

SBA'S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS

Report Number 22-25 | September 30, 2022





Office of Inspector General

U.S. Small Business Administration

MEMORANDUM

DATE: September 30, 2022

TO: Isabella Casillas Guzman
Administrator

FROM: Hannibal "Mike" Ware 
Inspector General

SUBJECT: SBA's Guaranty Purchases for Paycheck Protection Program Loans

The Office of Inspector General (OIG) is issuing this management advisory to bring to your attention concerns regarding the U.S. Small Business Administration's (SBA) decision to end collections on purchased Paycheck Protection Program (PPP) loans with an outstanding balance of \$100,000 or less.

In anticipation of a significant number of delinquent PPP loans that lenders will submit for guaranty purchase, we began reviewing SBA's process for approving PPP guaranty purchases. During our review, we identified concerns with SBA's decision to end collections on these loans and found that expedited management action is needed to determine whether it is cost effective to pursue collections on these loans. Management attention is needed to ensure effective stewardship of billions of dollars in potential funds owed to taxpayers. Ending collections could incentivize ineligible borrowers to obtain loans valued at \$100,000 or less in similar future loan programs. However, continuing to pursue collections will help ensure accountability from delinquent borrowers.

Background

The President signed the Coronavirus Aid, Relief, and Economic Security Act into law on March 27, 2020. Section 1102 of the Act provided \$349 billion to create the PPP under Section 7(a) of the Small Business Act. The PPP provides fully guaranteed SBA loans for certain eligible borrowers that can be forgiven if loan proceeds were used as required by the law. Through additional legislations, the total program funding increased to \$813.7 billion.

The PPP closed on May 31, 2021, after making approximately 11.8 million loans, totaling \$799.8 billion. Of these 11.8 million loans, approximately 10.1 million loans, totaling \$228.7 billion, were valued at \$100,000 or less. Lenders must continue to service their PPP loans until the loans are either fully forgiven, paid in full, or until SBA purchases the guaranty and charges off any uncollectable remaining balance. A guaranty purchase is defined as SBA's purchase of the guaranteed portion of the loan. SBA's guaranty purchase for PPP loans was 100 percent of the loan amount if the lender complied with all applicable PPP requirements. A charge off is defined as an SBA administrative action whereby a loan is reclassified to "charge-off" status, meaning the outstanding balance of the loan is removed from the agency's accounting records. On July 15, 2021, SBA began allowing lenders to submit PPP guaranty purchase requests using the Paycheck Protection Platform.

On April 27, 2022, SBA made a decision to formally end collections on purchased PPP loans

with an outstanding balance of \$100,000 or less. SBA's rationale for the decision was to provide equitable treatment between smaller sole proprietor borrowers not protected by an incorporation shield and larger incorporated borrowers. In addition, SBA indicated that the cost to collect the purchased PPP loans would likely be more than the recovery amount. Therefore, borrowers that have a purchased PPP loan with an outstanding balance of \$100,000 or less would not be referred to the U.S. Department of the Treasury for collections or other collection measures.

As of July 14, 2022, borrowers have not sought forgiveness for approximately 1.04 million loans valued at \$100,000 or less, totaling approximately \$17.3 billion.

SBA Ended Collections on Purchased PPP Loans with a Balance of \$100,000 or Less

As of June 30, 2022, SBA had ended debt collections on approximately 59,000 purchased PPP loans valued at \$100,000 or less, totaling approximately \$1.1 billion. SBA purchased these PPP loans because the lender identified that the borrowers were 60 days or more past due on scheduled loan payments.¹ However, SBA did not pursue collections on these loans. Instead, SBA charged off these loans and made no referral to Treasury, without conducting a sufficient cost benefit analysis to support ending collections.

The Debt Collection Improvement Act allows agencies to suspend or end collections on claims of not more than \$100,000 when it appears that the cost of collecting the claim is likely to be more than the amount recovered. Absent this condition, before making a Treasury referral, SBA must send a letter to the borrower giving them 60 days to either pay the loan in full or negotiate an acceptable payment plan. Loans that are referred to Treasury go through its two delinquent debt collection programs, the Treasury Offset Program (TOP) and the Cross-Servicing program. Under TOP, delinquent debt is collected through funds that are due to the delinquent borrower from government sources, such as tax refunds and wages and payments if the borrower is a government employee or contractor. Cross-Servicing collects delinquent debt using a variety of methods, such as wage garnishment, negotiated repayment, and use of private collection agencies. Treasury also takes action to prevent borrowers from receiving additional federal financial assistance.

Based on our review of SBA's documentation to support ending collections on PPP loans, we determined that SBA's analysis conducted in April 2022 was not comprehensive to sufficiently support that the cost to pursue collections on PPP loans valued at \$100,000 or less was likely more than the recovery amount. Specifically, SBA did not include comprehensive estimates of the expected costs and benefits for PPP collections as

¹ SBA Procedural Notice 5000-812316, SBA Guaranty Purchases and Lender Servicing Responsibilities for PPP Loans identifies the circumstances under which a lender may simultaneously request guaranty purchase and charge-off. These circumstances include when the borrower is 60 days or more past due on scheduled loan payments and the default has not been resolved, and when the borrower is permanently closed, bankrupt, or deceased.

recommended by Office of Management and Budget (OMB) Circular A-94². Circular A-94 recommends that cost benefit analysis should include comprehensive estimates of expected benefits and costs based on established practices for program and policy evaluation.

Although SBA began purchasing these PPP loans in July 2021, SBA did not conduct a cost benefit analysis until April 2022, and the analysis did not have specific assessments of costs to collect or potential recovery amounts for PPP loans.

SBA did not analyze quantitative PPP data to support that the potential cost of collecting on a PPP loan is likely to be more than the amount recovered. For example, SBA did not analyze the costs of the number of employees and related training that would be needed to collect on PPP loans. SBA did not analyze administrative costs to process PPP collections, including mailing costs.

In addition, SBA did not assess any estimated PPP recovery amounts, such as amounts recovered at the individual loan level or total program level. These amounts would be needed to substantiate that the cost to pursue collections on PPP loans valued at \$100,000 or less was likely more than the recovery amount and a potential break-even point. Furthermore, 31 Code of Federal Regulations Section 901.10 states that agencies should conduct periodic comparisons of costs incurred and amounts collected to establish points at which costs of further collections efforts are likely to exceed recoveries.

We also did not find any evidence that SBA made any attempts to collect on the purchased PPP loans. At the onset of SBA purchasing the PPP loans in July 2021, it decided not to pursue debt collection for the purchased PPP loans. Although SBA delegated collection efforts to lenders, SBA management has overall responsibility to ensure that adequate collection efforts were in place and pursued. We found no evidence that SBA had a formal process to review lender compliance with debt collection activities in its PPP loan guaranty purchase process, including ensuring lenders sent out 60-day demand letters to borrowers in default. To ensure lenders complied with debt collection activities, SBA management stated that they relied on a lender's assertion in the electronic guaranty purchase application. However, SBA did not require the lenders to provide a copy of the 60-day demand letter nor did it conduct periodic reviews to ensure lender compliance with debt collection activities. Therefore, SBA has no assurance that lenders complied with their debt collection responsibilities. The *Standards for Internal Control in the Federal Government* recommends management create documented processes and policies for the organization's internal controls.³ We are not making a recommendation at this time but plan to review this issue further during the ongoing inspection.

The Federal Claims Collection Standards states that before terminating collection of a claim, the agency should have pursued all appropriate means of collection and determined based on these efforts that the debt is uncollectable. We found no evidence that SBA sufficiently explored alternative collection options, such as contracting out collection efforts. For example, in the Economic Injury Disaster Loan (EIDL) program, SBA contracted with a third

² OMB Circular A-94 provides extensive guidance for agencies conducting cost benefit analysis of federal programs. The circular is only mandatory in submissions to the OMB, but the guidelines are suggested for use in the internal planning of executive branch agencies.

³ GAO-14-704G, *Standards for Internal Controls in the Federal Government* (September 2014).

party to identify other alternative means of collections. The third party identified multiple alternative means of collections, including outsourcing collection activities. Although the EIDL program is different from PPP, SBA did seek to identify other appropriate means of collections.

During our exit briefing on September 8, 2022, SBA management acknowledged that they did not prepare a formal, written cost benefit analysis. However, they informally discussed key factors that would contribute to the estimated recovery and cost amounts associated with Treasury referrals. Subsequently, on September 9, 2022, SBA management provided a document explaining their rationale for ending collection on purchased PPP loans valued at \$100,000 or less and detailing the recovery and costs factors discussed. The estimated recovery factors included:

- Expected recovery amounts from corporate borrowers, sole proprietors, and independent contractors
- Historical Treasury collections for SBA express working capital loans of \$100,000 or less made to sole proprietors
- SBA's expectations that at least 10 percent of borrowers that have not submitted forgiveness will submit a forgiveness application within the 5 years from disbursements that will ultimately be forgiven

The estimated cost factors included:

- Staffing and labor costs
- Information technology and communication expenses
- Administrative wage garnishment hearing fees
- Mailing costs

The document provided on September 9, 2022 was not comprehensive and did not sufficiently support SBA's conclusion that the costs to collect would exceed recoveries. For example, SBA still did not conduct a sufficient initial and periodic cost benefit analysis on PPP purchase guarantees. The document did not contain supporting data to substantiate SBA's assertions and conclusions.

The Debt Collection Improvement Act also allows agencies to suspend or end collections on claims of not more than \$100,000 when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim. We found that SBA's analysis did not sufficiently support this in instances of the purchased PPP loans. Specifically, SBA's analysis identified borrowers who would be liable for the debt, including sole proprietors, self-employed individuals, and independent contractors. However, since SBA never attempted to collect on these purchased PPP loans or ensured lenders pursued collection, it is unclear how SBA determined that these persons did not have the present ability or prospective ability to pay a significant amount of the debt.

SBA also stated in its analysis that the decision to end collections was to ensure equitable treatment between smaller sole proprietor borrowers and larger incorporated borrowers. SBA stated that if they pursued collections, the individuals associated with the generally larger incorporated borrowers would suffer nothing, whereas the individual sole proprietors,

not protected by the incorporation shield, would incur collection efforts that the larger, incorporated borrowers would avoid. However, SBA's analysis did not support equitable treatment as it did not provide any specific data on the breakdown of individual and corporate borrowers nor any quantitative assessment of effect to each type of borrower.

SBA ending collections on PPP loans valued at \$100,000 or less is not in compliance with applicable criteria because SBA did not conduct a sufficient and comprehensive cost benefit analysis to substantiate that the cost to pursue collections on these loans was likely more than the recovery amount.

As a result, SBA is potentially increasing the taxpayer burden by missing the opportunity to collect on these delinquent PPP loans, totaling approximately \$1.1 billion in taxpayer funds. Although it is difficult to quantify the effect of not promptly initiating collection actions, according to Treasury guidance, the ability of an agency to collect its delinquent debts will generally decrease as debts get older. Ending collections could set a precedence for future stimulus programs and incentivize ineligible borrowers to obtain loans valued at \$100,000 or less. However, continuing to pursue collections will help ensure accountability from delinquent borrowers and promote program integrity.

Recommendations

We recommend the Administrator:

1. Stay the April 27, 2022 decision to end collections on purchased PPP loans with an outstanding balance of \$100,000 or less until a comprehensive cost benefit analysis is conducted.

We recommend the Administrator direct the Associate Administrator for the Office of Capital Access to:

2. Explore alternative means of collections for PPP loans with an outstanding balance of \$100,000 or less.
3. Conduct an initial and periodic cost benefit analysis on PPP purchase guarantees with comprehensive estimates to sufficiently assess whether the cost of collecting loans of \$100,000 or less is more than the recovery amount and pursue collections based on results of the analysis.

Analysis of Agency Response

SBA management provided formal comments that are included in their entirety in Appendix I. Management disagreed with recommendations 1 and 2 and agreed with recommendation 3. In their response, management provided background information on the PPP guaranty process, lender responsibilities, related PPP and 7(a) Loan Program regulations, and the key factors and results from their analysis of estimated costs and recoveries. We plan to review lender responsibilities and oversight further during the ongoing inspection. We considered management's comments when preparing this final report.

The following provides the status of the recommendations and necessary actions to close them.

1. Closed. SBA management disagreed with our recommendation stating that the decision to end collection on PPP loans of \$100,000 or less complied with the DCIA. Moreover, management stated that DCIA does not require that the agency conduct a comprehensive cost benefit analysis. DCIA only requires that the agency demonstrate that "the cost of collecting the claim is likely to be more than the amount recovered," which SBA has already completed in its September 9, 2022 memorandum. Lastly, guidance set forth in Circular A-94 regarding the execution of a cost benefit analysis is inappropriate here as this Circular only relates "to any analysis used to support Government decisions to initiate, renew, or expand programs or projects which would result in a series of measurable benefits or costs extending for three or more years into the future." Circular A-94 also states that it "does not supersede agency practices which are prescribed by or pursuant to law." Management asserted SBA's decision to end collections on PPP loans with an outstanding balance of \$100,000 or less is not a new program or project and is consistent with current law.

The DCIA allows agencies to suspend or end collections on claims of not more than \$100,000 when it appears the cost of collecting the claim is likely to be more than the amount recovered. SBA provided documentation of its analysis on April 5, 2022, September 9, 2022, and in its management response to show that it complied with the DCIA requirement that the costs of collecting the claim is likely to be more than the amount recovered. However, the analysis was not comprehensive and did not sufficiently support SBA's conclusion that the costs to collect would exceed recoveries for PPP. The documentation did not contain supporting source data and information to fully substantiate SBA's assertions and conclusions. While Circular A-94 is not referenced in the DCIA relative to assessing collection costs versus recoveries, Circular A-94 does provide extensive guidance and should be used as a best practice for conducting a complete and adequate cost benefit analysis.

Notwithstanding, with the implementation of recommendation 3 discussed below, our concern about conducting a comprehensive and sufficient cost benefit analysis should be addressed. In the interim, absent a comprehensive cost benefit analysis, there is risk that key factors affecting costs and recovery amounts may be missing in SBA's assessment. Nonetheless, we consider this recommendation closed upon the issuance of this report.

2. Unresolved. SBA management disagreed with our recommendation stating that alternative means of enforced collection would not be cost effective due to the lack of collateral and personal guaranties.

Although management stated that alternative means of enforced collection would not be cost effective, SBA did not provide supporting evidence for its conclusion. By exploring alternative means of collections, which could involve hiring a third party as was done for the EIDL program, SBA could identify feasible and cost effective alternatives for collections. SBA also stated ending collections did not prevent it from taking other actions against the borrowers, such as reporting the borrowers to U.S. Department of Housing and Urban Development Credit Alert System (CAIVRS) and to credit reporting bureaus. However, we did not find evidence that SBA took other actions against the borrowers because SBA stated it ended collection activities. We plan to review reporting activities further during the ongoing inspection.

In accordance with our audit follow-up policy, we will attempt to reach agreement with management on the unresolved recommendation. If agreement is not reached, we will elevate the disputed issue to the designated audit follow-up official.

3. Resolved. SBA management agreed with our recommendation stating that it will utilize a third-party contractor to perform a cost benefit analysis on PPP purchased guarantees with comprehensive estimates to sufficiently assess whether the cost of collecting loans of \$100,000 or less is more than the expected recovery amount and determine if pursuing collections is cost effective. SBA will not issue IRS Form 1099 charged off PPP loans of \$100,000 or less until the study is complete, which will preserve SBA'S ability to collect the charged off debt, if appropriate. Management plans to complete final action on this recommendation by September 29, 2023.

This recommendation can be closed when management provides evidence that it or a third-party contractor conducted a cost benefit analysis on PPP purchase guarantees with comprehensive estimates to sufficiently assess whether the cost of collecting loans of \$100,000 or less is more than the recovery amount, and pursued collections based on results of the analysis.

Scope and Methodology

We prepared this management advisory to bring to your attention serious concerns about SBA's decision to end collections on purchased PPP loans with an outstanding balance of \$100,000 or less as of June 30, 2022, the end of our review period. We reviewed federal laws, regulations, policies, procedures, and internal memos pertaining to SBA guaranty purchases for PPP loans. We also interviewed officials from the SBA Office of Capital Access to discuss guaranty purchase process for PPP loans.

Additionally, we used E-Tran computer-generated data obtained from SBA to conduct our analysis, and we performed limited testing of the data. We believe that the data is sufficiently reliable to support our findings.

This management advisory was prepared in alignment with OIG's quality control standards and the Council of the Inspectors General on Integrity and Efficiency *Quality Standards for Federal Offices of Inspector General*, which requires that we conduct our work with integrity, objectivity, and independence. This advisory is part of our ongoing inspection of SBA's guaranty purchase process for PPP loans.

If you have any questions, please contact me or Andrea Deadwyler, Assistant Inspector General for Audits, at (202) 205-6586.

cc: Patrick Kelley, Associate Administrator, Office of Capital Access
Therese Meers, Acting General Counsel, Office of General Counsel
John Miller, Deputy Associate Administrator, Office of Capital Access
Michael Simmons, Attorney Advisor, Office of General Counsel
Katherine Aaby, Associate Administrator, Office of Performance, Planning, and the
Chief Financial Officer
Erica Gaddy, Deputy Chief Financial Officer
Tonia Butler, Director, Office of Internal Controls

Appendix I: Management Comments

SBA RESPONSE TO MANAGEMENT ADVISORY REPORT



To: Hannibal “Mike” Ware, Inspector General

From: Jihoon Kim, Director, Office of Financial Program Operations **Ji KIM**

Digitally signed by Ji KIM
Date: 2022.09.29 09:56:25 -04'00'

Date: September 28, 2022

Subject: Response to OIG Draft Memorandum – SBA’s Guaranty Purchases for Paycheck Protection Program Loans (Project 22013)

We appreciate the role the Office of Inspector General (OIG) plays in working with management in ensuring that our programs are effectively managed, and for the feedback provided in this draft report.

Small Business Administration (SBA) strives to process PPP guaranty purchase requests consistent with The Coronavirus Aid, Relief, and Economic Security (CARES) Act, as amended by the Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act, the American Rescue Plan Act of 2021, and the PPP Extension Act of 2021 and Interim Final Rules issued by SBA and Treasury. SBA implemented a guaranty purchase process that maximizes program integrity and optimizes the use of SBA resources, considering the statutory terms and conditions of PPP loans and the challenges posed by the volume of PPP loans. Under the CARES Act, PPP loans were designed to be forgiven up to the full principal amount of the loan if the borrower used loan proceeds on eligible purposes and, in the event of default, were 100% guaranteed by SBA. PPP Lenders had delegated authority to originate and service PPP loans without prior SBA review and were not allowed to assess repayment ability at loan origination and were not permitted to require a personal guaranty or take collateral. In 2020 and 2021, 11.5 million PPP Loans were approved. Of this, 10.1 million PPP Loans are loans \$100,000 or less.

Since the CARES Act amended Section 7(a) of the Small Business Act when it created PPP and is silent on lender responsibilities for servicing and collection, PPP lenders observe 7(a) Loan Program practices unless otherwise specified (SBA Procedural Notice 5000-20038, Procedures for Lender Submission of Paycheck Protection Program Loan Forgiveness Decisions to SBA and SBA Forgiveness Loan Reviews). 7(a) Lenders must service and liquidate the entire debt owed on each 7(a) Loan—not just the Lender’s portion—regardless of the guaranteed percentage or whether the guaranty has been purchased and have unilateral authority to take all necessary action to service and liquidate the 7(a) Loans in their portfolio.

PPP Lenders were specifically informed of their servicing responsibilities with the issuance of SBA Procedural Notice 5000-812316, SBA Guaranty Purchases and Lender Servicing Responsibilities for PPP Loans. According to the Notice, PPP lenders are required to service PPP loans until they are fully forgiven or paid in full or, in the event of a default or other qualifying event, until SBA purchases the guaranty and charges off any uncollectable remaining balance. Prior to SBA purchase of the guaranty, PPP Lenders are required to communicate with borrowers that do not receive forgiveness to determine the status of the business (e.g., whether the business is open, closed, in bankruptcy, etc.) and notify borrowers of the date the first payment on the loan is due. The Notice also informs PPP Lenders of their responsibility to make demand for payment in full when a PPP borrower becomes more than 60 days past due, which is consistent with requirements for 7(a) Lenders. Because PPP loans have no collateral and no personal guaranty, enforced collection of a defaulted PPP loan is not cost effective for lenders.

A PPP Lender may simultaneously request a guaranty purchase and charge-off of the uncollectable balance from SBA when the borrower becomes more than 60 days delinquent. Charge-off of an SBA loan, including PPP loans, is appropriate when:

1. All reasonable efforts have been exhausted to achieve recovery from: (1) voluntary payments on the Note; (2) compromise with the Obligors; (3) liquidation of the collateral; and (4) enforced collection; and
2. Further collection efforts are not cost effective or practical; and
3. Remaining legally obligated Obligors cannot be located, are unable to pay the loan balance, or are unwilling to pay the loan balance; or
4. The loan balance is uncollectible due to discharge in bankruptcy (i.e., release of the debtor from any further personal liability for pre-bankruptcy debts), expiration of the statute of limitations (i.e., the passing of the deadline for suing), or the existence of another defense available to the remaining Obligors under state or federal law.

After charge-off, if further collection is not barred by a valid legal defense such as compromise, discharge in bankruptcy, or the statute of limitations, SBA is generally required to refer the loan and remaining Obligors to Treasury for further collection efforts. The Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. § 3711(a)(2)-(3), allows agencies, including SBA, within its own authority to suspend or end collection action on a claim of not more than \$100,000 (excluding interest) when it appears that (1) no person liable on the claim has the present or prospective ability to pay a significant amount of the claim; or (2) the cost of collecting the claim is likely to be more than the amount recovered. Additional standards for terminating collection are set forth in Treasury regulations at 31 C.F.R. § 903.3 which states that "agencies may terminate collection activity when... (3) the costs of collection are anticipated to exceed the amount recoverable." In addition to the authority in the DCIA and Treasury regulations, the Administrator of the SBA is empowered to "take any and all actions when [s]he determines such actions are necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans." 15 U.S.C. § 634(b)(7).

SBA performed an analysis to compare estimated costs associated with referring PPP loans of \$100,000 or less to Treasury for further collection with expected recoveries that would be generated from the referrals. Cost estimates were based on the Agency's experience with referring defaulted 7(a), 504 and Disaster loans to Treasury for further collection and included costs for labor, information technology, Administrative Wage Garnishment hearings, and mailing costs. To estimate potential recoveries, SBA analyzed historical Treasury collections on SBA Express working capital loans of \$100,000 or less made to sole proprietors between 2009 and 2022. The SBA Express program reduces the number of government mandated forms and procedures, streamlines the processing, and provides Lenders with expanded authority and autonomy. The program allows Lenders to utilize, to the maximum extent practicable, their respective loan analyses, procedures, and documentation. SBA Express loans that were used for working capital were selected because PPP loans were also working capital loans that could be used for payroll and other eligible short-term operating expenses. SBA's analysis found that Treasury recovered only \$65,000, or 0.28% (0.002765957), out of \$23.5 million that was referred for further collection. This population of SBA Express loans is most analogous to PPP loans of \$100,000 or less. Moreover, SBA's experience is that recoveries on PPP loans will be even lower due to the lack of a personal guaranty, which is the primary source of recovery on small dollar, unsecured SBA Express loans. For example, tax refunds for individuals that personally guaranty SBA Express loans are offset by Treasury to reduce the balance owed to SBA.

SBA's analysis demonstrated that the cost of referring PPP loans of \$100,000 or less to Treasury for further collection would be more than double estimated recoveries. A PPP Lender's request for guaranty purchase and charge off demonstrates that appropriate means of collection have been exhausted and that there is little, or no likelihood of timely, prudent and cost-effective recoveries expected. Therefore, SBA's decision to end collection of charged-off PPP loans of \$100,000 or less is a prudent business decision that minimizes costs to American taxpayers. It is important to note, that this action does not prevent SBA from taking other actions against charged-off PPP borrowers, such as reporting the borrowers to U.S. Department of Housing and Urban Development Credit Alert System (CAIVRS) and to credit reporting bureaus.

Additionally, PPP Borrowers may submit a forgiveness application for any time on or before the maturity date of the loan (5 years from disbursement), even if the loan has already been purchased and charged off by SBA. As of August 31, 2022, 75,000, or 88%, of borrowers with purchased and charged off PPP loans of \$100,000 or less did not apply for forgiveness before the lender requested guaranty purchase. It would be premature to refer these borrowers to Treasury for collection before SBA considers their forgiveness applications.

Management's responses to the recommendations in the draft report are noted below:

Recommendation 1 – Stay the April 27, 2022 decision to end collections on purchased PPP loans with an outstanding balance of \$100,000 or less until a comprehensive cost benefit analysis is conducted.

Response – SBA disagrees. SBA's decision to end collection on PPP loans of \$100,000 or less complied with the Debt Collection Improvement Act of 1996, relevant Treasury regulation and 15 U.S.C. § 634(b)(7). Moreover, DCIA does not require that the agency conduct a comprehensive cost benefit analysis. DCIA only requires that the agency demonstrate that "the cost of collecting the claim is likely to be more than the amount recovered" which SBA has already completed in its September 9, 2022 memorandum. Lastly, guidance set forth in OMB Circular A-94 regarding the execution of a cost benefit analysis is inappropriate here as this Circular only relates "to any analysis used to support Government decisions to initiate, renew, or expand programs or projects which would result in a series of measurable benefits or costs extending for three or more years into the future." The Circular also states that it "does not supersede agency practices which are prescribed by or pursuant to law." See OMB Circular A-94 Revised Section 4 (Scope) (1992). SBA's decision to end collections on PPP loans with an outstanding balance of \$100,000 or less is not a new program or project and is consistent with current law.

Recommendation 2 – Explore alternative means of collections for PPP loans with an outstanding balance of \$100,000 or less.

Response – SBA disagrees. Alternative means of enforced collection would not be cost effective due to the lack of collateral and personal guaranties.

Recommendation 3 – Conduct an initial and periodic cost benefit analysis on PPP purchase guarantees with comprehensive estimates to sufficiently assess whether the cost of collecting loans of \$100,000 or less is more than the recovery amount and pursue collections based on results of the analysis.

Response – SBA agrees. SBA will utilize a third-party contractor to perform a cost benefit analysis on PPP purchase guarantees with comprehensive estimates to sufficiently assess whether the cost of collecting loans of \$100,000 or less is more than the expected recovery amount and determine if pursuing

collections is cost effective. SBA will not issue IRS Form 1099 charged off PPP loans of \$100,000 or less until the study is complete, which will preserve SBA's ability to collect the charged off debt, if appropriate.

Final Action Date – September 29, 2023