



November 2024

COVID-19 RELIEF

SBA and DOL Should Improve Processes to Identify and Recover Overpayments

Why GAO Did This Study

In response to the COVID-19 pandemic, Congress provided funding to assist small businesses through SBA's PPP and COVID-19 EIDL programs. Congress also created four temporary DOL UI programs to support workers adversely affected by the pandemic. The demand for these programs and the need to deliver aid quickly increased the risk of improper payments, including overpayments. Effective post-payment control processes help agencies to identify and recover overpayments after they have occurred.

The CARES Act includes a provision for GAO to monitor COVID-19 pandemic relief funds. This report (1) examines the extent to which SBA and DOL have developed processes for identifying and recovering COVID-19 overpayments and (2) analyzes the success of agency efforts in recovering COVID-19 overpayments.

GAO analyzed SBA and DOL documentation regarding overpayment identification and recovery efforts, reviewed relevant laws and guidance, analyzed public datasets, and interviewed federal officials.

What GAO Recommends

GAO is making five recommendations. Three are to SBA, including that it expand and document overpayment review procedures and expand its tracking process; two are to DOL to update its recovery rate reporting and guidance. SBA partially agreed to all recommendations, and DOL disagreed with both recommendations. GAO continues to believe all recommendations are warranted.

View [GAO-25-106199](#). For more information, contact M. Hannah Padilla at (202) 512-5683 or padillah@gao.gov

COVID-19 RELIEF

SBA and DOL Should Improve Processes to Identify and Recover Overpayments

What GAO Found

Early in the pandemic, federal agencies prioritized swiftly distributing funds and implementing new programs to help businesses and individuals adversely affected by COVID-19. While this swift response helped meet urgent needs, it involved trade-offs that put billions of dollars at increased risk for improper payments, including overpayments.

Small Business Administration (SBA) and Department of Labor (DOL) programs accounted for a large portion of COVID-19 relief funding and experienced heightened improper payment risks. SBA provided more than \$1 trillion in loans and grants, primarily through the Paycheck Protection Program (PPP) and COVID-19 Economic Injury Disaster Loans (EIDL). DOL's Unemployment Insurance (UI) program expenditures totaled about \$900 billion. For fiscal year 2023, SBA reported an estimated 40.5 percent of PPP loan forgiveness and 49.2 percent of PPP guarantee purchase payments were improper. DOL estimated 35.9 percent of Pandemic Unemployment Assistance payments were improper.

SBA loan review processes. For both the PPP and COVID-19 EIDL, SBA loan review processes are not effectively identifying overpayments. Further, SBA could not demonstrate how it accounted for overpayment risks associated with new PPP lenders in its review processes. Including lenders in the financial technology sector helped the PPP reach borrowers. However, it also increased the risk of overpayments as SBA relied on these lenders' processes and controls as part of review and approval of borrower loan applications.

DOL guidance and procedures. Pandemic-related UI programs generally follow guidance in DOL's regular UI program letters. This guidance lists three administrative functions to help ensure UI program integrity. States must (1) detect benefits paid through error, (2) deter claimants from obtaining benefits through willful misrepresentation, and (3) recover overpaid benefits under certain circumstances. DOL provides resources to states to assist with recoveries of pandemic-related UI overpayments. This includes training on updated guidance and procedures, funding opportunities to help states ensure timely benefit payments, and tools to facilitate more effective identity verification processes.

Overpayment recovery efforts. SBA tracks certain data related to PPP and COVID-EIDL improper payments, but it does not have a sufficient process for tracking identified overpayments and subsequent recoveries. Without these data, SBA cannot ensure that it is maximizing the potential of certain recovery methods, which may limit recoveries. DOL's UI recovery rate calculation does not include all identified overpayments. DOL subtracts waived overpayments from its calculation, which may inflate the recovery rate. States have had little success in recovering overpayments. As of April 2024, states recovered approximately \$3.7 billion of the \$55.2 billion overpayments identified in the pandemic-related UI programs from March 2020 through September 2023. Further, DOL did not set an overpayment recovery rate baseline for states to meet. Including a measurement of success in guidance to State Workforce Agencies could better position DOL to monitor states' efforts to recover overpayments from future temporary programs.

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Abbreviations

ALP	acceptable levels of performance
ARPA	American Rescue Plan Act
BSA	Bank Secrecy Act
DOL	Department of Labor
EIDL	Economic Injury Disaster Loan
ETA	Employment and Training Administration
fintech	financial technology
FPUC	Federal Pandemic Unemployment Compensation
IPA	independent public accountant
LSP	lender service provider
MEUC	Mixed Earner Unemployment Compensation
OIG	Office of Inspector General
OMB	Office of Management and Budget
PEUC	Pandemic Emergency Unemployment Compensation
PIIA	Payment Integrity Information Act of 2019
PPP	Paycheck Protection Program
PUA	Pandemic Unemployment Assistance
SBA	Small Business Administration
SWA	State Workforce Agencies
Treasury	Department of the Treasury
UI	unemployment insurance

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November 13, 2024

Congressional Committees

As of April 2024, the federal government has spent \$4.4 trillion in funding related to COVID-19 response and recovery. Early in the pandemic, agencies prioritized swiftly distributing funds and implementing new programs to help businesses and individuals adversely affected by COVID-19. This urgency involved trade-offs that put billions of taxpayer dollars at increased risk for improper payments, including overpayments.¹ Two agencies, the Small Business Administration (SBA) and the Department of Labor (DOL), were charged with overseeing certain pandemic programs to help small businesses and individuals, respectively.

As noted in Office of Management and Budget (OMB) guidance, it is preferable that agencies focus efforts toward preventing overpayments from occurring; however, it is important for agencies to have cost-effective means to both identify and recover overpayments if they do occur.² According to PaymentAccuracy.gov reporting, for fiscal years 2021 through 2023, SBA reported recovering \$19 million of \$1 billion in overpayments identified for recovery, and DOL reported recovering \$4 billion of \$23 billion in overpayments identified for recovery.³ Across the federal government—including SBA and DOL—agencies reported

¹An improper payment is any payment that should not have been made or that was made in an incorrect amount (including an overpayment or underpayment) under statutory, contractual, administrative, or other legally applicable requirements. While all fraudulent payments are considered improper, not all improper payments are due to fraud. The Office of Management and Budget (OMB) defines an overpayment as a payment in excess of the amount due. According to OMB, overpayments are a monetary loss type of improper payment that, in theory, should or could be recovered. OMB Memorandum M-21-19. Executive agency estimates of improper payments also treat as improper any payments whose propriety cannot be determined due to lacking or insufficient documentation. 31 U.S.C. § 3352 (c)(2). Improper payment estimates and rates displayed in this report include both improper and unknown payments as reported on OMB's PaymentAccuracy.gov website.

²OMB, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, OMB Memorandum M-21-19 (Washington, D.C.: Mar. 5, 2021).

³Rates and amounts as reported in the 2023 Annual Improper Payments Dataset, available on PaymentAccuracy.gov (accessed Dec. 5, 2023).

recovering a total \$71 billion of the \$142 billion in overpayments identified for recovery for this period, according to PaymentAccuracy.gov.

Following the enactment of legislation that among other things provided assistance to businesses negatively affected by the COVID-19 pandemic, SBA quickly set up the Paycheck Protection Program (PPP), COVID-19 Economic Injury Disaster Loan (EIDL) program, and other relief programs.⁴ Since spring 2020, SBA has provided significant assistance to small businesses adversely affected by the COVID-19 pandemic.

SBA administered programs providing more than \$1 trillion in loans and grants. This funding assisted more than 10 million small businesses, primarily through the PPP and COVID-19 EIDL program.⁵ However, concerns about SBA's implementation of PPP and COVID-19 EIDL led us to include Emergency Loans for Small Businesses on our High Risk List in March 2021.⁶ We identified significant program integrity risks, including potential for fraud, and the need for improved SBA management and oversight. SBA estimated 40.5 percent of PPP loan forgiveness and 49.1 percent of PPP guarantee purchase payments were improper, according to agency reporting on PaymentAccuracy.gov for fiscal year 2023.

The CARES Act created three federally funded temporary DOL unemployment insurance (UI) programs—Pandemic Unemployment Assistance, Federal Pandemic Unemployment Compensation, and Pandemic Emergency Unemployment Compensation.⁷ These programs expanded UI benefit eligibility, enhanced benefits, and extended benefit duration. In addition, the Consolidated Appropriations Act, 2021, created

⁴For purposes of this report, we will refer to the Paycheck Protection Program and the COVID-19 Economic Injury Disaster Loans program as “selected programs” when we are discussing them together.

⁵GAO, *Small Business Administration: Progress and Work Remaining to Implement Key Management Improvements*, [GAO-24-107395](#) (Washington, D.C.: Mar. 6, 2024).

⁶The High Risk List highlights federal programs and operations that we have determined are in need of transformation. It also names federal programs and operations that are vulnerable to waste, fraud, abuse, and mismanagement. The High Risk List is updated every 2 years. For the 2023 update, see GAO, *High-Risk Series: Efforts Made to Achieve Progress Need to Be Maintained and Expanded to Fully Address All Areas*, [GAO-23-106203](#) (Washington, D.C.: Apr. 20, 2023). SBA's PPP and COVID-19 EIDL program were added to the list in 2021 as part of the “Emergency Loans for Small Businesses” area. See GAO, *High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas*, [GAO-21-119SP](#) (Washington, D.C.: Mar. 2, 2021).

⁷Pub. L. No. 116-136, §§ 2102, 2104, 2107, 134 Stat. 281, 313-28 (2020).

the Mixed Earner Unemployment Compensation program. This program, which was voluntary for states, authorized an additional \$100 weekly benefit for certain UI claimants.⁸ DOL's UI program expenditures totaled about \$900 billion from April 1, 2020, through May 31, 2023, according to DOL data.⁹

The UI program is overseen by DOL and administered by the states, as a federal-state partnership that provides temporary financial assistance to eligible workers who become unemployed through no fault of their own. The UI program has also faced long-standing challenges with program integrity, which increased dramatically during the pandemic. Due to these challenges and others, we added the overarching Unemployment Insurance System to our High Risk List in June 2022.¹⁰ DOL estimated that 35.9 percent of Pandemic Unemployment Assistance payments were improper, according to agency reporting on PaymentAccuracy.gov for fiscal year 2023.

The CARES Act includes a provision for GAO to report on our ongoing monitoring and oversight efforts related to the COVID-19 pandemic.¹¹ For this report, we (1) examined the extent to which SBA and DOL have developed effective processes for identifying and recovering overpayments of COVID-19 relief funds and (2) analyzed the extent to which SBA and DOL efforts to recover overpayments of COVID-19 relief funds have been successful.

To determine which agencies and programs to include in our review, we reviewed program outlays for the top five COVID-19 spending areas as of

⁸Pub. L. No. 116-260, div. N, tit. II, § 261(a)(1), 134 Stat. 1182, 1961. The American Rescue Plan Act of 2021 extended this program through September 6, 2021. Pub. L. No. 117-2, § 9013, 135 Stat. 4, 119.

⁹This amount includes about \$230 billion in expenditures under the regular UI and Extended Benefits programs and about \$670 billion in expenditures under the pandemic UI programs that expired on September 6, 2021. However, 24 states ended their participation in at least one of the pandemic UI programs before the programs expired.

¹⁰GAO, *Unemployment Insurance: Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks*, [GAO-22-105162](#) (Washington, D.C.: June 7, 2022).

¹¹Pub. L. No. 116-136, § 19010(b), 134 Stat. 281, 580 (2020), which is reprinted in 31 U.S.C. § 712 note. We regularly issue government-wide reports on the federal response to the COVID-19 pandemic. As part of our work, we have also issued reports on recipients' (including tribal governments, states, localities, and U.S. territories) uses of COVID-19 funds. All of our reports related to the COVID-19 pandemic are available at [Coronavirus Oversight | U.S. GAO](#).

June 30, 2022. Due to the amount of COVID-19 outlays in SBA's PPP and COVID-19 EIDL program and the DOL UI programs, in addition to the reported concerns that resulted in these programs being placed on our High Risk List, we selected these programs for our review.

To address our first objective, we reviewed SBA and DOL documentation regarding overpayment identification and recovery efforts. We met with agency officials to discuss the processes and procedures involved in these efforts. In addition, we reviewed federal laws along with federal regulations and standards. We compared the agencies' overpayment recovery processes and procedures to the relevant laws and guidance.

To address our second objective, we reviewed and analyzed public datasets to assess the extent of agencies' success in the recovery of overpayments. However, overpayments are not always recoverable and unclear or nonreported data make the full extent of identified and recovered overpayments unknown. See appendix I for more information on our objectives, scope, and methodology.

We conducted this performance audit from August 2022 to November 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

SBA's COVID-19 Programs

In March 2020, Congress passed and the President signed into law the CARES Act. The act provided funds for a new SBA pandemic relief program, the PPP, which was authorized under SBA's existing 7(a) small business lending program.¹² It also expanded eligibility for SBA's EIDL program to make loans (known as COVID-19 EIDL loans) available to

¹²The 7(a) loan program is SBA's primary small business loan program, assisting small businesses with financing when they are unable to access credit elsewhere. For non-PPP 7(a) loans, SBA guarantees a portion of each loan, ranging from 50 to 90 percent, that a participating lender makes to an eligible small business.

businesses experiencing economic injury caused by COVID-19.¹³ Both PPP and COVID-19 EIDL contained programmatic elements that were new compared to the pre-pandemic programs. The number of loan applications SBA received for these selected programs was significantly greater than the number it generally receives for its traditional guaranteed loan and disaster loan programs.¹⁴

Paycheck Protection Program

Under PPP, SBA guaranteed over \$800 billion in loans to small businesses and nonprofits, referred to collectively in this report as small businesses. The loans were to be used for payroll costs, rent, utilities, and other eligible operating costs during the pandemic.

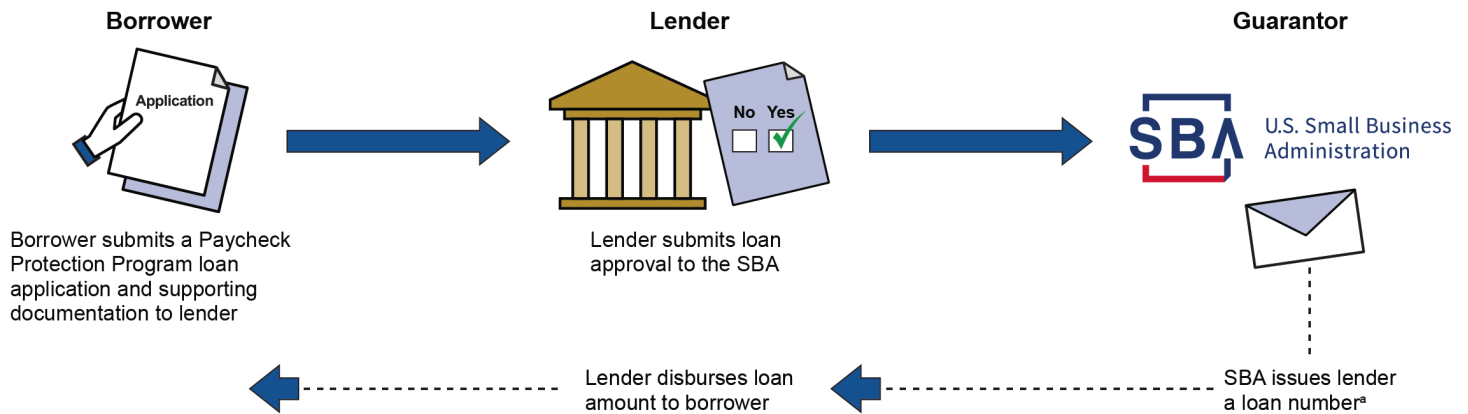
PPP low-interest loans were fully guaranteed by SBA. The loans were made to recipients through a network of participating lenders under program rules set by the Department of the Treasury and SBA's Office of Capital Access. PPP loans were designed for SBA to offer full forgiveness to eligible borrowers, under certain conditions. For example, to be eligible for full forgiveness, at least 60 percent of the loan had to be used for payroll costs, with the remaining amount used for eligible nonpayroll costs, such as covered mortgage interest, rent, and utility payments.¹⁵ See figure 1 for more information on the PPP application process.

¹³EIDL, which is part of SBA's Disaster Loan Program, provides low-interest loans to help borrowers—small businesses and nonprofit organizations located in a disaster area—meet obligations or pay ordinary and necessary operating expenses. In this report, we refer to the EIDL program designed to help small businesses recover from the economic impacts of the COVID-19 pandemic as COVID-19 EIDL.

¹⁴For example, in May 2022, SBA was servicing approximately 4 million outstanding COVID-19 EIDL loans, which is around 15 times the amount of disaster loans the agency was servicing pre-pandemic. Additionally, SBA approved slightly less than 12 million PPP loans during fiscal years 2020 - 2021 (when loans were still being issued) that totaled approximately \$800 billion. In comparison, SBA approved an estimated 94,000 non-PPP 7(a) loans with a value around \$60 billion during that same time frame.

¹⁵To be eligible for full forgiveness, SBA originally required borrowers to spend at least 75 percent of the loan amount on payroll costs, but this requirement was modified by later legislation. Paycheck Protection Program Flexibility Act of 2020, Pub. L. No. 116-142, § 3(b)(2)(B), 134 Stat. 641, 642.

Figure 1: Overview of SBA Paycheck Protection Program Application and Approval Process



Source: GAO analysis of Small Business Administration (SBA) information. | GAO-25-106199

^aIf a loan application was denied by the lender, SBA directed applicants to contact the lender directly. However, if SBA denied a loan as a result of a Paycheck Protection Program final loan review it conducted, the borrower could appeal the decision with SBA's Office of Hearings and Appeals within 30 calendar days after receipt of the decision.

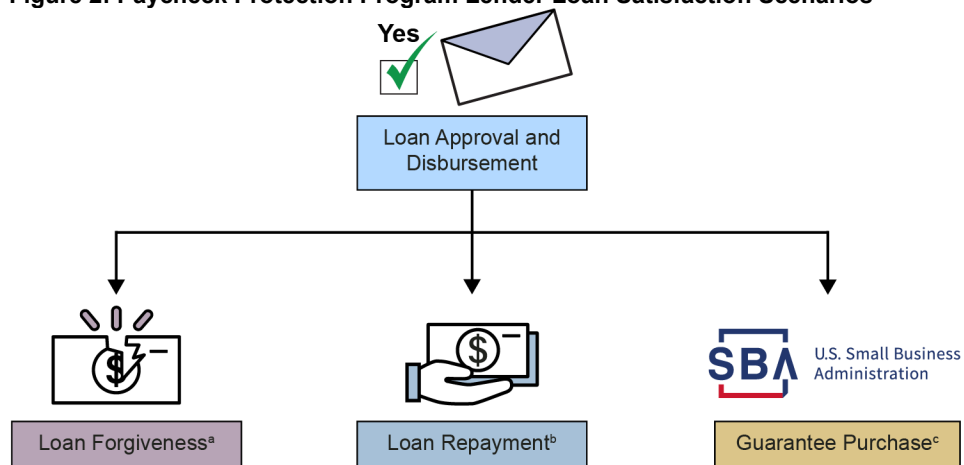
In accordance with the CARES Act, PPP loans required no collateral or personal guarantees. Borrowers were not required to make loan repayments until their forgiveness application was processed or 10 months after the covered period ended (from 8 to 24 weeks), if the borrower failed to apply for forgiveness within that time.¹⁶ Once loan funds were used, borrowers could apply for forgiveness at any point on or before the maturity date of the loan (up to 5 years).

Once a PPP application was approved and the loan disbursed, borrowers had two options to satisfy the loan. They could either apply for loan forgiveness, whether in whole or in part, or repay the loan. If a borrower was determined ineligible for loan forgiveness, whether in whole or in part, they were responsible for repaying the unforgiven portion of the loan. If a borrower became more than 60 days past due in their repayments, lenders were able to submit a request for a guarantee

¹⁶The "covered period" is the period following receipt of a PPP loan during which borrowers can spend the loan proceeds on covered expenses. The covered period begins on the date a lender disburses the loan and ends on a date selected by the borrower during the period from 8 to 24 weeks after disbursement.

purchase from SBA.¹⁷ This loan guarantee acted as collateral to provide lenders with satisfactory security to support a loan. Under the rules of PPP, SBA's guarantee purchase for PPP loans was 100 percent of the loan amount if the lender complied with all applicable PPP requirements. However, defaulted borrowers were still responsible for repaying their loans.¹⁸ See figure 2 for more information.

Figure 2: Paycheck Protection Program Lender Loan Satisfaction Scenarios



Source: GAO analysis of Small Business Administration information. | GAO-25-106199

^aLoans could be forgiven if the funds were used for eligible expenses. Borrowers could apply for forgiveness once all loan proceeds for which the borrower is requesting forgiveness have been used. Forgiveness applications could be approved in full, in part, or denied.

^bIf a borrower has not applied for forgiveness or did not receive full forgiveness, they must make standard repayments on the loan.

^cIn instances where a borrower becomes more than 60 days past due, lenders may submit a guarantee purchase request to the Small Business Administration to recoup the outstanding balance of the loan.

The PPP application process operated in two stages referred to as Round 1 and Round 2. Applicants could apply for first draw loans in PPP Round 1 from April through August 2020, and first or second draw loans in PPP

¹⁷See Procedural Notice 5000-812316: SBA Guaranty Purchases and Lender Servicing Responsibilities for PPP Loans. Lenders were instructed to first make a demand for payment in full before submitting a request for guarantee purchase and charge off.

¹⁸The lender loan satisfaction scenarios are not mutually exclusive as a loan could undergo all three scenarios. For example, a loan could receive partial forgiveness and then have a lender request a guarantee purchase from SBA on the portion not forgiven. In which case, a borrower may still make repayments on the purchased portion of the loan to SBA.

Round 2 from January through May 2021.¹⁹ The PPP closed to new applications following May 2021, but parts of the PPP are still operating. For example, existing borrowers may apply for forgiveness up to the maturity date of their loans, and PPP lenders may continue to request a guarantee purchase from SBA for defaulted loans.

To assist with the review process for PPP, SBA used a contractor to facilitate the automated and—if necessary—manual reviews of PPP loan applications to assess borrower eligibility and determine if a loan warranted further review by an SBA official. This review process was revised a few times throughout the course of the program to increase its effectiveness.

Over the program’s application period—which ran from April 2020 to May 2021—SBA guaranteed more than 11 million PPP applications, totaling more than \$799 billion in loans. As of July 2024, borrowers submitted over 10 million forgiveness applications, with SBA forgiving approximately \$760 billion.²⁰

COVID-19 EIDL

SBA directly managed the COVID-19 EIDL program through its Office of Disaster Assistance and later through its Office of Capital Access. The program included two types of assistance: loans and grants, the latter of which were otherwise known as advances. Advances were a new programmatic element available to COVID-19 EIDL applicants, as well as targeted and supplemental targeted advances that were available to applicants meeting certain criteria.²¹ While advances were a part of the COVID-19 EIDL program, we did not include them in the scope of our review.

¹⁹A borrower’s first PPP loan, which could be received in either 2020 or 2021 is referred to as a first draw loan. Borrowers that received first draw loans could apply for a second draw PPP loan in 2021, based on different eligibility requirements.

²⁰Out of the forgiveness applications submitted, as of July 2024, SBA has denied over 36,000 applications, totaling more than \$2.6 billion.

²¹Targeted advances were available to applicants who were in a low-income community, could demonstrate more than a 30 percent reduction in revenue during an 8-week period beginning on or after March 2, 2020, and had 300 or fewer employees. Supplemental targeted advances were available to applicants located in a low-income community, who could prove more than a 50 percent economic loss during an 8-week period beginning on or after March 2, 2020, and had 10 or fewer employees. Economic Aid to Hard-Hit Small Business, Nonprofits, and Venues Act, Pub. L. No. 116-260, div. N, tit. III, § 331 (2020).

COVID-19 EIDL loans were meant to be used for working capital and other normal operating expenses and were not forgivable, with loan increases being available until the funds were exhausted.²² Additionally, SBA required collateral for COVID-19 EIDL loans greater than \$25,000, and personal guarantees were required for loans greater than \$200,000.

In January 2022, SBA stopped accepting applications for new COVID-19 EIDL loans and advances, and by April 2022, SBA approved almost 4 million COVID-19 EIDL loans totaling nearly \$378 billion.

In May 2022, SBA stopped processing COVID-19 EIDL loan increase requests or requests for reconsideration of previously declined applications. According to SBA, as of June 2024, it continues to service more than 2.25 million COVID-19 EIDL loans—the vast majority of which have entered into active repayment, and there are approximately 277,000 loans that are more than 30 days delinquent and 1.11 million loans in charge-off status.²³

DOL's Unemployment Insurance Programs

The federal government and states coordinate to administer UI programs. States design and administer their own UI programs within federal parameters, while DOL monitors states' compliance with federal requirements. According to DOL, state statutes establish specific benefit structures, eligibility provisions, benefit amounts, and other program aspects. Regular UI benefits—those provided by state UI programs before the CARES Act was enacted—are funded primarily through state taxes levied on employers and are intended to replace a portion of a claimant's previous employment earnings, according to DOL.²⁴

The CARES Act created the following three federally funded temporary UI programs that expanded benefit eligibility and enhanced benefit amounts,

²²In December 2020 and March 2021, the Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021, respectively, appropriated additional funds to the PPP and COVID-19 EIDL program and made changes to the PPP, including allowing a second loan under certain conditions.

²³A charge-off is an administrative action whereby SBA reclassifies a defaulted loan and the outstanding balance of the loan is written off from SBA's accounting records. This action does not prohibit SBA from continuing to attempt collections on a loan.

²⁴To be eligible for regular UI benefits, applicants must generally be unemployed through no fault of their own, demonstrate workforce attachment, usually measured by the amount of wages or weeks of work; be able and available to work; and be actively seeking work. 42 U.S.C § 503(a)(12). Administration of the regular UI program is financed by a federal tax on employers, according to DOL.

which were amended by the Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021 (ARPA):²⁵

1. **Pandemic Unemployment Assistance (PUA)** was generally available from March 2020 through September 6, 2021, and authorized UI benefits for individuals not otherwise eligible for UI benefits, such as the self-employed and certain contingent workers,²⁶ who were unable to work because of specified COVID-19 reasons.²⁷ The total federal expenditure for PUA program benefits was \$138 billion through May 31, 2023.²⁸
2. **Federal Pandemic Unemployment Compensation (FPUC)** generally authorized an additional \$600 weekly benefit through July 2020 and a \$300 weekly benefit for weeks beginning after December 26, 2020, and ending on, or before, September 6, 2021, for individuals eligible for UI benefits available under the regular UI program and the

²⁵The CARES Act also addressed other aspects of the UI system, such as authorizing certain flexibilities for states to hire additional staff. In addition to the CARES Act, the Families First Coronavirus Response Act provided up to \$1 billion in emergency grant funding to states in fiscal year 2020 for UI administrative purposes.

²⁶As self-employed workers are a sizable group among those who were potentially eligible for PUA, we have included them in the term “contingent workers” for the purposes of discussing the contingent worker experience during the pandemic and with the PUA program. In other contexts, self-employed workers might be considered distinct from other types of contingent workers given their greater control over the terms of their employment.

²⁷Pub. L. No. 116-136, § 2102(a)(3), 134 Stat. 281, 313 (2020).

²⁸At the time of the program’s expiration in September 2021, PUA generally authorized up to 79 weeks of benefits. Pub. L. No. 117-2, § 9011(a), (b), 135 Stat. 4, 118. Total expenditures reported through May 2023 expiration of the federal public health emergency for COVID-19. The Secretary of Health and Human Services first declared the COVID-19 pandemic a public health emergency under section 319 of the Public Health Service Act on January 31, 2020. In addition, on March 13, 2020, the President declared COVID-19 a national emergency under the National Emergencies Act and a nationwide emergency under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). The President also approved major disaster declarations under the Stafford Act for all 50 states, the District of Columbia, five U.S. territories, and certain Tribes. The national emergency declaration terminated on April 10, 2023, and the Stafford Act declarations terminated on May 11, 2023.

CARES Act UI programs.²⁹ The total federal expenditure for FPUC program benefits was \$442 billion through May 31, 2023.

3. **Pandemic Emergency Unemployment Compensation (PEUC)** was generally available through September 6, 2021, and authorized additional weeks of UI benefits for those who had exhausted their regular UI benefits.³⁰ The total federal expenditure for PEUC program benefits was \$90 billion through May 31, 2023.

In addition, the Consolidated Appropriations Act, 2021, created the Mixed Earner Unemployment Compensation (MEUC) program, which was extended by ARPA and expired in September 2021.³¹ According to DOL, the MEUC program was intended to supplement regular UI claimants whose benefits did not account for a significant self-employment income. Consequently, these claimants may have received a lower UI benefit than they would have received had they been eligible for PUA. The total federal expenditure for MEUC program benefits was \$78 million through May 31, 2023.

State Workforce Agencies (SWA) implemented temporary UI programs and processed unprecedented claims volumes during the pandemic. A key challenge facing those SWAs was simultaneously ensuring that UI benefits were paid solely to eligible applicants and in the correct amounts—including ensuring that program monitoring over the use of funds was sufficiently designed and accurately reported at the state and federal level. The CARES Act and ARPA contained provisions to assist SWAs—in detecting and preventing fraud, promoting equitable access, and ensuring timely payment of benefits to eligible workers—and starting in March 2021, also provided additional funding for DOL to provide

²⁹Pub. L. No. 116-136, § 2104, 134 Stat. 281, 318-319 (2020); Pub. L. No. 116-260, div. N, tit. II, § 203, 134 Stat. 1182, 1953 (2020); Pub. L. No. 117-2, § 9013, 135 Stat. 4, 119 (2021). Department of Labor, *Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs*, UIPL No. 22-21 (Washington, D.C.: Aug. 2021).

³⁰Pub. L. No. 116-136, § 2107, 134 Stat. 281, 323 (Mar. 27, 2020); Pub. L. No. 116-260, div. N, tit. II, § 206(a), (b), 134 Stat. 1182, 1954 (Dec. 27, 2020); Pub. L. No. 117-2, § 9016(a), (b), 135 Stat. 4, 119-120 (Mar. 11, 2021). At the time of the program's expiration, PEUC generally authorized an additional 53 weeks of benefits for claimants who were fully unemployed.

³¹The MEUC program, which was voluntary for states, authorized an additional \$100 weekly benefit for certain UI claimants who received at least \$5,000 of self-employment income in the most recent tax year prior to their application for UI benefits from December 27, 2020, through September 6, 2021. Pub. L. No. 117-2, § 9013(a), 135 Stat. 4, 119; Pub. L. No. 116-260, div. N, tit. II, § 261(a)(1), 134 Stat. 1182, 1961.

financial and technical assistance to states to improve UI systems and processes.³²

High-Risk Programs

From March 2020 through March 2022, SBA made or guaranteed more than 15 million loans through the PPP and COVID-19 EIDL programs. SBA quickly set up these programs to respond to the adverse economic conditions small businesses faced. This quick implementation left SBA susceptible to improper payments, including overpayments, resulting in SBA's Emergency Loans for Small Businesses being added to our High Risk List in 2021.³³ In November 2023, SBA's financial statement auditor reported (for the fourth consecutive year) material weaknesses in controls associated with the two programs that led to loans going to potentially ineligible borrowers.³⁴ These weaknesses limit the reliability of SBA's financial reporting, and they contributed to SBA's inability to obtain an opinion on its fiscal years 2020 to 2023 financial statements.

Further, in June 2022, we added the UI system to our High Risk List because we found that UI's administrative and program integrity challenges posed significant risks to service delivery and exposed the system to significant financial losses.³⁵ Long-standing challenges with UI administration and outdated IT systems have affected states' ability to meet the needs of unemployed workers, especially during economic downturns. Such challenges have also contributed to impaired service, barriers to equitable access, and disparities in benefit distribution. The unprecedented demand for UI benefits and the need to quickly implement the new programs during the pandemic increased the risk of improper payments, specifically overpayments. In addition, DOL received a qualified opinion on its fiscal years 2021 through 2023 financial statements from its independent auditor. DOL was unable to adequately

³²Pub. L. No. 116-136, §2102(f)(2)(B), 134 Stat. 281, 316 (Mar. 27, 2020; Pub. L. No. 117-2, §9032, 135 Stat. 4, 121 (Mar. 11, 2020).

³³[GAO-21-119SP](#).

³⁴Small Business Administration, Office of Inspector General, *Independent Auditor's Report on SBA's Fiscal Year 2023 Financial Statements*, 24-03 (Washington, D.C.: Nov. 2023).

³⁵[GAO-22-105162](#).

support assumptions used for estimating remaining obligations and benefit overpayments related to UI.³⁶

Recovering Overpayments

The federal government has several legal mechanisms in place to recover overpayments. For example, Chapter 37 of Title 31 of the United States Code gives federal agencies the authority to recover debts owed to the government. Certain programs operate under a structure that may result in the recovery of overpayments. For example, in a lending program, if a borrower has agreed to repay a loan in full, the amount repaid will include any amount received as an overpayment (i.e., any portion of the loan in excess of what the borrower was eligible to receive under program rules).

Additionally, the Payment Integrity Information Act of 2019 (PIIA) requires agencies to perform recovery audits on each program or activity with expenditures of \$1 million or more per year if conducting such audits would be cost-effective.³⁷ OMB has issued guidance—in Appendix C to OMB Circular A-123 (OMB M-21-19)—to agencies on the identification and recovery of overpayments.³⁸

Agencies may waive recovery of overpayments under certain conditions. Further, since fiscal year 1997, we noted in our audit reports on the U.S. government's consolidated financial statements that the federal government is unable to determine the full extent of its improper payments, including overpayments. It is important for agencies to have cost-effective procedures to both identify and recover overpayments if they do occur. If agencies take prompt action, they may increase their ability to recover identified overpayments.

³⁶Department of Labor, *Agency Financial Report for Fiscal Year 2023* (Washington, D.C.: Nov. 14, 2023), and *Agency Financial Report for Fiscal Year 2022* (Washington, D.C.: Dec. 13, 2022).

³⁷31 U.S.C. § 3352(i)(1)(A).

³⁸OMB M-21-19.

SBA and DOL Have Review and Recovery Processes, but SBA's Processes Do Not Effectively Identify Overpayments

SBA Is Not Effectively Identifying Overpayments in Selected Programs

SBA's PPP Loan Review Processes

Throughout the course of the PPP, SBA developed and implemented multiple review processes that continued to evolve as the program was administered. The review processes helped detect loan applications with potential fraud or errors that would have resulted in an overpayment once disbursed. However, both the independent public accounting firm (IPA) serving as SBA's financial statement auditor and SBA's Office of Inspector General (OIG) have reported concerns pertaining to the review processes' effectiveness that could also affect their ability to identify overpayments. In addition, these review processes were not designed to specifically identify overpayments within the selected program, and the current processes do not appear to be designed to sufficiently identify erroneous or potentially fraudulent loans in the selected programs that would result in overpayments.

To implement the PPP, the CARES Act provided SBA and Treasury joint authority to permit new lenders to participate in the PPP to aid in the processing and approval of a significant amount of PPP loan applications (almost 12 million approved applications in total). Ultimately participating PPP lenders included depository institutions (for example, banks and credit unions) and nondepository lending institutions (for example, SBA-certified development companies and state-regulated financial companies). Existing 7(a) lenders were automatically allowed to participate in PPP.

SBA relied on lenders with delegated authority under the CARES Act to make and approve covered PPP loans. Due to the unique, emergency nature of the program, the processing requirements for PPP loans differed significantly from the traditional 7(a) loan program requirements. Generally, SBA's 7(a) program lender criteria and underwriting are based

on the borrower's creditworthiness and ability to repay the loan, among other things. In contrast, the PPP did not include a creditworthiness check. Instead, it required that lenders perform reviews of loan applications that could help identify applications for potential fraud or errors, as applications with errors or potential fraud may have resulted in overpayments if funds were disbursed.³⁹ Moreover, all PPP lenders had to demonstrate the ability to comply with applicable Bank Secrecy Act requirements.⁴⁰

During PPP Round 1, SBA did not conduct any review of loan or borrower information beyond looking for duplicate applications before issuing an SBA loan number to the lender. Issuing a loan number enabled the lender to proceed with the loan—meaning SBA did not review the loan applications before the lenders disbursed funds. However, SBA and its contractor began conducting automated loan eligibility and forgiveness reviews for Round 1 applications in August 2020 and manual reviews in October 2020—after the Round 1 loans had been approved and disbursed.

During PPP Round 2, SBA added front-end compliance checks to the loan application process via an automated screening process. Specifically, SBA started using an automated screening system to identify anomalies or attributes that may indicate noncompliance with eligibility requirements or potential fraud after the lender requested a loan number but before the lender disbursed the loan.⁴¹ If the system identified a potential issue, a compliance check error message or hold code

³⁹These reviews required that lenders (1) confirm receipt of borrower certifications; (2) confirm receipt of information demonstrating that the borrower had employees for whom the borrower paid salaries and payroll taxes on or around February 15, 2020; (3) confirm the dollar amount of average monthly payroll costs; and (4) follow applicable Bank Secrecy Act requirements. Business Loan Program Temporary Changes; Paycheck Protection Program as Amended by Economic Aid Act, 86 Fed. Reg. 3692 (Jan. 14, 2021).

⁴⁰The Bank Secrecy Act generally requires financial institutions to implement an anti-money laundering program to help prevent and detect money laundering and terrorist financing. For certain types of federally insured depository institutions, such as banks, this includes requirements for implementing appropriate risk-based procedures for conducting ongoing customer due diligence, which requires obtaining and verifying customer identities and understanding the potential risks associated with customers. See 31 C.F.R. § 1020.210(a)(2)(v).

⁴¹SBA compared loan applications against Treasury's Do Not Pay service and public records, in addition to determining whether a business was in operation as of February 15, 2020 (a requirement to be eligible for a PPP loan).

identifying the issue would be placed on the loan application until the issue was resolved.⁴²

When borrowers first began applying for and receiving PPP loans, SBA had yet to design and implement the forgiveness and guarantee purchase elements of the program. As a result, review processes evolved as SBA implemented the forgiveness and guarantee purchase steps. There are various types of review processes for the PPP, including eligibility reviews, forgiveness reviews, and guarantee purchase reviews. These processes were performed by a mix of contractor and SBA staff and generally occurred after disbursement. However, Round 2 loans did undergo certain checks that could flag potential noncompliance with eligibility.

Eligibility reviews. SBA and its contractor conducted eligibility reviews post-disbursement for Round 1 loans and pre-disbursement for Round 2 loans. These reviews were not designed specifically to identify overpayments or potential overpayments, but they could aid in doing so. This process consisted of three steps that used an automated screening process to flag loans for manual reviews by the contractor and then SBA, if necessary. See appendix II for more details on the steps of the SBA review process. As of July 2024, SBA had manually reviewed 431,891 PPP loans—around 3.7 percent of the loans made.

Throughout the course of the PPP, SBA and its contractor worked to refine the manual review process. In its February 2022 report, the SBA OIG discussed the potential effect of changes that were subsequently made to SBA's loan review process.⁴³ Prior to June 2021, SBA reviewed a loan once the borrower submitted a forgiveness application. However, in June 2021, SBA updated this process to prioritize reviews based on fraud risk rather than forgiveness status.

⁴²Starting in Round 2, small businesses could receive a second PPP loan if they met certain conditions. According to SBA officials, second draw PPP loans were put through the same automated screening process used for Round 2 first draw loans. If this screening uncovered an issue, a compliance check error message would be sent to the lender. In addition, if there was a hold code placed on the first draw loan as a result of SBA's screening of Round 1 loans, the application for a second draw loan would be delayed until the issue was resolved, if appropriate.

⁴³Small Business Administration, Office of Inspector General, *SBA's Paycheck Protection Program Loan Review Processes*, 22-09 (Washington, D.C.: Feb. 2022).

While this change meant that SBA would be able to review loans with a high risk of fraud that had not yet filed for forgiveness, it also meant that a certain number of loans would be manually reviewed after the loan had already been forgiven. OMB states that agencies should prioritize efforts toward preventing improper payments from occurring to avoid operating in a pay-and-chase environment.⁴⁴ Although this update prioritized reviews for loans with a higher risk of fraud, it also increased the difficulty of recovering loans that were ultimately found ineligible for forgiveness by creating a pay-and-chase environment.⁴⁵

Additionally, the SBA OIG previously reported that SBA's manual loan reviews were not always sufficient to ensure borrowers' eligibility. Specifically, the SBA OIG statistically sampled 176 of the 25,634 loans with matches from Treasury's Do Not Pay system and concluded that SBA inappropriately resolved 92 of the loans, despite the Do Not Pay match. By projection, the SBA OIG estimated that lenders disbursed, and SBA forgave, 12,234 of 25,634 loans (or 48 percent) totaling over \$1.4 billion without verifying the borrowers' eligibility, which the SBA OIG concluded further exposed the program to financial losses and improper payments.⁴⁶

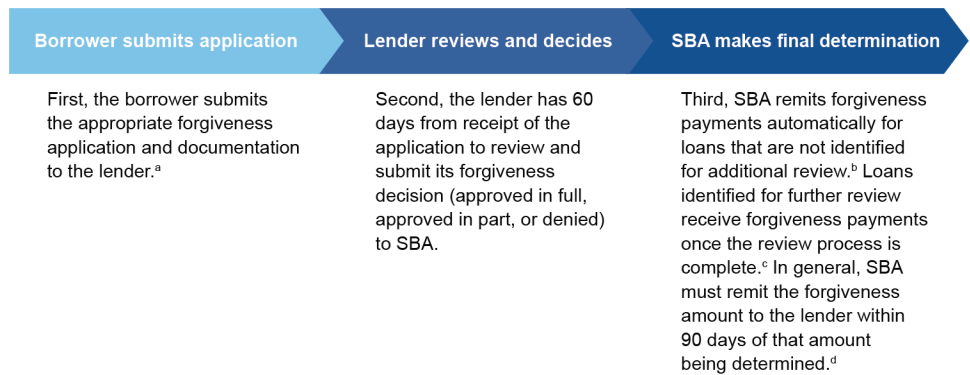
Forgiveness reviews. Under SBA rules and guidance, the loan forgiveness process has three steps. While these steps may help SBA to identify overpayments in some cases, they were not designed for that purpose. See figure 3 for more details.

⁴⁴See Office of Management and Budget, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, OMB M-21-19 (Washington, D.C.: Mar. 5, 2021). "Pay and chase" refers to the practice of detecting improper payments after payments have been made and attempting to recover funds.

⁴⁵The SBA OIG reported that a large number of borrowers not applying for forgiveness could be a strong indicator of fraud as borrowers who fraudulently obtained a PPP loan are unlikely to apply for loan forgiveness because they already obtained the funds with no intention of using them appropriately or repaying the loan. Small Business Administration, Office of Inspector General, *SBA's Paycheck Protection Program Loan Review Processes*.

⁴⁶Small Business Administration, Office of Inspector General, *SBA's Eligibility and Forgiveness Review of PPP Loans Made to Borrowers with Treasury's Do Not Pay Data Matches*, 24-06 (Washington, D.C.: Feb. 2024).

Figure 3: Paycheck Protection Program Loan Forgiveness Review Process



Source: GAO analysis of Small Business Administration (SBA) documents. | GAO-25-106199

^aGenerally, a borrower is eligible for forgiveness any time on or before the loan maturity date if the borrower has used all the loan funds for which the borrower requests forgiveness. Additionally, in July 2021, SBA announced the availability of a forgiveness platform that provided a single location for borrowers to apply for forgiveness online. While this platform was previously limited to certain borrowers, in February 2024, SBA announced the expansion of the platform to allow borrowers that have not yet received forgiveness to submit their applications through the platform.

^bIn October 2020, SBA issued an interim final rule generally allowing borrowers of a Paycheck Protection Program loan of \$50,000 or less to use a simplified loan forgiveness process and application form. In addition, we previously reported that SBA expedited the review process by, where appropriate, removing low-risk alerts connected to loans under \$150,000 that may have delayed loan forgiveness processing.

^cIf the loan is identified for further review, SBA conducts a manual review. SBA will notify the lender that it is beginning a review and will request that the lender provide certain documentation for the review process. At the end of the review, SBA will remit the appropriate forgiveness amount to the lender or notify the lender that the forgiveness request has been denied.

^dIn its interim final rule on loan forgiveness published in June 2020, SBA stated that it will extend this time frame if the loan or forgiveness application is under SBA review. 85 Fed. Reg. 33,004, 33,005 (June 1, 2020). SBA and Treasury officials previously told us that they interpreted the CARES Act requirement to remit funds within 90 days to be subject to SBA's review of loans.

In October 2020, as part of the PPP loan forgiveness application process, SBA required that any borrower that received PPP loans of \$2 million or greater submit a loan necessity questionnaire. SBA used the questionnaires to determine whether borrowers met the good-faith requirements that they certified to in their loan applications.⁴⁷ However, in July 2021, SBA stopped requiring submissions of the questionnaire as it determined that the loan necessity reviews were lengthy and caused

⁴⁷This aligned with the CARES Act requirement that stated eligible recipients applying for a loan needed to make a good-faith certification that the uncertainty of current economic conditions made the loan request necessary to support ongoing operations.

delays beyond the 90-day statutory timeline for forgiveness.⁴⁸ SBA told us that before halting this requirement, its contractor completed 2,161 loan necessity reviews and recommended that 2,117 of the borrowers made the certification in good faith and should have their loans forgiven. The remaining 44 loans were referred to SBA's Office of Capital Access with a recommendation for further review. However, it appears these loans did not undergo additional review, as SBA informed us that the loan necessity reviews were discontinued following approval from OMB to discontinue the questionnaires.

While this questionnaire was no longer required after July 2021, applicants were still required to self-certify on their PPP loan application that the loan was necessary due to current economic conditions. However, we have previously reported that relying on applicant self-certifications can leave a program vulnerable to exploitation by those who wish to circumvent eligibility requirements or pursue criminal activities.⁴⁹

In addition, SBA's IPA identified concerns with SBA's forgiveness review process related to monitoring controls and the control environment around the automated screening process in its report on SBA's fiscal year 2023 financial statements.⁵⁰

This finding, along with the discontinuance of loan necessity questionnaires for loans of \$2 million or more, raises concerns that SBA may have increased the likelihood that forgiveness applications for potentially fraudulent or erroneous PPP loans were inadvertently approved, potentially resulting in overpayments.

Guarantee purchase reviews. In July 2021, SBA began allowing lenders to submit PPP guarantee purchase requests if a borrower became more than 60 days late in their payments. This obligated SBA to purchase 100 percent of the loan from the lender if the lender complied with all applicable PPP requirements. After receiving a guarantee purchase request from a lender, SBA could approve the request and charge off the

⁴⁸After SBA discontinued the loan necessity questionnaires, the Associated General Contractors of America, Inc. dismissed its lawsuit against SBA and OMB challenging the legality of the questionnaires. *Associated General Contractors of America, Inc. v. United States Small Business Administration, et al.*, Case No. 1:20-cv-03567 (D.D.C.).

⁴⁹GAO, *Aviation: FAA Needs to Better Prevent, Detect, and Respond to Fraud and Abuse Risks in Aircraft Registration*, [GAO-20-164](#) (Washington, D.C.: Mar. 25, 2020).

⁵⁰Small Business Administration, *Independent Auditors' Report on SBA's Fiscal Year 2023 Financial Statements*.

loan—including loans with unresolved hold codes or loans that had previously been referred to the SBA OIG for potential fraud—if SBA determined the lender met its obligations.

However, SBA had the authority to reject the request if a review indicated that the loan was approved due to a lack of lender due diligence. If lenders were not in compliance with programmatic requirements during the loan processing and approval phases, the loan could be ineligible for guarantee purchase, whether in whole or in part.⁵¹ As of March 2024, SBA has manually reviewed 82,764 guarantee purchase requests—around 10.4 percent of the guarantee purchase requests received at the time.⁵²

SBA's IPA also identified concerns with SBA's guarantee purchase process in its November 2023 report.⁵³ Specifically, the IPA identified concerns with SBA's controls around the completeness and accuracy of alerts used in the guarantee purchase review process.

While the review processes described above—related to eligibility, forgiveness, and the guarantee purchase process—helped identify PPP loans that may have been ineligible or fraudulent, thus identifying potential overpayments, the SBA OIG and SBA's IPA have reported various concerns related to these processes. These findings add to concerns that SBA's current PPP review processes may not be effectively identifying overpayments, as certain erroneous or potentially fraudulent PPP loans may not be flagged and reviewed at all.

SBA's COVID-19 EIDL Review Processes

The review process for COVID-19 EIDL loans consisted of certain reviews occurring pre-disbursement and a separate review process that was mostly conducted post-disbursement. Although these reviews could help to identify overpayments or potential overpayments, reported concerns related to the reviews indicate they are not effective for identifying overpayments.

⁵¹We refer to lender due diligence as sufficient compliance with the PPP Loan Program Requirements, including the lenders' processing requirements in 86 Fed. Reg. 15083 and 86 Fed. Reg. 3712 and the document collection and retention requirements described in the lender application forms.

⁵²According to SBA, it has received 796,846 guarantee purchase requests as of March 2024. Of these, 666,749 requests have been approved.

⁵³Small Business Administration, *Independent Auditor's Report on SBA's Fiscal Year 2023 Financial Statements*.

Initially, SBA used a subcontractor's electronic validation system to review loan applications. This system used public information and certain fraud indicators to assess and verify loan application information. The system would also attempt to verify an applicant's bank account. However, this process depended on the banks' customer identification program, and the subcontractor estimated that 40 percent of banks did not collect enough information for its system to verify a bank account.⁵⁴ The main reasons the automated validation system would deem an application ineligible were (1) insufficient economic injury; (2) ineligible business type; or (3) ineligible answers to other application questions, such as felony convictions.

SBA made changes over the course of the program to enhance the controls in its application review process and to identify potential fraud that could result in subsequent overpayments. For example, in May 2020, SBA updated its front-end controls on the application to include the validation of bank account routing numbers, which helped ensure that funds were being sent to the correct borrower's bank account. In addition, in July 2020, SBA began validating the types of tax identification numbers associated with the types of entity (e.g., validating that an entity applied using an employer identification number and not a Social Security number) to help mitigate and identify potential fraud. If the automated system flagged a potential eligibility, fraud, or credit issue associated with a loan, the loan was then passed on to an SBA loan officer to review and attempt to mitigate the issue(s). If the loan officer was unable to do so, the loan was referred to the SBA team leader for review. If the issue was resolved, the applicant received an approval letter. If the team leader rejected the application, the applicant was notified that the application was declined.

However, the SBA OIG found that until August 2020, applications that did not contain certain fraud alerts flagged by the automated validation system were being approved by team leaders in batches with little to no additional review by others.⁵⁵ According to the SBA OIG report, these

⁵⁴Banks' customer identification programs must include risk-based procedures for verifying the identity of each customer to the extent reasonable and practicable. At a minimum, the bank must obtain the following identifying information from each customer before opening the account: name; date of birth (for individuals only); address; and identification number, such as a Social Security number or a passport number. 31 C.F.R. § 1020.220.

⁵⁵Small Business Administration, Office of Inspector General, *Inspection of Small Business Administration's Initial Disaster Assistance Response to the Coronavirus Pandemic*, 21-02 (Washington, D.C.: Oct. 2020).

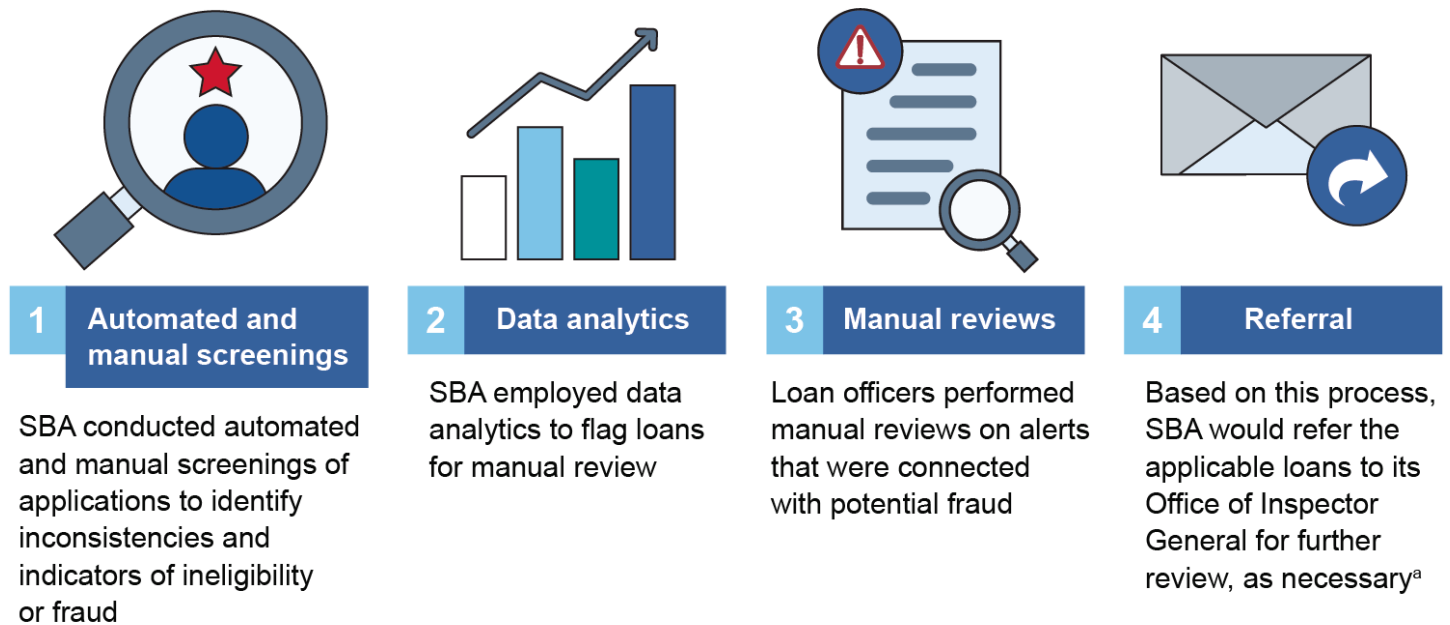
applications contained other issues that SBA did not review at the time, such as the inability to confirm business registrations. The report also stated that, after August 2020, SBA stopped approving loans in batches and began requiring SBA staff to review all applications prior to approval and to mitigate all system alerts. SBA data showed that from April through August 2020, SBA approved about 3.2 million applications.

Further, in April 2021, SBA started incorporating tax information as part of its review process to confirm that businesses existed on or before January 31, 2020—a requirement for program eligibility—and to verify business revenue.⁵⁶ However, SBA continued to rely on applicant self-certification for certain eligibility criteria, as allowed by the CARES Act. This included, but is not limited to, applicants self-certifying that they met employee size limits; they were a U.S. citizen, noncitizen national, or qualified alien; and they were not debarred from contracting with the federal government or receiving federal grants or loans. In addition, the COVID-19 EIDL application informed applicants that they were self-certifying under penalty of perjury. However, as discussed above, reliance on applicant self-certifications can leave a program vulnerable to exploitation and result in potential fraud and subsequent overpayments.

In addition, SBA used a review process for COVID-19 EIDL loans to help identify and refer potentially fraudulent loans to the SBA OIG. This review process consisted of four parts, including automated and manual screenings, data analytics, manual reviews, and referrals to the SBA OIG as necessary. See figure 4 for additional information on SBA's review process for COVID-19 EIDL loans.

⁵⁶We previously reported that SBA officials told us the CARES Act's restriction on using applicants' tax information presented a challenge for validating applications. The agency had relied on self-certification of applicant information and the controls put in place as part of the automated validations and manual review. However, the Consolidated Appropriations Act, 2021 removed this restriction. As a result, SBA officials told us that beginning in April 2021, the agency had started incorporating tax information as part of its validation process for loan applications to confirm that businesses existed on or before January 31, 2020. GAO, *Economic Injury Disaster Loan Program: Additional Actions Need to Improve Communication with Applicants and Address Fraud Risks*, [GAO-21-589](#) (Washington, D.C.: July 30, 2021).

Figure 4: COVID-19 Economic Injury Disaster Loan Review Process for Referral to the Office of Inspector General



Source: GAO analysis of Small Business Administration (SBA) documents. | GAO-25-106199

^aLoans not referred to the SBA Office of Inspector General were determined to be free of potential fraud risk.

Similar to the PPP review processes discussed above, we also identified concerns in SBA’s review process for COVID-19 EIDL loans and its ability to identify overpayments within the program. For example, in November 2023, SBA’s IPA reported concerns with the COVID-19 EIDL loan manual review process and its ability to effectively identify loans with eligibility concerns.⁵⁷

In addition, the IPA found that SBA’s controls over loans with existing hold codes were not properly designed and there was not sufficient evidence to support management’s reliance on the controls.⁵⁸ These findings, in addition to the reliance on self-certification for certain eligibility criteria, add to concerns that SBA’s review process for COVID-19 EIDL

⁵⁷Small Business Administration, *Independent Auditor’s Report on SBA’s Fiscal Year 2023 Financial Statements*.

⁵⁸SBA officials told us they disagreed with this IPA finding.

loans may not be designed to sufficiently identify loans with potential fraud or errors, which may result in overpayments remaining unidentified.

While the PPP and COVID-19 EIDL review processes aided in identifying some overpayments, SBA has not sufficiently documented its processes to demonstrate how it identifies overpayments resulting from potential errors or fraud, as its current processes do not appear to be designed to effectively identify erroneous or potentially fraudulent loans.

Further, without a process in place to effectively identify overpayments, SBA is not able to provide reasonable assurance that previously approved PPP guarantee purchase requests met eligibility requirements prior to the purchase, as there is a risk that some potential overpayments may have been issued due to a lender's lack of due diligence in the loan origination process.

Federal internal control standards state that management should identify, analyze, and respond to significant changes that could impact the internal control system.⁵⁹ They further state that management should design control activities to achieve objectives and respond to risks, and that management should implement control activities through policies. Without an expanded and documented process in place to ensure that SBA is identifying overpayments in the selected programs, SBA cannot provide reasonable assurance that it is effectively identifying overpayments for potential recovery. Additionally, there is an increased risk that SBA may inadvertently purchase PPP loans that could be ineligible for guarantee purchase, which potentially limits SBA's ability to recover overpayments.

SBA's PPP Guarantee Purchase Process

While the inclusion of new lenders helped the PPP reach more borrowers, it also increased the risks of overpayments. However, SBA did not take sufficient steps to mitigate this risk in its guarantee purchase process.

The CARES Act authorized SBA to use lenders already approved to participate in SBA's 7(a) program to make and approve PPP loans. It also permitted SBA and Treasury to authorize new lenders, provided they met

⁵⁹GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 2014).

certain requirements.⁶⁰ Lenders were paid a processing fee from SBA to encourage them to participate in the PPP. Under the initial guidelines, lenders earned a 5 percent fee on loans of \$350,000 or less; a 3 percent fee on loans of more than \$350,000 and less than \$2 million; and a 1 percent fee on loans of \$2 million or more.⁶¹ This arrangement enabled lenders to earn billions of dollars in fees for processing PPP loan applications.⁶²

A large group of new lenders in the PPP were those in the financial technology (fintech) sector. Fintech lenders are generally defined as online, nonbank lenders that leverage financial technology to provide consumers and small businesses with loans.⁶³ When the PPP was created, fintech lenders advocated for the ability to assist with the program. According to a fintech trade association, fintech lenders believed they could facilitate small business lending as their technology could handle a large amount of data and processing quickly.

We previously reported that program changes to PPP—such as allowing new lenders (including fintech lenders) to participate in the program—helped increase lending to the smallest businesses and in underserved

⁶⁰Pub. L. No. 116-136, § 1102(a), 134 Stat. 281, 290 (2020). In an interim final rule published April 15, 2020, SBA announced that any federally insured depository institution, federally insured credit union, or farm credit system institution in good standing with its regulator would automatically qualify to participate in PPP upon submission of SBA's PPP Lender Agreement. 85 Fed. Reg. 20,811, 20,815 (2020). SBA and Treasury were jointly responsible for approving lenders new to SBA to issue PPP loans. According to SBA officials, SBA approved new federally regulated lenders, and only new non-federally regulated and insured lenders required joint SBA and Treasury approval.

⁶¹Pub. L. No. 116-136, § 1102(a)(2), 134 Stat. 281, 293 (2020).

⁶²According to SBA, as of March 2024, \$38 billion has been paid out in lender fees.

⁶³In the 2020 loan cohort, banks with less than \$1 billion in assets were the highest-ranking lender in the applicable category while small business lending companies were second. These lender types accounted for approximately 1.1 million loans worth \$84.9 billion and 61,511 loans worth \$6.4 billion, respectively. Fintech lenders approved 250,720 loans worth \$6.1 billion, placing them in the third largest lender category. In the 2021 cohort, banks and savings and loan companies with \$10 billion or more in assets were the top lender category while banks and savings and loan companies that had less than \$10 billion were the second largest lender category. These lenders accounted for just over 1.8 million approved loans worth \$118 billion and over 1.8 million loans worth \$102 billion, respectively. Fintech lenders approved around 1.2 million loans, totaling nearly \$22 billion during the same period, making them the third largest lender once again.

locations.⁶⁴ However, we have also reported that there may have been vulnerabilities in some fintech lenders' loan origination and verification processes, specifically those related to fraud prevention.

For example, in May 2023, we reported that certain lenders originated a disproportionate share of fraudulent and potentially fraudulent loans when compared to the share of all PPP loans.⁶⁵ We found that lenders with the top five highest rates of loans associated with PPP fraud cases tended to use fintech lenders to automate loan origination as lender service providers (LSP).⁶⁶

While opening the PPP to fintech lenders may have helped the program reach new borrowers and process more applications, it also placed a reliance on the fintech lenders' internal controls to perform reviews of borrower loan applications—whether as direct lenders or as LSPs. However, these controls may not have been sufficient to ensure that there were no obvious signs of error or potential fraud in the applications, increasing the risk of approving loans for and making overpayments to ineligible borrowers.

This extension of control, and the CARES Act's hold harmless provision, introduced inherent risks to the PPP as a wave of new lenders (including

⁶⁴GAO, *Paycheck Protection Program: Program Changes Increased Lending to the Smallest Businesses and in Underserved Locations*, [GAO-21-601](#) (Washington, D.C.: Sept. 21, 2021).

⁶⁵GAO, *COVID Relief: Fraud Schemes and Indicators in SBA Pandemic Programs*, [GAO-23-105331](#) (Washington, D.C.: May 18, 2023).

⁶⁶An LSP is an entity that carries out lender functions in originating, disbursing, servicing, or liquidating a specific SBA business loan for compensation from a lender. This includes individuals or entities that perform any pre-qualification review based on SBA's eligibility and credit criteria or the lender's internal policies prior to submitting the applicant's information to the lender or providing the lender an underwritten application.

fintech lenders) joined the program.⁶⁷ According to SBA, Treasury and SBA jointly reviewed and approved 848 new lenders to participate in the PPP, in addition to the 4,837 lenders already authorized to participate in SBA's programs. These lenders were able to collect a processing fee for each disbursed PPP loan while facing minimal risk if potentially fraudulent or erroneous PPP applications were not identified prior to approving the loan.

In July 2021, SBA released guidance that stated SBA would review a lender's request for guarantee purchase and charge-off in accordance with PPP loan program requirements.⁶⁸ According to the notice, SBA would honor its guarantee and purchase 100 percent of the outstanding balance of the loan provided that the lender had complied with all PPP loan program requirements, including the lender's underwriting requirements and document collection and retention requirements. However, we found that SBA lacks sufficient documentation to demonstrate that its process for verifying lender compliance ensures that lenders met these requirements and performed an appropriate level of due diligence.

In addition, in its September 2022 report, the SBA OIG stated it found no evidence that SBA had a formal process to review lender compliance with debt collection activities in its PPP loan guarantee purchase process, including ensuring lenders sent out 60-day demand letters to borrowers in default.⁶⁹ Further, in November 2023, SBA's IPA reported that SBA management did not have adequate or effective monitoring controls

⁶⁷The CARES Act provided a hold harmless provision for lenders in the PPP. "If a lender has received the documentation required under this section from an eligible recipient attesting that the eligible recipient has accurately verified the payments for payroll costs, payments on covered mortgage obligations, payments on covered lease obligations, or covered utility payments during covered period—(1) an enforcement action may not be taken against the lender under section 47(e) of the Small Business Act (15 U.S.C. 657t(e)) relating to loan forgiveness for the payments for payroll costs, payments on covered mortgage obligations, payments on covered lease obligations, or covered utility payments, as the case may be; and (2) the lender shall not be subject to any penalties by the Administrator relating to loan forgiveness for the payments for payroll costs, payments on covered mortgage obligations, payments on covered lease obligations, or covered utility payments, as the case may be." Pub. L. No. 116-136, § 1006(h), 134 Stat. 281, 301 (2020).

⁶⁸See Procedural Notice 5000-812316: SBA Guaranty Purchases and Lender Servicing Responsibilities for PPP Loans.

⁶⁹Small Business Administration, Office of Inspector General, *SBA's Guaranty Purchases for Paycheck Protection Program Loans*, 22-25 (Washington, D.C.: Sept. 2022).

related to its PPP lenders.⁷⁰ This finding aligns with our concern that SBA may be missing out on potential overpayment recoveries through the guarantee purchase process, as there may be lenders that approved loans without performing sufficient good-faith reviews, making the loan guarantees potentially ineligible for purchase.

Federal internal control standards state that management should identify, analyze, and respond to significant changes that could impact the internal control system, and that management should design control activities to achieve objectives and respond to risks.⁷¹ Although SBA has published guidance and notices related to the PPP, without sufficient documented procedures in place, SBA cannot demonstrate how, as part of its guarantee purchase process, it considered and mitigated potential new risks that were introduced into the PPP by allowing fintech lenders to participate in the program. Further, SBA cannot demonstrate how its review process considered the increased risk that lenders or their LSPs did not comply with programmatic requirements prior to approving and purchasing PPP guarantees from lenders. Therefore, there is an increased risk that overpayments resulting from loans disbursed in excess of what a borrower was eligible for during the loan origination and approval process were not identified prior to SBA approving a purchase guarantee request, which may affect SBA's ability to recover the overpayments.

SBA Recovers Overpayments Using Regular Loan Servicing and Recently Updated Efforts to Recover Certain Defaulted Loans

SBA has various methods in place to recover an outstanding loan balance in the event of default, which would include the recovery of any associated overpayments. These methods include, but are not limited to, relying on the borrower to repay the loan, sending demand letters, or referring the loans to Treasury for collection.

In April 2022, SBA adopted a policy to end collection on defaulted loans in the selected programs that had outstanding balances of \$100,000 or less and did not refer the loans to Treasury for collections.⁷² Federal law allows agencies to suspend or end collections on claims of \$100,000 or

⁷⁰Small Business Administration, *Independent Auditor's Report on SBA's Fiscal Year 2023 Financial Statements*.

⁷¹[GAO-14-704G](#).

⁷²For the PPP, this applies to loans with an outstanding principal balance of \$100,000 or less, excluding interest. For COVID-19 EIDL loans, this applies to loans with an original loan balance amount of \$100,000 or less, excluding interest. For purposes of this report, we refer to the defaulted loans in the PPP and COVID-19 EIDL program with a balance of \$100,000 or less as "subject loans."

less when certain conditions are met, including when it appears that the cost of collecting the claim is likely to be more than the amount recovered.⁷³ According to the SBA OIG, absent such conditions, before making a referral to Treasury, 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.⁷⁴ Loans that are referred to Treasury go through its two delinquent debt collection programs, the Treasury Offset Program and the Cross-Servicing program.⁷⁵ Both SBA and Treasury also take action to prevent such borrowers from receiving additional federal financial assistance.

In January 2024, SBA reversed this policy and stated it would begin referring loans of \$100,000 or less to Treasury for collection beginning in March 2024, including any loans previously charged off without referral. Prior to this reversal, SBA had taken steps to try and determine whether collections on subject loans in its selected programs would be cost-effective.

PPP: In April 2022, SBA performed a cost-benefit analysis on PPP loans to support its decision to end collections on loans valued at \$100,000 or less. In September 2022, the SBA OIG argued that this analysis was not comprehensive enough to support this decision and recommended that SBA conduct a new cost-benefit analysis on purchase guarantees to determine if the cost of collecting on the subject loans was more than the expected recovery amount. SBA agreed to conduct a new analysis using a third-party. In announcing its policy reversal in January 2024, SBA stated that an updated cost-benefit analysis showed collection attempts, including referrals to Treasury, would be cost beneficial.

According to SBA, prior to January 2024, there were multiple factors that affected its ability to attempt overpayment recoveries, such as (1) the improbability that recovery amounts would outweigh the cost of collection efforts and (2) collection on loans with a balance of \$100,000 or less

⁷³31 U.S.C. § 3711(a).

⁷⁴Small Business Administration, *SBA's Guaranty Purchases for Paycheck Protection Program Loans*.

⁷⁵Under Treasury's Offset Program, 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. The Cross-Servicing program collects delinquent debt using a variety of methods, such as wage garnishment, negotiated repayment, and use of private collection agencies.

would be inequitable.⁷⁶ Further, SBA believed ending collections on subject loans would eliminate the labor-intensive process of making referrals to Treasury and SBA's estimated multimillion-dollar monthly cost of sending 60-day notification letters. However, as discussed above, the SBA OIG previously investigated SBA's decision to end collections on purchased PPP loan guarantees with a balance of \$100,000 or less—including its decision to not refer the loans to Treasury—and determined that SBA's April 2022 analysis was not comprehensive enough to sufficiently support this decision.⁷⁷

COVID-19 EIDL: In May 2021, SBA contracted a third party to assess the COVID-19 EIDL portfolio, which was about \$226 billion of loan commitments at the time.⁷⁸ The third party ultimately recommended that SBA sell the debt to ensure a strategy that would maximize the value of the portfolio, but SBA decided to not pursue this recommendation and did not provide an explanation as to how it made that decision at the time.⁷⁹ SBA officials later informed us that they believed the recommendation was flawed due to various concerns with the cost assessment's design.⁸⁰

According to SBA, agency officials believed various factors would affect its ability to attempt overpayment recoveries at the time. For example, based on the cost assessment, SBA officials decided it was improbable that recovery amounts would outweigh collection efforts and that using current disaster staff to collect on COVID-19 EIDL loans would distract from SBA's core mission.

As a result, based on the cost assessment, SBA management originally determined it would not be cost-effective to pursue collections, including

⁷⁶According to SBA, PPP loans have no collateral or personal guarantees, which makes potential recoveries much more limited.

⁷⁷Small Business Administration, *SBA's Guaranty Purchases for Paycheck Protection Program Loans*.

⁷⁸Small Business Administration, Office of Inspector General, *Ending Active Collections on Delinquent COVID-19 Economic Injury Disaster Loans*, 23-16 (Washington, D.C.: Sept. 2023).

⁷⁹The third party evaluated and summarized four alternatives to servicing the loan portfolio: (1) self-service by SBA; (2) outsourced service; (3) hybrid service (a combination of self-servicing and outsourced servicing); and (4) sale of the debt.

⁸⁰Specifically, SBA officials noted that the recommendation was flawed because the cost assessment considered discount rates that were not consistent with federal standards, did not account for subsidy appropriation costs for asset sale, and did not account for the latest approved cash flows estimated by SBA.

referral to Treasury, on the loans of \$100,000 and below for the program. Although, according to the SBA OIG, SBA planned to continue providing past due notices, due process letters, and demand letters to delinquent COVID-19 EIDL borrowers with loan balances of \$100,000 or less. For delinquent borrowers, SBA also planned to refer borrowers to credit bureaus and ensure borrowers are included on Treasury's Do Not Pay system.⁸¹

However, in this same report, the SBA OIG noted several concerns with the cost assessment SBA used to support its decision to end active collections on COVID-19 EIDL loans and noted the estimates were unreliable. Specifically, the SBA OIG stated that prematurely ending active collection activities on delinquent COVID-19 EIDL loans with balances of \$100,000 or less put SBA at risk of violating federal law, given that the full extent of fraudulent loans in the COVID-19 EIDL portfolio is unknown. The SBA OIG stated that agencies have an affirmative responsibility to try to collect delinquent debts owed to them and that agencies can only suspend or end collections on claims when certain criteria are met. The SBA OIG also cited 31 U.S.C. § 3711(b)(1), which prohibits agencies from ending collections on claims that appear to be fraudulent, false, or misrepresented claims by a party with an interest in the claims.

The SBA OIG also believed that prematurely ending active collections on delinquent COVID-19 EIDL loans would inhibit the additional fraud detection that could be attained through collections efforts. In addition, the SBA OIG stated that by foregoing referral to Treasury and ending active collections earlier, SBA was limiting the time available for oversight entities to identify additional fraudulent loans through ongoing or future reviews.⁸²

In November 2023, the SBA's IPA reiterated the concern that SBA was not fully complying with federal debt collection requirements due to its

⁸¹Small Business Administration, *Ending Active Collections on Delinquent COVID-19 Economic Injury Disaster Loans*.

⁸²In its June 2023 report, the SBA OIG estimated that SBA disbursed more than \$200 billion in potentially fraudulent COVID-19 EIDLs, EIDL Targeted Advances, Supplemental Targeted Advances, and PPP loans. This means at least 17 percent of all the COVID-19 EIDL and PPP loans were disbursed to potentially fraudulent actors. See Small Business Administration, Office of Inspector General, *COVID-19 Pandemic EIDL and PPP Loan Fraud Landscape*, 23-09 (Washington, D.C.: June 2023).

delays and absence of referrals of delinquent borrowers and guarantors to Treasury.⁸³

As mentioned above, in January 2024 SBA announced it would begin referring charged-off loans in selected programs with a balance of \$100,000 or less to Treasury for collection, including any loans that were previously charged off without referral to Treasury. According to SBA, it started referring subject loans to Treasury in March 2024, following a 60-day grace period. During this grace period, SBA communicated this change in policy to borrowers and helped ensure they understood the effect of default and the available paths back to compliance, in addition to making internal technology and process updates at SBA to handle this change.

According to SBA, it based this decision on the results of a third-party cost analysis that was completed in December 2023 on the PPP. The updated analysis showed that referral to Treasury would likely yield a positive return for taxpayers. According to the analysis, estimated net recoveries fall between \$104 million and \$223 million.⁸⁴ Due to the expected recovery amount, the third party advised SBA that it would be cost-effective to pursue collections through Treasury referral. Although this policy change appears to be an improvement in SBA's collection efforts for loans in the selected programs with a balance of \$100,000 or less, more time is needed before the effect of these changes can be fully assessed.

DOL Generally Follows Its Regular UI Processes to Identify and Recover Overpayments of COVID-19 Relief Funds

DOL's Processes

The pandemic-related UI programs generally follow DOL's Unemployment Insurance Program Letters guidance and procedures for

⁸³Small Business Administration, *Independent Auditor's Report on SBA's Fiscal Year 2023 Financial Statements*.

⁸⁴For this analysis, the net recoveries reflect the estimated revenue after subtracting any estimated costs associated with the recoveries.

overpayment recovery established for regular UI.⁸⁵ UI is a federal-state partnership, and according to DOL, states are required to perform the following three administrative functions to help ensure UI program integrity at the state level: (1) detect benefits paid through error by the SWA or through willful misrepresentation or error by the claimant or others; (2) deter claimants from obtaining benefits through willful misrepresentation; and (3) recover overpaid benefits, under certain circumstances.⁸⁶

According to DOL guidance, the department partnered with states to implement a wide array of national integrity strategies and to develop tools and share best practices to prevent improper payments and recover overpayments. The three required functions listed above are accomplished by SWA staff, who are responsible for promoting and maintaining the integrity of the UI program through overpayment prevention, detection, investigation, establishment, and recovery. SWA staff also prepare cases for prosecution, as necessary. SWAs generally implemented these functions for the pandemic-related UI programs in the same manner as for the regular UI programs using DOL's mandatory and recommended processes, such as

- National and State Directory of New Hires Cross-match,⁸⁷

⁸⁵DOL's Employment and Training Administration issues Unemployment Insurance program letters to SWAs to, among other things, address issues, including the reporting and recovery of pandemic-related UI overpayments.

⁸⁶See Department of Labor, *Program Integrity for the Unemployment Insurance (UI) Program and the UI Programs Authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, UI Program Letter (UIPL) No. 23-20 (Washington D.C.: May 11, 2020). and *Announcement of Grant Opportunities and National Identity (ID) Verification Offering under the American Rescue Plan Act (ARPA)*, UIPL No. 11-23 (Washington D.C.: July 13, 2023). For the purposes of this report, we use "claimant" and "individual" throughout to refer to UI beneficiaries.

⁸⁷The National and State Directories of New Hires Cross-match provides detailed, recommended operating procedures for cross-matching with state and national directories of new hire data to assist in preventing and detecting UI improper payments.

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- Quarterly Wage Records Cross-match,⁸⁸
 - Systematic Alien Verification for Entitlement,⁸⁹
 - Social Security Administration Cross-match,⁹⁰
 - Interstate Benefits Cross-match,⁹¹ and
 - UI Integrity Center's Integrity Data Hub tools.⁹²

According to DOL, as part of these program integrity functions, states are required to report various UI data to DOL through online submissions to a DOL database. This information includes overpayments, recoveries, write-offs, and waivers. An overpayment occurs when claimants receive UI benefits to which they are not entitled.

After a state identifies an overpayment, the state must take actions to recover the overpayment. The state informs the claimant of the potential overpayment and gathers information from the claimant and other parties in order to reach a conclusion on the overpayment. If the state establishes an overpayment against the claimant, a determination letter is sent and the claimant has the option to appeal the overpayment, accept the SWA's decision and repay the overpayment, or to request that the state waive recovery of the overpayment. For states to approve a pandemic-related overpayment waiver request, the claimant cannot be at fault and the recovery must be contrary to equity and good conscience. If

⁸⁸As part of the National Directory of New Hires reporting records, employers report records including quarterly wage information that states are required to submit to DOL. See Department of Labor, *National Directory of New Hires (NDNH) and State Directory of New Hires (SDNH) Guidance and Best Practices*, UIPL No. 13-19 (Washington D.C.: June 7, 2019). This information is used to help prevent overpayments, detect fraud, assess benefits, and recover funds.

⁸⁹If claimants are not U.S. citizens or nationals, they must provide the state employment security agency with documentation from the Immigration and Naturalization Service that contains Alien Registration Numbers or other documents that provide reasonable evidence of current immigration status.

⁹⁰The Social Security Administration Cross-match provides SWAs with the ability to cross-match UI claims information with the Social Security Administration's information on customer names and Social Security numbers for ID verification.

⁹¹The Interstate Benefits Cross-match is used to match benefit claims in one state against wage and benefit files in the claimant's state of residence.

⁹²The Integrity Data Hub is a centralized, multi-state data system that allows participating state UI agencies to submit claims for cross-matching, provides fraud alerts to states, and supports data analytics on multi-state claims.

the claimant does not respond to the state notice, states can collect overpayments through recovery activities.⁹³

According to DOL officials, states are required to use the following as part of their recovery activities: benefits offsets, the Treasury Offset Program, the Cross Program Offset Recovery Agreement, and the Interstate Reciprocal Overpayment Recovery Arrangement.⁹⁴

- **Benefits offsets.** Using benefits offsets allow states to recover non-fraud and fraud overpayments by deducting from future benefits payments. Generally, state law determines the time frame for benefits offset; however, for pandemic-related UI programs, apart from PUA, the CARES Act, as amended, set this time frame to 3 years from the date the original payment was made to the claimant.⁹⁵
- **Treasury Offset Program.** Under this program, recoveries of UI certain overpayments are offset against an individual's federal income tax refund or other federal payments due to the individual.⁹⁶
- **Cross Program Offset Recovery Agreement.** States that have signed this agreement with the Secretary of Labor are allowed to offset federal benefits to recover state UI overpayments and to offset state UI benefits to recover federal benefit overpayments.⁹⁷
- **Interstate Reciprocal Overpayment Recovery Agreement.** Using this arrangement allows states to offset overpayments of unemployment compensation paid under other states' unemployment compensation laws.⁹⁸ For example, if a claimant received an

⁹³Department of Labor, *Federal Requirements to Protect Individual Rights in State Unemployment Compensation Overpayment Prevention and Recovery Procedures*, UIPL No. 01-16 (Washington, D.C.: Oct. 1, 2015).

⁹⁴In this case, benefits offsets are benefits withheld by the state agency to satisfy the requirement for the recipient to repay an overpayment.

⁹⁵The CARES Act, as amended, limited a state's use of benefit offsets for recovering overpayments under the FPUC, MEUC, and PEUC programs to 3 years after the date claimants received the payment. In some instances, this could have already passed by the time an overpayment is identified.

⁹⁶Social Security Act of 1935, Pub. L. No. 74-271, 303(m) (codified as amended at 42 USC § 503(m)).

⁹⁷Social Security Act of 1935, Pub. L. No. 74-271, 303(g) (codified as amended at 42 USC § 503(g)).

⁹⁸Social Security Act of 1935, Pub. L. No. 74-271,303(g) (codified as amended at 42 USC § 503(g)).

overpayment in one state but has also worked in another state and is now collecting unemployment benefits in the new state, the prior state can collect overpayments by offsetting the new state's unemployment compensation under this arrangement.

The CARES Act, as amended, does not specify a time restriction for other UI recovery methods beyond the benefits offsets option. However, the act does state that determinations of fraud and overpayments by state agencies are subject to review in the same manner and to the same extent as regular UI and only in that manner and to that extent. Therefore, states follow the time frames in their own laws and guidance for these other methods.

In addition to the above activities, DOL encourages states to perform further recovery procedures such as: offsets via state income tax offset programs, wage garnishments, civil actions, property liens, collection agency referrals, credit bureau referrals, and other recovery methods as determined by state law or policy. According to DOL guidance, some state laws also include provisions for denying or suspending professional licenses of persons who owe repayments of UI overpayments.⁹⁹ For fraudulent overpayments, states may bring criminal charges, which can lead to fines and prison sentences.¹⁰⁰

The unprecedented demand for UI benefits and the need to quickly implement the new programs during the pandemic increased the risk of improper payments and overpayments in particular. Because of this increased risk, the CARES Act provides authority for states to waive recovery of identified overpayments in the pandemic-related UI programs.¹⁰¹ DOL's Unemployment Insurance Program Letters provide states further guidance on waiving recovery of an overpayment if the individual is not at fault and if the recovery would be contrary to equity and good conscience.

States waive recovery of regular UI overpayments slightly differently than for pandemic-related UI overpayments. According to DOL, for regular UI

⁹⁹See Department of Labor, *ET Handbook 356*, ch. 6 (June 2006).

¹⁰⁰42 U.S.C. § 503. Federal law requires a mandatory penalty assessment for fraudulent claims of not less than 15 percent of the amount of the overpayment against claimants committing fraud in connection with state or federal UI programs. 42 U.S.C. § 503(a)(11).

¹⁰¹FPUC and MEUC waiver authority is found at section 2104(f)(2), PEUC authority at section 2107(e)(2), and PUA authority at section 2102(d)(4) of the CARES Act, as amended.

programs, states waive recovery of overpayments based on their state laws. Some examples of when these waivers are generally granted include when overpayments are the result of agency error or employer error, or when recovery would be against equity or good conscience, cause financial hardship, or for other reasons.

For pandemic-related UI programs, DOL has approved seven scenarios under which states may automatically apply blanket waivers of overpayments for cases where claimants are not at fault and recovery is against equity and good conscience. If a waiver situation does not fall under any of the seven scenarios, the state may waive overpayments on a case-by-case basis, without needing to submit additional documentation to DOL. DOL helps ensure that each state is applying waivers properly through monitoring conducted by DOL's Employment and Training Administration's regional offices. This process involves the regional offices selecting a sample of cases involving the use of waivers and reviewing to ensure that waivers were properly applied.

The seven blanket waiver scenarios are as follows:

1. The individual answered "no" to being able to work and available for work, and the state paid PUA or PEUC without adjudicating the eligibility issue. Upon requesting additional information from the individual, the individual either did not respond or the individual confirmed being unable to work or unavailable for work for the week in question, resulting in an overpayment for that week.¹⁰²
2. When an individual is eligible for payment under an unemployment benefit program for a given week, but through no fault of the individual, was instead incorrectly paid under either the PUA or PEUC program at a higher weekly benefit amount.¹⁰³
3. The state paid the wrong amount on a PUA or PEUC claim because the state, through no fault of the individual, used the wrong amount when calculating the allowance, resulting in an overpayment equal to a minimal difference in dependents' allowance for each paid week.
4. The individual answered "no" to being unemployed, partially unemployed, or unable or unavailable to work because of COVID-19

¹⁰²Scenario 1 applies to the PUA, FPUC, MEUC, and PEUC programs, as well as the first week of regular unemployment compensation that is reimbursed in accordance with section 2105 of the CARES Act, as amended.

¹⁰³Scenarios 2 and 3 apply to the PUA, MEUC (where applicable), and PEUC programs.

and the state paid PUA anyway. Upon requesting a new self-certification, the individual either did not respond or the individual confirmed that none of the approved COVID-19-related reasons were applicable, and the state's payment resulted in an overpayment for that week.¹⁰⁴

5. Through no fault of the individual, the state paid the individual a minimum PUA weekly benefit amount based on Disaster Unemployment Assistance guidance that was higher than the state's minimum PUA weekly benefit amount, which resulted in an overpayment.¹⁰⁵
6. The individual complied with instructions from the state to submit proof of earnings to be used in calculating the individual's PUA weekly benefit amount. However, through no fault of the individual, the state's instructions were either inadequate or the state incorrectly processed this calculation using self-employment gross income instead of net income or documents from an inapplicable tax year, resulting in an incorrect higher PUA weekly benefit amount.
7. The individual complied with instructions from the state to submit proof of self-employment earnings to be used in establishing eligibility for MEUC. However, through no fault of the individual, the state's instructions were either inadequate or the state incorrectly processed this calculation using the incorrect self-employment income or based on documents from an inapplicable tax year, resulting in the individual incorrectly being determined eligible for MEUC.¹⁰⁶

According to DOL, if a state has exhausted efforts to collect an overpayment, it may remove the amount for accounting purposes (also known as a write-off) if state law permits it to do so. A write-off does not limit a state's legal authority to collect the overpayment, should the opportunity arise. States write off regular UI overpayments and pandemic-related UI overpayments similarly. Generally, states write off regular UI and pandemic program UI overpayments when the statute of limitations

¹⁰⁴Scenario 4 applies to the PUA and FPUC (where applicable) programs.

¹⁰⁵Scenarios 5 and 6 apply to the PUA program.

¹⁰⁶Scenario 7 applies to the MEUC program.

DOL's Resources and Guidance

expires, bankruptcy is approved by a court, or the claimant is deceased.¹⁰⁷

Since the beginning of the pandemic, DOL published over 60 Unemployment Insurance Program Letters to help states administer the pandemic-related UI programs, which address various issues, including reporting instructions and recovery of pandemic-related UI overpayments. The instructions require states to report UI program integrity activities (for both regular UI and the pandemic-related UI programs) on a quarterly basis for all programs except PUA, which is reported monthly through the UI Database Management System.¹⁰⁸ DOL's instructions note that states should maintain adequate program records of all their activities in identifying overpayments, which should also draw a clear distinction between fraudulent or erroneous overpayments.¹⁰⁹

According to DOL, the DOL data reporting system has built-in edit checks to help ensure that required fields are not blank and do not contain incompatible data. Once submitted, these data are publicly available on the Employment and Training Administration data downloads website.¹¹⁰

DOL has provided SWAs various resources to improve their UI systems. Some examples include allocating ARPA funding, IT modernization funding, and other grant funding to states.¹¹¹ Through September 2023,

¹⁰⁷According to DOL's Employment and Training Administration Handbook No. 401, states are instructed that overpayment receivables (uncollectibles) can be removed from the states accounting records after eight quarters. However, most states have established additional criteria, such as claimant's bankruptcy or death, debt determined to be otherwise uncollectible, inability to locate the claimant, or the amount of debt is low. See Department of Labor, *Employment and Training Administration Handbook No. 401*, 5th Edition (July 2017). Department of Labor, *Additional State Instructions for Processing Waivers of Recovery of Overpayments under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as Amended*, UIPL No. 20-21, Change 1 (Washington, D.C.: Feb. 7, 2022).

¹⁰⁸See Department of Labor, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Unemployment Assistance (PUA) Program Operating, Financial, and Reporting Instructions*, UIPL No. 16-20 (Washington, D.C.: Apr. 5, 2020); *Consolidation of the Employment and Training Administration (ETA) 9000 and ETA 227 Reports*, UIPL No. 08-12 (Washington, D.C.: Jan. 11, 2012); UIPL No. 23-20; and *DOL ETA Handbook No. 401*.

¹⁰⁹Department of Labor, *ET Handbook No. 356* (June 2006).

¹¹⁰See [Data Downloads \(doleta.gov\)](https://doleta.gov). (accessed Apr. 10, 2024).

¹¹¹UIPL No. 11-23, UIPL No. 02-22, UIPL No. 22-21, and UIPL No. 23-21 (related to Tiger Team grants, fraud prevention grants, and equity grants).

DOL had awarded a total of \$783 million in grant funding to 52 of the 53 UI SWAs for states' investigative and overpayment recovery efforts. According to DOL, states are using grant funds for investigations and overpayment recoveries among other things. Along with grant funds, DOL provided states resources such as

- sending expert “Tiger Teams” directly to states to help identify process improvements that can speed benefit delivery, address equity concerns, and fight fraud;
- additional integrity-specific funding for pandemic-related UI programs;¹¹²
- providing tools to help address immediate fraud concerns by facilitating more effective identification verification processes;
- developing IT solutions that states can adopt to modernize antiquated state technology;¹¹³
- announcing funding opportunities to help states ensure timely payment of benefits, promote equitable access, and combat fraud; and

¹¹²See Department of Labor, *Addressing Fraud in the Unemployment Insurance (UI) System and Providing States with Funding to Assist with Efforts to Prevent and Detect Fraud and Identity Theft and Recover Fraud Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, UIPL No. 28-20 (Washington, D.C.: Aug. 31, 2020); *Additional Funding for Identity Verification or Verification of Pandemic Unemployment Assistance (PUA) Claimants and Funding to Assist with Efforts to Prevent and Detect Fraud and Identity Theft as well as Recover Fraud Overpayments in the PUA and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, UIPL No. 28-20, Change 1 (Washington, D.C.: Jan. 15, 2021); *Additional Funding to Assist with Strengthening Fraud Detection and Prevention Efforts and the Recovery of Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs, as well as Guidance on Processes for Combatting Identity Fraud*, UIPL No. 28-20, Change 2 (Washington, D.C.: Aug. 11, 2021); and *Support for States to Resolve Outstanding Items from the Expired Coronavirus Aid, Relief, and Economic Security (CARES) Act Unemployment Compensation (UC) Programs, Including Additional Funding to Assist States with Reporting and Detection of Recovery of Overpayments*, UIPL No. 28-20, Change 4 (Washington, D.C.: July 22, 2022).

¹¹³Many states rely on outdated legacy IT systems to operate their UI programs. GAO has reported on the risks and challenges that legacy systems pose for state UI programs, which have led to, among other things, reduced efficiency and effectiveness. Legacy IT systems have led to slower payment processing, an inability to detect and recover fraudulent overpayments, reporting difficulties, security vulnerabilities, staffing challenges, and increased administrative costs. See GAO, *Unemployment Insurance: DOL Needs to Further Help States Overcome IT Modernization Challenges*, [GAO-23-105478](#) (Washington, D.C.: July 10, 2023).

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- providing states additional resources such as training sessions to help clarify and update Unemployment Insurance Program Letters and handbooks for new procedures to address SWA concerns.

The Fiscal Responsibility Act of 2023 rescinded \$1 billion of unobligated amounts from the ARPA funds available for the UI program.¹¹⁴ This rescission, according to DOL officials, caused DOL to cancel previously issued grant opportunities, and also resulted in a reduction in the amount of fraud prevention and integrity grants, which states could have used to support overpayment recovery efforts.

SBA and DOL Have Not Sufficiently Tracked Progress of Overpayment Recovery Efforts in Selected Programs

SBA Has Insufficient Tracking Processes for Identified Overpayment and Recoveries

SBA does not have clear, documented procedures for tracking identified overpayments in the selected programs. While SBA tracked certain PPP loans where the funds had been identified for return to SBA that may result in the recovery of an overpayment, this process was not designed specifically to track identified overpayments for recovery. Additionally, SBA tracks certain data related to improper payments in its PPP and COVID-19 EIDL programs; however, it does not have sufficient data to determine how effective its overpayment recovery methods are. Although SBA provided us with data regarding recovery amounts for both programs, we were unable to determine an overpayment recovery rate for either program or assess the effectiveness of SBA's recovery methods.

SBA's process tracked PPP loans identified for the return of funds to SBA for various reasons, including

- loans where a lender suspected fraudulent activity;

¹¹⁴Pub. L. No. 118-5, div. B, tit. I, § 24, 137 Stat. 10, 27 (2023). DOL reported that this rescission reduced the available funding for the UI program from \$2 billion to \$1 billion, see Department of Labor, *Cancellation of American Rescue Plan Act (ARPA) Related Guidance, including Unemployment Insurance Program Letter (UIPL) No. 22-21, Change 2; UIPL No. 23-21, Change 5; UIPL No. 02-22, Change 3; and UIPL No. 07-23, UIPL No. 10-23* (Washington, D.C.: July 13, 2023).

-
- loans where a borrower accidentally paid SBA, who is then required to return funds to the borrower and direct them to repay the lender; or
 - circumstances where a borrower received duplicate loans (due to the nature of the PPP application process) and the borrower was attempting to pay back the duplicate loan.¹¹⁵

To track these loans, SBA used a spreadsheet on an informal, ad-hoc basis with referrals from lenders, SBA personnel, and the SBA OIG.

Additionally, SBA did not have a tracking process in place for identified overpayments in the COVID-19 EIDL program. Based on our communication with SBA, a primary reason for this was that SBA anticipated capturing any overpayments through its standard repayment process, as borrowers were required to repay the total loan amount in the COVID-19 EIDL program, including any overpayments associated with the loan.

Further, while SBA tracked recoveries for charged-off loans in the selected programs, it did not separate out whether those recoveries were associated with an overpayment or whether the recoveries were from a properly paid loan. This is because SBA has not identified what portion of the delinquent loan population was properly paid and what portion was an overpayment (e.g., the portion of a loan made in excess of eligibility). While SBA reviews loans for certain fraud risks that would result in an overpayment if disbursed, there are concerns around the overall review process and its ability to detect loan amounts in excess of borrower eligibility, as we discussed above. As a result, it is not possible to determine what percentage of these recovery amounts are from overpayments being recovered.

In its most recent report on SBA's compliance with PIIA requirements, SBA's IPA identified several concerns with SBA's PPP and COVID-19 EIDL improper payment estimates due to inadequate sample review processes and incomplete populations.¹¹⁶

SBA's insufficient overpayment identification and tracking process affected its ability to produce the accurate and reliable sample results

¹¹⁵The PPP application process allowed borrowers to apply with multiple lenders, which could have potentially resulted in duplicate loans in the early stages of the PPP.

¹¹⁶Small Business Administration, Office of Inspector General, *Independent Auditors' Report on SBA's Fiscal Year 2023 Compliance with the Payment Integrity Information Act of 2019*, 24-16 (Washington, D.C.: May 2024).

needed to develop statistically valid improper payment and unknown payment rate estimates for the selected programs because its sample population was not complete. If SBA improved its overpayment tracking process, it could help provide reasonable assurance that its sampling and review processes include complete populations which may be used to produce statistically valid estimates, as required by PIIA.¹¹⁷

Federal internal control standards state that management should design control activities to achieve objectives and respond to risks, management should implement control activities through policies, and management should externally communicate the necessary quality information to achieve the entity's objectives.¹¹⁸ Without effectively identifying overpayments and developing a formal tracking process to record overpayments identified for recovery, SBA could be both unaware of and missing out on potential recoveries, as potential overpayments would not be flagged for recovery. Therefore, SBA's identified overpayment population for both programs may be incomplete. As a result, SBA cannot provide reasonable assurance that the data it uses to calculate estimates of overpayments and subsequent recovery amounts and rates are accurate for the two programs, and it risks not maximizing its recovery efforts.

DOL's UI Recovery Rate Calculation Does Not Include All Identified Overpayments

DOL does not include all identified overpayments when calculating its recovery rate for regular and pandemic-related UI programs, contrary to OMB instructions. OMB provides instructions to agencies for use in preparing annual improper payments data submissions for [PaymentAccuracy.gov](https://www.paymentaccuracy.gov).

OMB's fiscal year 2023 data call instructions tell agencies to calculate recovery rates using overpayments identified and overpayments recovered. Overpayments identified is equal to the sum of overpayments identified through recovery activities and overpayments identified through recovery audits. OMB does not instruct agencies to exclude overpayments for which they are not pursuing recovery (i.e., waived overpayments) from the recovery rate calculation. While agencies with appropriate legal authority may waive the recovery of certain overpayments, waived overpayments are still considered to be monetary

¹¹⁷Pub. L. No. 116–117, § 2; 134 Stat. 113, 117 (2020) (codified at 31 U.S.C. § 3352(c)).

¹¹⁸[GAO-14-704G](#).

loss improper payments and should be reflected in agency recovery rates.

DOL's formula for determining recovery rates (for both the regular UI program and the pandemic-related UI programs) may be misleading or of limited use because it removes waived overpayments from its calculation. By using its current formula, DOL may be reporting inflated recovery rates and eventually could have negative recovery rates in pandemic-related UI programs. See figure 5 for more information.

Figure 5: Department of Labor's Current Recovery Rate Calculation

**Department of
Labor's recovery
rate calculation**

**Office of Management
and Budget's recovery
rate calculation**

$\frac{\text{Fiscal Year (FY) Overpayments Recovered}}{(\text{FY Overpayments Identified} - \text{FY Overpayments Waived})}$	$\frac{\text{FY Overpayments Recovered}}{\text{FY Overpayments Identified}}$
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Source: GAO analysis of Department of Labor documents and Office of Management and Budget data call instructions. | GAO-25-106199

Our review of DOL's overpayment data for fiscal year 2023, as of April 10, 2024, shows that DOL is reporting inflated recovery rates for each of the UI programs—including regular UI and pandemic-related UI programs. By using DOL's current recovery rate formula, we found that the recovery rates for pandemic-related UI programs in fiscal year 2023 were all higher when subtracting waived overpayments amounts from the total overpayments amount compared to the recovery rates calculated based on OMB's data call instructions. See table 1 for more information.

Table 1: Comparison of Fiscal Year 2023 Department of Labor (DOL) Unemployment Insurance Recovery Rates, Waived Overpayments Included and Excluded, as of April 10, 2024 (Dollars in Millions)

Unemployment Insurance (UI) program	Overpayments identified	Overpayments waived	Overpayments recovered	DOL's reported recovery rate ^a	Total overpayment recovery rate ^b
Regular UI	\$2,049.7	\$218.2	\$934.7	51.03%	45.60%
Pandemic Unemployment Assistance	\$1,925.5	\$824.8	\$115.2	10.47%	5.98%
Pandemic Emergency Unemployment Compensation	\$281.1	\$55.8	\$97.8	43.41%	34.79%
Federal Pandemic Unemployment Compensation	\$2,762.8	\$899.4	\$484.7	26.01%	17.54%
Mixed Earner Unemployment Compensation	\$1.0	\$0.3	\$0.2	27.36%	18.97%

Source: GAO analysis of DOL recovery rate data. | GAO-25-106199

Note: Numbers may not sum because of rounding.

^aThe "DOL's reported recovery rate" calculation excludes waived overpayment amounts.

^bThe "Total overpayment recovery rate" calculation includes waived overpayment amounts.

Additionally, as all pandemic-related UI programs ended by September 2021, the overpayments identified in future fiscal years should continue to decrease; however, as waived overpayments are recorded in the period when the waiver is applied, applying the current formula the denominator of DOL's formula may eventually return a negative number causing a negative recovery rate for pandemic-related programs.

According to DOL officials, DOL has been calculating its recovery rate this way since fiscal year 2012, when it first published its rate and methodology in its annual financial report (AFR). DOL officials also noted that the Employment and Training Administration published the proposed calculation for the recovery rate measure—including the exclusion of waived overpayments—in the *Federal Register* in February 2012 for public review and comment. While DOL officials stated that OMB reviewed the fiscal year 2012 AFR and has not objected to the recovery rate calculation or methodology, PIIA has since repealed and replaced the improper payments reporting-related statutes that were in effect for fiscal year 2012. Further, OMB has issued updates to related guidance

and reporting instructions.¹¹⁹ Regarding the pandemic-related UI programs, DOL officials noted that the unprecedented demand for UI benefits during the COVID-19 pandemic also led to a greater number of SWA administrative errors, which led to SWAs using waivers for those administrative errors. Therefore, according to DOL officials, the current formula may be more accurate for the actual recoverable amounts.

DOL officials further stated that in 2012 they were constrained by their interpretation of the definition of the recovery rate provided in OMB Circular No. A-123, appendix C. According to DOL, while OMB guidelines allow agencies some flexibility to set recovery targets, agencies set the definition of overpayments identified and recovered. According to DOL officials, DOL excludes the waived payments because the recovery rate is designed to reflect a state's efforts to achieve recoveries of recoverable overpayments. DOL officials noted in the department's Unemployment Insurance Program Letter that OMB allowed DOL to exclude waived overpayments from its recovery rate calculation, but DOL officials did not provide documentation of this approval from OMB. Excluding waived overpayments from the recovery rate calculation may provide a measure of how successful states are at recovering the overpayments they attempt to recover, but the resulting amount is not a representation of DOL's and states' success at recovering all identified UI overpayments.

By not updating its formula to align with OMB's data call instructions and continuing to remove waived overpayments from its recovery rate calculation, DOL, Congress, and users of the data may not have a clear picture of recovery efforts or be able to determine whether additional actions are needed to achieve higher recovery rates.

State Workforce Agencies Have Struggled to Recover Pandemic-Related Overpayments

SWAs have struggled to recover overpayments in the pandemic-related UI programs. While DOL set a regular UI acceptable levels of performance (ALP) recovery rate of 68 percent, DOL did not set a recovery rate goal or baseline for the pandemic-related UI programs. SWA pandemic-related recoveries have continued to fall short of DOL's regular UI recoveries. Most SWA recoveries also fell below the 47.8

¹¹⁹In March 2020, Congress and the President enacted PIIA, which repealed the Improper Payments Elimination and Recovery Act of 2010 and other related statutes and enacted substantially similar provisions in a new subchapter of the U.S. Code. 31 U.S.C. § 3351-3358. Following PIIA enactment, OMB issued M-21-19, providing an update to its guidance for executive agencies on estimating and reporting improper payments. In addition to M-21-19, OMB provides annual data call instructions for agencies to use when reporting improper payments information for [PaymentAccuracy.gov](https://www.paymentaccuracy.gov).

percent average recovery rate for all agencies reporting data on PaymentAccuracy.gov for the 6-year period ending fiscal year 2023.

According to the *Additional Planning Guidance* for fiscal year 2024 issued by DOL in June 2023, the agency's ALP for UI is 68 percent. The guidance instructs SWAs that if the 68 percent recovery rate is not met, then they are expected to develop a corrective action plan.¹²⁰ According to DOL officials, there was no ALP established for pandemic-related programs, and the ALP of 68 percent does not apply to pandemic-related UI programs, as the programs were temporary in nature. While the pandemic-related UI programs were temporary and have ended, by not setting a baseline for SWA recovery rates for pandemic-related UI programs, DOL cannot establish targets to evaluate SWA performance.

As part of our analysis, we compared all pandemic-related UI program overpayment recovery data to government-wide overpayment recovery data reported by agencies from fiscal years 2018 to 2023. During this time frame, the average recovery rate for all agencies reporting data on PaymentAccuracy.gov was 47.8 percent, with a minimum rate of 39.6 percent (in fiscal year 2021) and a maximum rate of 75.9 percent (in fiscal year 2023).¹²¹ We found that most of the 53 SWAs that reported pandemic-related UI overpayments and recoveries were below the government-wide 47.8 percent average rate.

SWAs reported to DOL, as of April 10, 2024, their identified fraudulent and nonfraudulent overpayments, recoveries, and waived overpayments across the pandemic-related UI programs from the beginning of the pandemic in March 2020 through September 2023. According to DOL guidance, SWAs are required to report overpayment data and recovery data to DOL on a continuous basis for regular UI and most pandemic UI programs throughout each reporting quarter.¹²² SWAs can also amend data reported in a prior period (going back many periods) at any time

¹²⁰Department of Labor, *Additional Planning Guidance for Fiscal Year (FY) 2024 Unemployment Insurance (UI) State Quality Service Plan (SQSP)*, UIPL No. 09-23 (Washington, D.C.: June 30, 2023).

¹²¹The average recovery rate is based on recovery rates reported for programs that are long-standing and permanent in nature, as well as temporary pandemic assistance programs. Some portion of the variation in average recovery rates over the fiscal year 2018 to fiscal year 2023 period is likely attributable to unique circumstances experienced by agencies because of the COVID-19 pandemic.

¹²²Overpayments are reported during the period in which they are established, and recovered funds are reported as they are collected.

during the quarter, so reported overpayment and recovery amounts can change from day to day. As we previously reported, recoveries can take many years to collect, and SWAs can modify recovery figures daily, which makes comparisons between overpayments and recoveries difficult.¹²³ Table 2 illustrates the total amount of pandemic-related UI overpayments and recoveries that SWAs reported for the period of March 2020 through September 2023.

Table 2: March 2020 through September 2023: Estimated State Workforce Agency Pandemic-Related Unemployment Insurance Overpayment Recoveries, as of April 10, 2024 (Dollars in Billions)

Overpayments identified	Overpayments waived	Overpayments recovered	DOL's reported recovery rate ^a	Total overpayment recovery rate ^b
\$55.2	\$11.6	\$3.7	8.5%	6.7%

Source: GAO analysis of DOL recovery rate data. | GAO-25-106199

Note: Numbers may not sum because of rounding.

^aThe "DOL's reported recovery rate" calculation excludes waived overpayment amounts.

^bThe "Total overpayment recovery rate" calculation includes waived overpayment amounts.

As of April 10, 2024, SWAs reported identifying about \$50.9 billion in identified nonfraudulent UI overpayments in the pandemic-related UI programs from March 2020 through September 2023. SWAs also reported nonfraudulent overpayment recoveries of about \$3.4 billion, which is approximately 6.7 percent of nonfraudulent overpayments identified in pandemic-related UI programs during this period. It is important to note that as of April 10, 2024, SWAs have identified about \$4.3 billion in fraudulent overpayments and have recovered about \$0.3 billion in fraudulent overpayments. However, according to the CARES Act, SWAs are not allowed to waive fraudulent overpayments. Therefore, the resulting recovery rate calculations for fraudulent overpayments based on DOL's current calculation and the updated calculation would not be affected. Table 3 provides the total nonfraudulent overpayment amounts and recoveries for the pandemic-related UI programs reported by states during this period.

¹²³GAO, *Unemployment Insurance: Estimated Amount of Fraud during Pandemic Likely Between \$100 Billion and \$135 Billion*, [GAO-23-106696](#) (Washington, D.C.: Sept. 12, 2023).

Table 3: March 2020 through September 2023: Estimated State Workforce Agency Pandemic-Related Unemployment Insurance Nonfraudulent Overpayment Recoveries, as of April 10, 2024 (Dollars in Billions)

Nonfraudulent overpayments identified	Nonfraudulent overpayments waived	Nonfraudulent overpayments recovered	DOL’s reported nonfraudulent overpayment recovery rate ^a	Total nonfraudulent overpayment recovery rate ^b
\$50.9	\$11.6	\$3.4	8.7%	6.7%

Source: GAO analysis of DOL recovery rate data. | GAO-25-106199

Note: Numbers may not sum because of rounding.

^aThe “DOL’s reported non-fraudulent overpayment recovery rate” calculation excludes waived overpayment amounts.

^bThe “Total non-fraudulent overpayment recovery rate” calculation includes waived overpayment amounts.

DOL officials provided some reasons why SWAs may struggle to recover pandemic-related UI overpayments, including the following:

- SWAs continue to work on identifying overpayments, which is essential to begin the recovery process.
- SWAs created stand-alone systems that did not effectively connect with their regular UI system to process recoveries via their normal methods.
- SWAs are unable to use regular UI means of collecting recoveries—for example, FPUC, MEUC, and PEUC benefit offsets are constrained under the CARES Act 3-year time limit for benefit offsets for recoveries of pandemic-related UI overpayments. DOL officials noted that the 3-year time frame is important to the economic stabilization impact of future benefits in future downturns.¹²⁴
- Identity theft-related overpayments in pandemic-related UI programs were more prevalent than in regular UI and require that the individual who filed false claims be identified before a recovery can be attempted.

SWAs have recovered a small percentage of pandemic-related overpayments (\$3.7 billion or 6.7 percent) from March 2020 through September 30, 2023; however, a large portion of the identified overpayments remain outstanding (\$51.5 billion). Further, when accounting for the total waived overpayments (\$11.6 billion), SWA recovery efforts continued to fall short of the DOL regular UI ALP and the average rate reported by agencies over the period. By not having a

¹²⁴According to the CARES Act, SWAs have up to 3 years to recover overpayments through benefit offsets.

baseline percentage for SWAs to meet, DOL cannot determine if the assistance and additional funding that has been provided to SWAs is helping to improve their pandemic-related UI overpayment recovery efforts.

Additionally, federal internal control standards state that management should define objectives in measurable terms so that performance toward achieving those objectives can be assessed. Management should continually determine whether performance measures for defined objectives are appropriate for evaluating the entity's performance in achieving those objectives, which includes, for quantitative objectives, designing measures that indicate a level of performance, such as a baseline.¹²⁵ Including a measurement of success as part of its guidance to SWAs could better position DOL to monitor states' efforts to recover overpayments—potentially billions of dollars—in future temporary programs.

Conclusions

SBA and DOL moved quickly to establish new programs and expand existing programs to aid small businesses and individuals affected by the pandemic. The unprecedented demand for these programs and the need to deliver aid quickly created an increased risk for improper payments, including overpayments. While it is better to prevent improper payments from occurring in the first place, effective post-disbursement control processes help agencies to identify and recover overpayments after they have occurred. While SBA has taken some steps to address overpayment risks, SBA could benefit by updating, expanding, and better documenting its processes to identify and recover overpayments—which could lead to an increase in overpayment recoveries.

Additionally, while including new lenders helped the PPP reach more borrowers, it also increased the risk of overpayments as more control was given to third parties. Although SBA published guidance and notices related to this concern, it does not have sufficient documentation to illustrate that it has taken steps to mitigate this increased risk in its guarantee purchase process, such as ensuring its review process verifies that lenders and their LSPs complied with programmatic requirements, which may limit SBA's ability to recover overpayments.

Finally, although SBA tracked and reported certain data related to improper payments in its PPP and COVID-19 EIDL program, it does not

¹²⁵[GAO-14-704G](#).

have the necessary data to determine how effective its recovery methods are in those programs. Without these data, SBA cannot ensure that it is maximizing the potential of certain recovery methods, which may limit the amount of overpayments SBA recovers.

While DOL has procedures in place for pandemic-related UI programs—which typically follow the regular UI program’s procedures—DOL’s process for calculating its recovery rate is not capturing all identified overpayments, leading to inflated or misleading recovery rates. Further, DOL did not set baseline recovery rates for states to recover pandemic-related overpayments, possibly resulting in pandemic-related UI overpayments not being collected in a timely manner.

Recommendations for Executive Action

We are making the following five recommendations, three to SBA and two to DOL.

The Administrator of SBA should ensure that the Office of Capital Access expands and documents loan review processes for the PPP and COVID-19 EIDL program and how loans are reviewed to identify overpayments. (Recommendation 1)

The Administrator of SBA should ensure that the Office of Capital Access expands and documents the PPP guarantee purchase process to ensure that—prior to purchase approval—SBA has collected sufficient documentation to verify that lenders complied with program requirements. (Recommendation 2)

The Administrator of SBA should ensure that the Office of Capital Access expands and documents SBA’s overpayment identification and recovery process for the PPP and COVID-19 EIDL program, as well as future programs, to include clear, formalized procedures for tracking all identified overpayments and subsequent recoveries. (Recommendation 3)

The Secretary of Labor should ensure that the Employment and Training Administration reports the total overpayment recovery rate in place of, or along with, the nonwaived overpayment recovery rate for UI programs, particularly pandemic-related UI programs (i.e., PUA, FPUC, PEUC, and MEUC). (Recommendation 4)

The Secretary of Labor should ensure that the Employment and Training Administration expands its UI program guidance to require that future temporary programs establish state overpayment recovery baselines to

support DOL's monitoring of states' progress in recovering identified overpayments. (Recommendation 5)

Agency Comments and Our Evaluation

We provided a draft of this report to SBA and DOL for review and comment. In its written comments, reproduced in appendix III, SBA partially agreed with all three of our recommendations and described activities that are anticipated to remedy the recommendations by September 25, 2028. DOL disagreed with our recommendations in its written comments, reproduced in appendix IV. In addition, SBA and DOL provided technical comments, which we incorporated, as appropriate.

SBA partially agreed with recommendation 1 that it should expand and document loan review processes for the PPP and COVID-19 EIDL program, to include how loans are reviewed to identify overpayments. SBA stated that the agency will review the loan review processes for both programs to ensure that the processes are appropriately documented and are effective in identifying overpayments. Without sufficient documentation to demonstrate how it identifies overpayments resulting from potential errors or fraud, SBA cannot ensure that its review processes are effectively identifying overpayments. Correcting this may help SBA to maximize recoveries.

In regard to recommendation 2, SBA partially agreed that it should expand and document the PPP purchase guarantee process to ensure that sufficient documentation has been collected to verify lender compliance with program requirements prior to purchase approval. SBA noted that for guarantee purchase requests that have an indication of potential fraud or potential lender noncompliance with PPP lender underwriting requirements, the agency will ensure that the proper documentation has been collected to verify that lenders complied with program requirements. The guarantee purchase process is one of the last steps where SBA may be able to prevent an overpayment before operating in a pay-and-chase method. It is crucial that, prior to approving a guarantee purchase request, SBA can verify PPP lenders complied with program requirements. This will help ensure that SBA avoids overpayments in the guarantee purchase process and recovers overpayments resulting from a lender's initial loan application review and approval.

SBA partially agreed with recommendation 3 that it should expand and document its overpayment identification and recovery processes for the PPP and COVID-19 EIDL program, as well as future programs, to include clear and formalized procedures for tracking overpayments and subsequent recoveries. SBA stated that the agency will ensure that the

overpayment identification and recovery processes for the PPP and COVID-19 EIDL program, as well as future programs, are clear and formalized and can effectively track all identified overpayments and subsequent recoveries. Having an effective process in place to track identified overpayments and recoveries may help ensure that SBA is maximizing its recovery efforts, including that identified overpayments are pursued for collection, as appropriate.

In its written comments, DOL disagreed with recommendation 4 that it should ensure that ETA reports the total overpayment recovery rate in place of the nonwaived overpayment recovery rate for UI programs, particularly pandemic-related UI programs (PUA, FPUC, PEUC, and MEUC). The department stated that it has been transparent in describing the recovery rate, and waived recoveries can already be factored into the rate using public data. DOL further stated that including waived amounts in recovery rates would penalize states that waive overpayments in accordance with state or federal law. According to DOL, including the waived amounts in recovery rates would distort recovery efforts as, by nature, recovery of waived overpayments is not pursued.

We maintain that, based on OMB guidance, ETA should report a recovery rate that reflects all identified overpayments with a formula that includes total recoveries and total overpayments, regardless of whether recovery was subsequently waived. However, in light of DOL's comments, we have modified our recommendation. The rate could be reported either in place of or in addition to the nonwaived recovery rate. Doing so would allow users of the reported overpayment recovery rate to readily understand the full extent of overpayment recoveries in all UI programs.

Nonetheless, we disagree with DOL's assertion that including waived amounts in recovery rates would penalize states and distort recovery efforts. There are no formal penalties imposed on states based on their reported recovery rates. In addition, including waived amounts would clarify rather than distort recovery rates. It would help ensure that the rates reflect recoveries of all identified overpayments, regardless of whether they were subsequently waived.

In addition, DOL notes its agreement with OMB's description of overpayments as "monetary losses that could, in theory, be recovered." However, DOL also notes that overpayments waived under state law are no longer recoverable. Thus, according to DOL, it is incorrect to include waived overpayments as identified overpayments when calculating the overpayment recovery rate. We maintain that the overpayments were theoretically recoverable when made. Waivers would not be necessary

unless recovery was theoretically possible. According to DOL, states were permitted to grant waivers in cases where recipients were not at fault and pursuing recovery would be against equity and good conscience. These reasons imply that recovery is possible but pursuing it would be unfair and create undue hardship. The overpayments, though waived, still result in a monetary loss to the government and should be factored into the recovery rate.

DOL disagreed with recommendation 5 that ETA should expand its guidance to require that future temporary programs establish state overpayment recovery baselines to support DOL's monitoring of states' progress in recovering identified overpayments. DOL stated that it is challenging to develop measures for programs that do not exist, and relevant considerations for future temporary programs may not be known until enacted by Congress. DOL suggested it could address the intent of our recommendation through an alternative approach by capturing lessons learned to help inform actions the department may take for similar future programs.

We recognize the challenges inherent in creating guidance for future programs with uncertain requirements, and we appreciate DOL's commitment to capturing lessons learned from the pandemic-related UI programs. We maintain that our recommendation for guidance to require state overpayment recovery baselines in future emergency programs is warranted. We note that such baselines could be adjusted as appropriate as new programs are implemented or modified, and they need not be set before DOL has a clear picture of future program rules and structure. A requirement to establish these baselines will help ensure that DOL has performance measures in place to monitor and assess state overpayment recovery efforts in future programs.

We are sending copies of this report to the appropriate congressional committees, the Administrator of the Small Business Administration, the Acting Secretary of the Department of Labor, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-5683 or padillah@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last

page of this report. GAO staff who made key contributions to this report are listed in appendix V.



M. Hannah Padilla
Director, Financial Management and Assurance

List of Committees

The Honorable Patty Murray
Chairwoman
The Honorable Susan M. Collins
Vice Chairwoman
Committee on Appropriations
United States Senate

The Honorable Ron Wyden
Chairman
The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate

The Honorable Bernard Sanders
Chair
The Honorable Bill Cassidy, M.D.
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Gary C. Peters
Chair
The Honorable Rand Paul, M.D.
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Tom Cole
Chair
The Honorable Rosa DeLauro
Ranking Member
Committee on Appropriations
House of Representatives

The Honorable Cathy McMorris Rodgers
Chair
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

The Honorable Mark E. Green, M.D.
Chair

The Honorable Bennie G. Thompson
Ranking Member
Committee on Homeland Security
House of Representatives

The Honorable James Comer
Chairman

The Honorable Jamie Raskin
Ranking Member
Committee on Oversight and Accountability
House of Representatives

The Honorable Jason Smith
Chairman

The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
House of Representatives

Appendix I: Objectives, Scope, and Methodology

This report (1) examines the extent to which the Small Business administration (SBA) and Department of Labor (DOL) have developed effective processes for identifying and recovering overpayments of COVID-19 relief funds and (2) analyzed the extent to which SBA and DOL efforts to recover overpayments of COVID-19 relief funds have been successful.

To determine which agencies and programs to include in our review, we looked at the program outlays for the top five COVID-19 spending areas as of June 30, 2022. We noted that SBA's business loan and disaster loan programs' accounts encompassed \$873.5 billion out of the approximately \$3.9 trillion in total outlays at the time. These accounts included activity for the Paycheck Protection Program (PPP) and COVID-19 Economic Injury Disaster Loans (EIDL) program.¹ Additionally, DOL's Unemployment Insurance (UI) program accounted for \$673.1 billion of these outlays. Combined, according to www.usaspending.gov, these SBA and DOL programs accounted for approximately 40 percent of COVID-19 outlays at the time.² As such, we selected them for our review.

To address our first objective, we reviewed agency documentation regarding overpayment identification and recovery efforts. We met with agency officials to discuss the processes and procedures involved in these efforts. In addition, we reviewed federal laws (including the CARES Act as amended, Payment Integrity Information Act of 2019, Digital Accountability and Transparency Act of 2014, and laws governing the collection of federal claims); Office of Management and Budget (OMB) guidance to identify key requirements for collecting delinquent debts; along with federal regulations and standards, including the Debt Collection Regulations, and the Federal Claims Collection Standards. The risk assessment component of internal control was significant to this objective, along with the related principal that management should identify, analyze, and respond to change. In addition, the control activities components of internal control as significant to this objective, as well as the principals that management should (1) design control activities to achieve its objectives and respond to risks and (2) implement control

¹For purposes of this report, we will refer to the Paycheck Protection Program and the COVID-19 Economic Injury Disaster Loans program as "selected programs" when we are discussing them together.

²USAspending.gov is the official source of federal government spending data. However, GAO and others have reported issues and limitations within the website's data that impact its accuracy and completeness. As a result, there is a chance that our calculations and percentages may have been different if all agencies reported their COVID-19 spending.

activities through policies.³ We compared the agencies' overpayment recovery processes and procedures to the relevant laws and guidance to determine if they were effective.

To address our second objective, we reviewed and analyzed public datasets to assess agencies' recovery efforts to determine the extent of success regarding the recovery of overpayments. We also reviewed the annual improper payments datasets from www.paymentaccuracy.gov to calculate the average recovery rate for all agencies reporting data from fiscal years 2018-2023.⁴ The information and communication component of internal control was significant to this objective, along with the related principle that management should use quality information to achieve the objective. We assessed the extent to which reported SBA and DOL recovery and improper payments data provided information on the extent of the agencies' successful overpayment recoveries.

We conducted this performance audit from August 2022 to November 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

³[GAO-14-704G](#).

⁴PaymentAccuracy.gov is an official U.S. government website managed by OMB that contains, among other things, information about current and historical rates and amounts of improper payments. We have previously reported concerns in the reliability of this data; however, we concluded the data was reliable for purposes of this report.

Appendix II: SBA's Paycheck Protection Program Eligibility and Forgiveness Review Process

Eligibility Reviews

As part of the Paycheck Protection Program (PPP) application process, loan applications would undergo automatic and manual reviews to determine borrowers' eligibility for a loan. These reviews were initially conducted by a Small Business Administration (SBA) contractor, and then by an SBA official as needed. The contractor's loan review process consisted of up to three consecutive steps: automated screening, triage reviews, and level 2 reviews. Although these review processes were not designed specifically to identify overpayments, they could lead to the identification of overpayments by detecting potential fraud or eligibility errors. At the end of each step, the loan review contractor recommended no further action—if no potential issues were identified—or moved the loan to the next level of review. At the end of the contractor's review process, loans with unresolved issues were recommended to SBA for further review.¹

Step 1: The eligibility reviews consisted of the contractor performing an automated screening process on all PPP loans that compared loan data against publicly available information—including Treasury's Do Not Pay system—and applied eligibility and fraud detection rules. For example, the automated screening process issued compliance check error messages or hold codes if there were discrepancies in the applicant's name or if the applicant's business was no longer active. This automated screening process flagged the loans for manual reviews by the contractor and then SBA, if necessary. SBA required that issues identified during the eligibility reviews be resolved before a borrower received a second draw PPP loan or SBA forgave the loan.

Step 2: After the automated screening process, loans that were flagged for manual review moved onto the next step in the process, which was triage reviews. This process was intended to identify loans of less than \$2 million that could be easily resolved by determining an automated alert was invalid by an analyst conducting an internet search and matching public data records to information in the borrower's application.

Step 3: Loans that were escalated from the triage review underwent a level 2 review. In addition, all loans of \$2 million or greater originally

¹SBA conducted manual reviews for fraud, abuse, or noncompliance with eligibility requirements for all loans of \$2 million or greater; all loans of less than \$2 million for which the contractor recommended further action; and a sample of loans of less than \$2 million for which the contractor recommended no further action. After SBA determined a borrower's loan eligibility, it could notify the lender of its loan eligibility determination, or it could continue with a forgiveness review if a forgiveness decision had been submitted by the lender.

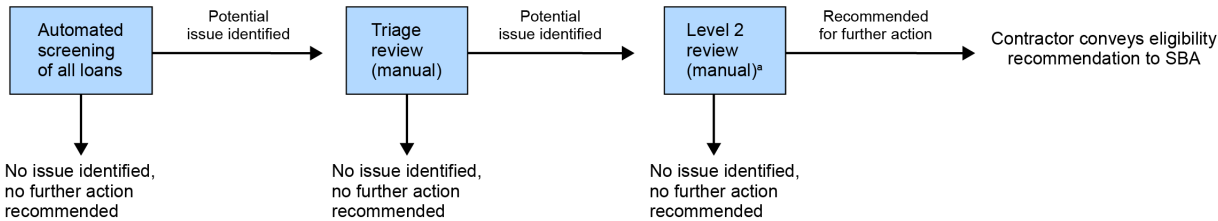
Appendix II: SBA’s Paycheck Protection Program Eligibility and Forgiveness Review Process

underwent a level 2 review, but this process was changed in April 2021.² A level 2 review consisted of analysts researching a business to verify its existence and good standing. In addition, analysts conducted a risk indicator analysis, which compared alerts from the automated review to targeted research in order to corroborate or resolve the alert.

At the end of each step, the loan review contractor recommended no further action—if no potential issues were identified—or moved the loan to the next level of review. At the end of the contractor’s review process, the contractor referred loans that had unresolved issues to SBA with a recommendation for further review.

See figure 6 for more information related to contractor reviews of PPP loan eligibility.

Figure 6: Contractor Loan Eligibility Review Process for the Paycheck Protection Program



Source: GAO analysis of Small Business Administration (SBA) documents. | GAO-25-106199

*Originally, all loans of \$2 million or greater underwent a level 2 review, but this process was changed in April 2021. To help increase the efficiency of the loan review process, SBA’s contractor identified certain flags that could be resolved without undergoing further review for loans of \$2 million or greater.

As part of this process, the contractor conducted expedited reviews to more efficiently resolve alerts on loans that were flagged with low-risk errors during automated screening, and it conducted aggregate reviews across all loans to identify potential fraud schemes.

In November 2020, through consultation with SBA, the contractor identified specific categories of flagged loans that were less than \$2 million for an expedited batch process to resolve the alerts without conducting a manual review. For example, a loan might receive an alert because the borrower did not have an online presence, such as a

²In May 2021, SBA’s contractor identified approximately 700 loans of \$2 million or greater with certain flags that could be resolved without undergoing further review.

website. However, a lack of online presence is common for very small businesses. Therefore, the contractor proposed clearing small businesses of a certain size that received an alert only for this reason.

Further, following enactment of the simplified forgiveness process for loans of \$150,000 or less in the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act of 2021, the contractor proposed several options for a batch process to clear certain flagged loans with a value under \$150,000.

Forgiveness Reviews

Under SBA rules and guidance, the loan forgiveness process has three potential steps: borrower submission of a forgiveness application; lender review, decision, and referral to SBA; and SBA manual review, as necessary.

Step 1: The borrower submits a forgiveness application and documentation to the lender. In July 2021, SBA announced the availability of a Direct Borrower Forgiveness Platform that provided a single secure location for PPP borrowers to apply for loan forgiveness using the electronic equivalent of a simplified borrower forgiveness application. This platform was previously limited to (1) borrowers with loans of \$150,000 or less using the simplified forgiveness application and (2) borrowers with PPP lenders that opted-in to use the platform. However, in February 2024, SBA announced the expansion of this platform to allow all PPP borrowers that have not yet received forgiveness to submit their forgiveness applications through it, regardless of loan amount or PPP lender.³

Step 2: After a lender receives a forgiveness application, it will review the application and submit its forgiveness decision (approved in full, approved in part, or denied) to SBA.⁴ Once a lender submitted a forgiveness decision, SBA would perform an automated screening process to review and validate that decision. According to SBA officials, loans that are not identified for additional review, as discussed below, are automatically paid

³SBA Procedural Notice, 5000-854502: Expansion of SBA Direct Borrower Forgiveness Platform to Allow Submission of Borrower Forgiveness Applications for All PPP Loans Regardless of Loan Amount and PPP Lender.

⁴Lenders have 60 days from receipt of the application to submit this decision.

**Appendix II: SBA's Paycheck Protection
Program Eligibility and Forgiveness Review
Process**

by SBA. In general, SBA must remit the forgiveness amount to the lender within 90 days of that amount being determined.⁵

Step 3: In addition, SBA would conduct manual loan forgiveness reviews based on a sample of all loans and as it determined necessary. As part of this process, SBA would review the lender's submitted forgiveness decision to make a final determination as to whether (1) the borrower was eligible for the requested forgiveness amount; (2) the borrower was eligible for a forgiveness amount smaller than the lender determined; or (3) the borrower was not eligible for forgiveness.

⁵In its interim final rule on loan forgiveness published in June 2020, SBA stated it will extend this time frame if the loan or forgiveness application is under SBA review.

Appendix III: Comments from SBA



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, DC 20416

September 25, 2024

Daniel Garcia-Diaz
Managing Director
Financial Markets and Community Investment
U.S. Government Accountability Office

Dear Mr. Garcia-Diaz:

Thank you for providing the U.S. Small Business Administration (SBA) with the opportunity to comment on the Government Accountability Office (GAO) draft report titled, "COVID-19 Relief: SBA and DOL Should Improve Processes to Identify and Recover Overpayments".

In response to the COVID-19 pandemic, Congress provided funding to assist small businesses through SBA's PPP and COVID-19 EIDL programs. Congress also created four temporary DOL UI programs to support workers adversely affected by the pandemic. The demand for these programs and the need to deliver aid quickly increased the risk of improper payments, including overpayments. Effective post-payment control processes help agencies to identify and recover overpayments after they have occurred.

The CARES Act includes a provision for GAO to monitor COVID-19 pandemic relief funds. This report (1) examines the extent to which SBA and DOL have developed processes for identifying and recovering COVID-19 overpayments, and (2) analyzes the success of agency efforts in recovering COVID-19 overpayments.

GAO analyzed SBA and DOL documentation regarding overpayment identification and recovery efforts; reviewed relevant laws and guidance; and analyzed public datasets; and interviewed federal officials.

We anticipate remediation of the below recommendations by 9/25/2028.

Recommendation 1 – The Administrator of SBA should ensure that the Office of Capital Access expands and documents loan review processes for the PPP and COVID-19 EIDL program and how loans are reviewed to identify overpayments.

SBA Response: SBA partially agrees. SBA will review the loan review processes for both the PPP and COVID EIDL programs to ensure these processes are appropriately documented and are effective in identifying overpayments.

Recommendation 2 – The Administrator of SBA should ensure that the Office of Capital Access expands and documents the PPP guarantee purchase process to ensure that—prior to purchase approval— SBA has collected sufficient documentation to verify that lenders complied with program requirements.

SBA Response: SBA partially agrees. For guaranty purchase requests that have an indication of potential fraud or potential lender non-compliance with PPP lender underwriting requirements, SBA will ensure that the proper documentation has been collected to verify that lenders complied with program requirements.

Recommendation 3 – The Administrator of SBA should ensure that the Office of Capital Access expands and documents SBA’s overpayment identification and recovery process for the PPP and COVID-19 EIDL program, as well as future programs, to include clear, formalized procedures for tracking all identified overpayments and subsequent recoveries.

SBA Response: SBA partially agrees. SBA will ensure that the overpayment identification and recovery processes for the PPP and COVID EIDL programs, as well as future programs, are clear and formalized and can effectively track all identified overpayments and subsequent recoveries.

Sincerely,



Kathryn M. Frost
Associate Administrator
Office of Capital Access
U.S. Small Business Administration

Appendix IV: Comments from DOL

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



September 23, 2024

Ms. Hannah Padilla
Director
Financial Management and Assurance
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Ms. Padilla:

The U.S. Department of Labor (Department) appreciates the opportunity to respond to the U.S. Government Accountability Office's (GAO) draft report titled, "COVID-19 Relief – SBA and DOL Should Improve Processes to Identify and Recover Overpayments." We also would like to extend our appreciation to GAO for continuing to raise the importance of the Unemployment Insurance (UI) program.

The Department takes its oversight of federally funded programs very seriously. Strengthening UI program integrity, by reducing improper payments and mitigating fraud risks, remains a top priority for the Department. The GAO's report acknowledges some of the challenges facing the UI program that led to increased improper payments throughout the pandemic. Additionally, the Department was pleased to see that GAO highlighted the Department's guidance and extensive program integrity efforts, including making available American Rescue Plan Act funding to support states with UI information technology (IT) modernization, increasing equitable access, and strengthening program integrity. GAO also noted the Department's Tiger Team initiative and actions to facilitate more effective identity verification processes.

In addition to the integrity efforts acknowledged in the report, the Department wants to call attention to some other recent, and highly important fraud risk mitigation, improper payment reduction, and overpayment recovery efforts. The efforts and actions outlined below demonstrate the Department's ongoing dedication to ensuring states have critical payment integrity tools, resources, and data sources to identify and prevent fraud and improper payments.

- In May 2024, the Department announced a new data sharing partnership between the U.S. Department of Treasury's Bureau of the Fiscal Service and the National Association of State Workforce Agencies to provide SWAs with access to Do Not Pay data sources and services through the Integrity Data Hub.¹ This new data sharing partnership provides

¹ See Training and Employment Notice (TEN) No. 28-23, *Announcement of a New Data Sharing Partnership Between the U.S. Department of Treasury's (Treasury) Bureau of the Fiscal Service (Fiscal Service) and the National Association of State Workforce Agencies' (NASWA) Unemployment Insurance (UI) Integrity Center to provide State UI Agencies Access to Do Not Pay Working System (DNP) Data Sources and Services through the UI Integrity Data Hub (IDH)*, issued May 2, 2024, <https://www.dol.gov/agencies/eta/advisories/ten-28-23>.

states with streamlined access to data sources that are critical in helping to improve payment integrity by reducing fraud and improper payments and aiding in more accurate UI eligibility determinations.

- Over the past couple of years, the Department has committed to aligning its existing UI fraud risk management activities with the leading practices in GAO's Fraud Risk Framework², which are now thoroughly embedded in the daily UI program integrity work. In June 2024, ETA announced the release of a new UI Fraud Risk Management webpage for states to access information on the Department's UI fraud risk management activities and to update states on important new fraud risk mitigation strategies and initiatives.³
- The Department's Fiscal Year 2025 President's Budget and the UI Transformation Plan⁴ propose legislative reforms to improve the integrity of the UI program, including, but not limited to, requiring states to cross-match UI data through the IDH; use incarceration records for identifying and preventing UI overpayments; allowing states to retain up to five percent of recovered fraudulent UI overpayments for program integrity use; and allowing states to use contract support in recovery efforts under the Treasury Offset Program.

The Department continues to assess risks to the UI program and evaluate its program integrity controls to ensure its risks responses and antifraud strategies are effectively addressing the highest residual risks identified in the UI Fraud Risk Profile, and any newly identified risks are appropriately prioritized and mitigated.

The Department notes concern with statements in GAO's report, which are outlined below:

- The report discusses the UI overpayment recovery rate and concludes that the rate may be misleading because it removes waived overpayments from its calculation. As acknowledged by GAO and mentioned in the report, the Department has been calculating its recovery rate this way since fiscal year 2012, when it first published its rate and methodology in its annual financial report (AFR) and published the proposed calculation for the recovery rate measure—including the exclusion of waived overpayments—in the Federal Register in February 2012 for public review and comment. The Office of Management and Budget (OMB) maintains the position that overpayments are monetary losses that could, in theory, be recovered. ETA agrees with this position. Where recovery of an overpayment is waived under state law, it means that the overpayment is no longer recoverable. Including non-recoverable amounts in the recovery rate

² GAO, *A Framework for Managing Fraud Risks in Federal Programs*, GAO-15-593SP, issued July 28, 2015, <https://www.gao.gov/assets/gao-15-593sp.pdf>.

³ See TEN No. 32-23, *Unemployment Insurance (UI) Fraud Risk Management Resources*, issued June 27, 2024, <https://www.dol.gov/agencies/eta/advisories/ten-32-23>.

⁴ See Unemployment Insurance Transformation Plan, *Building Resilience: A plan for transforming unemployment insurance*, issued April 5, 2024, https://oui.doleta.gov/unemploy/transformation_plan.asp.

calculation inflates the established overpayments subject to recovery resulting in a misleading recovery outcome. Most notably, waiver of recovery of established overpayment is only allowable in the pandemic UI programs when it is determined that the individual was not at fault in creating the overpayment and it would be against equity and good conscience to recover the benefit payments. These are not situations where the determination is based on whether the recovery of an overpayment is or is not cost effective, as GAO incorrectly noted in its report. Waiver of overpayment recovery is available to states only when permissible under state law and, when granted, generally occurs when overpayments are the result of agency error or employer error, or when recovery would be against equity or good conscience or cause financial hardship. Further, Congress only permitted waiving recovery for pandemic-related overpayments when an individual is not at fault for the overpayment and recovery of the overpayment would be against equity or good conscience.

- While the GAO highlighted some of the challenges facing the UI program throughout the pandemic that led to increased improper payments, the GAO failed to mention that the statutory language of the Pandemic Unemployment Assistance (PUA) program's reliance on program participants self-reporting and self-certifying information on agency forms, instead of requiring verification of such information independently, significantly limited states' ability to prevent program fraud and abuse. Additionally, PUA provided benefits to individuals who historically have not been eligible for regular UI benefits and did not necessarily have traditional employment with employers. Thus, PUA lacked the partnership with employers, who are an important stakeholder in preventing and detecting fraud as they are active participants in the claims filing process for regular UI. The CARES Act also allowed significant back-dating of PUA claims. These factors contributed to increased opportunities for fraud and improper payments in the PUA program.
- The report discusses the Department's decision to not apply the regular UI overpayment recovery acceptable level of performance to the pandemic-related program. The pandemic programs were new, and in large part involved categories of claimants that were previously not eligible to receive UI benefits. Performance measure require statistical analysis that depends on baseline data. At the time of creation in March 2020, the temporary pandemic-related UI programs were expected to be available for less than one year through December 2020. Just before expiring, Congress passed legislation that significantly modified the programs and extended their availability an additional five months. Shortly before the second expiration date, Congress again passed legislation that significantly modified the programs and extended their availability an additional six months. The Department is unable to establish baseline data under these circumstances without more time to study these data patterns and state performance within these unique programs. To do otherwise would result in a performance measure not complying with standard statistical procedure and result in arbitrary outcomes.

Responses to the Recommendations

Please find below each of the recommendations contained in the draft report, followed by ETA’s proposed corrective actions to address the recommendations.

Recommendation 4: The Secretary of Labor should ensure that ETA reports the total overpayment recover rate in place of the non-waived overpayment recover rate for UI programs, particularly pandemic-related UI programs (PUA, FPUC, PEUC, and MEUC)

Response: The Department does not agree with this recommendation. The Department has been transparent over the last decade in describing how it is calculating its recovery rate, including publishing notice in the Federal Register for public review and comment. Additionally, the Department provides for public access to the data regarding overpayments established, recovered, and waived on the ETA 227, “Overpayment Detection and Recovery Activities” reports and the ETA 902P, “Pandemic Unemployment Assistance Activities” report at <https://oui.doleta.gov/unemploy/DataDownloads.asp>. This transparent sharing of information allows for anyone to factor waived recoveries if they choose, as is evident by the GAO’s use of this data in Table 1 of the draft report.

Waiving recovery of an overpayment is an important equity tool for specific situations in the UI program – particularly where state laws have determined that the overpayment was created due to agency error or employer error, or when recovery would cause financial hardship. Congress also recognized this in its inclusion of waiver provisions under the CARES Act, as amended, when an individual is without fault and recovery would be against equity and good conscience.

Including waived amounts in recovery rates would penalize states that waive overpayments in accordance with state or federal law. By not subtracting waived amounts from recovery rates, it would distort recovery efforts since by nature of recovery being waived, recovery is not pursued.

Recommendation 5: The Secretary of Labor should ensure that ETA expand its UI program guidance to require that future temporary programs establish state overpayment recovery baselines to support DOL’s monitoring of states’ progress in recovering identified overpayments.

Response: The Department disagrees with this recommendation. It is extremely challenging to develop measures for a program that does not exist and for which the Department does not know its duration or the program’s requirements. As noted above, during the pandemic, the PUA program provided benefits to a new group of individuals who historically have not been covered under the regular UI program and the program lacked key controls for preventing and detecting improper payments. Such considerations are not known unless and until Congress might enact future temporary programs. Consequently, the Department is proposing an alternative approach

Appendix IV: Comments from DOL

to address the intent of this recommendation by capturing lessons learned to help inform actions for similar future programs. This approach allows the Department to be proactive in a more meaningful way since it cannot speculate on requirements for any program(s) Congress may authorize and appropriate funding for in the future.

Sincerely,

A handwritten signature in blue ink that reads "José Javier Rodríguez". The signature is written in a cursive style with a large, stylized "J" and "R".

JOSÉ JAVIER RODRÍGUEZ
Assistant Secretary

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

M. Hannah Padilla, (202) 512-5683 or padillah@gao.gov

Staff Acknowledgments

In addition to the contact named above, Dan Flavin (Assistant Director), Cole Haase (Auditor in Charge), Giovanna Cruz, Pat Frey, Arkeyvia Hang, Daniel Harris, Michael LaForge, Christina Skinner, Amanda Stogsdill, and Landon Western made key contributions to this report.

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