

SBA's Oversight of Restaurant Revitalization Fund Recipients



Audit Report
Report 23-15
September 29, 2023



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NOTICE:

Pursuant to the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Public Law 117-263, Section 5274, any nongovernmental organizations and business entities identified in this report have the opportunity to submit a written response for the purpose of clarifying or providing additional context as it relates to any specific reference contained herein. Comments must be submitted to AIGA@sba.gov within 30 days of the final report issuance date. We request that any comments be no longer than two pages, Section 508 compliant, and free from any proprietary or otherwise sensitive information. The comments will be appended to this report and posted on our public website.



U.S. Small Business Administration Office of Inspector General

EXECUTIVE SUMMARY

SBA's Oversight of Restaurant Revitalization Fund Recipients (Report 23-15)

What OIG Reviewed

We reviewed the U.S. Small Business Administration's (SBA) oversight of Restaurant Revitalization Fund (RRF) recipients.

The American Rescue Plan Act of 2021 authorized SBA to administer the RRF and provided \$28.6 billion to assist eligible small businesses adversely affected by the Coronavirus Disease 2019 (COVID-19) pandemic.

The objectives of this audit were to determine whether SBA implemented a process to 1) monitor the recipient's use of funds and 2) ensure unused funds were returned to the U.S. Department of the Treasury. To accomplish our objectives, we reviewed applicable public laws, regulations, and agency guidance and interviewed SBA officials. We also reviewed SBA's documentation for 88 awards it reviewed, performed data analytics on RRF data, and reviewed SBA's actions to recover unused or improperly awarded funds.

What OIG Found

Program officials developed a plan for monitoring RRF award recipients use of funds and recovering unused or improperly awarded funds. However, program implementation was not executed in accordance with the plan. Specifically, program officials did not obtain sufficient information to monitor the RRF program to ensure it was being administered as intended. As of June 28, 2023, over 20,000 recipients, receiving approximately \$3.5 billion, had not filed any of the required reports.

In addition, program officials selected 10 percent of the awards to review and periodically added awards that had indicators of potential ineligibility or fraud; however, not all of these awards were included for review. Further, program officials did not set a timeline to complete the review of awards.

After 10 months, program officials completed review of only 88 awards, which is less than 1 percent of the awards selected for review. As of August 2023, program officials have completed over 1,400 reviews. At this rate of review, we estimate it will take nearly 5 years to complete the remaining reviews, which is concerning because the reviews would extend beyond the required timeframe for retaining award records.

Lastly, program officials did not implement procedures to return unused or improperly awarded funds to the U.S. Department of the Treasury. As a result, \$39 million remained in the hands of recipients who were not supposed to receive funding. Program officials have not taken any additional action to recover these funds and the recipients did not return the funds.

What OIG Recommended

We made six recommendations for SBA to develop processes and procedures to improve oversight of RRF program recipients and recover unused or improperly awarded funds.

Agency Response

SBA management agreed or partially agreed with five recommendations and disagreed with one recommendation. SBA plans to contact all non-compliant recipients and assess program resources to ensure post award reviews are conducted timely. SBA also plans to recover improper payments from ineligible recipients. Lastly, SBA plans to implement procedures to recover unused funds or funds paid to ineligible recipients. We did not reach resolution on recommendation 3. As such, we will seek resolution in accordance with our audit follow-up policy.




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

MEMORANDUM

Date: September 29, 2023

To: Isabella Casillas Guzman
Administrator

From: Hannibal "Mike" Ware 
Inspector General

Subject: Audit of SBA's Oversight of Restaurant Revitalization Fund Recipients (Report 23-15)

This report represents the results of our audit *SBA's Oversight of Restaurant Revitalization Fund Recipients*. We considered management comments on the draft of this report when preparing the final report, and revised finding 2 and recommendation 2 to reduce the number of awards not selected for post award reviews. SBA management agreed with three recommendations, partially agreed with two recommendations, and disagreed with one recommendation.

We appreciate the cooperation and courtesies provided by your staff. If you have any questions or need additional information, please contact me or Andrea Deadwyler, Assistant Inspector General for Audits, at (202) 205-6586.

cc: Dilawar Syed, Deputy Administrator
Arthur Plews, Chief of Staff
Therese Meers, General Counsel, Office of General Counsel
Kathryn Frost, Acting Associate Administrator, Office of Capital Access
John Miller, Deputy Associate Administrator, Office of Capital Access
Katherine Aaby, Associate Administrator, Office of Performance, Planning, and the Chief Financial Officer
Cynthia Pitts, Acting Director, Office of Continuous Operations and Risk Management
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Introduction

This report presents the results of our audit of the U.S. Small Business Administration's (SBA) oversight procedures for ensuring that Restaurant Revitalization Fund (RRF) program funds were properly monitored and recovered in case of fraud or misuse. We audited the agency's process for monitoring RRF awards and its review of 10 percent of the awards after they had been disbursed. We also reviewed SBA's procedures for recovering funds that were misused or improperly awarded to ineligible recipients.

Background

The American Rescue Plan Act of 2021 established the RRF with \$28.6 billion to help small businesses in the food service industry adversely affected by the Coronavirus Disease 2019 (COVID-19) pandemic. Eligible businesses were defined as those that primarily served food or drinks, such as restaurants, bars, caterers, and food trucks, and included those that were not permanently closed.¹

SBA provided up to \$5 million per physical business location and could not exceed \$10 million per applicant.² Recipients could use funds to cover payroll, rent or mortgage payments, debt services, utilities, maintenance, construction of outdoor seating, supplies, and other operational expenses.³

The program opened for applications in May 2021. SBA received 278,304 RRF applications requesting \$72.2 billion in relief payments. SBA approved and funded nearly 101,000 applications, exhausting the \$28.6 billion authorized for the program. SBA stopped accepting new applications for the program on June 30, 2021.

¹ American Rescue Plan Act of 2021. Public Law 117-2, § 5003(a)(4) and § 5003(c)(6) (March 11, 2021). <https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf>.

² American Rescue Plan Act of 2021. Public Law 117-2, § 5003(c)(4)(A) (March 11, 2021). <https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf>.

³ American Rescue Plan Act of 2021. Public Law 117-2, § 5003(c)(5) (March 11, 2021). <https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf>.

RRF Program Pre-award Review Process

SBA's internal controls and implementation plan for the RRF program was informed by knowledge gained from the earlier implementation of the Paycheck Protection Program (PPP), which rolled out at the beginning of the economic crisis in April 2020. The PPP provided fully guaranteed loans to eligible small businesses to help keep their workforces employed during the COVID-19 pandemic. SBA also established guidelines for RRF program oversight using the Government Accountability Office's (GAO) *A Framework for Managing Fraud Risks in Federal Programs* to minimize the risk of fraud in the program and misuse of funds.⁴

Business owners and operators applied through an SBA website, call center, or the point-of-sale vendor they normally used to operate their business. SBA partnered with point-of-sale vendors to better reach the food service industry because these types of vendors are commonly used by businesses to place orders and track sales.⁵

All RRF applications were processed through SBA's online application portal. According to the program's oversight plan, the portal automatically checked all applicants against public and private data sources, such as the U.S. Department of the Treasury's (Treasury) Do Not Pay system, to confirm eligibility. The Do Not Pay system is a series of databases designed to help agencies verify eligibility and to identify and prevent fraud, waste, and abuse associated with improper payments. In addition, SBA used the RRF application portal to compare all RRF applicants against the information available in the PPP loan database because many RRF applicants also received PPP loans, or their tax returns had to be validated through the Internal Revenue Service. SBA also planned to use other widely used database records to confirm the applicants' eligibility. If the automated controls identified a problem or noted an exception, the application would either be rejected or flagged for manual processing.

Post-award Monitoring Effort

The American Rescue Plan Act of 2021 required recipients to return funds to the Treasury if they did not use all funds on eligible expenses during the covered period.⁶ To monitor the recipients use of funds, SBA required all recipients to report annually. SBA authorized recipients to use the funds for eligible expenses incurred from February 15, 2020, through March 11, 2023—the

⁴ U.S. Government Accountability Office, GAO-15-593SP, *A Framework for Managing Fraud Risks in Federal Programs* (July 2015). <https://www.gao.gov/assets/gao-15-593sp.pdf>.

⁵ SBA, 2 CFR Implementation Plan Template for New Programs Authorized by the American Rescue Plan (April 2021).

⁶ American Rescue Plan Act of 2021. Public Law 117-2, § 5003(c)(6) (March 11, 2021). <https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf>.

“covered period.” If a business permanently closed before March 11, 2023, the applicant could use the funds for eligible expenses up through the date of closure.⁷ All RRF recipients were required to submit their first annual report by December 31, 2021. If the funds were not fully spent by then, RRF recipients had to submit another report by December 31, 2022, and if still not fully expended, a report by April 30, 2023 was required.

SBA warned recipients that failure to use all funds for eligible expenses, or failure to submit annual reports (or other requested documentation) by a reporting deadline, would require the return of some or all of the funds.⁸ To collect the funds, SBA planned to create a receivable and send an SBA form 1201, *Borrower Payment* to the recipient. This form instructed the awardees how to return the funds through Pay.gov.⁹

Due to the high number of RRF awards, program officials planned to select only 10 percent of the awards to review for potential fraud or misuse of program funds. Program specialists planned to conduct reviews once the recipients submitted their final report certifying that they spent all funds for eligible purposes. Program officials also planned to conduct additional reviews of awards in which an issue had been identified that warranted verification.

Objectives

Our objectives were to determine whether SBA implemented a process to 1) monitor the recipient’s use of funds and 2) ensure unused funds were returned to the Treasury.

⁷ American Rescue Plan Act of 2021. Public Law 117-2, § 5003(c)(6) (March 11, 2021).
<https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf>.

⁸ SBA Form 3173, “*Restaurant Revitalization Fund Program Post Award Report*” (September 2021).
<https://www.sba.gov/sites/default/files/2021-10/SBA%20Form3173%20508%20Compliant-508.pdf>.

⁹ SBA Form 1201 “*Borrower Payment*.” <https://www.pay.gov/public/form/start/3723407>.

Results

Program officials developed a plan for monitoring RRF award recipients' use of funds and recovering unused or improperly awarded funds. However, program implementation was not executed in accordance with the plan. Specifically, program officials did not obtain sufficient information on the use of funds or the operating status of businesses to effectively monitor the RRF program. Further, despite requirements to file a final report by April 30, 2023, over 20,000 recipients, receiving approximately \$3.5 billion in funds, still had not filed any of the required reports as of June 28, 2023 (see appendix 2 for a schedule of our questioned costs).

Further, program officials selected 10 percent of RRF awards for internal review. RRF program officials also planned to periodically add any awards that had indicators of potentially ineligible or fraudulent activity that were not already selected as part of the audit sample. While program officials updated their selection to add awards considered to be potentially fraudulent or ineligible, not all of these potentially fraudulent or ineligible recipients were included for review. In addition, program officials did not set a timeline to complete the reviews so they could remedy problems in a timely manner. After 10 months, they had only completed reviews of 88 awards, which is less than 1 percent of the awards selected for review. SBA recently provided an update indicating that as of August 2023, program officials have completed over 1,400 reviews. At this increased rate of review, it will take 5 years or until May 2028 to complete the remaining reviews, which is concerning because the reviews would extend beyond the required timeframe for retaining award records.

Lastly, program officials did not implement procedures to return unused or improperly awarded funds to the Treasury. Program officials found 23 recipients were ineligible to receive RRF funds. Recipients were required to return funds to the Treasury if they did not use all of the funds, used funds for unauthorized purposes, or the use of funds were not supported by documentation.¹⁰ If recipients did not return the funds within 14 days, SBA planned to begin debt collection.¹¹ However, SBA has not taken any additional action to recover these funds and those recipients did not return the funds.

¹⁰ American Rescue Plan Act of 2021. Public Law 117-2, § 5003(C)(6) (March 11, 2021).

<https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf>.

SBA, *Restaurant Revitalization Fund Program Guide* (April 28, 2021). https://www.sba.gov/sites/sbagov/files/2021-04/Restaurant%20Revitalization%20Fund%20Program%20Guide%20as%20of%204.28.21-508_0.pdf; and SBA, *Restaurant Revitalization Fund Post Award Review Process* (August 2022).

¹¹ SBA, 2 CFR Implementation Plan Template for New Programs Authorized by the American Rescue Plan (April 2021).

Finding 1: SBA Did Not Obtain Sufficient Information to Effectively Monitor RRF Award Recipients

SBA officials did not collect pertinent information after disbursing awards to monitor how the funds were used or to determine whether the recipient was still in business. We found a significant number of RRF recipients did not complete the required annual reports. Specifically, for the three required reports:

- 31,845 recipients, receiving approximately \$7.1 billion in funds, did not complete their first annual report.
- 20,414 recipients, receiving over \$3.6 billion in funds, did not complete the second annual report.
- 20,067 recipients, receiving approximately \$3.5 billion in funds, did not file the final annual report.

SBA's procedures stated that if a recipient fails to meet reporting deadlines, the agency may require the return of some or all of the RRF funds to the Treasury.¹² The American Rescue Plan Act of 2021 required recipients to return unused funds to the Treasury if the business permanently closed before expending their entire award.¹³ In addition to these requirements, federal internal control standards stated that management should use quality information to achieve objectives, including obtaining data on a timely basis, so it can be used for effective monitoring.¹⁴

A significant number of recipients did not submit their annual report even after the final due date. As of July 17, 2023, program officials sent notifications to recipients instructing them to submit the final report. However, as of August 2023, program officials have not taken any action to recover funds. Further, awardees could not report whether their business was still in operation because there was no field in the application portal or annual post award report template to report it. GAO also reported on this issue and recommended program officials enhance the RRF post-award reporting procedures by adding requirements for recipients to report their operating status.¹⁵ To address this recommendation, program officials agreed to

¹² SBA, Restaurant Revitalization Fund Post Award Review Process (August 18, 2022).

¹³ American Rescue Plan Act of 2021. Public Law 117-2, § 5003 (March 11, 2021). <https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf>.

¹⁴ U.S. Government Accountability Office, GAO-14-704G, *Standards for Internal Control in the Federal Government* (September 2014). <https://www.gao.gov/assets/gao-14-704g.pdf>.

¹⁵ U.S. Government Accountability Office, GAO-22-105442, *Restaurant Revitalization Fund, Opportunities Exist to Improve Oversight* (July 2022). <https://www.gao.gov/assets/gao-22-105442.pdf>.

consider adding functionality in the RRF platform to allow recipients to report their operating status or run a business search on any unreported recipients to automatically flag these businesses based on public records. Although the templates did not capture the business operating status, we found that reviewers were checking for the operating status of businesses while conducting post award reviews on the selected 10 percent of awards in accordance with its review procedures. However, 90 percent of the RRF awards will not be verified due to a lack of upfront internal controls. To further ensure funds were provided to operating businesses, program officials should also review the operating status of any business that did not submit a post-award report as stated in their response to GAO. We did not make a recommendation to address SBA's oversight of RRF recipient's business operating status since GAO will be monitoring management's planned corrective actions.

Federal agencies are required to create timelines for implementing fraud risk management activities, including the activities for monitoring and evaluating.¹⁶ Without timely action to urge recipients to submit their annual report, and to collect information on the operating status of businesses, SBA will miss the opportunity to identify and recover unused funds or those issued to ineligible recipients.

Recommendations

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

Recommendation 1. Follow-up with recipients who did not submit their final annual report as required by April 30, 2023, and take action to recover funds.

Finding 2: SBA Did Not Follow Its Plan to Manually Review Potentially Fraudulent or Ineligible Awards

Program officials developed an oversight plan for the RRF program with the goal of minimizing fraud and misuse of taxpayer funds. Part of the RRF oversight plan was to conduct manual post award reviews of 10 percent of the awards. Program officials planned to select all the RRF awardees who also received PPP loans that were potentially fraudulent or ineligible for post award reviews. In addition, RRF program officials planned to periodically add any awards that

¹⁶ U.S. Government Accountability Office, GAO-15-593SP, *A Framework for Managing Fraud Risks in Federal Programs* (July 2015). <https://www.gao.gov/assets/gao-15-593sp.pdf>.

had indicators of ineligibility or fraud that were not already selected as part of the audit sample for review. Program officials used several methods to select the award recipients to review. SBA used a statistician to select a statistically valid sample of 384 RRF awards for post-award review. Further, program officials selected 3,926 awards which they found potential issues in the payment system (E-Tran). They selected 241 RRF awards that also had PPP loans with hold codes. Program officials then performed an internal review of eligibility on the entire population of RRF recipients and selected 399 awards which they found potential eligibility issues (such as clubs and hotels). Additionally, program officials randomly selected 5,100 awards to meet the 10 percent sample size (see Table 1).

Table 1: SBA’s plan for selecting RRF awards for review as of April 2022

Category	Description of the category	Number of awards*
Statistical sample	Statisticians ran statistical sample for testing	384
RRF award with flag	The RRF award has a potential issue in SBA’s electronic lending servicing portal (E-Tran)	3,926
PPP loan with flag	The RRF recipient also received a PPP loan that had been marked for potential fraud or ineligibility	241
RRF quality control audit	SBA identified potential ineligibility issues such as a business not primarily serving food or drink	399
Internal sample	Randomly selected from remaining awards	5,100
Total		10,050

* The awards that fell into multiple categories were only grouped in their primary category.

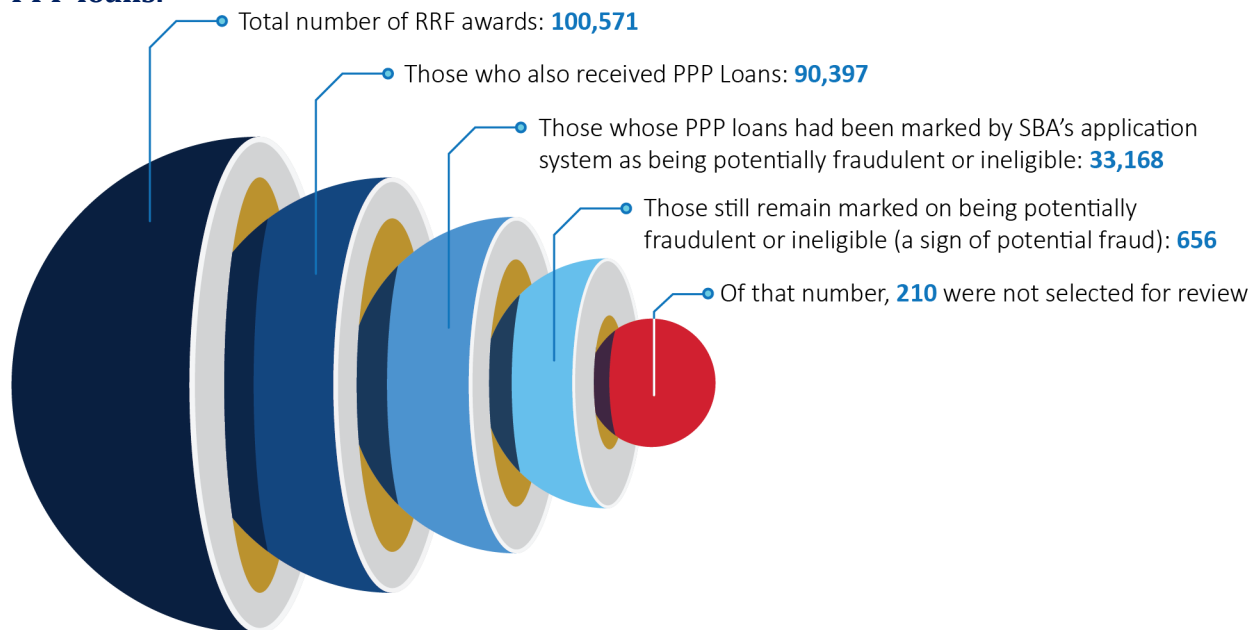
Source: OIG generated based on sample plan as of April 2022 provided by the Office of Capital Access.

Although program officials developed a plan for selecting awards to review, we found SBA’s sample selection did not include all awards that SBA’s systems had marked as potentially fraudulent or ineligible as of August 2022. For example, program officials planned to select all RRF recipients who also received a PPP loan that had been marked for potential fraud or ineligibility. They identified 241 awards and included these in the post-award review sample.

However, we found 33,168 RRF awards had a PPP loan and had been marked in the PPP loan data as potentially fraudulent or ineligible. These recipients received nearly \$10.9 billion in award funds. Of the 33,168 awards, we found 656 awards had indicators of potential ineligibility or fraud that were open and actively requiring PPP program officials’ review as of September 13, 2023. The program official’s sample did not include 210 of the 656 RRF awards we identified

with these indicators of potential fraud or ineligibility. The 210 awards received a total of \$160 million (figure 1).

Figure 1: Potentially fraudulent or ineligible recipients who received both RRF and PPP loans.



Source: OIG generated from data provided by the Office of Capital Access and OIG statistician.

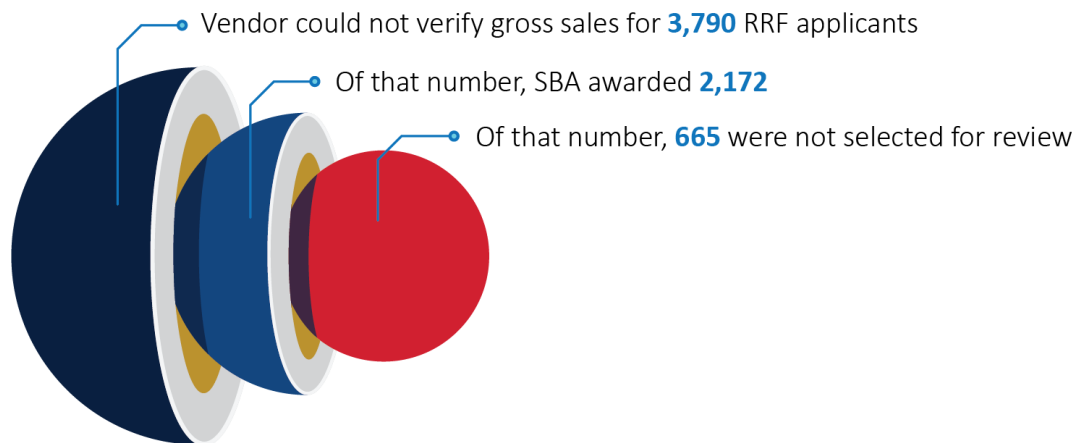
In conducting post award reviews, program officials have reviewed 9 of the 241 awards selected that had a PPP loan that had been marked for potential fraud or ineligibility. Program officials found 8 of the 9, or 89 percent, were ineligible to receive the awards (see Appendix 3).

We identified another situation where program officials planned to review certain suspicious awards but did not follow through in selecting them for post award reviews. As previously reported in OIG Report 23-10, SBA's point-of-sale partner for the RRF program notified officials that they could not verify gross sales for some applications as a possible indication of fraud.¹⁷ However, the program office still awarded funds to some of these applicants. Program officials did not select all awardees in this category for review, which is contrary to their oversight plan. As a result, 665 potentially fraudulent awards amounting to \$99.5 million were not considered initially by SBA for review (figure 2). SBA OIG Report 23-10 included a recommendation to review these awards. SBA managers agreed to review all of those identified awards during the post-

¹⁷ SBA Office of Inspector General, 23-10, SBA's Administrative Procedures to Address Potentially Fraudulent Restaurant Revitalization Fund Awards (July 5, 2023). <https://www.sba.gov/sites/sbagov/files/2023-07/SBA%20OIG%20Report%2023-10.pdf>.

award process; therefore, we will not make a separate recommendation for those 665 awards in this report.

Figure 2: Potentially fraudulent or ineligible RRF recipients were reported by the point-of-sale partner but were not considered initially by SBA for review.



Source: OIG generated from data provided by the Office of Capital Access and point-of-sales partner.

Federal managers are required to establish and integrate internal controls into its operations in a risk-based manner.¹⁸ Management should compare actual performance to planned or expected results, analyze significant differences,¹⁹ and take steps to detect fraud, including conducting data analytics and matching activities.²⁰ GAO’s review of SBA’s implementation of the RRF program found that SBA had not developed a plan to promptly act on all potentially fraudulent or ineligible awards.²¹ SBA’s independent auditor also reported that the agency did not adequately document the internal control system and processes related to the implementation of new programs, including RRF.²² The independent auditor recommended that SBA perform a thorough review of RRF awards issued and identify potentially ineligible recipients, especially

¹⁸ Office of Management and Budget, Circular A-123, “Management’s Responsibility for Enterprise Risk Management and Internal Control” (July 15, 2016).

¹⁹ U.S. Government Accountability Office, GAO-14-704G, *Standards for Internal Control in the Federal Government* (September 2014). <https://www.gao.gov/assets/gao-14-704g.pdf>.

²⁰ U.S. Government Accountability Office, GAO-15-5935SP, *A Framework for Managing Fraud Risks in Federal Programs* (July 2015). <https://www.gao.gov/assets/gao-15-593sp.pdf>.

²¹ U.S. Government Accountability Office, GAO-22-105442, *Restaurant Revitalization Fund, Opportunities Exist to Improve Oversight* (July 2022). <https://www.gao.gov/assets/gao-22-105442.pdf>.

²² SBA Office of Inspector General, 22-05, *Independent Auditors’ Report on SBA’s FY 2021 Financial Statements*. (November 15, 2021). <https://www.sba.gov/sites/default/files/2021-11/OIG%20Final%20Report%20-%20Independent%20Auditors%E2%80%99%20Report%20on%20SBA%E2%80%99s%20FY%202021%20Financial%20Statements%20%28Report%2022-05%29.pdf>.

recipients with PPP loans marked for potential fraud or ineligibility.²³

As a result of recommended corrective actions associated with these reviews, program officials planned to periodically add awards to the post award review sample if additional RRF awards were identified as potentially ineligible or fraudulent. By not adding the 210 awards identified as potentially ineligible or fraudulent as part of the post-award review sample, SBA may miss the opportunity to ensure RRF program funds were used as intended and awarded to the businesses Congress intended to support with the program.

Recommendations

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

Recommendation 2. Review the 210 RRF award recipients currently marked in the PPP loan data as potentially fraudulent or ineligible that were not selected for post award review.

Finding 3: SBA's Post Award Reviews Were Not Conducted in a Timely Manner

The agency planned to review 10 percent, or 10,050 out of 100,571 awards to review the recipients' eligibility and use of funds for eligible expenses. As of late October 2022, less than 1 percent of the 10,050 selected awards have been reviewed.

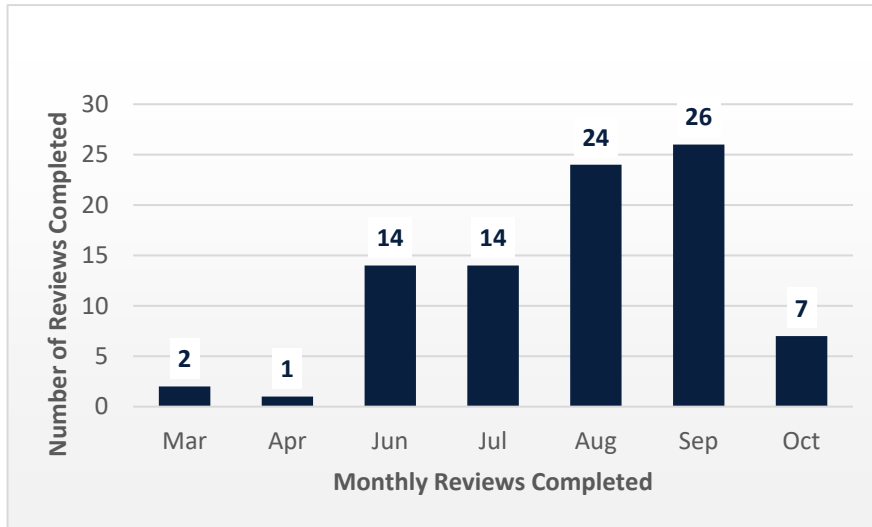
Program officials planned to assign 22 reviewing officials and 6 approving officials to complete the 10,050 reviews. Officials told us it would take each staff member 1 to 2 hours to complete a review of one award. At this rate, we estimated that reviewers would complete 88 reviews in a day or 1,760 reviews in a month.²⁴

²³ SBA Office of Inspector General, 22-05, *Independent Auditor's Report on SBA's FY 2021 Financial Statements* (November 15, 2021). <https://www.sba.gov/sites/default/files/2021-11/OIG%20Final%20Report%20-%20Independent%20Auditors%E2%80%99%20Report%20on%20SBA%E2%80%99s%20FY%202021%20Financial%20Statements%20%28Report%2022-05%29.pdf>.

²⁴ Assume 8 work hours a day and 20 business days in a month, each reviewer can finish 4 reviews (8work hours divided by 2 hours) a day, 22 reviewers can finish 88 reviews (4 times 22) a day and 1,760 reviews (88 reviews times 20days) in a month.

We found program officials reviewed awards at a much slower pace than expected. Specifically, it took the program office about 10 months to review 88 awards, which is less than 1 percent of the 10,050 awards selected for review. In the most productive month of September 2022, reviewers completed 26 reviews (figure 3).

Figure 3: Total number of reviews completed.



Source: OIG generated from data provided by the Office of Capital Access.

According to program officials, the slower than expected pace was due to a shortage of staff and a learning curve. As of June 2022, there were 14 reviewing officials and 2 approving officials which were less than they planned. When we met with program officials in November 2022, they told us reviewers did not review the post award review individually. Instead, reviewers conducted post award reviews in groups and in the future, reviewers will conduct post award reviews individually. If program officials continued to conduct group post award reviews at that rate, it would have taken 32 years to complete the remaining reviews. As of August 2023, program officials provided updated information demonstrating they have completed over 1,400 or 14 percent of the planned reviews. At the increased rate, we estimate it would still take nearly 5 years, or until May 2028 to complete the remaining reviews, which is cause for concern because the completion date would extend beyond the required timeframe for retaining records for the awards.

Program officials required all RRF recipients to retain all records related to their award for 3-years. This requirement is consistent with federal regulations for federal assistance award

management.²⁵ In its first annual report due by December 31, 2021, about 50,000 or 50 percent of 101,000 recipients reported that they used all funds with a total of \$13 billion and as a result, filed their final report for the program. Therefore, the 3-year period for record retention for these recipients will expire on December 31, 2024. The due date for the final post award reports was April 30, 2023. Depending on the date the recipients filed their final report, the record retention policy expires sometime between December 31, 2024, and April 30, 2026.

Program officials currently have 6 years to recover improper payments in the RRF program and 5 years to pursue actions against fraudulent applications.²⁶ In order for the program official's post award review effort to meet its intended purpose, to recover improper payments and fraudulently obtained funds, program officials should use their authority to extend the documentation retention period by notifying award recipients in writing.²⁷ In addition program officials need to ensure post award reviews are completed before the improper payment recovery period expires. If program officials do not conduct reviews in a timely manner or extend the record retention period, SBA will not maximize the opportunity to remedy and promptly recover funds incorrectly or fraudulently obtained.

²⁵ 2 CFR § 200.334, *Retention Requirements for Records*. <https://www.govinfo.gov/content/pkg/CFR-2022-title2-vol1/pdf/CFR-2022-title2-vol1-part200.pdf>.

²⁶ Time for Commencing Actions Brought by the United States, 28 U.S. Code § 2415, and Crimes and Criminal Procedure 18 U.S. Code § 2415.

²⁷ 2 CFR § 200.334, *Retention Requirements for Records*. (b) <https://www.govinfo.gov/content/pkg/CFR-2022-title2-vol1/pdf/CFR-2022-title2-vol1-part200.pdf>.

Recommendations

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

Recommendation 3. Extend the record retention period and notify all RRF award recipients in writing in accordance with 2 CFR 200.334.

Recommendation 4. Assess the post-award review process and manpower requirements to ensure post award reviews are conducted in a prompt manner. Use the results of the assessment to improve processing times to ensure reviews are completed before the statute of limitations expire.

Finding 4: SBA Did Not Implement a Process to Recover Unused or Improperly Awarded Funds

Program officials did not implement procedures to return unused or improperly awarded funds to the Treasury. Soon after the program rolled out, program officials found they awarded \$22.6 million to five hotel owners who did not meet eligibility rules (i.e., the primary purpose of serving food or drink). SBA contacted them between June and July 2021 requesting they return the funds. However, nearly 2 years later, the \$22.6 million has still not been returned and SBA has not taken any additional action to recover the money.

In addition to the 5 hotels, during their post award reviews conducted of 88 awards, program officials found 18 recipients (20 percent) were ineligible. These ineligible recipients were awarded a total of \$16.4 million. Program reviewers found these recipients were ineligible because:

- Businesses were not primarily in the food service industry;
- Businesses never existed;
- Businesses had a history of defaulting on government payments;
- Businesses were listed in the Treasury Do Not Pay system; and
- One business received funds without the amount requested being verified.

This high rate of ineligibility was due to weaknesses in pre-award process controls. SBA designed the RRF pre-award process to validate all applicants against private and public data sources such as SBA's PPP loans database and Do Not Pay data sources. However, SBA did not always perform

those designed pre-award verification processes and approved RRF funds without verification. In addition, SBA made an RRF application where an applicant self-identified its type of business and operating status.

Program officials identified these ineligible recipients in November 2022, but did not notify these recipients or attempt to recover the funds. Program officials told us that they submitted the 18 awards found to be sent to an ineligible recipient to the Office of General Counsel for review. However, the Office of General Counsel had not opined on the eligibility of the 18 award recipients as of December 2022.

The American Rescue Plan Act of 2021 and program guidance require recipients to return funds if they are unused, used for unauthorized purposes, or the use of funds is not supported by documentation.²⁸ If recipients did not return the funds within 14 days, SBA planned to begin debt collection. SBA will create a receivable and send an SBA form 1201, *Borrower Payment*, to the awardees to collect those funds. This form provides instructions to the awardees how to return the funds through Pay.gov.²⁹

However, program officials did not implement a process for recipients to return unused funds or funds received by ineligible recipients to the Treasury. Program officials stated they were developing a process but did not finish it; therefore, the recovery process has not started yet. Instead, the program officials told us they prioritized conducting the post award reviews and then focused on the distribution of available RRF funds. The program officials' stance on the priorities is out of alignment with the debt collection policy established in the program implementation plan and management's responsibility to recover amounts owed to the United States government.

The American Rescue Plan Act authorized the SBA Administrator the authority to award grants until funds are exhausted. By not prioritizing recovery of funds, SBA risks funds not being returned and made available for redistribution to approximately 150,000 food service operators who SBA determined qualified for the award but were not funded.

²⁸ American Rescue Plan Act of 2021. Public Law 117-2, § 5003(C)(6) (March 11, 2021).

<https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf>;

SBA, *Restaurant Revitalization Fund Program Guide* (April 28, 2021). https://www.sba.gov/sites/sbagov/files/2021-04/Restaurant%20Revitalization%20Fund%20Program%20Guide%20as%20of%204.28.21-508_0.pdf; and SBA, *Restaurant Revitalization Fund Post Award Review Process* (August 2022).

²⁹ SBA, 2 CFR Implementation Plan Template for New Programs Authorized by the American Rescue Plan (April 2021).

Recommendations

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

Recommendation 5. Take immediate administrative actions to recover improper payments from the 5 hotels and 18 recipients found to be ineligible, for a total of 23 ineligible award recipients identified totaling \$39 million.

Recommendation 6. Establish and implement procedures to recover unused funds or recover funds paid to ineligible recipients and prioritize this effort.

Other Matters: SBA's RRF Funds Available for Distribution

SBA anticipated approximately \$180 million of RRF funding would be available to re-distribute to RRF applicants as of June 2022. This included an unobligated carryover balance of \$80 million, realized recoveries in FY 22 of \$27 million, and anticipated recoveries in FY22 of \$73 million. Based on our audit findings, SBA's anticipated recoveries should exceed \$73 million. We identified \$160 million from 210 awards with indications of potential fraud or ineligibility and \$99.5 million from 665 RRF awards that a point-of-sale vendor reported to SBA as needing additional eligibility reviews. In December 2022, SBA distributed \$83 million RRF funds which was available for distribution at that time to 168 additional applicants. By implementing corrective actions in this report, SBA could have more funds available to redistribute to RRF applicants that did not receive funding.

Evaluation of Agency Response

SBA management provided formal comments that are included in their entirety in Appendix 4. Management agreed with three recommendations, partially agreed with two recommendations, and disagreed with one recommendation. Subsequent to receiving management's written response, we followed up with program officials to clarify implementation timelines. We found that the agency's planned actions are sufficient to resolve five of the six recommendations.

Management's planned actions for recommendation 3 did not fully address it. In accordance with our audit follow-up policy, we will attempt to reach agreement with SBA management on the unresolved recommendations within 60 days of the date of this report. If we do not reach agreement, OIG will notify the audit follow-up official of the disputed issues.

In response to the draft report, SBA management provided an updated post award review sample plan that they revised on May 18, 2023. Management also provided PPP loan data with updated indicators of ineligible or potentially fraudulent activity as of September 13, 2023, applicable to RRF award recipients. We had initially identified 410 RRF awards that also had PPP loans with indicators of potential fraud or ineligibility that were not included in the agency's post award review sample. Based on SBA's updated post award sample, we identified 210 RRF awards that also had PPP loans with indicators of potential fraud or ineligibility were still not included in the revised sample plan. As a result, we reduced the number of awards that needed post award reviews from 410 to 210 in the report and in recommendation 2.

Summary of Actions Necessary to Close the Recommendations

The following section summarizes the status of our recommendations and the actions necessary to close them.

Recommendation 1

Follow-up with recipients who did not submit their final annual report as required by April 30, 2023, and take action to recover funds.

Status: Resolved

SBA management partially agreed with the recommendation and stated that SBA already communicated with awardees on several occasions and will continue to follow up with recipients who did not submit their final annual report as required by April 30, 2023 and take actions to recover funds. Management noted they used the email

function within the RRF platform to notify awardees of the reporting requirements. Management plans to expand outreach efforts to notify noncompliant awardees by mailing letters, calling, and emailing all known contacts. Management plans to complete final action by August 30, 2024.

This recommendation can be closed when management provides evidence that they used a variety of methods to contact awardees who did not submit their final annual report and recovered funds.

Recommendation 2

Review the 210 RRF award recipients currently marked in the PPP loan data as potentially fraudulent or ineligible that were not selected for post award review.

Status: Resolved

SBA management partially agreed with the recommendation. In response to the draft report, management provided OIG with an updated post award sample that had included additional awards that had been marked in the PPP loan data as potentially fraudulent or ineligible. We reviewed the updated sample and found 210 awards that still needed to be included in the post award sample plan. Management agreed to add 94 awards to the post award sample for manual review. Management concluded the remaining awards were either already selected for post award review, not funded, or the PPP loan data that had identified the recipient as either potentially fraudulent or ineligible had been resolved. However, management did not provide additional support to demonstrate that the awards were not funded or that the concerns over the recipients' eligibility or potentially fraudulent activity were resolved in the PPP loan data. Management plans to complete the reviews by August 30, 2024.

This recommendation can be closed once management provides an updated post award sample plan that includes all RRF awardees currently marked in the PPP loan data as potentially fraudulent or ineligible.

Recommendation 3

Extend the record retention period and notify all RRF award recipients in writing in accordance with 2 CFR 200.334.

Status: Unresolved

SBA management disagreed with the recommendation. Management stated 2 CFR 200.334 does not apply to the RRF program because OMB accepted the Agency's 2 CFR implementation plan

submitted to comply with M-21-20. Additionally, management stated that if the regulation did apply, the regulation states that the records pertinent to the Federal award must be retained for a period of 3 years from the date of submission of the final expenditure report. In section (a) of the regulation, it also states that if any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. Management stated based on this section, the records retention has already been extended.

However, as of August 2023, program officials provided updated information demonstrating they have completed over 1,400 or 14 percent of the planned reviews. At the increased rate, we estimate it would still take nearly 5 years, or until May 2028 to complete the remaining reviews. Further, the notification that SBA sent award recipients selected for audit did not include instructions to maintain records beyond the initial record retention policy. Also, award recipients that are not currently undergoing an audit would not need to maintain records after 2024.

As program officials continue to conduct post award audits, they may find other risk factors that indicate awardees are ineligible or potentially fraudulent for awards and may warrant expanding the post award review sample at a later date. Currently, only 10 percent of the award recipients have been notified that they were selected for a post award review. Program officials currently have 6-years to recover improper payments in the RRF program and 5-years to pursue actions against fraudulent applications.³⁰ Further, management stated that 2 CFR 200 requirements did not apply to the RRF program because Office of Management and Budget (OMB) accepted their implementation plan. Management has only provided support that OMB waived requirements from 2 CFR 25 that requires financial assistance recipients register at SAM.gov.

In order for the post award review effort to meet its intended purpose, to recover improper payments and fraudulently obtained funds, program officials should use their authority granted under 2 CFR 200.334 to extend the documentation retention period by notifying all RRF award recipients in writing.³¹ In addition program officials need to ensure post award reviews are completed before the improper payment recovery period expires.

We will attempt to reach agreement with SBA management on this unresolved recommendation in accordance with our audit follow up policy.

³⁰ Time for Commencing Actions Brought by the United States, 28 U.S. Code § 2415, and Crimes and Criminal Procedure 18 U.S. Code § 2415.

³¹ 2 CFR § 200.334, *Retention Requirements for Records*. (b) <https://www.govinfo.gov/content/pkg/CFR-2022-title2-vol1/pdf/CFR-2022-title2-vol1-part200.pdf>.

Recommendation 4

Assess the post award review process and manpower requirements to ensure post award reviews are conducted in a prompt manner. Use the results of the assessment to improve processing times to ensure reviews are completed before the statute of limitations expire.

Status: Resolved

SBA management agreed with the recommendation and stated they will assess the post award process and manpower needed to conduct prompt post award reviews. Management noted they have added staff to help with this effort. Management stated that they will be able to meet applicable deadlines for conducting prompt reviews as long as Congress provides additional funds to maintain adequate staff to complete the post-award reviews. SBA plans to complete final action by August 30, 2024.

This recommendation can be closed when management provides results of the program resources assessment in order to conduct timely post award reviews.

Recommendation 5

Take immediate administrative actions to recover improper payments from the 5 hotels and 18 recipients found to be ineligible, for a total of 23 ineligible award recipients identified totaling \$39 million.

Status: Resolved

SBA management agreed with the recommendation. SBA plans to take administrative actions and recover improper payments from the 23 ineligible award recipients by August 30, 2024.

This recommendation can be closed once management provides evidence that they recovered funds from the 23 ineligible award recipients.

Recommendation 6

Establish and implement procedures to recover unused funds or recover funds paid to ineligible recipients and prioritize this effort.

Status: Resolved

SBA management agreed with the recommendation and stated that SBA established procedures in May 2023. Management stated they will continue to prioritize the implementation of the established procedures to recover unused funds or funds paid to ineligible recipients. SBA plans to complete final action by August 30, 2024.

This recommendation can be closed once management provides evidence that they implemented procedures to recover unused funds or recover funds paid to ineligible recipients.

Appendix 1: Additional Information

Scope and Methodology

Our scope of work covered the U.S. Small Business Administration’s (SBA) oversight of Restaurant Revitalization Fund (RRF) award recipients. We reviewed program officials process and procedures for monitoring the nearly 101,000 award recipients that received \$28.6 billion reported use of funds for expenses incurred from February 2020 to December 2022. We reviewed the American Rescue Plan Act of 2021 and other applicable public laws, federal regulations, and agency guidance related to SBA’s processes for monitoring the recipients and recovering RRF award funds. We obtained a list of RRF recipients from the RRF application portal, SBA’s electronic lending servicing portal (E-Tran), and from USASpending.gov.³²

We interviewed Office of Capital Access program officials and reviewed supporting documentation to gain an understanding of the processes specific to post-award monitoring, reporting requirements, recovery of funds, and re-distribution. We interviewed Office of Performance, Planning, and the Chief Financial Officer and reviewed supporting documentation to gain an understanding of the process for returning and recovering disbursed funds in general and the procedures specific to RRF awards.

We also reviewed SBA’s documentation for 88 awards it reviewed, performed data analytics on RRF data, and reviewed SBA’s actions to recover unused or improperly awarded funds.

We conducted this performance audit in accordance with the U.S. Government Accountability Office *Generally Accepted Government Auditing Standards*. These standards require that we plan and perform audits to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions.

Use of Computer-processed Data

We relied on computer-processed data in the RRF online application platform and E-Tran files. We retrieved applications, award information, and SBA’s evaluation record for all RRF applicants. We tested the reliability of computer-processed data in the RRF online application platform and

³² RRF application portal (<https://restaurants.sba.gov/>); USASpending.gov is a public data source of federal spending information (<https://www.usaspending.gov/>).

E-Tran by comparing the report, which included application and award information, generated by program officials. Further, we tested the reliability of the data by comparing data received from the RRF platform and E-Tran to USASpending.gov. We believe the computer-processed information is reliable for the purposes of this audit.

Assessment of Internal Controls

For this audit, we identified the following internal control components and underlying internal control principles (table 1-1) as being significant to the audit objectives.

Table 1-1: Internal controls assessed

Internal control component	Internal control principle
Control environment	<ul style="list-style-type: none"> • Establish structure, responsibility, authority • Enforcing accountability
Risk assessment	<ul style="list-style-type: none"> • Define objectives and risk tolerances • Identify, analyze, and respond to risk • Consider potential fraud • Identify, analyze, and respond to changes
Control activities	<ul style="list-style-type: none"> • Design control activities • Design information system and related control activities • Implement control activities
Information and communication	<ul style="list-style-type: none"> • Use of quality Information • Internally communicate necessary quality information • Externally communicate necessary quality information
Monitoring	<ul style="list-style-type: none"> • Perform monitoring activities and evaluate monitoring results • Remediate deficiencies in a timely manner

Source: OIG analysis

We assessed the operational effectiveness of the internal controls and identified deficiencies we believe could affect SBA’s oversight of the RRF recipient’s use of funds and processes for returning unused funds to the U.S. Department of the Treasury.

The internal control deficiencies we found are discussed in the “Finding” sections of this report; however, because our review was limited to aspects of these internal control components and underlying principles, the findings may not identify all internal control deficiencies that may have existed when this audit took place.

Prior Audit Coverage

The following lists OIG’s previous audit coverage related to the objective of this report:

Report number	Report title	Final report date
SBA OIG (23-10)	SBA’s Administrative Procedures to Address Potentially Fraudulent Restaurant Revitalization Fund Awards	July 5, 2023
GAO (GAO-22-105442)	Restaurant Revitalization Fund Opportunities Exist to Improve Oversight	July 14, 2022

Appendix 2: Monetary Impact

Questioned costs are expenditures that do not comply with legal, regulatory, or contractual requirements; are not supported by adequate documentation at the time of the audit; or are unnecessary or unreasonable.³³ Questioned costs may be remedied by offset, waiver, recovery of funds, the provision of supporting documentation, or contract ratification, where appropriate.

Table 2-1. OIG Schedule of Monetary Impact of SBA’s Post Award Monitoring Procedures for RRF Recipients

Description	Amount (Dollars)	Explanation
Ineligible Costs	\$3,489,695,674	Awards made to 20,067 recipients that did not comply with requirements to file a report on how they used their award funds. According to SBA procedures, failure to submit annual reports (or other requested documentation) by a reporting deadline could require recipients to return some or all the funds.
Ineligible Costs	\$39,014,077	Awards made to 23 recipients that did not meet the eligibility requirements for the RRF program.
Total	\$3,528,709,751	

Source: OIG analysis.

³³ Inspector General Act of 1978. Public Law 110-409, §5(f)(1), as amended.
<https://www.govinfo.gov/content/pkg/USCODE-2011-title5/html/USCODE-2011-title5-app-inspector.htm>.

Appendix 3: Post Award Review Results by Sample Category

SBA selected 10,050, or 10 percent, of the over 101,000 RRF awards for post award reviews using the following selection methods:

- **Statistical Sample.** Statisticians identified a statistical sample for testing.
- **RRF Award with Flag.** The RRF award has a potential issue in SBA’s electronic lending servicing portal (E-Tran).
- **PPP loan with flag.** The RRF recipient also received a PPP loan that had been marked for potential fraud or ineligibility.
- **RRF quality control audit.** SBA identified potential ineligibility issues such as a business not primarily serving food or drink.
- **Internal sample.** Randomly selected from remaining awards.

As of November 2022, SBA completed 88 post award reviews and found 18 of the recipients to be ineligible for the award. See Table 3-1 for a comparison of the selection results by sample category.

Table 3-1: SBA’s Post Award Reviews of Recipients’ Eligibility Results by Sample Category

Category	Number of awards selected for post award reviews	Number of completed post award reviews	Number of completed reviews that found recipients to be ineligible	Percentage of completed reviews with ineligible recipients (%)
Statistical sample	384	8	1	13%
RRF award with flag	3,926	0	0	0
PPP loan with flag	241	9	8	89
RRF quality control audit	399	5	5	100
Internal sample	5,100	66	4	6
Total	10,050	88	18	20%

Source: OIG generated based on SBA data.

Appendix 4: Agency Response

SBA Response to Report

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416



TO: Hannibal “Mike” Ware, Inspector General
The Office of Inspector General (OIG)

FROM: Jihoon Kim
Director of Financial Program Operations, Office of Capital Access

Jl KIM
Digitally signed by Jl
KIM
Date: 2023.09.21
14:05:32 -04'00'

SUBJECT: Response to OIG Draft Report entitled “SBA’s Oversight of Restaurant
Revitalization Fund Recipients”

DATE: September 21, 2023

Thank you for providing the Office of Capital Access (OCA) the opportunity to respond to OIG’s Draft Report entitled, “SBA’s Oversight of Restaurant Revitalization Fund Recipients,” dated August 25, 2023. The OIG’s audit objective for this draft report was to determine whether SBA implemented a process to 1) monitor the recipient’s use of fund and 2) ensure unused funds were returned to the Treasury. The OIG defined “oversight” as identifying, tracking, addressing, resolving, referring, and reporting.

OIG Recommendation 1 – Follow up with recipients who did not submit their final annual report as required by April 30, 2023 and take action to recover funds.

SBA Response: SBA partially agrees. SBA has already communicated with Awardees on several occasions but will continue to follow up with recipients who did not submit their final annual report as required by April 30, 2023, and take action to recover funds. The agency has performed outreach on 5 occasions to awardees (10/12/2021, 10/6/2022, 1/25/2023, 2/1/2023, 7/13/2023). In all 5 communications it was clear to the recipients that SBA expected them to comply with the reporting requirements. SBA has plans to continue outreach efforts. To date, all communications with Awardees has been done through the RRF platform email function. In order to expand our reach, SBA will be mailing letters, calling, and emailing all non-compliant recipients at all known contacts.

OIG Recommendation 2 – Review the 410 RRF award recipients currently marked in the PPP loan data as potentially fraudulent or ineligible that were not selected for post award review.

SBA Response: SBA has analyzed the 410 RRF Awards and determined that 174 awards are already selected for post award review. SBA agrees to add 94 awards to the post award sample for manual review because they are associated with a PPP loan that currently has an open flag in ETRAN. SBA does not agree to perform post award reviews on 7 awards in Fully Cancelled

status, which means the RRF awards was not funded, and 135 awards that are associated with a PPP loan that had a hold code that has been resolved in ETRAN.

OIG Recommendation 3 – Extend the record retention period and notify all RRF award recipients in writing in accordance with 2 CFR 200.334.

SBA Response: SBA does not agree with the recommendation. OMB accepted the Agency's 2 CFR implementation plan submitted to comply with M-21-20, so the Agency's understanding is that 2 CFR 200.334 does not apply to the RRF program. Additionally, if the regulation did apply, the regulation states that the records pertinent to the Federal award must be retained for a period of three years from the date of submission of the final expenditure report. In section (a) of the regulation it also states that if any litigation, claim, or audit is started before the expiration of the 3-year period, the record must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. Based on this section, the records retention has already been extended.

OIG Recommendation 4 – Assess the post-award review process and manpower requirements to ensure post award reviews are conducted in a prompt manner. Use the results of the assessment to improve processing times to ensure reviews are completed before the statute of limitations expire.

SBA Response: SBA agrees to assess the post-award review process and manpower requirements to ensure post-award reviews are conducted in a prompt manner. SBA has already added employees, and if the statute of limitations applies, the agency will be in compliance with deadlines and timelines, provided that additional funds are provided by Congress to maintain employees to complete post-award reviews.

OIG Recommendation 5 – Take immediate administrative actions to recover improper payments from the 5 hotels and 18 recipients found to be ineligible, for a total of 23 ineligible award recipients identified totaling \$39 million.

SBA Response: SBA agrees to take immediate administrative actions to recover improper payments from the 5 hotels and 18 recipients found to be ineligible, for a total of 23 ineligible award recipients identified totaling \$39 million.

OIG Recommendation 6 – Establish and implement procedures to recover unused funds or recover funds paid to ineligible recipients and prioritize this effort.

SBA Response: SBA agrees with this recommendation and will continue to prioritize the implementation of the previously established procedures from May 2023 to recover unused funds or recover funds paid to ineligible recipients.