

TO REQUIRE THE ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION TO PROVIDE A LINK TO RESOURCES FOR SUBMITTING REPORTS ON SUSPECTED FRAUD RELATING TO CERTAIN COVID–19 LOANS

SEPTEMBER 26, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WILLIAMS of Texas, from the Committee on Small Business, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5426]

The Committee on Small Business, to whom was referred the bill (H.R. 5426) to require the Administrator of the Small Business Administration to provide a link to resources for submitting reports on suspected fraud relating to certain COVID–19 loans, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND BILL SUMMARY

On September 13, 2023, Rep. Van Duyne, along with Rep. Landsman, introduced H.R. 5426. The purpose of H.R. 5426 is to require the Administrator of the Small Business Administration (SBA) to provide a link on their website to simplify the process for reporting suspected fraudulent Economic Injury Disaster Loan (EIDL) and Paycheck Protection Program (PPP) loans related to the COVID-19 pandemic.

II. NEED FOR LEGISLATION

The SBA's Office of the Inspector General (OIG) estimates that \$200 billion in potentially fraudulent COVID-19 EIDL and PPP loans were disbursed by the SBA, resulting in more than 100 years of investigatory work. This legislation will streamline the process to recoup these funds.

The bill provides a direct route to report COVID-19 fraud straight to the OIG rather than having to go through multiple links and websites. It is a top priority of the Committee on Small Business to recoup as many of these funds as possible in the most timely and efficient manner.

III. HEARINGS

In the 118th Congress, the Committee held one hearing examining the issues covered in H.R. 5426. On July 13, 2023, the Committee held a hearing titled "Stolen Taxpayer Funds: Reviewing the SBA and OIG Reports of Fraud in Pandemic Lending Programs." The SBA OIG testified that the SBA disbursed more than \$200 billion in potentially fraudulent loans through SBA pandemic relief programs. He also testified that the investigation found 90,000 actionable leads amounting to more than 100 years' worth of investigative case work.

IV. COMMITTEE CONSIDERATION

The Committee on Small Business met in open session, with a quorum being present, on September 14, 2023 and ordered H.R. 5426 reported favorably to the House of Representatives. During the markup no amendments were offered.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. The Committee voted to favorably report H.R. 5426 to the House of Representatives at 11:46 AM.

118th Congress House Committee on Small Business Vote Record

Date: 9.14.23 Bill: H.R. 5426

Vote Time: 11:46

Republicans	Aye	Nay	Present
Mr. Luetkemeyer (MO-03)	✓		
Mr. Stauber (MN-08)	✓		
Mr. Meuser (PA-09)	✓		
Ms. Van Duyne (TX-24)	✓		
Ms. Salazar (FL-27)	✓		
Mr. Mann (KS-01)	✓		
Mr. Ellzey (TX-06)			
Mr. Molinaro (NY-19)	✓		
Mr. Alford (MO-04)	✓		
Mr. Crane (AZ-02)	✓		
Mr. Bean (FL-04)	✓		
Mr. Hunt (TX-38)			
Mr. (La-Low-ta) Lalota (NY-01)			
Chairman Williams (TX-25)	✓		
TOTALS:	11		

Mr. Chairman _____ Votes _____

Mr. Chairman _____ Off _____, Votes _____

Mr. Chairman on that vote 22 Ayes 0 Nays and 0 Present

118th Congress House Committee on Small Business Vote Record

Date: 9.14.23 Bill: H.R. 5426

Vote Time:

Democrats	Aye	Nay	Present
Mr. Golden (ME-02)	✓		
Mr. M-fume (MD-07)			
Mr. Phillips (MN-03)	✓		
Mr. Landsman (OH-01)	✓		
Mr. Mc-Gar-vey (KY-03)	✓		
Ms. Glue-sen-kamp Perez (WA-03)	✓		
Ms. (Skull- ton) Scholten (MI-03)	✓		
Mr. (Tan-a-dar) Thanedar (MI-13)	✓		
Ms. (Chew) Chu (CA-28)	✓		
Ms. Davids (KS-03)	✓		
Mr. Pappas (NH-01)	✓		
Ranking Member Nydia Velazquez (NY-07)	✓		
TOTALS:	22		

VI. SECTION-BY-SECTION OF H.R. 5426

Section 1. Website to report fraud relating to certain COVID-19 loans

This section requires the SBA to provide a link within 30 days of enactment to the Office of the Inspector General's website where individuals can report fraud, waste, abuse, mismanagement, and misconduct related to PPP and EIDLs issued in response to the COVID-19 pandemic.

VII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(d)(1) of House rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions. Once available, the cost estimate will be published in the Congressional Record.

VIII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(I) of the Congressional Budget Act of 1974, the Committee provides the following opinion and estimate with respect to new budget authority, entitlement authority, and tax expenditures. While the Committee has not received an estimate of new budget authority contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to Sec. 402 of the Congressional Budget Act of 1974, the Committee does not believe that there will be any additional costs attributable to this legislation. H.R. 5426 does not direct new spending, but instead reallocates funding independently authorized and appropriated.

IX. OVERSIGHT FINDINGS & RECOMMENDATIONS

In accordance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in H.R. 5426 are incorporated into the descriptive portions of this report.

X. PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of H.R. 5426 are to require the SBA to provide a link on their website to the SBA OIG's website to simplify the reporting of potentially fraudulent EIDL and PPP loans.

XI. STATEMENT OF DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of H.R. 5426 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public

Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

XII. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED
TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

XIII. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

XIV. FEDERAL ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

XV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XVI. STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 7 of rule XII of the Rules of the House, the Committee finds that the authority for this legislation in Art. I, § 8, cl.1 of the Constitution of the United States.

XVII. MINORITY VIEWS

Over the course of the COVID–19 pandemic, the Small Business Administration (SBA) disbursed approximately \$1.2 trillion of economic aid through the Paycheck Protection Program (PPP) (\$792 billion), Economic Injury Disaster Loan Program (EIDL) (\$405.2 billion), Restaurant Revitalization Fund (RRF) (\$28.6 billion), and the Shuttered Venue Operators Grant Program, (SVOG) (\$14.6 billion) to help small businesses adversely impacted by the crisis.

In an effort to disburse PPP and COVID–19 funds swiftly, the SBA weakened and removed internal controls. The Office of the Inspector General (OIG) issued a number of reports early on warning of the importance of strong internal controls to mitigate risk, and a total of 22 reports to identify weaknesses in SBA’s control environment throughout the pandemic. Beginning in early 2021, long-standing anti-fraud controls were reinstituted, and new safeguards were put into place by the Biden-Harris Administration to reduce the potential for fraud.

On June 27, 2023, the OIG issued a white paper to provide a comprehensive review reporting that SBA disbursed more than \$200 billion in *potentially* fraudulent COVID–19 EIDLs, EIDL Targeted Advances, Supplemental Targeted Advances, and PPP loans. SBA also issued a report, entitled “Protecting the Integrity of the Pandemic Relief Programs,” which estimates that \$36 billion of the \$1.2 trillion in pandemic relief emergency funds was obtained fraudulently. Moreover, the agency asserts that 86% of the *likely* fraud originated in the first nine months of the pandemic, under the Trump Administration.

Currently, whistleblowers can report potential fraud to the SBA Office of Inspector General Hotline (OIG hotline) or the Pandemic Response Accountability Committee (PRAC). SBA also has a link on their main page that will lead to a page entitled, “Preventing Fraud and Identity Theft.” This page has a direct link to the OIG hotline for reporting fraud, waste, abuse, or mismanagement of federal funds involving SBA programs.

SBA websites—like those of other federal agencies—must conform to U.S. Web Design System standards as required by the 21st Century Integrated Digital Experience Act (P.L. 115–336). Among other provisions, those standards require a consistent appearance across all sites, which is the reason SBA houses its fraud resources under the Oversight header. Moreover, all government websites must be accessible to individuals with disabilities in accordance with Section 508. Having additional banners or pop-up ads could negatively impact the usability of the website for individuals with disabilities.

The OIG white paper reported that the office has received more than 250,000 hotline complaints since the beginning of the pandemic. Of those complaints, more than 90,000 have been identified

as actionable leads, which amount to more than 100 years of investigative case work.

Given that SBA already has a link to the OIG website on its website, Committee Democrats believe the single most important action Congress can take to support the OIG in their efforts to combat fraud is to advocate for their Fiscal Year 2024 budget (FY 2024) request. The Administration's FY 2024 budget plan proposed \$47.704 million of discretionary funding, plus a \$1.6 million transfer from SBA's Disaster Loans Program, and an additional \$14 million transfer to OIG from a mandatory funding source. The proposed mandatory funding source for the \$14 million transfer is no longer available following enactment of the Fiscal Responsibility Act of 2023 (P.L. 118–5), which rescinded the unobligated balances in the SBA Disaster Loan Program account.

The OIG budget request would enable OIG to build on its existing oversight capacity as COVID EIDL loans enter into repayment with additional criminal investigators, data scientists, auditors, and professional staff. These investments in data analytics capabilities, auditors, and investigative coverage will enable OIG to analyze more data, conduct more audits and reviews, and investigate more cases, promoting public trust and integrity within SBA's programs and operations.

Unfortunately, the House FSGG appropriations bill provides \$32.02 million, which would cripple the OIG, providing budget authority for approximately 130 positions, and bringing operations back to pre-pandemic levels. The Administration's FY 2024 budget provides the necessary funding to enable the OIG to sustain existing oversight capacity and invest in additional necessary staffing. Absent the total budgetary resources requested in the 2024 budget, the OIG will not have sufficient funding to combat fraud within SBA programs or to provide effective oversight over the agency's programs. Critically, OIG will not have a sufficient operating budget to capitalize on the new laws (P.L. 117–165 and P.L. 117–166), which extended the statute of limitations for fraud in the PPP and EIDL programs to 10 years.

Sincerely,

NYDIA M. VELÁZQUEZ,
Ranking Member.