial assistance as part of the Government's pandemic response. OIG currently is charged with providing oversight of this unprecedented amount of SBA lending authority. OIG also is providing oversight of billions in subsidy loan payments and hundreds of millions of dollars in entrepreneurial development efforts by SBA. At the same time, SBA also continues to have identified management and performance challenges across its programs, to which OIG directs its discretionary oversight efforts.

OIG sought to inform SBA's efforts before the lending even happened with our 'risks and lessons learned' white paper reports. OIG published a robust oversight plan and immediately initiated its first reviews focusing on implementation and eligibility of PPP, EIDL, and the entrepreneurial development programs.

OIG also proactively sought to prevent the public from being a victim of a fraud scheme or scam. Prior to the first PPP loan being made by SBA, OIG published a list of fraud schemes and scams to alert the public and SBA stakeholders. We partnered with SBA's Office of Communication and Public Liaison to have this information available in 18 languages. This information was made available on OIG's and SBA's webpages and distributed broadly through established communication channels to include social media. OIG also sought assistance from organizations involved with SBA lending to distribute the information and raise awareness. We also consolidated all OIG pandemic response-related reports, press releases, and testimonies on a single webpage.

In the ensuing weeks of the pandemic and SBA's response, our criminal investigators partnered with the Department of Justice and other law enforcement organizations, conducted outreach to U.S. Attorney's Offices, and evaluated allegations of wrongdoing received through our Hotline. We also partnered with SBA's Office of the Chief Information Officer to investigate and remove websites suspected of being fraudulent. Hundreds of investigations involving complaints of fraud have been initiated by my office and are ongoing, with noteworthy results being reported daily by the U.S. Department of Justice. Among these accomplishments was the first in the nation charges against individuals fraudulently seeking PPP loans, which was announced on May 5. This achievement was the result of dedicated work by OIG criminal investigators and its law enforcement partners. More than 57 defendants have been charged with PPP fraud since the CARES Act passage, as announced by the Department of Justice on September 10, 2020.

SBA's tremendous role in the nation's pandemic response is without precedent. It is noteworthy that SBA executed over 14 years' worth of lending within 14 days, and this was just the beginning. The speed and reduced controls surrounding this lending authority brought with it substantially increased risk. Our oversight work confirmed SBA did not have adequate controls to address these risks and provide assurance that PPP loans and EIDL grants and loans were only being received by eligible recipients.

Those PPP and EIDL reviews revealed alarming preliminary findings, which were confirmed as our initial reviews of these programs carried on and concluded. Given the ongoing execution and policy considerations surrounding our preliminary findings, we published a flash report on PPP in May, which resulted in legislative changes to the program, and we published a management alert on EIDL in July, sharing our finding of potentially rampant fraud in the program.

In mid-September, OIG presented its additional review findings for SBA's implementation of PPP and SBA's initial disaster response efforts to SBA leadership. Our findings further the work reported on in our PPP flash report and our EIDL management alert. For both EIDL and PPP, the unprecedented challenges SBA had in responding to this pandemic, combined with missing or lowered controls leaves limited assurance that loans went to only eligible recipients. SBA leadership is afforded the opportunity to review our findings and offer its official comments, which we will include in our published report with our analysis of the same.

CONCLUSION

OIG's mission is to provide independent, objective oversight to improve the integrity, accountability, and performance of SBA and its programs for the benefit of the American people. Our focus is to keep SBA leadership, our congressional stakeholders, and the public currently and fully informed about the problems and deficiencies in the programs as identified through our work and to promote corrective action in fulfillment of our mission.

OIG currently is charged with providing oversight of an unprecedented amount of SBA lending authority—over a trillion dollars. The oversight challenges of SBA's pandemic response efforts are continuing to evolve with the hundreds of fraud cases, tens of thousands of allegations of wrongdoing being received by OIG's Hotline, and concerns surrounding internal controls mounting based on our review findings. We will continue our efforts to keep the Administrator and this Congress currently and fully informed of our findings. Nothing short of the public trust is at stake, as well as the vitality of the nation's economy.

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Investigations, Oversight, and Regulations, Committee on Small Business, House of Representatives

For Release on Delivery
Expected at 10:00 a.m. ET
Thursday, October 1, 2020

SMALL BUSINESS ADMINISTRATION

COVID-19 Loans Lack Controls and Are Susceptible to Fraud

Statement of William B. Shear, Director, Financial Markets and Community Investment

October 1, 2020

GAO Highlights

Highlights of GAO-21-117T, a testimony before the Subcommittee on Investigations, Oversight, and Regulations, Committee on Small Business, House of Representatives

SMALL BUSINESS ADMINISTRATION

COVID-19 Loans Lack Controls and Are Susceptible to Fraud

Why GAO Did This Study

SBA has made or guaranteed more than 14.5 million loans and grants through PPP and EIDL, providing about $729 billion to help small businesses adversely affected by COVID-19. However, the speed with which SBA implemented the programs may have increased their susceptibility to fraud.

This testimony discusses fraud risks associated with SBA's PPP and EIDL programs. It is based largely on GAO's reports in June 2020 (GAO-20-625) and September 2020 (GAO-20-701) that addressed the federal response, including by SBA, to the economic downturn caused by COVID-19. For those reports, GAO reviewed SBA documentation and interviewed officials from SBA, the Department of the Treasury, and associations that represent lenders and small businesses. GAO also met with officials from the SBA OIG and reviewed OIG reports.

What GAO Recommends

In its June 2020 report, GAO recommended that SBA develop and implement plans to identify and respond to risks in PPP to ensure program integrity, achieve program effectiveness, and address potential fraud. SBA neither agreed nor disagreed, but GAO believes implementation of this recommendation is essential.

View GAO-21-117T. For more information, contact William B. Shear at (202) 512-4325 or shearw@gao.gov.

What GAO Found

In April 2020, the Small Business Administration (SBA) moved quickly to implement the Paycheck Protection Program (PPP), which provides loans that are forgivable under certain circumstances to small businesses affected by COVID-19. Given the immediate need for these loans, SBA worked to streamline the program so that lenders could begin distributing these funds as soon as possible. For example, lenders were permitted to rely on borrowers' self-certifications for eligibility and use of loan proceeds. As a result, there may be significant risk that some fraudulent or inflated applications were approved. Since May 2020, the Department of Justice has publicly announced charges in more than 50 fraud-related cases associated with PPP funds. In April 2020, SBA announced it would review all loans of more than $2 million to confirm borrower eligibility, and SBA officials subsequently stated that they would review selected loans of less than $2 million to determine, for example, whether the borrower is entitled to loan forgiveness. However, SBA did not provide details on how it would conduct either of these reviews. As of September 2020, SBA reported it was working with the Department of the Treasury and contractors to finalize the plans for the reviews. Because SBA had limited time to implement safeguards up front for loan approval, GAO believes that planning and oversight by SBA to address risks in the PPP program is crucial moving forward.

SBA's efforts to expedite processing of Economic Injury Disaster Loans (EIDL)—such as the reliance on self-certification—may have contributed to increased fraud risk in that program as well. In July 2020, SBA's Office of Inspector General (OIG) reported indicators of widespread potential fraud—including thousands of fraud complaints—and found deficiencies with SBA's internal controls. In response, SBA maintained that its internal controls for EIDL were robust, including checks to identify duplicate applications and verify account information, and that it had provided banks with additional antifraud guidance. The Department of Justice, in conjunction with other federal agencies, also has taken actions to address potential fraud. Since May 2020, the department has announced fraud investigations related to the EIDL program and charges against recipients related to EIDL fraud.

Chairwoman Chu, Ranking Member Spano, and Members of the Subcommittee:

I am pleased to be here today to discuss our work on the Small Business Administration's (SBA) Paycheck Protection Program (PPP) and Economic Injury Disaster Loans (EIDL). Through these programs, SBA has made or guaranteed more than 14.5 million loans and grants, providing about $729 billion to help small businesses adversely affected by Coronavirus Disease 2019 (COVID-19).

As we reported in June 2020, lenders and SBA moved quickly to make and process PPP loans.[1] Given the immediate need for these loans, SBA worked to streamline PPP so that lenders could begin distributing funds as quickly as possible. SBA's initial interim final rule allowed lenders to rely on borrower certifications to determine the borrower's eligibility and use of loan proceeds, and it required only limited lender review of borrower documents to determine the qualifying loan amount and eligibility for loan forgiveness.[2] We also reported that as of June 11, 2020, SBA had approved about 1.3 million EIDLs totaling about $91 billion—more EIDLs than for all previous disasters combined, according to SBA officials.

While millions of small businesses have benefited from these programs, the speed with which they were implemented left SBA with limited controls to identify and respond to program risks, including susceptibility to potential fraud. There have been several reports of fraud in both programs, although the full extent is not yet known.

In this statement, I will discuss fraud risks associated with SBA's PPP and EIDL programs identified during prior work.[3] In preparing this statement, we relied on our body of work issued from June through September 2020

[1]GAO, *COVID-19: Opportunities to Improve Federal Response and Recovery Efforts*, GAO-20-625 (Washington, D.C.: June 25, 2020).

[2]*See* 85 Fed. Reg. 20,811 (Apr. 15, 2020). The interim final rule stated that lenders would be held harmless for borrowers' failure to comply with program criteria.

[3]Fraud risk exists when individuals have an opportunity to engage in fraudulent activity, have an incentive or are under pressure to commit fraud, or are able to rationalize committing fraud. When fraud risks can be identified and mitigated, fraud may be less likely to occur.

that reviewed, among other things, SBA's implementation of these programs in response to the economic downturn caused by COVID-19.[4]

For those reports, we reviewed SBA documentation and interviewed officials from SBA, the Department of the Treasury (Treasury), and associations that represent lenders and small businesses. We also met with officials from SBA's Office of Inspector General (OIG) and reviewed OIG reports. Detailed information on our scope and methodology can be found in our June 2020 and September 2020 reports.

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

CARES Act

In response to the far-reaching public health and economic crisis resulting from COVID-19, in March 2020, Congress passed, and the President signed into law, the CARES Act, which provides over $2 trillion in emergency assistance and health care response for individuals, families, and businesses affected by COVID-19.[5]

Among other things, Congress created PPP under the CARES Act to help small businesses affected by COVID-19.[6] Combined with additional funds appropriated in the Paycheck Protection Program and Health Care

[4]See GAO-20-625; *COVID-19: Brief Update on Initial Federal Response to the Pandemic*, GAO-20-708 (Washington, D.C.: Aug. 31, 2020); and *COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions*, GAO-20-701 (Washington, D.C.: Sept. 21, 2020).

[5]Pub. L. No. 116-136, 134 Stat. 281 (2020). As of August 1, 2020, four other relief laws were also enacted in response to the COVID-19 pandemic: the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146; the Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020); the Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, 134 Stat. 620 (2020); and the Paycheck Protection Program Flexibility Act of 2020, Pub. L. No. 116-142, 134 Stat. 641.

[6]PPP was authorized under SBA's 7(a) small business lending program.

Enhancement Act, Congress has appropriated a total of $670 billion for PPP, including for lender fees.[7]

The CARES Act also temporarily expanded eligibility for SBA's EIDL program and appropriated $10 billion for related emergency EIDL advances.[8] Prior to the enactment of the CARES Act, SBA had begun awarding EIDLs to small businesses affected by COVID-19 using existing funds.[9] In total, Congress appropriated $50 billion in loan credit subsidies for the cost of EIDL loans and $20 billion for advances to assist businesses affected by COVID-19.[10]

GAO's Fraud Risk Framework

We have previously reported that strong internal controls help ensure that emergency relief funds are appropriately safeguarded.[11] While some level of risk may be acceptable in an emergency, an effective internal control system improves accountability and transparency, provides feedback on how effectively an entity is operating, and helps reduce risks affecting the achievement of the entity's objectives. A major component of internal control is identifying and responding to fraud risks. Recognizing fraud risks, and thoughtfully and deliberately managing them in an emergency

[7]Paycheck Protection and Health Care Enhancement Act, Pub. L. No. 116-139, § 101(a), 134 Stat. at 620; CARES Act, Pub. L. No. 116-136, §§ 1102(b)(1), 1107(a)(1), 134 Stat. at 293, 301.

[8]Pub. L. No. 116-136, §§ 1107(a)(6), 1110, 134 Stat. 281, 302, 306.

[9]The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, deemed COVID-19 a disaster under the Small Business Act, which made businesses experiencing economic injury caused by COVID-19 eligible for EIDLs. As a result, SBA began using existing $1.1 billion in loan credit subsidy to provide EIDLs to these affected businesses. The $1.1 billion in loan credit subsidy supported between $7 and $8 billion in EIDL loans. Loan credit subsidy covers the government's cost of extending or guaranteeing credit and is used to protect the government against the risk of estimated shortfalls in loan repayments. The loan credit subsidy amount is about one-seventh of the cost of each disaster loan.

[10]SBA provided advances using the $10 billion Congress appropriated under the CARES Act. On April 16, 2020, SBA announced that the lending authority for EIDL loans and the funding for EIDL advances had been exhausted. Under the Paycheck Protection Program and Health Care Enhancement Act, Congress appropriated another $10 billion for advances and $50 billion in loan credit subsidy for EIDL loans. Additionally, Congress made agricultural enterprises eligible for EIDL loans and advances. SBA began accepting new applications from only agricultural enterprises on May 4, 2020. On June 15, 2020, SBA reopened the application portal to all eligible applicants.

[11]GAO-20-625.

environment, can help federal managers safeguard public resources while providing needed relief.

Managers may perceive a conflict between their priorities to fulfill the program's mission—such as efficiently disbursing funds—and taking actions to safeguard taxpayer dollars from improper use. But the purpose of proactively managing fraud risks, even during emergencies, is to facilitate, not hinder, the program's mission and strategic goals by ensuring that taxpayer dollars and government services serve their intended purposes. The effects of not addressing fraud risks can be financial as well as nonfinancial, such as harm to human health from fraudulent COVID-19 treatments. Fraud can also undermine public trust in government.

According to federal internal control standards and GAO's Fraud Risk Framework, managers in executive branch agencies are responsible for managing fraud risks and implementing practices for mitigating those risks.[12] When fraud risks can be identified and mitigated, fraud may be less likely to occur.[13] Federal internal control standards call for agency management officials to assess the internal and external risks their entities face as they seek to achieve their objectives.[14] The standards state that management should consider the potential for fraud when identifying, analyzing, and responding to risks. Risk management is a formal and disciplined practice for addressing risk and reducing it to an acceptable level.

In July 2015, we issued the Fraud Risk Framework, which provides a comprehensive set of key components and leading practices that serve

[12]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sept. 10, 2014); *A Framework for Managing Fraud Risks in Federal Programs*, GAO-15-593SP (Washington, D.C.: July 18, 2015).

[13]"Fraud" and "fraud risk" are distinct concepts. Fraud involves obtaining something of value through willful misrepresentation. Fraud risk exists when individuals have an opportunity to engage in fraudulent activity, have an incentive or are under pressure to commit fraud, or are able to rationalize committing fraud. A fraud risk can exist even if fraud has not yet been identified or occurred. When fraud risks can be identified and mitigated, fraud may be less likely to occur. Determining if an act is fraud is beyond management's professional responsibility for assessing risk (such determinations are made through judicial or adjudicative systems). See GAO, *Medicare and Medicaid: CMS Needs to Fully Align Its Antifraud Efforts with the Fraud Risk Framework*, GAO-18-88 (Washington, D.C.: Dec. 5, 2017).

[14]GAO-14-704G.

as a guide for agency managers to use when developing efforts to combat fraud in a strategic, risk-based way.[15] The critical control activities for managing fraud risks fall into three general categories—prevention, detection, and response. Among other things, the framework recommends that agencies plan regular fraud risk assessments that are tailored to the program, and that these assessments should be conducted when there are changes to the program. As part of these risk assessments, legislation and Office of Management and Budget (OMB) guidance require agencies to take into account risk factors that are likely to contribute to significant improper payments, including whether the program or activity reviewed is new to the agency.[16] The legislation and guidance also require agencies to consider recent major changes in program funding, authorities, practices, or procedures as part of risk assessments. In July 2016, OMB issued updated guidelines that, among other things, affirmed that managers should adhere to the leading practices identified in GAO's Fraud Risk Framework.[17]

Ongoing SBA Oversight Is Necessary to Minimize Fraud in the Paycheck Protection Program

Program overview. PPP loans, which are made by lenders but guaranteed 100 percent by SBA, are low interest (1 percent) and fully forgivable if certain conditions are met. The Paycheck Protection Program Flexibility Act of 2020 modified the program, including provisions related to loan forgiveness.[18] As modified, at least 60 percent of the loan forgiveness amount must be for payroll costs to qualify for full loan forgiveness. PPP was initially scheduled to end on June 30, 2020, but Congress extended the deadline for borrowers to apply until August 8, 2020.[19]

[15]GAO-15-593SP.

[16]For example, the Payment Integrity Improvement Act of 2019, Pub. L. No. 116-117 (2020), and related guidance by the Office of Management and Budget, including Memorandum No. M-18-20, app. C to Circular No. A-123, *Requirements for Payment Integrity Improvement* (June 26, 2018).

[17]Office of Management and Budget, *Management's Responsibility for Enterprise Risk Management and Internal Control*, Circular No. A-123 (Washington, D.C.: July 15, 2016).

[18]Pub. L. No. 116-142, 134 Stat. 641 (2020).

[19]Pub. L. No. 116-147, 134 Stat. 660 (2020).

Program usage. As of August 8, 2020, lenders had made more than 5.2 million loans totaling more than $525 billion, excluding canceled loans.[20] Most of the loans over $2 million (75 percent) were made during the first few weeks of the program, and about 85 percent of all PPP loans were made during the program's first two months (approximately April 3 through June 4, 2020). Businesses in every state received loans, and the vast majority of loans to businesses that reported employees (94 percent) went to businesses with 100 or fewer employees. Corporations and limited liability companies received the largest percentages of the approved loan amounts—40 percent and 26 percent, respectively.

Internal controls and fraud risk. In June 2020, we reported that given the immediate need for PPP loans, SBA worked to streamline PPP and implement the program quickly so that lenders could begin distributing funds as soon as possible.[21] As previously mentioned, SBA's initial interim final rule allowed lenders to rely on borrower certifications and a limited review of borrower documents.[22]

Among other things, as set forth in the CARES Act, borrowers had to certify in good faith that (1) current economic uncertainty made the loan request necessary to support the applicant's ongoing operations and (2) the funds would be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments. To streamline the process, SBA required minimal loan underwriting from lenders—limited to actions such as confirming receipt of borrower

[20]As of August 8, 2020, about $134 billion in loan funding still remained. According to SBA, canceled loans may include, but are not limited to, duplicative loans, loans not closed for any reason, and loans that have been paid off.

[21]GAO-20-625.

[22]85 Fed. Reg. 20,811 (Apr. 15, 2020). The interim final rule stated that lenders would be held harmless for borrowers' failure to comply with program criteria.

certifications and supporting payroll documentation.[23] This left the program more susceptible to fraudulent applications. In June 2020, we reported that reliance on applicant self-certifications can leave a program vulnerable to exploitation by those who wish to circumvent eligibility requirements or pursue criminal activities.

In the initial interim final rule, SBA also stated that it would direct a small business that used PPP funds for unauthorized purposes to repay those amounts, and that the applicant could be subject to additional liability, such as fraud charges, if these funds were knowingly used for unauthorized purposes.[24] The rule also included some safeguards for lenders that were not federally insured depository institutions or federally insured credit unions, such as requiring that they comply with Bank Secrecy Act requirements.[25]

Although SBA had announced its plans to implement safeguards after loan approval, we found that the agency had provided limited information on how it would implement these safeguards. In our June 2020 report, we noted that because SBA had limited time to implement up-front safeguards for the PPP loan approval process and assess program risks, ongoing oversight would be crucial. On April 28, 2020, Treasury and SBA announced that SBA would review loans of more than $2 million to confirm borrower eligibility after the borrower applied for loan

[23]*See* 85 Fed. Reg. 20,811, 20,815 (Apr. 15, 2020). Because of the limited loan underwriting, lenders and SBA have less information from applicants to detect errors or fraud. For standard loans under SBA's 7(a) program, borrowers have to provide documentation that includes a completed application, personal and business financial statements, and income tax returns. However, the initial interim final rule's requirement that lenders follow applicable Bank Secrecy Act requirements may have required lenders to collect additional identifying information from borrowers before approving a PPP loan. The Bank Secrecy Act and its implementing regulations generally require financial institutions, including banks, to collect and retain various records of customer transactions, verify customers' identities, maintain anti-money laundering compliance programs, and report suspicious transactions. In an interim final rule posted to SBA's website on May 22, 2020, SBA informed lenders that the lender would not receive its lender processing fee if SBA determined that the borrower was ineligible for a PPP loan. 85 Fed. Reg. 33,010, 33,014 (June 1, 2020).

[24]In addition to SBA, other federal agencies were taking steps to identify potential fraud in PPP. For example, on May 5, 2020, the Department of Justice announced that it was working to address abuse related to CARES Act programs and had charged two businessmen with allegedly seeking more than $500,000 in PPP loans fraudulently.

[25]Federally insured depository institutions are already subject to Bank Secrecy Act requirements.

forgiveness.[26] (This represents about 29,000 loans, or about 20 percent of the approved dollar amount of PPP loans, as of August 8, 2020.) In an interim final rule on loan review procedures posted on May 22, 2020, SBA noted that it may review any PPP loan it deems appropriate.[27] These reviews may include whether a borrower was eligible for the PPP loan, calculated the loan amount correctly, used loan proceeds for the allowable uses, or was entitled to loan forgiveness in the amount claimed.[28]

However, as we reported in June 2020, SBA had not provided us additional details—including time frames and specific review procedures—on how it would conduct its review of all loans for more than $2 million. Further, SBA had not informed us of any specific oversight plans for loans of less than $2 million, including how it would identify which loans to review and the number of reviews planned.

Federal internal control standards state that management should consider the potential for fraud when identifying, analyzing, and responding to risks.[29] However, we found in our June 2020 report that because of the number of loans approved, the speed with which they were processed, and the limited safeguards, there was a significant risk that some fraudulent or inflated applications were approved. In addition, we concluded that the lack of clear guidance had increased the likelihood that borrowers may misuse loan proceeds or be surprised that they do not qualify for full loan forgiveness.

[26]SBA later announced that PPP borrowers who repaid the loan in full by May 18, 2020, would be considered to have made their necessity certification in "good faith." That is, SBA would not investigate these borrowers for fraud related to this certification. On May 13, 2020, SBA stated in a response to a frequently asked question that SBA would deem borrowers who received PPP loans of less than $2 million to have made the required certification concerning the necessity of the loan request in good faith. SBA also stated it would review borrowers with loans greater than $2 million to determine if they had an adequate basis for making the required good-faith certification.

[27]85 Fed. Reg. 33,010, 33,012 (June 1, 2020).

[28]According to the loan review procedures interim final rule, SBA will determine whether a borrower was eligible for a PPP loan based on the provisions of the CARES Act, the rules and guidance available at the time of the borrower's PPP loan application, and the terms of the borrower's loan application.

[29]GAO-14-704G.

Consequently, we recommended in our June 2020 report that SBA develop and implement plans to identify and respond to risks in PPP to ensure program integrity, achieve program effectiveness, and address potential fraud, including in loans of $2 million or less.[30] SBA neither agreed nor disagreed with our recommendation and, as discussed further below, has not yet fully implemented the recommendation. We believe that SBA's implementation of our recommendation is essential to ensure program integrity in the PPP program.

Status of oversight plans. In September 2020, we reported that although SBA had begun developing its oversight plans, including of the loan forgiveness process, it had not yet finalized or implemented them as of August 14, 2020.[31] According to SBA officials, SBA was working with Treasury and contractors to finalize plans for loan reviews and loan forgiveness reviews. As we previously reported, SBA and Treasury announced that SBA would review all loans of more than $2 million, and SBA said these reviews would focus on the borrower's good faith certification concerning the economic necessity of the loan request. SBA officials later clarified that the agency also would review these loans, as necessary, for compliance with general program requirements.

SBA officials told us that a contractor and SBA staff will conduct the reviews of loans over $2 million and provided the following high-level information:

- A contractor will review all loans using an automated review tool and will conduct additional manual reviews of some loans based on risks detected by that tool. The contractor also will review the borrower's economic necessity certification.
- Following the contractor's portion of the review, SBA will complete the review for all loans over $2 million with a combination of SBA contract and federal staff.
- A separate and independent contractor will provide a quality assurance review on a sample of loans.

[30]GAO-20-625.

[31]GAO-20-701.

As of our September 2020 report, SBA was still working with Treasury and a contractor to finalize the specific review procedures its contractors and staff would follow.

Regarding SBA's reviews of loans less than $2 million, SBA officials told us all of the loans will undergo an automated review to flag potentially questionable loans. They stated that selected loans will undergo a manual review that may include whether a borrower was eligible for the PPP loan, calculated the loan amount correctly and used loan proceeds for the allowable uses, or was entitled to loan forgiveness in the amount claimed. According to SBA officials, the agency plans to review loans identified through specific reports of potential noncompliance or fraud and through stratified statistical sampling based on various loan characteristics. They also noted that they had begun reviews based on reports of potential noncompliance or fraud. As of our September 2020 report, SBA was working with Treasury and contractors to finalize plans to review loans of less than $2 million.

We have asked for additional details on SBA's loan reviews, but SBA has not yet provided this information. We will continue to seek details on SBA's ongoing oversight of PPP.

Fraud cases and managing fraud risk. We also reported in September 2020 that SBA officials had told us that they refer questionable loans to the SBA OIG or the Department of Justice for further investigation. Since May 2020, the Department of Justice has publicly announced charges in more than 50 fraud-related cases associated with PPP funds.[32] The charges—filed across the United States and investigated by a range of law enforcement agencies—include allegations of making false statements and engaging in identity theft, wire and bank fraud, and money laundering.

As we noted in our September 2020 report, according to GAO's Fraud Risk Framework, one of the leading practices in managing fraud risks involves the use of data analytics to detect suspicious activity, anomalies, or patterns so that managers can determine which cases of potential fraud to review in detail or identify high-risk program participants for

[32]On September 10, 2020, Department of Justice officials announced that they had charged 57 people with PPP-related fraud. These cases involve alleged attempts to steal over $175 million from PPP with actual losses to the federal government of over $70 million.

increased oversight or review.[33] However, using data analytics for fraud detection can be limited if the data are unreliable.

In conducting PPP oversight, SBA will be relying on data provided by lenders and borrowers during the loan approval and loan forgiveness processes. We and others have identified some gaps, outliers, duplicates, and anomalies in PPP loan-level data provided by lenders. Further analysis is needed to determine whether these instances are errors that could be corrected by borrowers and lenders or whether they indicate fraud—underscoring the importance of reliable data for oversight purposes.

SBA officials told us lenders will have an opportunity to correct loan-level data when they report on disbursed loans and during the loan forgiveness process, and borrowers will be able to submit a form to SBA requesting a correction. It remains to be seen how much of SBA's oversight will involve improving the quality of the data, which would also improve its ability to identify potential fraud in the program.

We continue to be concerned about the potential for fraud in PPP and are continuing to conduct work on the program, including on internal controls and fraud risk management.

Efforts to Expedite Process Left Economic Injury Disaster Loans Susceptible to Fraud

Program overview. The EIDL program provides low-interest loans of up to $2 million for expenses—such as operating expenses—that cannot be met because of a disaster. The CARES Act expanded EIDL program eligibility to include additional small business entities and relaxed some approval requirements, such as demonstrating that the business could not obtain credit elsewhere.[34] It also created a related program to provide small businesses up to $10,000 in advances toward payroll, sick leave, and other business obligations, which borrowers do not have to repay, even if they are subsequently denied the EIDL. Collectively, to target businesses affected by COVID-19, Congress appropriated $50 billion in

[33] GAO-15-593SP. In its Circular A-123, OMB directed that agencies should adhere to the Fraud Risk Framework's leading practices as part of their efforts to effectively design, implement, and operate an internal control system that addresses fraud risks. Managers are responsible for determining the extent to which the leading practices in the framework are relevant to their program and for tailoring the practices, as appropriate, to align with the program's operations.

[34] Prior to CARES Act changes, eligible businesses included small businesses, most private nonprofits of any size, small aquaculture enterprises, and small agricultural cooperatives.

loan credit subsidies for the cost of EIDL loans and $20 billion for advances.

Program usage. As of August 22, 2020, SBA had accepted about 14.5 million applications for EIDL loans related to COVID-19 and approved about 3.5 million of these applications totaling about $184 billion (or an average of about $53,300 per loan). According to SBA officials, the agency has approved more EIDL loans for COVID-19 than for all disasters combined in its history. SBA received about 10.1 million applications for EIDL advances related to COVID-19, and it approved about 5.8 million of these applications totaling $20 billion (or an average of about $3,500 per advance). On July 11, 2020, SBA announced that it had fully allocated the $20 billion in funding for EIDL advances and would stop making advances to new applicants. The agency continues to accept applications for EIDL loans.[35]

Internal controls and fraud risk. Similar to PPP, we reported in September 2020 that efforts to expedite processing—such as allowing applicant self-certification of eligibility—may have contributed to increased fraud risk in the EIDL program. In July 2020, the SBA OIG issued a preliminary review of the EIDL program and warned SBA about indicators of widespread potential fraud and deficiencies with SBA's internal controls. SBA's OIG reported that it had received thousands of complaints of suspected fraud from financial institutions receiving EIDL deposits and from its complaint hotline. SBA's OIG also reported potential internal control deficiencies, including that SBA potentially gave EIDL loans and advances to ineligible businesses and made duplicate payments. SBA's OIG suggested that the SBA Administrator (1) assess vulnerabilities for the purpose of strengthening or implementing internal controls to address notices of potential fraud and (2) create an effective process and method for lenders to report suspected fraud to SBA and to recover funds.

In response to the SBA OIG report, SBA maintained that it had robust internal controls in place, such as checks to identify duplicate applications and verify bank account information for advances and evaluation of fraud alerts and related applications by loan officers. SBA also provided guidance to banks on how to report suspicious fraud activity to SBA and issued an Informational Notice to financial institutions to alert them to the potential types of suspicious activity related to EIDL program deposits

[35]Applicants requested advances as part of the EIDL loan application.

and encourage them to examine certain transactions carefully. SBA's OIG agreed that those actions were responsive to its suggestions.

In addition, since May 2020, the Department of Justice has announced fraud investigations related to the EIDL program and, in conjunction with other federal agencies, announced charges related to EIDL fraud. According to SBA officials, the CARES Act changes to ease EIDL program requirements, such as acceptance of an applicant's self-certification for eligibility of the advances, helped to expedite processing but increased fraud risk, which SBA tried to mitigate through internal controls.

We continue to be concerned about the potential for fraud in the EIDL program and are currently conducting work on the program, including on internal controls and fraud risk management. However, we have experienced delays in obtaining data and information requested from SBA, including access to application level EIDL data. We will continue to take actions to obtain records needed to move forward with our work.

Chairwoman Chu, Ranking Member Spano, and members of the Subcommittee, this concludes my statement. I would be pleased to respond to any questions you may have.

GAO Contact and Staff Acknowledgments

If you or your staff have any questions about this testimony, please contact William B. Shear, Director, Financial Markets and Community Investment, at (202) 512-4325 or shearw@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony are Paige Smith (Assistant Director), Marshall Hamlett (Assistant Director), Daniel Newman (Analyst in Charge), Irina Carnevale, Jacob Fender, Jessica Sandler, Shenandoah Sowash, Tyler Spunaugle, and Weifei Zheng.

Questions for the Record
Committee on Small Business
Subcommittee on Investigations, Oversight, and Regulations
Hybrid Hearing: Preventing Fraud and Abuse of PPP and EIDL: An Update with the SBA Office of Inspector General and Government Accountability Office

Office of Inspector General, SBA

1. **What is the statute of limitations for prosecuting fraudulent activity in the Paycheck Protection Program (PPP) and Economic Injury Disaster Loan (EIDL) program?**

   The statute of limitations for fraud in the PPP and EIDL programs will vary based on the evidence found. For example, there could be wire fraud, false claims, identity theft, etc., each of which may have different statutes of limitation. The following table of select possible charges will illustrate this point:

Small Business Act 15 U.S.C. 632 et seq.	15 U.S.C. § 645, the Small Business Act's specific anti-fraud statute, contains four key crimes: • Section 645(a) prohibits knowing false statements or the willful overvaluation of loan security in order to obtain a loan or other thing of value under the SBA loan program. • Section 645(b) criminalizes embezzlement by those "connected in any capacity" with the SBA. • Section 645(c) prohibits concealing or diverting mortgaged property, • Section 645(d) criminalizes misrepresentation as a small business when seeking contracts that are meant as set-asides for actual small businesses. All of the criminal sections of the Small Business Act are punishable by different prison terms, with **the highest being 10 years**.
False Claims Act 31 U.S.C §§3729 – 3733	The False Claims Act's statute of limitations for a civil action is the longer of:

	• **Six years** from the time the fraud was committed; or • **Three years** from the time the government official with responsibility for investigating the fraud knew or reasonably should have known of the facts relating to the fraud; but • **No more than 10 years** after the fraud was committed.
Financial Institutions Reform, Recovery, and Enforcement Act	18 U.S.C. 3293 provides for **a ten-year statute of limitations** for a violation of, or a conspiracy to violate, the mail or wire fraud statutes if the offense affects a financial institution. Otherwise, the limitations period is **five years**. This is a civil enforcement action.
False Statements	18 U.S.C. §1001 makes it a federal crime to knowingly or willfully make a false representation, or to file a document known to contain a false statement, to an agency of the executive branch. The statute of limitations is **five years** and commences upon completion of the crime, *e.g.*, upon making of false statement or submission of false document.
Major Fraud Against United States	A criminal prosecution of an offense under this section 18 U.S.C. §1031 may be commenced any time not later than **7 years** after the offense is committed, plus any additional time otherwise allowed by law. A minimum of $1 million must be involved.

2. **What specific metrics do you use to determine if a government program is combating fraud successfully?**

   Our office does not use a specific metric to determine if a government program is successfully combatting fraud. Each loan program should have assurances that internal controls and criteria are met before any loan is disbursed. Program managers must identify the correct balance between internal controls and program execution.

3. **Does SBA have a management responsibility to determine if an act constitutes fraud? What is SBA's management responsibility in this area?**

No. SBA management has a responsibility to ensure that there are proper internal controls in place for each program to prevent incidents of fraud. SBA, and federal employees in general, have a responsibility to report suspected instances of fraud, waste or abuse through proper channels. For SBA matters, fraud, waste or abuse should be reported through our Hotline's Online Complaint Submission System. Our office evaluates each complaint and determines the appropriate action, which may include a criminal investigation. If we identify evidence of fraud, we present the evidence to the Attorney General.

4. **Treasury Secretary Mnuchin has said that they will review all PPP loans over $2 million, particularly the economic need certification. Are there other loans that you think should be reviewed closely, for example loans to businesses with over 500 employees?**

There should be an assurance that each PPP loan went to recipients that were eligible to apply for loan forgiveness through the criteria set forth in the program. SBA reported on August 8, 2020, that 99.4% of the PPP loans were under or equal to $2 million which accounted for 79.9% of PPP funds that were distributed. In addition to loans over $2 million, loans to businesses with over 500 employees and loans with excessive loan values per employee also could present increased risk.

Questions for the Record
Committee on Small Business
Subcommittee on Investigations, Oversight, and Regulations
Hybrid Hearing: Preventing Fraud and Abuse of PPP and EIDL: An Update with the SBA Office of Inspector General and Government Accountability Office

__Government Accountability Office__

1. **Can you provide a list of the data and documents GAO has requested from SBA and are still outstanding?**
GAO has several outstanding data and document requests related to EIDL:
   - *Individual loan data*: On October 20, 2020, SBA provided data on loan approvals between March and August. However, the data provided were missing several data fields that we requested. For example, SBA did not provide the Employer Identification Number or Social Security Number (where applicable) of the small businesses or SBA's calculated economic injury based on information applicants supplied.

   - *Weekly processing reports*: SBA has provided weekly loan activity reports which contain processing statistics, such as processing time and the number of loans approved and declined. However, SBA has not provided the definitions for data fields or answered our follow-up questions about these loan activity reports.

   - *Contracts*: SBA has not provided contracts and subcontracts to us.

   - *Fraud risk and internal control documentation*: We requested that SBA provide documentation of fraud checks, information provided to contractors to design fraud risk alerts and eligibility criteria, and any reports about the effectiveness of fraud indicators. To date, SBA has only provided one document pertaining to the fraud checks SBA conducts on EIDL advances and two training documents related to loan officers' review of errors flagged by the processing system. We are still missing documentation that would allow us to examine SBA's review of the controls in place and how SBA worked with contractors to design and mitigate fraud risk.

   - *Program policies*: We requested that SBA provide documentation of analyses surrounding the decisions it has made related to loan caps and the caps for advances. SBA has not yet provided these documents.

   - *Analyses related to staffing and processing of loans*: We requested that SBA provide modeling projections for staffing; any training on its COVID-19 response for its call centers; and any review it has conducted to improve customer service and processing of loan applications. So far, SBA has provided a staffing strategy from 2018 and two training documents (mentioned above) related to loan officers' review of errors flagged by the processing system.

- *Internal and external coordination related to COVID-19 response*: We requested that SBA provide documentation of coordination with SBA's district offices and resource partners about EIDL loans and advances. SBA has not provided these documents.

2. **If GAO finds concrete evidence of fraud in the PPP, EIDL, or any federal program, how does the agency proceed?**

GAO operates FraudNet, a hotline available on our homepage that facilitates the reporting of allegations of fraud, waste, and abuse. Our Forensic Audits and Investigative Service team manages FraudNet. GAO may refer allegations for follow-up to appropriate Inspector General offices or other investigative agencies. Additionally, complaints filed through FraudNet may be used by GAO as part of investigations and evaluations of potential fraud, waste, and abuse. In our reports to Congress, we include aggregate information on our findings related to potential fraud, waste, and abuse; the associated control weaknesses; and recommendations to the agency for improving their controls to better manage their fraud risk.

When evidence of potential fraud, waste, abuse, criminal misconduct, or other serious wrongdoing is uncovered through GAO audits or investigations, GAO refers such cases to the appropriate Inspector General offices or other investigative agencies.[1] In the event GAO uncovers evidence of potential fraud, waste, and abuse in the PPP or EIDL programs, it would follow these standard referral procedures.

3. **GAO's work has centered around potential fraud in PPP, does GAO also have concerns or ongoing work regarding potential waste and abuse?**

Fraud, waste, and abuse all play a prominent role in federal standards for internal control. We are addressing potential waste and abuse—in addition to fraud—in our ongoing work. While fraud involves obtaining something of value through willful misrepresentation, management should also consider waste and abuse.

Waste is the act of using or expending resources carelessly, extravagantly, or to no purpose. For example, a business that does not have an economic necessity due to COVID-19 using PPP loans presents the risk of waste of taxpayer dollars.

Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary operational practice given the facts and circumstances. For example, inflating the number of employees by a small business owner to receive a higher amount of a PPP loan would present the risk of abuse of SBA program rules.[2] Lender officials taking advantage of their positions to apply for

[1]GAO may also refer cases to agency management for investigation and administrative action, as appropriate.
[2]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sept. 10, 2014).

PPP loans would also present the risk of abuse. Fraud, waste, and abuse, while distinct concepts, are not mutually exclusive. As such, fraud, waste, and abuse are all ongoing concerns to the integrity of the Paycheck Protection Program.

4. **How does GAO plan to use loan level PPP data to detect SBA's exposure to fraud risk and individual instances of potential fraud in the program?**

   To examine SBA's exposure to fraud risk related to PPP, we plan to analyze PPP loan-level data for indicators of improper payments, including fraud risk indicators, and match the data to other data sources. For example, we plan to use data on contracts and postal addresses for our analysis and match that data to PPP loan-level data.

NAFCU
3138 10th Street North
Arlington, VA 22201-2149
703.522.4770 | 800.336.4644
f: 703.524.1082
nafcu@nafcu.org | nafcu.org

National Association of Federally-Insured Credit Unions

September 30, 2020

The Honorable Judy Chu
Chairwoman
Subcommittee on Investigations, Oversight and Regulations
Committee on Small Business
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Ross Spano
Ranking Member
Subcommittee on Investigations, Oversight and Regulations
Committee on Small Business
U.S. House of Representatives
Washington, D.C. 20515

Re: Tomorrow's Hearing, "Preventing Fraud and Abuse of PPP and EIDL"

Dear Chairwoman Chu and Ranking Member Spano:

I am writing on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's hearing, "Preventing Fraud and Abuse of PPP and EIDL: An Update with the SBA Office of Inspector General and the Government Accountability Office." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 121 million consumers with personal and small business financial service products.

As you know, credit unions have stepped up to ensure small businesses in their communities are taken care of during these uncertain times, and their response through the Paycheck Protection Program (PPP) was tremendous. Despite the uncertainty surrounding the PPP as it launched and the associated risks, credit unions did all they could to ensure their existing and new small business members were taken care of. According to a NAFCU survey, 87 percent of NAFCU members reported providing PPP loans to new members and businesses that were turned away by other lenders and came to their credit union to apply for a PPP loan. Moreover, compared to other types of lenders, credit unions disproportionately helped the smallest of small businesses. An analysis of SBA's PPP data shows that credit unions made loans in amounts much lower than the national average, with the credit union average PPP loan approximately $50,000. Furthermore, a full 70 percent of credit union PPP loans went to businesses with less than five employees. Economic Injury Disaster Loans (EIDL) are also an important tool in ensuring additional liquidity to members, and NAFCU is supportive of expanding access to these loans. We appreciate the Subcommittee's continuing oversight of these programs.

While the PPP successfully provided a lifeline to small businesses struggling through unprecedented lockdowns, there remain issues with the forgiveness process that need to be addressed. NAFCU believes it is important to simplify the loan forgiveness process and application for smaller PPP loans. While credit unions are working with their members to assist them with the current loan form, the complexity of the forgiveness rules and application is posing challenges for many small businesses who may not have the staff or expertise for such a complex application, especially with the current economic challenges. We were pleased to see the SBA take steps to address this with the creation of the 3508EZ form, but NAFCU members report that they do not see a huge difference in terms of processing the application as they still need to verify expenses and supporting documentation to ensure that they are meeting the lender requirements.

Furthermore, NAFCU members report hearing from their small business members concerns about the time and cost of correctly completing the forgiveness application. Many of those small businesses have had to seek outside assistance to help them with the form. Unfortunately, the time and money spent on forgiveness paperwork takes away from a small business's ability to serve its customers and continue to be able to pay its employees – a direct contradiction to the spirit of the PPP, which was designed to provide simplified aid to those in dire need of assistance. Recent media reports have quoted borrowers as needing 15 hours to complete the form, and lenders needing 50 to 70 hours. This time requirement is unrealistic for struggling small businesses.

That is one of the reasons why NAFCU supports of a simplified loan forgiveness process for PPP loans under a $150,000 threshold, such as proposed in H.R.7777, the *Paycheck Protection Small Business Forgiveness Act*. This bipartisan proposal would simplify the loan forgiveness process for loans under $150,000 to a one-page form. Loans under $150,000 account for 87 percent of PPP recipients but only account for 28 percent of the funds disbursed by the SBA. This level would cover most credit union loans, the vast majority of which have been to smaller businesses that could most benefit from this automatic forgiveness. A smaller PPP loan is less likely to pose a high risk of fraud so the benefits to small businesses and lenders of providing this automatic or simplified forgiveness significantly outweigh the potential risks. Moreover, such a simplified forgiveness process frees up human capital at a time when credit unions and small businesses may be short-staffed due to ramifications of COVID-19.

Understandably, the forgiveness application is one mechanism to uncover fraudulent activity; however, there are others and the SBA retains the right to review a borrower's loan documents for six years after the date the loan is forgiven or repaid in full under H.R.7777. NAFCU would urge Congress and the SBA to improve the forgiveness process by considering automatic or simplified loan forgiveness for loans below a $150,000 threshold and ensuring that there is clear and concise guidance for the forgiveness process. NAFCU supports the SBA maintaining a means of auditing forgiven loans, but we believe it is important that efforts to identify those that abused the system do not hamper the assistance that the vast majority of PPP recipients continue to need.

We thank you for the opportunity to share our perspective on this important topic in advance of this hearing. Should you have any questions or require any additional information, please contact me or Sarah Jacobs, NAFCU's Associate Director of Legislative Affairs, at (571) 289-7550 or sjacobs@nafcu.org.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the House Small Business Committee