

# **Serious Concerns Regarding the Return of Paycheck Protection Program Funds**



**Management Advisory**

**Report 23-08**

**May 31, 2023**




**OFFICE OF INSPECTOR GENERAL  
U.S. SMALL BUSINESS ADMINISTRATION**

**MEMORANDUM**

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**Date:** May 31, 2023

**To:** Isabella Casillas Guzman  
Administrator

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

**Subject:** Serious Concerns Regarding the Return of Paycheck Protection Program Funds  
(Report 23-08)

The Office of Inspector General (OIG) is issuing this management advisory to bring to your attention concerns regarding the return of Paycheck Protection Program (PPP) funds. This issue requires immediate attention and action by the U.S. Small Business Administration (SBA) to ensure it has processes and procedures in place to adequately accept, process, and account for PPP funds returned by borrowers, lenders, and financial institutions. Expedited management action should mitigate the risk of financial loss to taxpayers.

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

cc: Bailey DeVries, Associate Administrator, Office of Investment and Innovation, and Acting Associate Administrator, Office of Capital Access  
Arthur Plews, Chief of Staff  
Therese Meers, General Counsel, Office of General Counsel  
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John Miller, Deputy Associate Administrator, Office of Capital Access  
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Tonia Butler, Director, Office of Internal Controls

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## **Background**

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was enacted on March 27, 2020 to provide economic relief to small businesses from the effects of the Coronavirus Disease 2019 pandemic. Section 1102 of the CARES Act established the Paycheck Protection Program (PPP) with \$349 billion to provide fully guaranteed loans under section 7(a) of the Small Business Act. The PPP provided loans to certain eligible borrowers that can be forgiven if borrowers used the loan proceeds as required by the law. Through additional legislation, total program funding increased to \$813.7 billion and, as of February 28, 2023, SBA had approved almost \$10.6 million PPP forgiveness requests for over \$754 billion.

## **Prior OIG Recommendations**

In fiscal year (FY) 2022, we found that SBA did not provide comprehensive fraud guidance to lenders and received numerous inquiries regarding how to handle potentially fraudulent PPP loans. The lenders also reached out to the Office of Inspector General (OIG) for guidance on how to:

- recover fraudulently obtained funds from PPP loans remaining in the borrower's account as well as funds the borrower withdrew,
- handle seized funds from PPP loans,
- return remaining funds for potentially fraudulent PPP loans,
- handle deposits from potentially fraudulent PPP loans, and
- handle the remaining unspent funds that a borrower received from a potentially fraudulent PPP loan.

We recommended and SBA agreed to:

1. Establish clearly defined and detailed roles, responsibilities, and processes for all SBA offices and officials responsible for managing and handling potentially fraudulent PPP loans to reduce the risk of ineligible applicants receiving PPP forgiveness and the risk of fraud and financial loss in the PPP and when implementing similar future programs.
2. Provide lenders formal guidance to effectively and consistently handle potentially fraudulent PPP loans and ensure lenders have sufficient guidance when implementing similar future programs.<sup>1</sup>

SBA officials requested closure for both recommendations by September 30, 2022; however, we denied the request because SBA did not establish sufficient processes for returning funds and did not provide lenders with related formal guidance. Specifically, SBA did not fully address the requested guidance in recommendation 2 or provide guidance on how to handle the return of funds for forgiven PPP loans. On December 15, 2022, SBA requested extensions on both recommendations to March 31, 2023, to allow time to develop funds recovery procedures and OIG approved the extensions. On March 24, 2023, SBA management requested, and OIG approved, extensions on both recommendations to June 30, 2023.

We are monitoring lender guidance through the open recommendations to ensure it contains information on returning PPP funds. However, since issuing the report, we have identified an additional critical element for lender guidance as well as a similar need for comprehensive guidance for borrowers and financial institutions that receive deposits for PPP funds.

## **Need for Comprehensive Process and Guidance for Returning PPP Funds**

SBA's guidance to borrowers and lenders on returning PPP funds is insufficient as it does not cover how funds can be returned at the time of forgiveness. In addition, SBA does not have specific guidance for financial institutions that need to return deposits related to PPP funds.

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<sup>1</sup> SBA OIG, 22-13, *SBA's Handling of Potentially Fraudulent Paycheck Protection Program Loans*, (May 26, 2022).

## **Borrower and Lender Guidance**

SBA's website instructs borrowers with PPP loans for which SBA has not paid the guarantee (non-purchased loans) to contact their lender for repayment. Borrowers with loans for which SBA has paid the guarantee (purchased loans) have additional options for repayment. In some cases, the need to repay the loan was due to the PPP application process, which allowed borrowers to apply with multiple lenders, potentially resulting in duplicate loans in the early stages of the PPP. However, there is no detailed guidance for borrowers regarding repayment of forgiven loans. Further, we were advised that some lenders are informing borrowers that the agency cannot accept funds. Based on correspondence we reviewed, we believe this is likely because SBA has forgiven the loan.

There is lender guidance that explains lender responsibility for accepting PPP funds for purchased loans; however, it does not include requirements for accepting funds if the loan was forgiven.

We met with SBA officials on September 29, 2022 to discuss the need for a process and guidance for lenders who receive funds resulting from investigations, seizures, or other law enforcement actions. During this meeting, we suggested that SBA require lenders who return funds to SBA to:

- explain why the borrower is returning PPP funds,
- provide the source of the funds (bank account, payment via check, Automated Clearing House, or wire) to investigations personnel, and
- report monthly the amount of funds received from overpayments and the overpayment amounts that were returned to SBA.

In response to the meeting, SBA officials indicated they would create a working group to develop policy and determine the best process for receiving PPP returned funds. However, as of the issuance of this report, SBA has not finalized the policy for receiving PPP returned funds.

## **Financial Institution Guidance**

SBA did not provide guidance to financial institutions that received PPP loan deposits on how to return PPP funds. Two financial institutions have frozen about \$95 million in PPP loan deposits that they suspected of fraudulent activity; however, these institutions have not returned potential taxpayer funds to the government because they did not have sufficient guidance on how to return these funds to SBA.

## **SBA's Tracking of Returned PPP Funds**

As of December 9, 2022, SBA indicated it was tracking 1,943 PPP loans for the return of funds, with a total loan amount of approximately \$41 million. SBA is tracking these loans on an ad hoc basis using a spreadsheet based on referrals from lenders, SBA personnel, and OIG. These loans do not include seized PPP funds. As of February 1, 2023, OIG was aware of almost \$32 million in seizures related to the PPP that SBA is pursuing in addition to the \$95 million in frozen PPP funds. SBA has identified a limited number of seizure activities by government agencies and frozen PPP funds from financial institutions. However, due to the informal, ad hoc nature of SBA's tracking, the full scope of these funds is unknown.

According to SBA personnel, borrowers have erroneously made payments to SBA rather than directly to the lender. As a result, SBA is required to return the payments to the borrower so that the borrower can pay the lender. However, some of these loans have indications of potential fraud and SBA personnel do not know how the return should be handled.

## **Conclusion**

Establishing clear and detailed guidance for borrowers, lenders, and financial institutions on how to return PPP funds and implementing a process for SBA to accurately handle and track the returned funds should mitigate the risk of financial loss. SBA should take immediate action to ensure it has processes and procedures in place to adequately accept, process, and account for returned PPP funds.

## **Suggested Actions for SBA**

To ensure PPP funds are returned as appropriate, we suggest the Administrator direct the Associate Administrator for the Office of Capital Access to:

1. Provide detailed guidance to borrowers on returning PPP funds to lenders if the loan was forgiven or guaranty purchased.
2. Provide detailed guidance to lenders on their responsibilities for accepting PPP funds if the loan was forgiven, to include documenting reasons for the return of funds, returning the funds to SBA, conducting a fraud review, reversing forgiveness when appropriate, and handling loans with only a partial return of funds.
3. Seek periodic assurance from lenders that all PPP funds returned to lenders have been reported and returned to SBA. The report to SBA should include details on the source of the returned funds.
4. Provide detailed guidance to financial institutions that receive PPP fund deposits for borrowers regarding how to return PPP funds if there is suspected fraud or other issues that would warrant returning funds.



## **Evaluation of Agency Response**

Although a formal response was not required, SBA management indicated in e-mail correspondence that managers are continuing to formalize a PPP funds recovery process, which will include guidance to borrowers, lenders, and financial institutions on how to return PPP funds. SBA management anticipates issuing the guidance in the fourth quarter of FY 2023. We will monitor management's actions through our follow-up process.

This management alert 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.