

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2561 Rayburn House Office Building
Washington, DC 20515-6515

October 18, 2023

The Honorable Isabella Casillas Guzman
Administrator
U.S. Small Business Administration
409 3rd Street S.W.
Washington, DC 20416

Dear Administrator Guzman:

The House Committee on Small Business (Committee) is continuing our investigation into the Biden Administration's decision not to actively pursue collection on loans of \$100,000 or less in the Paycheck Protection Program (PPP) and COVID Emergency Injury Disaster Loan (COVID EIDL) program. The Committee maintains that the decision not to pursue active collection on these loans is a waste of taxpayer dollars, an abuse of taxpayers' trust, and a dereliction of duty by the Biden Administration. Over the course of the Committee's seven-month investigation, the Small Business Administration (SBA) has failed to provide sufficient evidence to show that this decision was made with adequate analysis to ensure it was in the best interest of the American taxpayer.

The Committee's investigation began after the SBA's Office of Inspector General (OIG) published a report noting the SBA's decision not to pursue PPP loans \$100,000 or less was not justified.¹ During our hearing with the SBA Inspector General (IG) on July 13, 2023, the IG reiterated that he did not agree with this decision and the SBA had not provided a suitable justification for ceasing collection on these loans.² The OIG's most recent report, released on September 29, 2023, examined the SBA's decision to end active collection on COVID EIDLs \$100,000 or less.³ Unlike the PPP, these loans were never meant to be forgiven, and represent a portfolio valued at \$70.9 billion.⁴ The OIG reached the same conclusion regarding COVID EIDL as they did with the PPP: the SBA has failed to adequately justify either decision.⁵

Federal Claims Collection Standards require agencies to pursue all appropriate means of collection and determine based on these efforts that the debt is uncollectable before terminating

¹ SMALL BUS. ADMIN. OFFICE OF INSPECTOR GEN., SBA OIG 22-25, SBA'S GUARANTY PURCHASES FOR PAYCHECK PROTECTION PROGRAM LOANS (Sept. 30, 2022).

² *Stolen Taxpayer Funds: Reviewing the SBA and OIG Reports of Fraud in Pandemic Lending Program*, Hearing before H. Comm. on Small Bus. 118th Cong. 17 (Jul. 13, 2023).

³ SMALL BUS. ADMIN. OFFICE OF INSPECTOR GEN., SBA OIG 23-16, ENDING ACTIVE COLLECTIONS ON DELINQUENT COVID-19 ECONOMIC INJURY DISASTER LOANS (Sept. 29, 2023).

⁴ *Id.*

⁵ *Id.*

collection of a claim.⁶ This Committee maintains its position that the SBA's reliance on outcomes of the SBA Express Loan Program collection in its justification not to pursue these loans is improper and does not satisfy the aforementioned standard. The OIG agrees, stating in its report that the relatively small sample of the SBA Express loans used to draw this conclusion, in addition to the fact that the eligibility requirements significantly differ from those of COVID EIDLs, makes the basis of the SBA's estimate of recoveries unreliable.⁷ To date, the Committee has not received any convincing evidence to show how or why the SBA justified the decision not to collect COVID EIDLs of \$100,000 or less based on collection results of the Express Loan program.

Further, the SBA retained an outside consultant in May 2021 to determine whether pursuing a partial sale of delinquent COVID EIDLs would be in the best interest of the taxpayer.⁸ The consultant recommended the SBA sell part of the debt through a holistic disposition plan to ensure an exit strategy that would maximize the value of the portfolio.⁹ However, the SBA decided not to follow the consultant's advice and did not provide the OIG with a reasonable explanation for that decision when asked.¹⁰ The Debt Collection Improvement Act specifies that an agency shall sell nontax delinquent debt after terminating collection actions if the Secretary of Treasury determines sale of debt is in the best interest of the United States.¹¹ It is unclear if the SBA has consulted the Department of Treasury (Treasury) on their decision not to sell the portfolio.

The Committee remains concerned that the Biden Administration's decision to end active collection on PPP loans and COVID EIDLs \$100,000 or less lacked proper justification. In response to the Committee's March 15, 2023 letter, as an accommodation to the SBA, Committee staff reviewed two decision memos in-camera. As a result of these reviews, the Committee is now aware of a consultant's report regarding the decision to end active collection on PPP loans and EIDLs \$100,000 or less. It is clear that all three documents strike at the heart of our ongoing investigation. As a further accommodation to the SBA, the Committee is prioritizing the production of the below three documents by October 25, 2023. If you fail to meet this deadline, the Committee will evaluate the use of compulsory process.

1. A copy of the 11-page decision memo dated April 5, 2022.
2. A copy of the four-page decision memo dated September 9, 2022.
3. A copy of the consultant's report dated on or around September 2021.

⁶ 31 C.F.R. § 903.3 (2023).

⁷ SMALL BUS. ADMIN. OFFICE OF INSPECTOR GEN., SBA OIG 23-16, ENDING ACTIVE COLLECTIONS ON DELINQUENT COVID-19 ECONOMIC INJURY DISASTER LOANS, 3-4 (Sept. 29, 2023).

⁸ *Id.* at 7.

⁹ *Id.*

¹⁰ *Id.* at 11.

¹¹ Debt Collection Improvement Act, 31 U.S.C. § 3711(i)(2) (2023).

As another accommodation to the SBA and given the additional information that has come to light during our seven-month investigation, the Committee is adding specificity and scoping down the March 15, 2023 requests. Pursuant to the March 15, 2023 letter, the Committee requests the following documents and information as soon as possible but no later than November 1, 2023:

1. A copy of the April 27, 2022 internal communication which formally ended active collections on PPP loans and EIDLs \$100,000 or less.
2. All communications between the SBA, the Treasury, and the White House regarding the decision not to pursue collections on the PPP loans and COVID EIDLs (not including fraudulent loans) valued at \$100,000 or less.
3. All communications between the SBA, the Treasury, and the White House regarding the decision not to sell portions of the COVID EIDL portfolio.
 - a. A copy of the analysis conducted by the SBA on selling the COVID EIDL portfolio, including support for the conclusion that it was not in the best interests of the government in consultation with the Treasury (referenced on page 11 of OIG Report 23-16).
4. Provide all documents, justification, and evidence the SBA provided to the Treasury and/or the White House, including but not limited to the Executive Office of the President, to discuss and justify the determination not to sell the COVID EIDL portfolio.
5. Any internal justification comparing the SBA Express Loan Program with ending collection on COVID EIDLs \$100,000 or less.
6. To date, how many 60-day and 90-day delinquency letters have been sent to the COVID EIDL borrowers with loan values at or less than \$100,000?
 - b. What was the approximate cost of sending these letters? Please delineate between administrative and labor costs.
7. The OIG calculated COVID EIDLs \$100,000 or less that were past due, delinquent, in liquidation, or charged off to total \$62 billion as of March 24, 2023.¹² Per the SBA, that figure was \$33.4 billion as of May 9, 2023, but the OIG was not able to validate that figure.¹³ Provide an updated measure as well as how many loans were past due, delinquent, in liquidation, or charged off at the time of the April 5, 2022 memo.

¹² SMALL BUS. ADMIN. OFFICE OF INSPECTOR GEN., SBA OIG 23-16, ENDING ACTIVE COLLECTIONS ON DELINQUENT COVID-19 ECONOMIC INJURY DISASTER LOANS, 2 (Sept. 29, 2023).

¹³ *Id.*

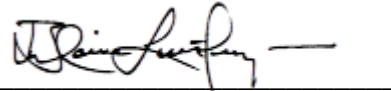
8. How many COVID EIDLs and purchased PPP loans of \$100,000 or less have been charged off strictly as a result of the April 27, 2022 policy decision not to pursue collection?
9. Of the 164,826 borrowers who may have received multiple COVID EIDLs exceeding \$100,000, how many loans have been charged off as a result of the April 27, 2023 policy?
10. In response to the OIG's recommendation to continue to pursue all loans that the OIG or other federal oversight entities have flagged as fraud, the SBA stated that they do not have the proper data to flag all the loans that other entities have flagged. The OIG said they provided the SBA with the necessary data. Please provide evidence sufficient to show that the OIG and other federal oversight entities denied your request to access this data.
11. How many PPP or COVID EIDL loan holders that borrowed \$100,000 or less have asked the SBA for a hardship accommodation plan?
12. How many PPP loans and COVID EIDLs of \$100,000 or less are in active repayment?

To schedule the delivery of your response or ask any related follow-up questions, please contact Committee on Small Business Majority Staff at (202) 225-5821. The Committee on Small Business has broad authority to investigate "problems of all types of small business" under House Rule X. Thank you in advance for your cooperation with this inquiry.

In God We Trust,



Roger Williams
Chairman
Committee on Small Business



Blaine Luetkemeyer
Vice Chairman
Committee on Small Business



Pete Stauber
Member
Committee on Small Business



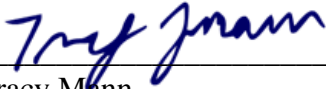
Dan Meuser
Member
Committee on Small Business



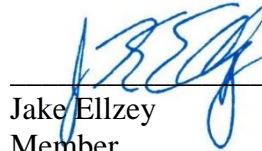
Beth Van Duyne
Member
Committee on Small Business



Maria Salazar
Member
Committee on Small Business



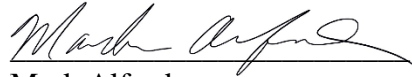
Tracy Mann
Member
Committee on Small Business



Jake Ellzey
Member
Committee on Small Business



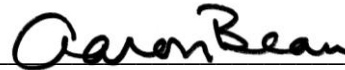
Marc Molinaro
Member
Committee on Small Business



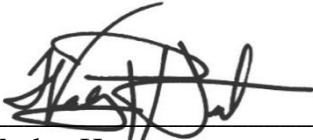
Mark Alford
Member
Committee on Small Business



Eli Crane
Member
Committee on Small Business



Aaron Bean
Member
Committee on Small Business



Wesley Hunt
Member
Committee on Small Business



Nick LaLota
Member
Committee on Small Business

cc: The Honorable Nydia M. Velasquez, Ranking Member
Committee on Small Business