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OFFICE OF INSPECTOR GENERAL REPORTS TO CONGRESS ON INVESTIGATIONS OF SBA PROGRAMS

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BEFORE THE

SUBCOMMITTEE ON OVERSIGHT, INVESTIGATIONS, AND REGULATIONS

OF THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

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WEDNESDAY, APRIL 19, 2023

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON OVERSIGHT,
INVESTIGATIONS, AND REGULATIONS,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:13 a.m., in Room 2360, Rayburn House Office Building, Hon. Beth Van Duyne [chairwoman of the Subcommittee] presiding.

Present: Representatives Van Duyne, Williams, Luetkemeyer, Mfume, Golden, and Perez.

Chairwoman VAN DUYNE. Good morning, everyone, I now call the Committee on Small Business to order. Without objection, the Chair is authorized to declare a recess of the committee at any time. The committee will hear testimony today from the Small Business Administration's inspector general.

Before my opening statement, I ask unanimous consent for the Congressman from Missouri, Mr. Luetkemeyer, to participate in today's hearing. And without hearing objections so ordered.

I now recognize myself for my opening statement. I want to welcome everyone here to today's hearing which will focus on the Office of the Inspector General's investigation of Small Business Administration programs. First, I want to thank our witness, Inspector General Ware, for joining us today. I hope this is the first of several productive hearings that we will have with you in this Congress and I appreciate you speaking with us today.

This hearing could not be coming at a more important time. I have heard from countless small businesses in north Texas who have faced difficulties in dealing with the SBA and the waste and mismanagement that we have seen from the agency is a complete disservice to our job creators and their employees. Some of the most egregious examples of SBA mismanagement came in the form of pandemic-related funds and programs. As the SBA dispersed an unprecedented amount of money, they relaxed internal controls and failed to be a responsible steward of taxpayer dollars.

While the SBA was overwhelmed with an increased workload, they left the door wide open for criminals to abuse pandemic relief programs. Who ultimately the pays the price? Hardworking American taxpayers. The SBA's disorganized management structure and

a lack of basic guardrails to prevent fraud led to wasted taxpayer dollars.

The OIG identified nearly 71,000 potentially fraudulent PPP loans totaling more than $4.6 billion, and that may only be the tip of the iceberg. In the Economic Injury Disaster Loan program alone the inspector general found $78 billion in loans and grants that were potentially fraudulently obtained. Tens of bills of dollars of apparent fraud. That was from just one program.

Again, against Inspector General Ware's advice, the SBA ended collection on and forgave all PPP loans with an outstanding balance of $100,000 or less. This sets a horrible precedent of allowing fraudsters to avoid facing repercussions.

While billions in pandemic relief funds were misused, the SBA neglected to implement simple fraud mitigation measures until the first round the PPP loans were approved. We could have prevented much of this fraud and still can for future programs. But the SBA has ignored proposed reforms. Right now our nation's small businesses are facing runaway inflation, rising interest rates at a fastest pace since the 1980s and a labor shortage. This committee is prioritizing the needs of our small businesses and their employees and we stand with them.

I hope this hearing can help gauge how Congress can take steps to improve the integrity, accountability and performance of the SBA. Inspector General Ware has done a commendable job on shining a light on waste, fraud, and abuse within the SBA. I am hopeful that this hearing with our committee will help us better understand how we can help our job creators get the support they need and deserve from the SBA.

And with that, I yield to our distinguished Ranking Member who is actually not with us yet so we are going to go ahead and recognize Mr. Golden, from the wonderful State of Maine for 5 minutes.

Mr. GOLDEN. Well, look at that right there, folks. On queue.

Chairwoman VAN DUYNE. We are going to yield to our distinguished Ranking Member Mr. Mfume, from the wonderful State of Maryland.

Mr. MFUME. Madam Chair, Members of the Committee my apologies. As all of you know, these are the days when we are having for some reason committee meetings that all run simultaneously. So I apologize. I had to be in the Oversight Committee hearing and deal with an issue of an Afghanistan withdrawal. But I am happy to be here. And I want to welcome Inspector General Ware. Thank you very much for your presence today.

The past 3 years have been extremely challenging, and we commend you for your oversight of the pandemic relief programs, as well as making sure that the Small Business Administration's core programs are working effectively as well for small businesses. Every year your office issues the top management challenges report and the semiannual report to the United States Congress. Both of those reports call attention to long-standing issues and identify some of the biggest challenges facing the agency.

As the Ranking Member of the Oversight, and Investigations and Regulations subcommittee, I want you to know that your work with guide this committee throughout the year as it conducts and as it should its oversight of the SBA. I anticipate that much of the dis-

cussion today will focus on pandemic relief programs. Since 2020, SBA has distributed more than $1 trillion in economic relief to small firms. And while the economic aid was vital in keeping millions of small businesses afloat during the pandemic, we know that your work and through your work that there was a significant amount of potential fraud. And I have stated my disgust with that in previous hearings both at full committee level and at another subcommittee.

I think most of us are concerned about that, particularly as it relates to the Paycheck Protection Program and the Economic Injury Disaster Loan program. Much of this potential fraud can be traced back I think to the early days of the pandemic when programs were new, when the loan volume was high and there was a need to get loans out of the door quickly. Those priorities unfortunately in many respects created the possibility of potential fraud.

This committee took steps to address the problems and to make sure that the money went to small businesses that needed it and that it did not go to a bunch of bad actors who we are all incensed about. To that end I support a bipartisan legislation to extend the statute of limitations for fraud in the Paycheck Protection Program and the Economic Injury Disaster Loan program in the last Congress.

Both of those bills which became law we believe sent a strong message to the unscrupulous behavior by a number of people and that behavior would no longer be tolerated and that those who committed the fraud would be held accountable in the years to come. And we all hope that there are fewer years than more years in order to make sure sure they are held accountable.

The SBA under the leadership under leadership of Administrator Guzman has taken steps to combat fraud in the pandemic relief programs. And today it will be important for all of us to hear your perspective on the progress of the agency and on the progress that we believe has been taking place since that time and to hear more about your combined efforts to recover the stolen funds, which really at the end of the day looms as a significant undertaking.

Oversight of the pandemic relief programs will be a top priority for all of us for years to come. And your office will play a central role, obviously. I recognize that you will need additional resources in order to be able to investigate the fraud and to bring bad actors to justice. And I expect to hear more about that in your fiscal year 2024 budget request. It is a reality unfortunately, but we have got to find a way to hold people accountable. And we have got to be able to have the resources to do that.

It is also important to know what is working well with the agency and how it is working well and what more needs to be done to ensure that core SBA programs are in fact working effectively. So I am committed to working with my colleagues on this committee, the administration and your office to root out fraud, to bring fraudsters to justice, to find bipartisan solutions to make the SBA run for effectively. And I want to again thank the distinguished Chairwoman who has called us together for this particular hearing.

I apologize, Madam Chair, for my in and out on this as I am dealing with two other committee meetings quite frankly. Thank you.

I yield back.

Chairwoman VAN DUYNE. Thank you very much.

I now yield to Chairman Williams for a brief opening statement.

Mr. WILLIAMS. Thank you. And good morning, General Ware. Thank you for being here. We appreciate that.

I want to thank my fellow Texan, Beth Van Duyne, for holding today's subcommittee hearing with the SBA's Office of Inspector General. Today's hearing is a critical component to examining the competency and performance of the SBA, especially after the pandemic forced the agency to take on a more prominent role which exposed many shortcomings.

For nearly 71,000 fraudulent PPP loans as we have talked about already to $78 billion in fraudulently obtained loans and grants to the Economic Injury Disaster Loan program the SBA failed to implement adequate guardrails to protect taxpayers' dollars. And this allowed criminals and illegitimate entities to have a payday after payday while legitimate small businesses struggled through pandemic.

The change is needed and we hope that you, General Ware, can help lead the way in fighting the success of waste, fraud, and abuse so Main Street America who we represent cannot continue to allow the recommendations that you have made for the agency to be ignored. There must be significant changes made to improve the integrity and accountability of the agency.

And with that, I am looking forward to today's discussion and hope we can create a sense of urgency for the SBA to listen to your suggested changes.

So thank you, Chairman Van Duyne. I yield back.

Chairwoman VAN DUYNE. Thank you very much.

It is an honor today to introduce or witness, the honorable Hannibal Mike Ware, Inspector General Ware is a native of the U.S. Virgin Islands and holds a bachelor of arts degree in accounting from the University of the Virgin Islands. In May 2018, following his confirmation from the U.S. Senate, Inspector General Ware was sworn in as inspector general of the Small Business Administration. Prior to his appointment, Mr. Ware served as deputy inspector general. Mr. Ware has over 30 years of experience within the OIG community.

In 1990, he joined the Department of the Interior OIG Virgin Islands' field office as an auditor and later became the field office supervisor. Mr. Ware later moved to the DOI OIG's office of management and served as the deputy assistant inspector general for management. In this capacity he executed the DOI OIG's independent operating budget and managed the logistical concerns to the offices nationwide presence.

In his current role as inspector general, Mr. Ware's responsible for independent oversight for Small Business Administration's programs and operations, which normally encompass more than $100 billion in guaranteed loans and nearly $100 billion in federal contracting dollars.

Inspector General Ware, thank you for joining the subcommittee today and I am looking forward to our conversation.

I now recognize Mr. Ware for his 5-minute opening remarks.

STATEMENT OF HONORABLE HANNIBAL MIKE WARE, INSPECTOR GENERAL, SMALL BUSINESS ADMINISTRATION

Mr. WARE. Thank you very much. Thank you, Chairman Van Duyne, Ranking Member Mfume, and distinguished Members of the Subcommittee. And Chairman Williams and Congressman Luetkemeyer, thank you for being here. And thank you for the opportunity to appear before you today.

I am as always super honored to represent the dedicated men and women of the SBA's Office of Inspector General and their work to provide oversight of SBA's programs aimed at bolstering the nation's small businesses to include more than a trillion dollars at stake as part of the pandemic response programs. I am confident that much of our discussion today will focus on the challenges SBA faced and experience in delivering critical funds that stem from the economic ruling as a result of the pandemic are oversight efforts span SBA's other programs.

To a significant degree, the strain of the pandemic response laid bare SBA's systematic management and performance challenges. My office knew from the onset of pandemic relief that SBA would face a delicate balancing act of preventing widespread fraud while ensuring timely disbursement of relief funds to Americans in immediate neat of assistance.

The biggest concerns for our office was SBA's quick delivery of capital to qualifying small businesses without first establishing the internal controls necessary to decrease risk. This was why we issued three reports prior to the first PPP loan or EIDL being disbursed, stressing the importance of up front program controls to mitigate the risk of fraud.

Notwithstanding these early warnings, SBA's internal controls challenges engendered the biggest fraud in a generation. It was immediately clear that pandemic relief efforts had drawn the attention of unscrupulous and greedy criminals. Complaints from lenders and allegations of misuse of funds overwhelmed our hotline. Over 100,000 complaints in the first year alone, which has swelled to more than 240,000 and counting.

We actively engaged SBA's leaders throughout the duration of the pandemic to notify them of preliminary findings so they could respond in real-time to prevent loss to the taxpayer. At the same time, we launched criminal investigations and audits to root out the fraud and abuse engendering these critical resources.

There are is no higher priority than addressing the top management and performance challenges facing SBA, which is the pandemic response. We have unleashed the power of data analytics in our oversight, fueled by the expertise and experience of our criminal investigators, auditors and analysts. To prioritize our work and to bring fraud that is hidden in plain sight within the vast portfolio, we have indeed embedded data analytics into the hearts of those efforts. We have been able to responsibly use machine learning and artificial intelligence to identify outliers in a portfolio for review and investigation.

To date, we are have issued 30 pandemic-related reports with dozens of recommendations for corrective actions to the agency. Additionally, since March of 2020, we have initiated over 1,000 investigations involving complaints of fraud resulting in arrests, indict-

ments and convictions. Our investigative work has resulted in 860 indictments, 687 arrests and 486 convictions as of March. And those numbers continue to balloon.

Through our oversight OIG has provided taxpayers an exponential return in investment. In the past 2 years alone our work has resulted in more than $9 billion in accomplishments, over $8 billion in EIDL funds also have been returned to SBA by financial institutions and another $20 billion by borrowers. We have played a key role in the return of those funds to working with our law enforcement partners and financial institutions.

With swift congressional action last year the President signed into law an increase in the statute of limitation for fraud in PPP and EIDL to 10 years. It is vital that sufficient resources are available to my office to confront the fraud landscape. The President has sought a $63.3 million in total budget authority from my office in fiscal year 2024.

Budget scenarios such as return to the fiscal year 2022 funding levels for us would be detrimental to instilling integrity in SBA's program and promoting accountability for wrongdoing. Reducing our funding to fiscal year 2022 enacted would decrease our investigative and fraud enforcement capabilities nearly equivalent to staffing levels that we had following sequestration in 2013, which is less than 100 total positions. Such a funding scenario simply does not allow us to provide effective oversight.

We are able to provide information to you to ensure adequate resources are made available to promote the public trust and instill integrity in SBA's programs. The nation can depend on my office to provide independent, objective and timely oversight of SBA.

Thank you for the opportunity to speak to you today. I am happy to answer any questions you have of me.

Chairwoman VAN DUYNE. That was exactly 4 minutes and 59 seconds. Congratulations. Thank you very much.

We will now move to Member questions under the 5-minute rule and I recognize myself 5 minutes.

On April 17, 2022, the SBA decided to formally end collections on remaining defaulted PPP loans with an outstanding balance of $100,000 or less. Your office noted in a September 2022 report that this decision lacked evidentiary support. Do you still stand by that analysis?

Mr. WARE. Thanks for the question. I definitely stand by my analysis. Feel strongly that there are many steps that could be taken. And I believe it sends a detrimental message for any future emergency programs or any programs period across government.

Chairwoman VAN DUYNE. So as of September 30, 2022, the value of $100,000 and under loans no longer being pursued was approximately $1.1 billion. Do you have the current total dollar amount of these loans that are no longer being pursued?

Mr. WARE. I could get back to you on the exact total. I could give you a general right now. The general on it is about $8 billion that it has gone up to. I believe that is what it is.

Chairwoman VAN DUYNE. Okay.

Mr. WARE. I have it in front of me. I can find it.

Chairwoman VAN DUYNE. All right. Thank you. We were just looking for—if you could find that out and follow up with me after that would be great.

The committee sent a letter to the SBA on March 15, 2023, expressing our concerns about the SBA's decision not to collect on these loans and the taxpayer dollars being abandoned. The SBA responded on March 27 claiming that collection of the government is not a cost effective use of taxpayer resources. As justification the SBA used historical data from the SBA Express loan program which they claim is most analogous to PPP loans.

The SBA claims that because Treasury recovered only .28 percent of the Express loans referred for further collection, that collection on the exponentially greater outstanding PPP loan portfolio was futile. Do you agree that these programs are a fair comparison and that that collection is futile?

Mr. WARE. I actually don't agree that it is a fair comparison. I actually think it is more like apples to orange in that regard. Relative to collection that is not—what they are comparing is not the only form of collection, it is not the only collection efforts. There is more simple avenues such as Treasury offset. Where Treasury offset works that any future government funds that would go, it could be a tax return, it could be anything would be held to fulfill the debt to the government. And these are not—that is not a difficult mechanism to deploy at all. On top of it, it would help in ensuring that folks who defaulted, who didn't pay for whatever reason, it may not have been fraud, it was just that they refused to pay, it would help that they don't get access to future programs until they are current. So I really don't—it is not something that I am in agreement with.

Chairwoman VAN DUYNE. The SBA had mentioned that they provide this analysis to and I am just going to ask if you could provide that to the committee when you get a moment.

Mr. WARE. Sure I could.

Chairwoman VAN DUYNE. The SBA had mentioned in a briefing to the committee staff their attempts to collect this money has already been made, including by mailing letters to borrowers. Are you aware of these attempts and do you believe they are sufficient?

Mr. WARE. We have not looked into exactly how frequently they did that, but they were required to do so. And that is what you do prior to going to going to Treasury offset so it would be the first step actually.

Chairwoman VAN DUYNE. But then they did the first step and they just dropped it after that.

Mr. WARE. Well, on that they made a decision that they would go away from that.

Chairwoman VAN DUYNE. Okay. And another questionable decision, the SBA has evidently also decided to end collections on COVID Emergency Injury Disaster Loans, COVID EIDL, under $100,000 which makes up approximately $71 billion of the $303.6 billion COVID EIDL loan portfolio. Unlike PPP loans, most of which were able to be forgiven if certain criteria were met. COVID EIDL loans were meant to be repaid. So the SBA has not said how many loans are in repayment or experiencing issues with repay-

ment. Do you agree with this decision not to collect on COVID EIDL loans under $100,000?

Mr. WARE. I definitely don't agree with that stance. And I am pretty public with that. And I am internally public with it as well in my discussions.

Chairwoman VAN DUYNE. Did SBA provide you with any analysis for the justification of that decision?

Mr. WARE. We have a current—an ongoing review right now that is ramping up on that. So I believe the audit team has their justification, but from what I am being told it is along the same lines that they provided for PPP.

Chairwoman VAN DUYNE. So are you able to provide justification for this committee at all?

Mr. WARE. As soon as the report is finalized.

Chairwoman VAN DUYNE. Would you be interested in drafting legislation to require the SBA actually be—collect those loans under $100,000?

Mr. WARE. So I don't believe in my role I can draft legislation.

Chairwoman VAN DUYNE. No, I am just—if you think that would help, if we actually drafted legislation to be able to get at least $8.8 billion plus the $78 billion?

Mr. WARE. I would say this, I would say that I believe SBA should make every effort to collect. And that they are pretty simple avenues to make an attempt to collect that money. And I believe it sends a terrible message relative to how seriously we take that.

Chairwoman VAN DUYNE. Excellent. Thank you very much.

I yield. And I now recognize Mr. Golden from Maine for 5 minutes.

Mr. GOLDEN. Thank you, Madam Chair.

Mr. Ware, the budget proposal coming out of the White House is a reflection of an institution's priorities. So in fiscal year 2024 there was a request for an increase from your office of nearly $16 million, that is about a 33 percent increase from last year's enacted levels. So how does this proposal reflect the priorities of the administration to fight fraud as it relates to pandemic relief programs?

Mr. WARE. Thank you. It definitely demonstrates that they have a real commitment or high confidence in my office's ability to go after bad actors, because the majority of that money if you looked at it is for to deal with our criminal investigations. And on top of it, it is basically to keep us afloat. When we had the supplemental budget that we had, that is about to be to finished in 2024. We have quite a bit of term investigators who would basically disappear, if not for that. We are basically trying to right size that to stay there before even going forward.

Mr. GOLDEN. Okay. So there is proposals out there right now to cap discretionary spending levels overall for the government, fiscal year 2022 levels, of course that doesn't have to be an even cut across every program. So how vital is it that that not occur to your budget? What do we stand to lose if you actually lost money rather than got more?

Mr. WARE. If my office lost money or went back to the 2022, facing what is happening with my term employees in 2024, I wouldn't be able to provide the oversight. The number goes back to almost like our 2016 or something like that enacted number.

Mr. GOLDEN. Sir, I understand the GOP is pending a debt ceiling legislation which we may see soon, it may actually include a funding government savings to the tune of $50 billion related to COVID, part of which is the recovery of fraudulent loans. Would you be able to help recover fraudulent loans if you took a cut?

Mr. WARE. No, I don't believe that I would be able to. I simply would not have the staffing necessary to do so. But if we did recover the funds, it would be at a much smaller clip. Look at what we are dealing with. My office—with an office that has a budget of 20 something million dollars, we have returned what close to $30 billion or played a major role in returning close to $30 billion. That is kind of an unprecedented return on investment.

Mr. GOLDEN. Yeah, I like those odds.

So just focusing a little bit more on how much we can recover and suffice it to say that I think everyone on this committee thinks that you shouldn't lose money but rather get more and deepen that return on investment. So what do you think is a reasonable estimate for SBA to recover in regards to fraudulent PPP or EIDL loans over the next let's say 2 years or looking further over the next 10 years? What is in the realm of possible for a goal?

Mr. WARE. That is a great question, very difficult to answer.

Mr. GOLDEN. Yes, I know.

Mr. WARE. Very, very difficult. I don't believe I could put my arms around what that could be. Criminal investigations are pretty tricky, but I will tell you this, when we go after normal fraud before the pandemic I created the footprints in sand. So you have to move quickly in order to catch a bad actor or it is gone, the evidence is gone. What we have right now is footprints and cement. Right? When we get to it, it is found. As soon as we open that file it is found. All the records are there.

Mr. GOLDEN. Very good.

Just thinking about over all expectations, when does your kind of confidence on the ROI start to diminish? Surely I mean we would love to get every penny back, but that is probably not a reasonable expectation. So when do we start to go beyond the return on investment?

Mr. WARE. I don't think you can with my office and I will explain.

Mr. GOLDEN. Your office, sure, but certainly the SBA argues that at some point they might use more resources trying to recover some of these funds than they would actually get back. It is a delicate balance and I know you don't want to send a bad message.

Mr. WARE. I agree that there is some sort of delicate balance. I don't believe we are there yet.

Mr. GOLDEN. Yeah, I agree with that very much. I appreciate your testimony and the work that you do, very important.

Chairwoman VAN DUYNE. Thank you very much, Mr. Golden.

I now recognize Mr. Luetkemeyer from Missouri for 5 minutes.

Mr. LUETKEMEYER. Thank you, Madam Chair. And thank you General Ware for being here again and your continued hard work to recover these tax dollars from fraudsters.

One of the things in some of our previous conversations that we have talked about were the fintech companies that were kind of the main problem children in the PPP program. And it is very con-

cerning because the SBA now is trying to enlarge the number of entities that can make 7(a) loans to include fintech companies. To me this is was very concerning whenever we say in the PPP program that the banks and the credit unions were basically the good actors and the real problem children were the fintech companies and there is about a handful of them. Do you have concerns about this program being expanded, 7(a) program to be able to include more fintech companies?

Mr. WARE. Thank you. I have concerns with the inclusion of any type, it could be a bank, it could be a fintech, any our type of nondepository lender that doesn't have brightly marked out rules that they are going to work under, that doesn't have an internal control structure in place to deal with it and that doesn't have the proper oversight and monitoring mechanism in place to go with it.

Mr. LUETKEMEYER. So you bring up the point that I was trying to get to here, in order for these fintech companies to be able to do this, do you think it would be a good idea for us to put in place some additional requirements for them to be able to participate in a program or would that something that comes from you as the inspector general saying these folks need to have these extra precautions because these things were in place for the banks and credit union, which things to be in place and then force the SBA to do it that way. So how would you recommend us going about this process?

Mr. WARE. So a couple of ways. One is that we have some work that is going on right now, the evaluation of SBA's oversight of the fintechs and the Paycheck Protection Program that will definitely have recommendations that would get to a proper control environment and making sure that SBA properly oversees and manages them, because as you know with the nondepository lenders, SBA is basically the oversight. They are the regulator. So that is of concern to me. But we have also had prior work that identified key areas of risk with fintech and they also speak to the very same things that I am talking about here.

It is basically a three headed monster up front, rules and regs, that is a general thing that doesn't happen well with everybody having a level playing field and knowing which rules they are playing under and really playing under the same rules that the internal control environment and then very important the oversight and monitoring.

Mr. LUETKEMEYER. Thank you for that. And I think it's very concerning to us to see that they have done this and there doesn't seem to be any additional protocols or procedures in place to monitor the fintech. So one of the questions that I asked the director the our day when she was here were how many people showed up for work everyday? Do you monitor that at all?

Because she was talking about well, because we know that there is a lot of them still working from home. And she talked about maybe they are in the office 2 out of 5 days. I mean, I think you would go over there and you would see dust on some of the desks personally, but do you monitor that at all.

Mr. WARE. That is not an area that we have looked into. But I must self disclose, my office had a as pretty robust telework and remote work policy in place currently. The main reason that we are

in the major fraud fight right now. That work is done in courtrooms and U.S. attorney's offices and in the Department of Justice across the country. That is where our focus is.

Mr. LUETKEMEYER. So you people are out in the field doing their work. They are not home behind the—in their PJs with their feet up, drinking a latte, while they are looking on their computer. Is that what you are saying?

Mr. WARE. I am not saying. I don't know if anyone is doing that.

Mr. LUETKEMEYER. But I am not wrong in my perception of the fact that they are not there. We have got people out in the field doing their work where they are supposed to be.

Okay. Just to get a handle again as a follow up on the previous two questioners here, what do you see as the total amount of fraud that is all there—not that you can recover all of that—do you have an idea roughly of about what the amount of fraud that is still out there that you would be going after? If it is, like, $50 billion, we realize you may get 10 percent or 5, can you give us an idea of roughly where we are at?

Mr. WARE. So at the beginning the pandemic we put out these numbers that Chairman Van Duyne spoke about. Those numbers were at the beginning, those are tiny. Where we are at now, we are way past that. I can't give you the exact number now.

I am telling you that we have a report coming out, our fraud landscape report will be out in just a few months. And that report I am extremely confident in our methodology, it will tell the story of what the true fraud landscape is and it is meant to be a living document because as we continue to dig in on or data analytics and get access to more data points the number could grow.

Mr. LUETKEMEYER. Thank you for that. I yield back.

Chairwoman VAN DUYNE. Thank you very much, Mr. Luetkemeyer.

And I now recognize Chairman Williams for 5 minutes—oh, I am sorry. I am so sorry.

I did not recognize you. I now recognize Ms. Perez, from the State of Washington for 5 minutes.

Ms. PEREZ. Thank you so much, Chairwoman.

And thank you for your testimony, Mr. Ware. A lot of conversation today has focused on how we can prevent and tackle fraud in small businesses programs and I agree that is critically important. We also need to ensure that SBA dollars are not being misspent or defrauded by criminals.

With my time I would like to focus on the flip side of that, making sure that dollars that reach small businesses are spent effectively and meeting small business owners where they are at. By definition the Small Business Administration deals with small businesses, these are often one man or woman shows operating with a skeleton crew.

A small business owner's most valuable asset is their time. They don't have time to waste reading mountains of SBA paperwork. So when overseeing SBA programs, how do you evaluate the small business experience in accessing SBA programs in addition to SBA programs.

Mr. WARE. Right. So thank you for that. And you are absolutely right. That is part of our portfolio. We have done some work on this

in the past, but I don't believe—it hasn't been during the pandemic. We have not looked at that or I think that as part of the beginning when they were kicking this off we were looking at the customer experience and we were looking at—and we have done work in a disaster realm where we have looked at how much time it takes to get someone at SBA and what that experience is like.

So we have done some work in that area. SBA has some challenges in that area, but it is something that, you know, it is something that we are always looking, looking for. We were thankful for the legislation that allowed to us do general surveys. And I know that that is part of our work that we are teed up.

Ms. PEREZ. Great. I know that you closely engage with Administrator Guzman, do you also engage with small businesses to see how SBA programs are rolling on the ground.

Mr. WARE. Personally I have not. My teams do——

Ms. PEREZ. Okay.

Mr. WARE.—when they are doing their reviews.

Ms. PEREZ. Okay, I am glad to hear that.

In general, how can SBA make its resources more accessible to the average small business owners, not just the small businesses that have this sort of administrative capacity to look into the SBA.

Mr. WARE. Yeah, so I mean they have their whole business development group. And the business development group, that is what they are charged with, that is part of what they are charged with. Our work—I don't know if we have work to that regard, but I know that we can get work to that regard, I can get you that.

Ms. PEREZ. That would be great.

Your states that the SBA has made limited progress in servicing EIDL loans. What improvements has SBA made to improve customer service and servicing those EIDL loans?

Mr. WARE. Right. The customer service angle of it has not been the angle that I have focused on, but now I realize that will have some focus in that area.

Ms. PEREZ. So the Office of the Inspector General also has an important consumer-facing role taking calls and investigating complaints. The top management in performance challenge report found that the OIG received over 208,000 calls on its hotline during the pandemic. How has your office handled that increase of calls? What is the current backlog of complaints? And what is the average sort of timeframe it takes to address a complaint once it is made?

Mr. WARE. Had you asked this question about a year ago, I would have had quite a backlog. But thank goodness for a really capable data analytics group that we have that we don't have a backlog. We are able to triage these things and to distill what is actionable and what is not. What we have actionable right new is over 100-year's worth of criminal investigative work in the hotline. So there is triage's own process that starts with that and then it goes out to the field, but the field has their own portfolio, that is why I was talking about the importance of resources for our office.

Our investigators are so dedicated and so driven that I had to fight them to reduce their portfolios, because it is not sustainable for a single agent to be working 20 something, 30 something cases at the same time.

And the ramifications of that means that their supervisor, who is supervising ten our agents, would have 25 times 10 supervising—that is what we are dealing with.

Ms. PEREZ. Yeah, yeah. Mr. Ware, you have an important role in keeping the SBA on track and accountable to taxpayers. I know that you take that responsibility seriously and I sincerely look forward working with you to improve these programs. Thank you very much.

Mr. WARE. Thank you. I appreciate your questions.

Ms. PEREZ. Thank you.

Chairwoman VAN DUYNE. I now recognize Chairman Williams, for 5 minutes.

Mr. WARE. Go frogs.

Mr. WILLIAMS. Thank you again for being here.

The SBA has faced major challenges in managing enormous financial lending programs, we are talking about that, IT and other areas even before the pandemic. Now existing issues were exasperated by the sheer volume and lack of controls of SBA's COVID-19 related programs and problems continue to surface in the aftermath of SBA's pandemic response, particularly around identifying the mitigating fraud, balancing the competing priority shortcomings and oversight, insufficient reporting requirements and failure to meet legislative intent.

So it seems the agency does not have the ability to manage the current loan volume or remedy existing fraud issues, yet the Biden administration is trying it expand. And we talked about that the SBA's loan portfolio changes to the 7(a) lending program. On October 14, 2022, the OIG issued a report stating that OIG anticipates the agency will face significant challenges managing its loan volume going forward.

Here is the question, is this still your view? And if so, what are your greatest concerns with the new 7(a) loan programs that will grandfather in all current community advantage lenders as well as bring in more SBLCs.

Mr. WARE. Yes, thank you. My—I still share those concerns. And I share those concerns because of the volume. Now SBA would say that they are not adding that much more and that the people who actually deal with this oversight have assured everyone that they can handle it, because they are intent is to deal with more of data analytics to deal with it.

My problem is data analytics is just what you—the capacity is what you build it to be. So if you don't build it with the right parameters in place, you are not going to be overseeing the right things. You are going to miss the things that you actually should be looking at. And I don't have an assurance that that has been built in mainly because I haven't seen it.

Mr. WILLIAMS. The bigger they are, the more we lose is probably what the formula is right now.

The SBA is supposed to be the lender of last resort. However we are hearing that the SBA is considering changing standard operating procedures to allow for businesses to self certify, that they could not find any credit elsewhere in the private sector.

Now in your opinion, how would this major departure from the current practice add additional risk to the system or deviate away from their current role as a lender of the last resort.

Mr. WARE. In my opinion, and I have stated it just about everywhere, I don't believe in any self certification on program. After what we just came through with PPP and EIDL, I don't see how can we could still be relying on any type of self certification.

Mr. WILLIAMS. I agree with you.

Mr. WARE. I believe it adds significant risk. And I think we have the evidence and the experience to know that it does.

Mr. WILLIAMS. The SBA has continually said that they believe they can leverage technology to make up for staffing shortages when the Office of Credit Risk Management would be charged with overseeing the new lenders in the 7(a) programs. I know what your answer is, but do you share the same opinion? And believe the agency is equipped to be the sole federal regulator of these new participants.

Mr. WARE. Even in house for the Office of Inspector General, we rely on data analytics a great deal and it has really been a force multiplier for us in terms of our investigations, but even those we have to back check. Right?

That is why we still talk about potential fraud because we haven't looked at every single one of them. Right? We have looked at a lot, enough to validate our data points. So to me, that is where the concern lies with the reliance on data analytics is do you have enough people still to know for certain that you have reduced the mitigating risk in your program and is it built correctly.

Mr. WILLIAMS. Right. Well, we need to get better at what we do rather than what we want to do. And I will just ask you a question, I am in the car business back in Texas. This money that we can't find. Right, that we have talked about, what if we people your people on commission, would they be able to find it?

Mr. WARE. Sorry, I don't mean to laugh. Like, wow.

Mr. WILLIAMS. It is a pretty good idea.

Mr. WARE. That would have changed my entire career.

Mr. WILLIAMS. You think about it and let me know.

Mr. WARE. I will.

Mr. WILLIAMS. Madam Chair, I yield back.

Chairwoman VAN DUYNE. I am going to yield 2 minutes to Mr. Golden for additional questions.

Mr. GOLDEN. Thank you, I appreciate it. I know we are looking to wrap up here.

Really more just some feedback, Mr. Ware. First on the issue of spending a little bit of time and resources looking into the efficiency of these programs rather than just waste, fraud, and abuse which is important.

For those of us that represent rural communities I could tell there is a lot of anecdotal evidence that you could find ways to improve programs if your staff spent time putting some reports out to Congress on those things so I appreciate Ms. Perez's questions.

I just couldn't help, when Mr. Luetkemeyer was talking about fraud and how much is out there and you mentioned you have got a report coming. And I know that you don't want to, like, rush to close something out, but it is pretty timely topic. The Republicans

are talking about reducing the deficit spending, they are talking about a debt ceiling proposal that involves the recovery of COVID funds.

Not all of that I think, but some of it is counting on getting some of this fraudulent money back and important decisions about what type of budget to give you to help make sure that we can actually capture those funds, you know, it is pretty timely.

So could you maybe get an early report out to the committee or some kind of preliminary data about how much fraud is actually out there and how much you think we might be able to recover.

Mr. WARE. I am so glad you said that, because this is the point that I make internally all the time relative to timelines and being relevant in this space. So I am so glad you said that.

The issue with providing something early is that it has not gone through our independent indexing and independent referencing to ensure that what we are reporting is 100 percent factual. And I would not be comfortable in releasing something that has not gone through that process.

Mr. GOLDEN. Well, always relevant but like I said the clock is ticking.

Mr. WARE. The clock is ticking.

Mr. GOLDEN. We would love to have the information yesterday.

Mr. WARE. Man, I can't wait. I am putting those words in quotes and putting it up on a board in the office, the clock is ticking. That is our new mantra.

Chairwoman VAN DUYNE. Thank you. I would like to thank our witness for his testimony and for appearing before us today.

Without objection, Members have 5 legislative days to submit additional materials and written questions for the witness to the Chair. Witnesses to the Chair which will be forwarded to the witness. I ask the witness to please respond promptly.

If there is no further business, without objection the committee is adjourned.

[Whereupon, at 10:58 a.m., the subcommittee was adjourned.]

APPENDIX

HANNIBAL "MIKE" WARE
INSPECTOR GENERAL
U.S. SMALL BUSINESS ADMINISTRATION

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT, INVESTIGATIONS, AND REGULATIONS

COMMITTEE ON SMALL BUSINESS
U.S. HOUSE OF REPRESENTATIVES

APRIL 19, 2023

INTRODUCTION

Chair Van Duyne, Ranking Member Mfume, and distinguished members of the Subcommittee, thank you for inviting me to testify before you today and for your continued support of the Office of Inspector General (OIG). I am proud of the dedication and hard work of the men and women of OIG to not only oversee SBA programs and services, but also to detect, deter, and combat fraud.

Our office provides auditing, investigative, and other services to support and assist SBA in achieving its mission. OIG's oversight efforts provide recommendations to SBA leadership to improve the performance of SBA's programs and services for the benefit of the American people. The office's investigations pursue evidence of wrongdoing in SBA programs, bringing fraudsters to justice. For the past 2 years, the office is ranked as the top OIG in the federal government as a Best Place to Work by the Partnership for Public Service with a 2022 engagement and satisfaction employee score of 86.2, which far exceeds the overall government score of 63.4.

OIG provides taxpayers with an exponential return on investment, rooting out fraud, waste, and abuse in SBA programs. In the past 2 years alone, OIG's work has resulted in more than $9 billion in dollar accomplishments, which includes investigative recoveries, fines, and forfeitures, as well as review findings of disallowed costs. OIG oversight of the Paycheck Protection Program (PPP) and Economic Injury Disaster Loan (EIDL) programs has resulted in 860 indictments, 687 arrests, and 486 convictions as of March 2023. Also, over $8 billion in EIDL funds have been returned to SBA by financial institutions and another $20 billion by borrowers. OIG has played a key role in the return of these funds through working with our law enforcement partners and financial institutions. We continue working with our law enforcement partners to investigate fraud and the misuse of billions in pandemic assistance funds, ultimately making the nation's taxpayers whole.

Notwithstanding these accomplishments, OIG's oversight capacity is dependent upon the availability of sufficient budgetary resources to continue addressing the fraud within SBA pandemic response programs. The President has put forward a Fiscal Year (FY) 2024 budget request for OIG to ensure continued oversight of SBA's pandemic response and its vital flagship programs supporting the nation's small businesses. The President also has sought $100 million in supplemental appropriations, in addition to other measures, for a whole-of-government response to the massive fraud in the nation's pandemic response programs. Absent the total budgetary resources requested for OIG in the 2024 Budget, we will not have a sufficient operating budget to combat the fraud within SBA programs and to provide effective oversight over its flagship programs. Critically, OIG would 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.

INTERNAL CONTROL ENVIRONMENT

Congress authorized SBA to administer more than $1 trillion through the PPP, EIDL, Shuttered Venue Operators Grant program (SVOG), and the Restaurant Revitalization Fund (RRF), mitigating the economic damage from the Coronavirus Disease 2019 (COVID-19) pandemic.

To support businesses adversely affected by the pandemic, Congress tasked SBA with the lending authority of approximately $470 billion in COVID-19 EIDLs and $20 billion in COVID-19 emergency grants. In FY 2021, Congress appropriated additional funds for new disaster assistance programs: $35 billion for Targeted EIDL Advances and Supplemental Targeted Advances, $16.25 billion for the SVOG program, and $28.6 billion for the RRF. The Coronavirus Aid, Relief, and Economic Security (CARES) Act had provided $349 billion for the creation of the PPP under Section 7(a) of the Small Business Act. Congress added an additional $310 billion to the PPP on April 24, 2020, through the Paycheck Protection Program and Health Care Enhancement Act. On December 27, 2020, through the Consolidated Appropriations Act, 2021, the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act extended the program through March 31, 2021. The Economic Aid Act provided an additional $147.5 billion in program funding. The American Rescue Plan Act of 2021 provided an additional $7.2 billion, which increased the total program funding to $813.7 billion. On March 30, 2021, the PPP Extension Act of 2021 extended the program through June 30, 2021, with May 31, 2021, as the last day for acceptance of applications.

My office knew from the onset of pandemic relief that SBA would face a delicate balancing act of preventing wide-spread fraud while ensuring timely disbursement of relief funds to Americans in immediate need of assistance. The biggest concern for our office was SBA's quick delivery of capital to qualifying small businesses without first establishing the internal controls necessary to decrease risk, such as verifying that the business did indeed exist before the onset of the pandemic and that it had been adversely affected by the economic downturn. This was why we issued three reports prior to the first PPP loan or EIDL being disbursed. Our reports stressed the importance of up-front program controls to mitigate the risk of fraud. Because of the lessons we'd learned from other disasters, we knew the weaknesses we identified in the past would be greatly magnified with programs as large as the PPP and EIDL.

Even with these early warnings, SBA's internal control challenges engendered the biggest fraud in a generation. SBA's need to quickly provide relief to small

businesses led to reduced controls on pandemic-related loans and grants, substantially increasing the fraud risk. It was immediately clear that pandemic relief efforts had drawn the attention of unscrupulous and greedy criminals. Complaints from lenders and allegations of misuse of funds overwhelmed OIG's Hotline — over 100,000 complaints in the first year alone. A growing national narrative told of widespread fraudulent activity involving funds intended to provide economic relief to qualifying small businesses and entrepreneurs. We actively engaged SBA leaders throughout the duration of the pandemic to notify them of preliminary findings so they could respond in real time to prevent loss to the taxpayer. At the same time, we launched investigations and audits to root out the fraud and abuse endangering these critical resources, with the first criminal charges brought forward 1 month after the issuance of the first PPP loan.

ROBUST OVERSIGHT

SBA's role in the nation's pandemic response has presented an unprecedented oversight challenge. OIG is grateful that Congress recognized the need for oversight and the value of OIG in performing this oversight. The CARES Act appropriated $25 million dollars; the Consolidated Appropriations Act, 2021 appropriated $20 million dollars for oversight of the EIDL program; and $25 million was appropriated to OIG to supplement its resources pursuant to the American Rescue Plan Act of 2021. With the rescission of OIG's $20 million supplemental funds as part of the broader cancellation of Targeted EIDL Advance funding, pursuant to P.L. 117-58 — Investing in a New Vision for the Environment and Surface Transportation in America Act — our remaining supplemental funds are anticipated to be exhausted by the end of FY 2024.

The President's requested increase in OIG's base operating budget coincides with the exhaustion of these supplemental funds and provides for a continued staffing level of 185 positions currently providing oversight of SBA's pandemic response programs. The budget proposal also provides for three additional investigative groups (27 positions) to expand the investigative footprint to mirror the location of the dollars associated with SBA's nationwide pandemic assistance. Vital to the oversight successes of OIG, the budget also provides for three additional data scientists, which are essential to detecting the fraud, prioritizing investigations, and enhancing the impact of the investigations.

OIG's highest priority continues to be pandemic response oversight, though our work also focuses on SBA's other management and performance challenges. Recently, we released our comprehensive oversight plan that outlines OIG's audit and review priorities for calendar year 2023. The implementation of this robust oversight plan uses all available OIG resources to provide timely, objective, and independent oversight of the programs being implemented and executed by SBA.

The effects of OIG's oversight efforts for SBA's pandemic response is noteworthy. We have innovative approaches to issuing agile work products, for leveraging data analytics, and participating in "Gold Standard" meetings; we are setting a standard of oversight excellence.

Critical Risks Facing SBA

With available resources, OIG must focus on the most significant risks to SBA and taxpayers. Many of these risks are addressed in OIG's *Top Management and Performance Challenges Facing the SBA*, which OIG issues annually in accordance with the Reports Consolidation Act of 2000. OIG is providing robust oversight of SBA programs, which includes more than $1 trillion in pandemic response funds, more than $35 billion annually across lending programs, including disaster assistance; more than $150 billion in small business contracting; and entrepreneurial development programs.

The management challenges represent areas that OIG considers particularly vulnerable to fraud, waste, abuse, or mismanagement, or which otherwise pose significant risk to the agency, its operations, or its credibility.

Each management challenge has originated from one or more reports issued by OIG or the Government Accountability Office (GAO). We do not usually rank the top challenges in order of importance or magnitude, except for the pandemic economic assistance challenge. We view all eight challenges as critically important to SBA operations in the upcoming year. However, we placed COVID-19 economic relief programs at the top of the list for the 2021 report in recognition that it is the agency's most acute challenge, and it remains so at present.

SBA Top Management & Performance Challenges FY 2023

Challenge 1
SBA's Economic Relief Programs Are Susceptible to Significant Fraud Risks and Vulnerabilities

Challenge 2
Inaccurate Procurement Data and Eligibility Concerns in Small Business Contracting Programs Undermine the Reliability of Contracting Goal Achievements

Challenge 3
SBA Faces Significant Challenges in IT Investment, System Development, and Security Controls

Challenge 4
SBA Risk Management and Oversight Practices Need Improvement to Ensure the Integrity of Loan Programs

Challenge 5
SBA's Management and Monitoring of the 8(a) Business Development Program Needs Improvement

Challenge 6
Identification of Improper Payments in SBA's 7(a) Loan Program Remains a Challenge

Challenge 7
SBA's Disaster Assistance Program Must Balance Competing Priorities to Deliver Prompt Assistance but Prevent Fraud

Challenge 8
SBA Needs Robust Grants Management Oversight

To date, we have issued 30 reports that have focused on the SBA's pandemic response with more significant work to be released soon. As stated in our oversight plan, upcoming reports will focus on SBA's pandemic response programs, including evaluating eligibility and forgiveness of PPP loans exceeding maximum size standards; eligibility and forgiveness of PPP loans made to borrowers in the U.S. Department of the Treasury's Do Not Pay system; SBA's internal controls to prevent SVOGs to ineligible entities; SBA's decision to end collections on COVID-19 EIDLs under $100,000; and COVID-19 EIDL applicants in Treasury's Do Not Pay system. Additionally, OIG is working on more than 10 mandatory reviews, which are required by law, and an additional 24 reviews on other areas of risk identified in the pandemic response programs. OIG also is providing oversight of SBA's response to Hurricanes Ian and Fiona.

Combating Fraud

To bring fraudsters to justice and return taxpayer funds, OIG fosters a whole-of-government approach. OIG has partnered with other law enforcement organizations, conducted outreach to the U.S. Department of Justice (DOJ) Offices of the U.S. Attorneys, and evaluated allegations of wrongdoing received through our Hotline using a partnership with the Pandemic Response Accountability Committee. We are key members on DOJ strike forces, which are being requested by the President to increase from 3 to at least 10. We also partnered with the SBA Office of the Chief Information Officer to investigate and remove websites suspected of being fraudulent. We have assisted the U.S. Secret Service (USSS) in the seizure of more than $1 billion stolen by fraudsters from the EIDL program.

OIG often communicates with financial institutions to educate them on SBA COVID-19 related programs and fraud indicators. OIG and the USSS have jointly issued Financial Crimes Enforcement Network Alerts. We issued a scam and fraud alert and provided information on how to return the funds or hold for seizure. Over $8 billion in EIDL funds has been returned by financial institutions to SBA.

Additionally, SBA has also received over $20 billion in EIDL funds that has been returned by borrowers. OIG has played a key role in the return of these funds through working with our law enforcement partners, financial institutions, and educating the public about fraud in the pandemic relief programs.

In addition to COVID-19 Strike Force Teams, OIG has fostered and partnered with numerous task forces across the nation to amplify its law enforcement reach. OIG is accustomed to such a model through years of investment in training and in outreach across the law enforcement community to combat fraud in SBA's flagship programs. The task force model bolsters efforts to investigate and prosecute the most culpable domestic and international criminal actors. This strategy works by augmenting and incorporating existing coordination mechanisms, identifying resources and techniques to uncover fraudulent actors and their schemes, and sharing and harnessing information and insights gained from prior enforcement efforts.

Our Oregon Task Force is an outstanding example of how the strategy acted as a force multiplier in taking the fight to fraudsters' doorsteps. This task force was our Western Region Office's initial task force, bringing charges forward in December 2020. Our partners on this task force include the Federal Bureau of Investigation, the U.S. Treasury Inspector General for Tax Administration, Internal Revenue Service's Criminal Investigation, Homeland Security Investigations, USSS, U.S. Postal Inspection Service, and the Naval Criminal Investigative Service. Recently, this task force uncovered one of the largest attempted schemes prosecuted across the nation, exceeding $170 million, with over $11.5 million in secured funding.

Since March 2020, we have initiated over a thousand investigations involving complaints of fraud, resulting in arrests, indictments, and convictions that are reported daily by the DOJ and its Offices of U.S. Attorneys. Among these investigations was the first charges filed against individuals fraudulently seeking PPP loans, announced on May 5, 2020. This achievement was the result of dedicated work by OIG criminal investigators and law enforcement partners. OIG's subsequent PPP and EIDL oversight and investigative work has resulted in 860 indictments, 687 arrests, and 486 convictions as of March 2023. Outcomes of these enforcement actions have resulted in $375 million in seized or forfeited assets in our joint investigative efforts and $378 million in restitution orders.

In the fall of 2022, OIG took a significant step by establishing its Technology Solutions Division, which aligns with our objective of "leveraging technology and employee experience to improve OIG methods in carrying out our mission." Through intentional investments in data analytics, OIG's data analytics team has been able to use machine learning and artificial intelligence to identify outliers in the portfolios for investigation, as well as employing traditional data analytics to develop investigative leads for our special agents working in tandem with task force partners.

Our enhanced data analytics capabilities allow OIG to use data matching to expose potential fraud rings rather than investigating potential fraud on a case-by-case basis. To date, OIG's data analytics have identified billions of potential frauds in SBA's pandemic response lending programs, and this capability is central to our ongoing work to identify the emerging fraud landscape. Additionally, with the hundreds of thousands of allegations of wrongdoing reported to the OIG Hotline and through our data analysis efforts, our ability to handle them is only possible through robust data analytics tools. Of the more than 240,000 Hotline complaints we've received, our data analytics team identified more than 86,000 actionable leads, which alone represents more than 100 years of investigative case work.

Many of the instances of fraud have been egregious, such as:

- In March 2023, a former South Florida regional manager for a leading national bank was sentenced to 120 months in prison for participating in a conspiracy to defraud the PPP. The man and his co-conspirators attempted to submit over 90 fraudulent loan applications to defraud the PPP and EIDL programs out of approximately $25 million. The conspiracy caused approximately $15 million in losses. The investigation has recovered over $800,000, so far.

- In March 2023, a federal jury convicted a Virginia woman on charges of conspiracy, bank fraud, and money laundering. The woman and her husband fraudulently obtained two PPP loans. She carried out the scheme in connection with two of her husband's businesses by creating fraudulent payroll documentation for each business and then submitting that documentation in support of the PPP loan applications. The fraudulent documentation represented that her husband's businesses had dozens of employees with over $17 million of annual payroll in 2019, when in fact they had few, if any, employees. In total, she and her husband fraudulently obtained approximately $2.5 million in loan proceeds. They then spent those funds on a 7,000-square-foot home.

- In February 2023, a Texas man was convicted for his role in a scheme to fraudulently obtain and launder millions in PPP funds. The man conspired with others to submit fraudulent PPP loan applications by falsifying the number of employees and the average monthly payroll expenses. In total, the co-conspirators sought over $35 million through more than 80 fraudulent PPP loans. The Texas man distributed over $500,000 in fraudulent loan proceeds to his co-conspirators and himself using bogus payroll checks. He laundered a portion of the proceeds by transferring the funds from one of his bank accounts to another bank account he controlled.

- In February 2023, a California man was sentenced to 54 months in federal prison for fraudulently obtaining $5 million in COVID-19 relief loans for his sham businesses. In May and June of 2020, the man submitted false and fraudulent PPP loan applications to three banks. The false information submitted included the number of employees, altered bank account records with inflated balances, and fictitious quarterly federal tax return forms. Relying on this false information, the banks funded the PPP loan applications and transferred approximately $5 million to accounts he controlled. He used the fraudulently obtained PPP loan proceeds were used for his own personal benefit, including for expenses prohibited under the requirements of the PPP program, such as for the purchase of luxury vehicles and lavish vacations.

- In February 2023, a California woman who fled to Montenegro to avoid prison sentence was returned to the United States after spending approximately 1 year as a fugitive. The woman was a member of a Los Angeles-based fraud ring that engaged in a scheme to fraudulently obtain more than $20 million in PPP and EIDL COVID-19 relief funds. She and her co-conspirators used dozens of fake, stolen, or synthetic identities – including names belonging to elderly or deceased people and foreign exchange students – to submit fraudulent applications for approximately 150 PPP and EIDL loans. They used the fraudulently obtained funds as down payments on three luxury homes in California. They also used the funds to buy gold coins, diamonds, jewelry, luxury watches, designer handbags, cryptocurrency, securities, and a Harley-Davidson motorcycle.

- In November 2022, a Texas man and woman were sentenced to 121 months and 66 months, respectively, in federal prison for wire fraud violations related to COVID-19 relief funds. The two operated a sophisticated telemarketing scheme under the name My Buddy Loans from a house in Texas. In exchange for a fee, My Buddy Loans took personal identifying information from victims and promised to file an application for an agricultural grant, which they said was available to those who owned as little as one acre of land. Instead, they filed fraudulent EIDL applications with SBA that contained the victims' personal identification information. Based on these fraudulent applications, SBA issued more than $1.56 million in EIDL Advances to people who were not eligible.

It should be noted that whistleblowers are instrumental to our oversight efforts. These brave individuals have courageously come forward to help us focus our oversight on vulnerabilities within SBA's internal control environment and other areas of significant concern. Many of our Hotline complaints concern identity theft. We have made referrals to SBA to address victims' concerns pertaining to fraudulent loans. These reports have also informed our ongoing review of SBA's response to allegations of identity theft. OIG is deeply appreciative of the

whistleblowers who have come forward. We will investigate any ensuing complaints of retaliation that may be related to these protected disclosures.

CONTINUING OVERSIGHT & FRAUD LANDSCAPE

SBA has exercised over a trillion dollars in lending authority and entrepreneurial assistance in the wake of the pandemic. While PPP lending is anticipated to resolve within the next several years, our efforts to detect and investigate the substantial fraud will continue. We also will be working diligently to shine the light of transparency and to offer recommendations that improve SBA programs and operations, which were strained by the unprecedented demand during the crisis. This oversight will require vigilance so that SBA can efficiently and effectively meet the needs of small businesses.

The scale and scope of the pandemic response programs, and the emerging fraud landscape, far outmatch oversight resources. To prioritize our work and to bring fraud hidden in plain sight within the vast portfolio, we have embedded data analytics into the heart of our oversight efforts. Our modest data analytics staff currently is augmented with contractor support secured through our partnership with the Pandemic Response Accountability Committee. Our FY 2024 budget request seeks three additional data scientists so that we can secure this vital team permanently to continue the fraud fight. Data analysis produces higher quality audit and investigative data and better correlation of audit and investigative approaches to risks and assertions. In addition, SBA's loan portfolios are comprised of millions of records, which are far too expansive for manual review. To date, OIG's initial data analytics efforts have identified billions of dollars of potential fraud in SBA's pandemic response lending programs. Data analytics has bolstered our investigative capacity with findings that have led to the arrest of fraudsters across the nation. Our hard work, made possible by data analytics, will be fully demonstrated in a comprehensive pandemic assistance fraud report planned for release in late spring.

As an example of a particular concern within the emerging fraud landscape is PPP loans that did not seek forgiveness and that will potentially default. The program was designed so that recipients would take advantage of loan forgiveness, so this scenario raises many questions. When these loans default, SBA must consider honoring the 100 percent guarantee and seek recourse from the borrowers through remedies such as the Department of Treasury's Offset Program. Additionally, SBA's disaster assistance lending for the pandemic response, principally through EIDL, is in the hundreds of billions — an amount exceeding all of SBA's disaster assistance lending since 1953 — and will perform in SBA's portfolio for decades. This will require continuing oversight by OIG. With 30-month deferment periods in place for EIDL loans, our concern is that the true scope of the fraud landscape will not be

known until these loans go into repayment, which is now occurring. We have an ongoing review of SBA's decision to end collections on COVID-19 EIDLs under $100,000.

In August 2022, the President signed into law two bipartisan bills that were aimed at holding accountable those who commit pandemic assistance fraud. The two laws extend the time available to prosecute individuals who committed fraud through the PPP or COVID-19 EIDL program, extending the statute of limitations for criminal and civil enforcement against a borrower from 5 to 10 years. These bills demonstrate that pandemic relief fraud enforcement will continue to be a priority in the coming years.

With sufficient resources, coupled with the 10-year statute of limitations on PPP and EIDL fraud, our office will be poised to combat fraud for years to come. We are grateful for swift action from the 117th Congress to extend the statute of limitations on PPP and EIDL fraud and look forward to working with Congress on resource determinations for FY 2024 and beyond.

CONCLUSION

The pandemic presented a whole-of-government challenge. Fraudsters found vulnerabilities and coordinated schemes to bypass controls and gain access to funds meant for eligible small businesses and entrepreneurs adversely affected by the economic crisis.

The nation can depend on OIG to provide independent, objective, and timely oversight of SBA. We will focus our resources on systems and processes that present serious management and performance challenges within SBA programs with a goal of improving the integrity, accountability, and performance of those programs for the benefit of the American people. Our investigations will root out fraud, waste, and abuse and will leverage and marshal the resources available across the federal law enforcement community to bring wrongdoers to justice. I am confident SBA leaders are willing partners in ensuring their programs have integrity and meet the needs of the nation's small businesses. OIG will shine the light of transparency on areas of concern and will be the independent and objective voice in our service as a valued change agent.

Support of OIG's budget request also sends a strong message of deterrence to fraudsters taking aim at all U.S. government programs. OIG has proven with adequate resources, we are poised to promote public trust and instill integrity in SBA programs. Budget scenarios, such as a return to FY 2022 funding levels, would be detrimental to instilling integrity in SBA programs. We will not be able to accomplish the goal of accountability for wrongdoing. Reducing OIG's funding to FY 2022, as enacted, would decrease OIG's investigative and fraud enforcement

capabilities to nearly equivalent to staffing levels of the office following sequestration in 2013, which is less than 100 total positions. At the same time, OIG will exhaust supplemental funds being directed to combat fraud in SBA's pandemic response programs in FY 2024. Such a funding scenario simply does not allow OIG to provide effective oversight.

Questions for Mr. Hannibal "Mike" Ware
Inspector General, U.S. Small Business Administration

April 19, 2023: U.S. House of Representatives Committee on Small Business - Subcommittee on Oversight, Investigations, and Regulations Hearing titled "Office of Inspector General Reports to Congress on Investigations of SBA Programs"

Questions from Chairman – Rep. Roger Williams

General Questions

1. **How many total outstanding recommendations do you have for the SBA?**

   As of June 1, 2023, there are 137 outstanding OIG report recommendations with the SBA.

   i. **What do you view as the most important outstanding recommendations?**

   While it is challenging to select the most important outstanding recommendations, we view the following outstanding recommendations resulting from the following SBA OIG reports as most important:

   - *SBA's Handling of Potentially Fraudulent Paycheck Protection Program Loans* (22-13)
   - *COVID-19 Economic Injury Disaster Loan Applications Submitted from Foreign IP Addresses* (22-17)

   ii. **Has the SBA shown significant progress on your outstanding recommendations from the FY 2022 report?**

   Yes. OIG regularly meets with responsible program officials to ensure progress is being made to implement all recommendations. If we feel that progress is inadequate, we will elevate the issues to the Audit Follow-up Official in accordance with our policy.

2. **There is a theme across SBA policies of failing to establish performance goals in order to determine whether a policy or program was successful. Are there any contributing factors, other than the need for speedy fund distribution, involved in failing to establish these metrics?**

   SBA's congressional mandate to swiftly disburse funds to millions of struggling small businesses was certainly a factor in SBA's inability to establish significant up-front performance metrics for COVID-19 pandemic economic assistance programs. We are unaware of any other contributing factors that prevented SBA from establishing performance metrics. OIG has recommended SBA enhance its performance metrics through more aggressive goals that clearly align with performance, program objectives, and program integrity. However, notwithstanding the mandate to expeditiously distribute funds, SBA also did not have strong internal controls in place to mitigate the risk of program fraud, abuse, and improper payments. Reduced or nonexistent controls hampered the Agency's ability to ensure funds were quickly provided to small

businesses who needed them rather than ending up in the hands of ineligible recipients.

Paycheck Protection Program (PPP)

3. **Did the SBA follow your recommendation to conduct another cost-benefit analysis prior to implementing the decision not to collect on PPP loans under $100,000? If so, can you please provide the Committee with a copy of the analysis?**

   To date, the SBA has not conducted another cost-benefit analysis regarding the decision to not collect on PPP loans under $100,000, as recommended by our office. In response to our recommendation, SBA indicates a comprehensive cost benefit analysis will be conducted not later than September 29, 2023.

   SBA implemented its decision not to collect on PPP loans under $100,000 when SBA started purchasing PPP loans in July 2021. Our recommendation to conduct a sufficient and comprehensive cost-benefit analysis was after SBA's decision to end collections on PPP loans valued at $100,000 or less. Based on our recommendation, SBA management agreed to use a third-party contractor to perform a cost benefit analysis on PPP purchase guarantees with comprehensive estimates to sufficiently assess whether the cost of collecting loans of $100,000 or less is more than the expected recovery amount, to then determine if pursuing collections is cost effective.

4. **Can you elaborate on your office's findings about fintech's involvement in PPP fraud and why fintech seems to have both attracted fraudulent borrowers and not been equipped to prevent and discover fraud?**

   OIG continues to evaluate SBA's oversight of financial technology (fintech) lenders and third-party service providers concerning the fraud risks associated with PPP loans they processed. We anticipate that our upcoming report will include an estimate of potentially fraudulent loans processed by fintech lenders and third-party service providers. While we do not have an amount to report at this time, we believe fintech lenders processed a significant amount of potentially fraudulent loans.

   As noted in *Top Management and Performance Challenges Facing the Small Business Administration in FY 2023*, SBA OIG Report 23-01, many of the PPP Schedule C loans were made by lenders that relied exclusively on third-party loan processing or software platform vendors they hired to complete loan processes. These vendors do not often have a relationship with SBA. Data shows that 7 of the top 15 lenders made more than 2.4 million loans in 2021, or more than 18,000 loans per day, after having made fewer than 22,000 PPP loans combined in 2020. These seven lenders included fintech lenders, Community Development Financial Institutions, and small business lending companies. The sheer volume of loans calls into question how fintech lenders were equipped to handle rooting out fraud in the PPP.

COVID-19 Economic Injury Loan Program (COVID-19 EIDL)

5. **Why did OMB give SBA an exemption from reporting FY2021 COVID-19 EIDL improper payments figures? Is it common for OMB to issue this type of accommodation?**

SBA stated that PPP and EIDL were not included in the Improper Payments (IP) testing for that year. The justification being that per OMB Appendix C guidance, these programs were in Phase 1 in FY 2021, and therefore, SBA only had to conduct a risk assessment to determine susceptibility. According to the SBA, it was not until the following year (FY 22) that these programs needed to be tested. SBA stated that this was the recommended guidance they received from OMB.

The SBA's determination not to report was consistent with OMB guidance for Phase 1 programs as discussed above and not an exemption.

6. **In February 2023, the SBA announced a major restructure of the way disaster loans are managed. SBA's direct disaster loans were moved away from the Office of Disaster Assistance (ODA) and to the Office of Capital Access (OCA). Additionally, ODA was renamed. The SBA claimed that these changes will strengthen small business support during disaster. Do you agree? Was your office consulted on this change?**

   OIG does not have an opinion on whether this will strengthen small business support during a disaster. Continuing OIG oversight of SBA's disaster assistance program will seek to promote efficiency and effectiveness within the program.

   As an independent and objective oversight office, OIG was not consulted on this SBA decision. OIG is prohibited by law from engaging in program activities.

7(a) Portfolio Expansion

7. **Last week the SBA finalized rules to significantly change the flagship 7(a) lending program. Do you believe that the SBA is currently equipped to supervise more lenders entering the program?**

   OIG believes the concerns expressed in the December 2020 rule on the "SBA Supervised Lenders Application Process," pertaining to administrative resources needed to prudently regulate and oversee non-depository lenders with a nationwide 7(a) lending platform, were well founded. OIG's Report 23-05, *White Paper: 7(a) Loan Program During SBA's Response to the COVID-19 Pandemic*, found oversight staffing levels within the Office of Credit Risk Management (OCRM) decreased from 42 to 26 employees, or by 38 percent. This staff reduction could affect SBA's FY 2023 goal for oversight reviews, which help ensure lender compliance with program requirements.

   OIG agrees that technology and automated processes can augment oversight capacity; however, OIG Report 20-03, *Audit of SBA's Oversight of High-Risk Lenders*, found OCRM lacked a comprehensive database to manage its high-risk lenders to ensure performance of all planned reviews, implementation of risk mitigation actions, and identification of noncompliant lender and systemic material weaknesses. OIG offered a recommendation to develop and implement such a database, and this recommendation remains open with a target resolution date of September 30, 2023. According to SBA, OCRM continues to work with SBA leadership to define the requirements for the database or document management system and authorize its funding. OCRM's plan to develop a database or document management system to assist in managing oversight

activities for high-risk lenders is awaiting prioritization for both resources and funding. Of note, SBA's risk-based oversight model considers all SBA Supervised Lenders as high-risk.

8. **You previously expressed concerns that program benefits might be accruing to large businesses by virtue of agreements they enter into with small businesses, arguing that when affiliation concerns are not properly examined, the outcome is that larger corporations have access to SBA loans. Now, SBA is telling lenders directly that they do not have to examine most areas of affiliation between a large and small business when examining eligibility. Are you worried that changes to the 7(a) affiliation requirements would open up the program to larger corporations that were never meant to participate?**

   Yes, OIG is concerned whenever the guardrails are lowered, and controls are removed in SBA programs as this creates an open door to potential waste, fraud, or abuse. With this change to the 7(a) affiliation requirement, the affiliation criteria would be removed allowing larger corporations access to SBA programs which was never the Congressional intent.

   A simple test of ownership does not capture all scenarios that would allow for affiliated entities to gain access to SBA lending programs. The determination of affiliation is necessary to ensure that an applicant is "small" for purposes of eligibility for SBA financial assistance and to ensure that the applicant (including affiliates) does not exceed the maximum guaranty amount available. However, SBA's rule is specifically removing the principle of control of one entity over another as a separate basis for finding affiliation. The stated reason is "because the concept of control as it exists requires understanding and expert consideration of business entity relationships well beyond what is owned by the applicant business or its owners."

   For example, OIG's Report 18-13, *Evaluation of SBA 7(a) Loans Made to Poultry Farmers*, illustrates the finding of 7(a) loans made to poultry farmers did not meet regulatory and SBA requirements for eligibility. The large chicken companies (integrators) in our sample exercised such comprehensive control over the growers that our office believes the concerns appear affiliative under SBA regulations. Therefore, SBA and lenders approved 7(a) loans that were apparently ineligible under SBA size standard regulations and requirements. We found integrator control exercised through a series of contractual restrictions, management agreements, oversight inspections, and market controls. This control overcame practically all of a grower's ability to operate their business independent of integrator mandates. As a result, from FY 2012 to FY 2016, SBA guaranteed approximately $1.8 billion in loans that may be ineligible.

   OIG's findings in this review hinged on the concept of affiliation through control, and in the SBA pending final rule, this affiliation criterion is removed. Without a requirement to consider control as an affiliative component, a lender would potentially simply view the poultry farmer as the owner, absent any subsidization that the 7(a) loan would provide to the operations of the large companies that are controlling the farmer's business.

9. **Do you agree with SBA that the Office of Credit Risk Management (OCRM) has adequate resources to handle the oversight functions, including vetting new applicants, that will be required based on lifting the moratorium on admitting new Small Business Lending Companies (SBLC) as 7(a) lenders?**

i. **Can you reconcile your office's finding regarding the dire state of OCRM staffing with the claims being made by SBA regarding its ability to oversee new SBLCs?**

Based on OIG's work in Report 23-05, we believe OCRM is understaffed and is increasing its use of data driven reviews. SBA has not met its goal for conducting full reviews, which include reviewing loan files and loan policies for high-risk lenders. Expanding the participation of new unregulated entities, including fintechs, could pose significant challenges to SBA. Given OCRM was understaffed prior to expanding the number of SBLCs in the program and the challenges associated with overseeing lenders' use of financial technology companies, it is fair to say that staffing challenges are a concern.

10. **Do you agree with SBA's conclusion that grandfathering in all of the existing Community Advantage lenders into regular 7(a), thus giving them full authority to make 7(a) loans, will not cause an increase in workload for OCRM?**

OIG believes expanding the portfolios of a risky cohort of lenders to potentially include larger loans, increases risk and should have a corresponding increase in OCRM's oversight burden.

While we agree with SBA that the agency's decision to allow existing Community Advantage (CA) lenders to make 7(a) loans would not increase the quantity of lenders overseen, these lenders as a cohort have exhibited higher risk. Specifically, as noted in SBA OIG Report 20-08, *Audit of the SBA's Community Advantage Pilot Program*, the CA pilot program has exhibited more risk than similar-sized 7(a) loans. Our analysis determined that CA loans approved from 2011 to 2016 defaulted at a rate nearly two times the rate for similar-sized 7(a) loans.

11. **To the extent that you and your team have been able to review the regulatory amendments, can you tell us what you think of the changes and whether we should be concerned about the possibility that the revised regulations may cause a deterioration of 7(a) loan credit quality or an increase in program fraud?**

OIG believes that any policy changes to the 7(a) program must include a robust framework for internal controls and program oversight. The effect of significant factors on the 7(a)-program moving forward are presently unknown. Those significant factors include the lasting effects of relief payments, higher loan amounts, and rising interest rates. As described in Report 23-05, as COVID-19 relief programs sunset and interest rates rise, borrowers' ability to repay 7(a) loans could be affected.

In terms of credit quality, SBA's rule drastically shifts the credit worthiness determination to the lender and defers to the lenders' individual credit policies. Though 7(a) express loans utilized these credit practices for years, these loans were limited to $350,000 and represented a small portion of the portfolio. The lack of standardization for credit decisions across SBA's lenders and the expansion of this creditworthiness model to loans in excess of $350,000 increase the risk within the 7(a) portfolio.

In terms of fraud, we have historically seen 7(a) loan fraud across the portfolio, and cannot specifically speak to an increase in fraud based on the changes.

12. **7(a) lenders that are federally regulated and have federal primary regulators would be required to comply with SBA's stated list of requirements. Do you know how SBA assures compliance by those lenders for which it is the primary or only regulator?**

According to SBA's Standard Operating Procedure (SOP) 51 00, On Site Lender Review/Examinations, (page 12) SBLCs are subject to SBA's risk-based reviews which include safety and soundness examinations. During these examinations, an SBLC is assessed in the following areas: capital adequacy, asset quality, management, earnings, liquidity, and compliance with SBA requirements.

i. **In your role of overseeing SBA's oversight functions, have you observed that these requirements are being enforced with the lenders for which it is the primary regulator?**

As indicated in SBA OIG Report 20-03, *Audit of SBA's Oversight of High-Risk Lenders*, all SBA Supervised Lenders are considered high risk. This report found that SBA's Office of Credit Risk Management (OCRM) did not always perform effective oversight of high-risk lenders to identify and mitigate risks. We found that OCRM did not always conduct planned high-risk lender reviews, recommend adequate and consistent risk mitigation actions, or communicate loan deficiencies they noted during their high-risk lender reviews to approval and purchase loan centers.

Questions for Mr. Hannibal "Mike" Ware
Inspector General, U.S. Small Business Administration

April 19, 2023: U.S. House of Representatives Committee on Small Business - Subcommittee on Oversight, Investigations, and Regulations Hearing titled "Office of Inspector General Reports to Congress on Investigations of SBA Programs"

Questions from Committee Member – Rep. Aaron Bean

1. **IG Ware, during our hearing with Administrator Guzman, I asked her about the SBA's staffing. Specifically, I asked her for data on the number of employees still working from home. Her response was that 99% of the SBA workforce was working under the title of "Mission Based Remote."**

    a. **Do you know what "Mission Based Remote" means?**
    b. **In your opinion, would SBA be more effective in implementing the necessary changes if staff was showing up to the office Monday through Friday?**

    I believe SBA is best positioned to define "Mission Based Remote;" however, the use of workplace flexibilities promotes hiring, retention, continuity of operations, and other human capital interests.

    I believe a comprehensive assessment is required for determinations, on a position-by-position (i.e., job category) as to whether or not a position should be eligible for telework or remote work. Employees that can fully perform their duties and responsibilities at an alternate or remote worksite can be as productive as those that elect or are required to report to a SBA office as their duty station. However, it is important that purposeful and intentional in-person meetings are included within the management of mission fulfillment.

2. **Over the last few years, your office has found numerous deficiencies in the management of SBA.**

    a. **In your opinion is there anywhere that the SBA has made improvements? Because it seems to me, that the SBA is more concerned with taking on more programs without first fixing the issues they already have.**

    SBA has made substantial progress in reducing fraud risks and preventing further losses. When the PPP launched in 2020, SBA's fraud risk management approach for PPP loans was intentionally developed with more fraud and eligibility controls at the loan forgiveness phase than the application stage.

    SBA was mandated by Congress to swiftly pay out, or disburse, funds to millions of struggling small businesses. Speed became the highest priority in complying with the mandate. SBA took corrective action in response to OIG recommendations to combat PPP fraud by implementing fraud and eligibility controls, including but not limited to the following:

- Establishing a Fraud Risk Management Board in 2022;
- Developing a webpage dedicating to preventing fraud and identity theft, which includes a section entitled "Lenders and Fraud Response" to which OIG has a follow up review ongoing/planned;
- Developing aggregate review processes to identify different fraud scenarios;
- Developing and implementing a Master Review Plan that established guidelines for loan and forgiveness reviews;
- Increasing antifraud controls for loans originating in 2021, including checking application data against the U.S. Department of the Treasury's Do Not Pay database " to which OIG has a follow up review ongoing/planned;
- Developing and implementing SBA and contractor fraud risk management policy and framework;
- Increasing post-disbursement antifraud controls for loans that originated in 2020;
- Commencing manual loan and forgiveness reviews;
- Engaging a contractor with expertise in detection and identification of potential fraud;
- Using a contractor's automated review tool and the SBA Paycheck Protection Platform to analyze loans for fraud and eligibility;
- Implementing machine learning functionality to focus on areas of higher risk;
- Providing outreach and training; and
- Implementing processes to refer potential fraud to SBA OIG.

3. **The biggest failure of the SBA in recent history was when they showed that they lacked the basic guardrails to prevent fraud in COVID pandemic programs.**

    a. **Has there been anything to suggest that SBA has made internal changes to prevent these types of frauds from occurring within the other programs they administer?**

OIG is not aware of any internal changes made by SBA in other programs. According to SBA, it implemented 19 ETran checks for eligibility and fraud in PPP. SBA has plans to implement by August 2023 similar ETran checks for eligibility and fraud in the 7(a) program.

Generally, the other programs have controls that, if implemented, should prevent the unprecedented fraud seen in COVID-19 programs. Additionally, other programs do not rely on self-certifications. OIG believes that by allowing applicants to self-certify as eligible, and the lack of oversight on that criterion contributed to the massive scale of fraud.

4. **Recently, the SBA finalized rules to significantly change the flagship 7(a) lending program. Before the pandemic, your office recognized major issues within the 7(a) program. Furthermore, in a recent white paper put out by your office, you identified staffing shortages in the Office of Credit Risk Management (OCRM) which saw staff reduced by 38 percent from 42 to 26 employees as a post CARES Act factor that could impact the 7(a) program and should be considered in SBA's program risk strategy.**

a. **IG Ware, in your opinion, were all of those issues addressed and resolved prior to the implementation of these new changes to the 7(a) program, and do you believe that SBA is in a place where the agency can successfully take on this additional responsibility?**

OIG believes that SBA leadership takes our annual Top Management and Performance Challenge report and the recommendations from our oversight reports seriously. While they have made significant progress on many challenges related to the 7(a) loan program, additional improvements are necessary before we would be comfortable stating that SBA can successfully take on the additional responsibility referenced above.

OIG believes that any policy changes to the 7(a) program must include a robust framework for internal controls and program oversight. The effect of significant factors on the 7(a) program moving forward are presently unknown. Those significant factors include the lasting effects of relief payments, higher loan amounts, and rising interest rates. Based on our work in report 23-05, as COVID-19 relief programs sunset and interest rates rise, borrowers' ability to repay 7(a) loans could be affected.

OIG believes the concerns expressed in the December 2020 rule on the "SBA Supervised Lenders Application Process," pertaining to administrative resources needed to prudently regulate and oversee non-depository lenders with a nationwide 7(a) lending platform, were well founded. OIG's Report 23-05 found oversight staffing levels within OCRM decreased from 42 to 26 employees, or by 38 percent. This staff reduction could affect SBA's FY 2023 goal for oversight reviews, which help ensure lender compliance with program requirements.

OIG agrees that technology and automated processes can augment oversight capacity; however, OIG Report 20-03 found OCRM lacked a comprehensive database to manage its high-risk lenders to ensure performance of all planned reviews, implementation of risk mitigation actions, and identification of noncompliant lender and systemic material weaknesses. OIG offered a recommendation to develop and implement such a database, and this recommendation remains open with a target date of September 30, 2023. According to SBA, OCRM continues to work with SBA leadership to define the requirements for the database or document management system and authorize its funding. OCRM's plan to develop a database or document management system to assist in managing oversight activities for high-risk lenders is awaiting prioritization for both resources and funding. Of note, SBA's risk-based oversight model considers all SBA Supervised Lenders as high-risk.

5. **Recently, the SBA made the decision to end collections on purchased PPP loans with an outstanding balance of $100,000 or less, missing out on roughly $1.1 billion in repayments.**

   a. **Do you agree with SBA's decision not to collect on PPP loans under $100,000?**

   OIG does not agree with SBA's decision to not collect on PPP loans valued at $100,000 or less because SBA did not conduct a sufficient and comprehensive cost-benefit analysis on PPP purchase guarantees. We believe that the initial cost-benefit analysis conducted did not contain supporting data to substantiate SBA's assertions and conclusions. Also, since SBA never attempted to collect on these purchased PPP loans or ensured lenders pursued collection, it is

unclear how SBA determined that borrowers who would be liable for the debt, including sole proprietors, self-employed individuals, and independent contractors, did not have the present ability or prospective ability to pay a significant amount of the debt.

i. **Follow-up: Did the SBA follow your recommendation to conduct a cost-benefit analysis prior to implementing the change?**

SBA implemented its decision not to collect on PPP loans under $100,000 at the onset of SBA purchasing PPP loans in July 2021. Our recommendation to conduct a sufficient and comprehensive cost-benefit analysis was after SBA's decision to end collections on PPP loans valued at $100,000 or less.

Based on our recommendation, SBA management agreed to use a third-party contractor to perform a cost-benefit analysis on PPP purchase guarantees with comprehensive estimates to sufficiently assess whether the cost of collecting loans of $100,000 or less is more than the expected recovery amount and determine if pursuing collections is cost effective.

The final action date for the recommendation is September 29, 2023.

ii. **Follow-up: If so, do you think SBA's cost-benefit analysis is sufficient?**

OIG has not received a copy of an analysis from SBA — the final action date for the recommendation is September 29, 2023.

6. **I am still very much interested in learning what the SBA is currently doing to investigate the companies who stole from the U.S. government via the PPP. As you likely recall, the Clyburn Staff Report from December 2022 named four main companies that allowed this fraud to happen: Blue Acorn, Womply, Kabbage, and Bluevine. Specifically, I'd like to know:**

   a. **Is the SBA investigating each of these four companies: Blue Acorn, Womply, Kabbage and Bluevine? If the SBA is not investigating them, why not, what is the reason not to investigate? If the SBA is investigating them, what is the scope of the investigation? Will the SBA investigate the fees charged by these companies to the SBA's PPP lenders? For example, the Clyburn Staff Report made the following finding relating to Womply: "Agreements between Womply and its lending partners obtained by the Select Subcommittee reveal that Womply often took at least half — and in some cases up to 90 percent — of all the taxpayer-funded fees allocated to lenders by SBA to compensate it for processing PPP loans."**

   b. **When does the SBA expect to finalize each of these investigations? The SBA has temporarily debarred Womply and Blue Acorn for 180 days. That clock will run out in June. Will the SBA have wrapped up these investigations by then so the U.S. taxpayer will have accountability against these companies?**

   c. **Blue Acorn received over $1 billion in taxpayer money in fees to administer**

the PPP loans. And the vast majority of Womply's revenue — $1.9 billion in 2021 — was from fees collected from PPP lenders for referring applications through its PPP Fast Lane platform. How much did each of the other companies (Kabbage and Bluevine) receive in taxpayer money and how much does SBA expect to get back from each of these four companies?

SBA is best positioned to speak to its regulatory and administrative investigations. OIG cannot comment on pending or open investigations, as it may jeopardize the outcomes of the proceedings.

7. **As you are aware SBA has finalized regulations that lift the more than 40-year moratorium to allow additional non-federally regulated entities, Small Business Lending Companies (SBLCs), to make SBA guaranteed 7(a) loans? As justification for this action, in the supplementary information contained in the final rule, SBA asserted that it "conducted in-depth assessments to ensure it has capacity to provide oversight and servicing to SBA's entire portfolio of lenders, including any potential additional SBLCs," based on its stated intention to "license, service, and provide oversight to three new regular SBLCs." That conclusion seems at odds with the findings reported in your March 21, 2023 white paper. In that report, you noted that as of August 2022, the oversight staffing levels in the Office of Credit Risk Management decreased from 42 to 26 employees, or by 38 percent and, even without considering the impact of the new rules, you concluded that this staff reduction already could affect SBA's FY 2023 goal for oversight reviews, which help ensure lender compliance with program requirements.**

   a. **Can you reconcile the finding of your office regarding the dire state of OCRM staffing with the claims being made by SBA regarding its ability to oversee new SBLCs?**

   b. **Do you agree with SBA that OCRM has adequate resources to handle the oversight functions, including vetting new applicants, that will be required based on lifting the moratorium on admitting new SBLCS as 7(a) lenders?**

   Based on OIG's work in Report 23-05, we believe OCRM is understaffed and is increasing its use of data driven reviews. SBA has not met its goal for conducting full reviews, which include reviewing loan files and loan policies for high-risk lenders. Expanding the participation of new unregulated entities, including fintechs, could pose significant challenges to SBA. Given OCRM was understaffed prior to expanding the number of SBLCs in the program and the challenges associated with overseeing lenders' use of financial technology companies, it is fair to say that staffing challenges are a concern.

8. **The agency's recent rule changes will also "grandfather current CA Lenders ... to be licensed as 7(a) Community Advantage SBLCs" and asserted that transitioning to a Community Advantage SBLC will pose no additional burden nor increase the total number of entities overseen and supervised by SBA or the cost to SBA." Yet, SBA is giving these CA SBLCs very new authority and**

allowing them to go from a maximum loan size of $350,000 to a maximum loan size of $5 million — that sounds like different oversight burden to me.

a. **Do you agree with SBA's conclusion that grandfathering in all of the existing CA lenders into regular 7(a), thus giving them full authority to make 7(a) loans, will not cause an increase in workload for OCRM?**

OIG believes expanding the portfolios of a risky cohort of lenders to potentially include larger loans increases risk and should have a corresponding increase in OCRM's oversight burden.

While we agree with SBA that their decision to allow existing Community Advantage (CA) lenders to make 7(a) loans would not increase the quantity of lenders overseen, these lenders as a cohort have exhibited higher risk. Specifically, as noted in SBA OIG Report 20-08, the CA pilot program has exhibited more risk than similar sized 7(a) loans. Our analysis determined CA loans approved from 2011 to 2016 defaulted at nearly two times the rate for similar-sized 7(a) loans.

9. **When promulgating the two final rules, SBA indicated that it was using the more liberal Paycheck Protection Program (PPP) requirements as a roadmap. The more liberal requirements in the PPP included less rigid affiliation requirements, liberal use of applicant self-certifications, etc.**

   a. **Given how fraud-riddled PPP was, how do you feel about that strategy of removing controls and guardrails around lenders in the 7(a) loan program as SBA is now doing in their recent rule changes?**

OIG is not in agreement with the removing of any controls and guardrails and we are opposed to any applicant self-certification. That being said, in our reports and through investigative results, we continue to prove that robust internal controls provide a better stewardship environment for taxpayer resources, which also serving America's small business owners and entrepreneurs.

10. **The Select Subcommittee on the Coronavirus Crisis released an extensive report in December 2022 that outlined that fintech was responsible for the majority of the fraud in PPP. In fact, fintech was responsible for 75 percent of the fraud even though they only accounted for 15 percent of the PPP loans made. That is a stunning conclusion. And while there were a few fintech named and SBA has responded in a limited fashion to those individual entities named, my concerns run deeper — this report showcased a trend that I think is important to note. Namely, in the absence of controls that are normally required of federally regulated lenders, non-federally regulated lenders were not as familiar with Bank Secrecy Act and Know Your Customer procedures and could simply not catch the fraud in the same manner as banks were able to do in a much more efficient manner.**

   a. **Can you elaborate on your office's findings about fintech's involvement in PPP fraud and why fintech seems to have both attracted fraudulent borrowers and not been equipped to handle rooting out fraud?**

OIG continues to evaluate SBA's oversight of financial technology (fintech) lenders and

third-party service providers concerning the fraud risks associated with PPP loans they processed. We anticipate that our upcoming report, *SBA's Oversight of PPP Loans Processed by FinTech Companies*, will include an estimate of potentially fraudulent loans processed by fintech lenders and third-party service providers. While we do not have an amount to report publicly, we believe fintech lenders processed a significant amount of potentially fraudulent loans.

As noted in *Top Management and Performance Challenges Facing the Small Business Administration in FY 2023*, SBA OIG Report 23-01, many of the PPP Schedule C loans were made by lenders that relied exclusively on third-party loan processing or software platform vendors they hired to complete loan processes. These vendors do not often have a relationship with SBA. Data shows that 7 of the top 15 lenders made more than 2.4 million loans in 2021, or more than 18,000 loans per day, after having made fewer than 22,000 PPP loans combined in 2020. These seven lenders included fintech lenders, Community Development Financial Institutions, and small business lending companies. The sheer volume of loans calls into question how fintech lenders were equipped to handle rooting out fraud in the PPP.

b. **Do you think the report's recommendation that SBA should use caution if considering bringing fintech into the regular standing loan programs is a recommendation to heed?**

Yes, OIG agrees with the Select Subcommittee on the Coronavirus Crisis in the *"We Are Not the Fraud Police": How Fintechs Facilitated Fraud in the Paycheck Protection Program* recommendation that SBA should use caution if considering bringing Financial Technology (FinTech) lenders and allowing lenders to rely on FinTech lender service providers without a track record of proven success into the regular standing loan programs as the oversight and internal controls associated with new program participants is critical to reducing risk in the programs.

Critical components include SBA's oversight of lenders compliance with program requirements, including ensuring that lenders are exercising the required due diligence of those determined to be lender service providers. Compliance with BSA and AML are key requirements of lenders, and its lending service providers must adhere and have assurance related to these regulations. In addition to the lender level oversight, it is critical that SBA monitor lender service provider involvement and performance across the portfolio and take action when necessary.

11. **There is more to come in the wake of SBA's recent rule changes. Now, SBA has to release a new Standard Operating Procedure (SOP), that will provide lenders the guidance to implement these rule changes.**

a. **If there are changes in the SOP that continue to remove controls and move to allow either lenders or borrowers simply check a box or self-certify to components of program requirements, would your office have concerns about the fraud that could result from self-certification in federal programs, such as**

the fraud that we witnessed as a result of self-certification in PPP?

Yes, OIG has concerns about any actions to weaken internal controls. Self-certification has been proven to be a significant internal control weakness in the PPP. SBA's lack of internal controls led to significant fraud risk and vulnerabilities. We generally do not recommend borrower self-certifications in other SBA programs because fraudsters can easily submit false claims on their applications and the system would not require them to provide supporting documentation. This would keep us in a constant state of pay and chase, which is the worst possible way of preventing fraud.

12. **Under the SBA's recent rule changes, among other concerning changes, SBA has greatly loosened the conditions under which it will find two entities to be affiliated, including eliminating control and management as affiliation criteria and also eliminating any SBA involvement in reviewing franchise agreements. This means that larger businesses could exert greater control over small businesses and that business, that arguably could now be controlled by the larger business, could still qualify for a *Small* Business Administration loan. We are letting larger businesses have access to small business lending products. I find that inexcusable.**

    a. **You previously expressed concerns about the possibility that program benefits might be accruing to large business by virtue of agreements that they entered into with small businesses, for example, the contractual relationship between large poultry businesses and the small business entities that "grow" the chickens for them. This was part of your office's reporting and testimony before this Committee in 2018 on poultry growers. At the time, you argued that when affiliation concerns are not properly examined, the outcome is that larger corporations have access to SBA loans. Now, SBA is going in the exact opposite direction, swinging the pendulum to an even more extreme position and telling lenders directly you do not have to examine most areas of affiliation between a large and small business when examining eligibility. Given those concerns, are you worried that the loosening of SBA's affiliation requirements could result in a similar outcome?**

    b. **Do you think the IG community would have concerns with SBA allowing SBA loans to go to large corporations now that nearly all affiliation concerns no longer need to be evaluated by lenders when reviewing whether a small business is truly small?**

    c. **I know that it is very early in the process to be asking this, but to the extent that you and your team have been able to review the regulatory amendments, can you tell us what you think of the changes and whether we should be concerned about the possibility that the revised regulations may cause a deterioration of 7(a) loan credit quality or an increase in program fraud?**

The rule appropriately indicates, "The determination of affiliation is necessary to ensure that an

applicant is 'small' for purposes of eligibility for SBA financial assistance and to ensure that the applicant (including affiliates) does not exceed the maximum guaranty amount available." However, SBA's rule is specifically removing the principle of control of one entity over another as a separate basis for finding affiliation. The stated reason is "because the concept of control as it exists requires understanding and expert consideration of business entity relationships well beyond what is owned by the applicant business or its owners." It is also removing being a franchisee as an element to serve as a basis to assess affiliation. In short, it is removing pre-approved franchises that do not have affiliation as determined in advance by SBA. This assisted lenders by not having to conduct a control assessment on every loan involving franchises, since many were pre-approved.

OIG would share concerns with policy decisions that do not align assurances that SBA's programs do not meet congressional intent, in this case due diligence to ensure only eligible entities (i.e., small businesses) gain access to the guaranteed loans. In expressing this concern, OIG would acknowledge the legislative construct as the governing criteria over a policy decision. OIG also would share concerns that are associated with control in the context of risk to the taxpayer. In our poultry review (Report 18-13), we found that the contractual obligations of the poultry growers to the large poultry corporations did not allow for independence of operational decisions. The effect is that the contractual obligations placed the operational risk of the poultry corporations with the chicken grower, which is where the taxpayer's risk to the loan guarantee resided in this business model. OIG's findings in this review hinged on the concept of affiliation through control, and in the SBA proposed final rule, this affiliation criterion is removed. A lender would look at the chicken grower as the owner, notwithstanding their operational control is bound by the contractual obligations to the poultry corporation.

13. **During discussions regarding the final rule on "Small Business Lending Company (SBLC) Moratorium Rescission and Removal of Requirement for a Loan Authorization" [88 FR 21890, issued 4/12/2023, effective 5/12/2023], SBA has stated in a recent letter to the U.S. Senate Committee on Small Business and Entrepreneurship "that all 7(a) lenders, <u>including SBLCs</u>, are required to comply with Bank Secrecy Act/Know your Customer/Anti Money Laundering standards and SBLCs are also responsible for and evaluated on compliance with: Truth in Lending, state by state usury laws, Equal Credit Opportunity, and the Gramm-Leach-Bliley Act."**

    a. **Clearly there would be no question that the 7(a) lenders that are federally regulated and have federal primary regulators would be required to comply with SBA's stated list of requirements. Do you know how SBA assures compliance by those lenders for which it is the primary or only regulator?**

    SBA Supervised Lenders are regulated by SBA, as opposed to banking regulations and insurances. OIG Report 23-05 has highlighted staffing within OCRM as an area of risk, which is especially significant in context of the stated basis of the 40-year moratorium on additional SBLCs—necessary administrative resources. Such resources also would be needed in lender application reviews relative to credit policies and continuing oversight of this important program aspect.

OIG believes robust internal controls promote integrity within its Supervised Lender programs. A sound internal control environment includes robust oversight and monitoring requirements, which would include lenders' oversight of their lending service providers. Internal controls within the lending processes that do not provide assurance that only eligible borrowers, such as Bank Secrecy Act's Know Your Customer regulations, make programs susceptible to fraud and improper payments.

OIG's work has increased transparency on these significant risks and inform the program decisions under consideration at present. Solid rules and regulations, strong internal controls, and an effective process for oversight and monitoring can mitigate risk and lead to efficiency and effectiveness. SBA's SOP 51 00 (page 12), SBLCs are subject to SBA's risk-based reviews which include safety and soundness examinations. During these examinations an SBLC is assessed in the following areas: capital adequacy, asset quality, management, earnings, liquidity, and compliance with SBA requirements.

b. **In your role of overseeing SBA's oversight functions, have you observed that these requirements are being enforced with the lenders for which it is the primary regulator?**

As indicated in SBA OIG Report 20-03, *Audit of SBA's Oversight of High-Risk Lenders*, all SBA Supervised Lenders are considered high risk. This report found that SBA's Office of Credit Risk Management (OCRM) did not always perform effective oversight of high-risk lenders to identify and mitigate risks. We found that OCRM did not always conduct planned high-risk lender reviews, recommend adequate and consistent risk mitigation actions, or communicate loan deficiencies they noted during their high-risk lender reviews to approval and purchase loan centers.

14. **Just days after enactment of the CARES Act, on April 3, 2020, the OIG issued a white paper titled *Risk Awareness and Lessons Learned from Prior Audits of Economic Stimulus Loans*. That document included a list of the factors that were important for SBA to consider as it implemented the provisions of the statute, including the Paycheck Protection Program. The "key considerations" list included issue clear requirements and ensuring timely communication to lending partners, establish and monitor performance measures, establish proper internal controls, establish a quality assurance plan to prevent and detect improper payments, and track program data to support accurate measurement and reporting.**

a. **Looking back, do you think that some of the PPP fraud and other implementation issues could have been avoided if SBA had paid more attention to the cautions you provided in your White Paper?**

Yes, OIG believes that if SBA implemented stronger upfront controls and had taken corrective actions to address our key considerations and recommendations, many of the issues could have been avoided and program risks could have been reduced.

b. **As SBA implements the sweeping program changes included in the recently published final rules, what lessons do you think can be learned from your findings?**

As noted in the "key considerations" referenced above, this list included:

- Issue clear requirements and ensuring timely communication to lending partners;
- Establish and monitor performance measures;
- Establish proper internal controls;
- Establish a quality assurance plan to prevent and detect improper payments, and;
- Track program data to support accurate measurement and reporting.

It is important to note that many of those considerations are far more critical to new programs but can also serve a valuable guide to program changes. For example, the details that were not included in the final rules and will be outlined in SOPs and notices need to be timely and clear.

Further, OIG believes that any policy changes to the 7(a) program must include a robust framework for internal controls and program oversight. The effect of significant factors on the 7(a) program moving forward are unknown. Those significant factors include the lasting effects of relief payments, higher loan amounts, and rising interest rates. Based on our work in Report 23-05, as COVID-19 relief programs sunset and interest rates rise, borrowers' ability to repay 7(a) loans could be affected.

OIG believes the concerns expressed in the December 2020 rule on the "SBA Supervised Lenders Application Process," pertaining to administrative resources needed to prudently regulate and oversee non-depository lenders with a nationwide 7(a) lending platform, were well founded. OIG's Report 23-05 found oversight staffing levels within OCRM decreased from 42 to 26 employees, or by 38 percent. This staff reduction could affect SBA's FY 2023 goal for oversight reviews, which help ensure lender compliance with program requirements.

OIG agrees that technology and automated processes can augment oversight capacity; however, OIG Report 20-03 found OCRM lacked a comprehensive database to manage its high-risk lenders to ensure performance of all planned reviews, implementation of risk mitigation actions, and identification of noncompliant lender and systemic material weaknesses. OIG offered a recommendation to develop and implement such a database, and this recommendation remains open with a target date of September 30, 2023. According to SBA, OCRM continues to work with SBA leadership to define the requirements for the database or document management system and authorize its funding. OCRM's plan to develop a database or document management system to assist in managing oversight activities for high-risk lenders is awaiting prioritization for both resources and funding. Of note, SBA's risk-based oversight model considers all SBA Supervised Lenders as high-risk.

15. **OCRM is responsible for the general oversight of all 7(a) lenders and also serves as the primary regulator for the Small Business Lending Companies, Community Advantage lenders, and others.**

    a. **In addition to any concerns, you may have about the adequacy of staffing in OCRM, what other concerns do you have about the ability of that office to perform its critical program integrity functions?**

Lenders often rely on the services of fee-based and other third-party agents to help originate, close, service, and liquidate SBA loans. Most traditional SBA-guaranteed 7(a) and 504 Certified Development Company loans are originated by lenders with delegated approval authority. Generally, these lenders are subject to only limited SBA oversight and quality control unless a borrower defaults on a loan.

Our previous audits have found SBA has not adequately recognized or managed significant lender weaknesses. In an audit of SBA's oversight of high-risk lenders (Report 20-03), we identified additional internal control weaknesses in lender oversight.

Previous OIG audits also have shown that SBA did not effectively identify and track third-party agent involvement in its 7(a) and 504 loan portfolios. Tracking such agents is crucial in managing the portfolios because many lenders rely on the services of fee-based and other third-party agents to help originate, close, service, and liquidate SBA loans.

Questions for Mr. Hannibal "Mike" Ware
Inspector General, U.S. Small Business Administration

April 19, 2023: U.S. House of Representatives Committee on Small Business - Subcommittee on Oversight, Investigations, and Regulations Hearing titled "Office of Inspector General Reports to Congress on Investigations of SBA Programs"

Questions from Chairman – Rep. Beth Van Duyne

I am still very much interested in learning what the SBA is currently doing to investigate the companies who stole from the U.S. government via the PPP. As you likely recall, the Clyburn Staff Report from December 2022 named four main companies that allowed this fraud to happen: Blue Acorn, Womply, Kabbage, and Bluevine. Specifically, I'd like to know:

d. **Is the SBA investigating each of these four companies: Blue Acorn, Womply, Kabbage and Bluevine? If the SBA is not investigating them, why not, what is the reason not to investigate? If the SBA is investigating them, what is the scope of the investigation? Will the SBA investigate the fees charged by these companies to the SBA's PPP lenders? For example, the Clyburn Staff Report made the following finding relating to Womply: "Agreements between Womply and its lending partners obtained by the Select Subcommittee reveal that Womply often took at least half — and in some cases up to 90 percent — of all the taxpayer-funded fees allocated to lenders by SBA to compensate it for processing PPP loans."**

e. **When does the SBA expect to finalize each of these investigations? The SBA has temporarily debarred Womply and Blue Acorn for 180 days. That clock will run out in June. Will the SBA have wrapped up these investigations by then so the U.S. taxpayer will have accountability against these companies?**

f. **Blue Acorn received over $1 billion in taxpayer money in fees to administer the PPP loans. And the vast majority of Womply's revenue — $1.9 billion in 2021 — was from fees collected from PPP lenders for referring applications through its PPP Fast Lane platform. How much did each of the other companies (Kabbage and Bluevine) receive in taxpayer money and how much does SBA expect to get back from each of these four companies?**

SBA is best positioned to speak to its regulatory and administrative investigations. OIG cannot comment on pending or open investigations, as it may jeopardize the outcomes of the proceedings.

Questions for Mr. Hannibal "Mike" Ware
Inspector General, U.S. Small Business Administration

April 19, 2023: U.S. House of Representatives Committee on Small Business - Subcommittee on Oversight, Investigations, and Regulations Hearing titled "Office of Inspector General Reports to Congress on Investigations of SBA Programs"

Questions from Ranking Member – Rep. Kweisi Mfume

1. **Mr. Ware, Administrator Guzman recently testified before this Committee that the Biden-Harris Administration is fully committed to combatting fraud. To that end, the Small Business Administration has created a Fraud Risk Management Board, closed more than 100 Inspector General recommendations in fiscal year 2022, and worked directly with your office to recover stolen funds. Could you please share with the Committee your perspective – the SBA is committed to working with you to guard against fraud, correct?**

    a. **Could you please elaborate on how the Administrator and her team is working cooperatively to resolve the OIG's recommendations?**

    OIG strongly believes that the SBA is committed to working with OIG to safeguard its programs from those who would seek to fraudulently obtain taxpayer funds and exploit SBA programs. As the Inspector General, I have standing bi-weekly meetings with the SBA Administrator to discuss top management challenges, efficiencies, and how OIG and SBA can work together to combat waste, fraud, and abuse in SBA programs.

    Since the beginning of FY 2023 to date (June 1), OIG has made 58 recommendations to the Agency and closed 45, which includes recommendations made in prior years. OIG regularly meets with responsible program officials to ensure progress is being made to implement all recommendations. If we feel that adequate progress is not being made, we will elevate the issues to the Audit Follow-up Official in accordance with our policy.

2. **Turning to your report on SBA's guaranty purchases for Paycheck Protection Program loans, the Debt Collection Improvement Act of 1996 allows agencies to suspend collections on loans under $100,000 if a borrower cannot pay back the loan or if the cost of collecting it will exceed the amount recovered. SBA completed a cost-benefit analysis based on the available data and concluded that the cost of referring PPP loans of $100,000 or less to the Treasury Department for further collection would cost $7 million dollars yet recover less than $65,000 in funds. While it is important to send a message that bad actors will be held accountable, we must also strike the appropriate balance to make sure we are not throwing good money after bad. To that end, have you worked with SBA to find cost-effective solutions, and what are some potential remedies?**

    OIG recommended SBA explore alternative means of collections. This could involve hiring a third party as was done for the EIDL program, to identify feasible and cost-effective alternatives of collections. SBA disagreed with our recommendation. However, in 2023, SBA officials held a meeting with OIG and the officials are reevaluating how to address the OIG recommendation. To

date, our office has not received further information from SBA management on its decision.

We also recommended SBA conduct a sufficient and comprehensive cost benefit analysis to assess whether the cost of collecting loans of $100,000 or less is more than the expected recovery amount and determine if pursuing collections is cost effective. SBA management agreed with our recommendation and will use a third-party contractor to conduct a cost benefit analysis. The final action date for the recommendation is September 29, 2023.

3. **The SBA Administrator testified that they still flag all potentially fraudulent loans – even those under $100,000 – and send those to the OIG for pursuit. What is your process for investigating these loans?**

The majority of the referrals from SBA related to PPP are submitted directly into OIG's hotline portal and triaged along with the other hotline complaints using machine learning and reviewed by our hotline personnel to determine if further action is necessary.

OIG is employing machine learning to identify outliers in the portfolios for investigation, as well as employing data analytics to develop investigative leads for our agents working with task force partners. Data analytics has been integral to assessing complaints received from our OIG Hotline and identifying efficient processes to appropriately resolve and prioritize the work needed to follow up on these valuable leads. OIG data analytics will be a vital tool in our oversight of SBA's flagship programs, including SBA disaster assistance programs.

OIG has capitalized on our partnerships with other law enforcement entities to stem the tide of pandemic assistance fraud. We have always placed great value in our partnerships across the federal government and other law enforcement agencies. The time and effort invested into these relationships has substantially increased our office's successes. We have issued fraud alerts in conjunction with other law enforcement agencies to assist financial institutions to detect fraud in the SBA COVID-19 programs. We also provide guidance on returning the potentially fraudulent funds.

SBA OIG has been able to use data to identify fraud leads that are disseminated to our various investigative partners. Integral to this success: the COVID-19 Financial Fraud Virtual Working Group and other partners like the Pandemic Response Accountability Committee, Federal Deposit Insurance Corp. OIG, Internal Revenue Service Criminal Investigation, Treasury Inspector General for Tax Administration, U.S. Postal Service OIG, U.S. Secret Service, among many others. We are also partnered with various other CARES Act fraud task forces across the nation.

4. **Much of the fraud can be traced back to the early days of the pandemic when the previous Administration lowered the guardrails to get the aid out quickly. The Biden Administration quickly put these controls back in place. Do you believe these safeguards worked to control and prevent fraud?**

Although SBA has made substantial progress in reducing fraud risks and preventing further loss, difficulties and challenges remain. For example, in a January 2023 report, the Pandemic Response Accountability Committee (PRAC) identified 69,323 questionable social security numbers used to obtain $5.4 billion in EIDL and PPPP funds. OIG sees the need to establish and utilize effective fraud, eligibility, and compliance controls while reviewing for loan eligibility, forgiveness, and guaranty purchase remains an ongoing challenge.

SBA's approach to fraud risk management allowed funds to disburse quickly, but presented risks

of fraud when loans were originated. The method essentially relies on the post-origination controls to identify and report instances of fraud and abuse that has already occurred, with funds also already disbursed. For funds disbursed on a fraudulent loan, the back-end controls established for the forgiveness stage may never be used.

We will continue to monitor and assess SBA's plans and actions to reduce fraud risks and address vulnerabilities in the PPP. Our investigations into suspected fraud and suspicious activities continue. We have ongoing or planned audit work on PPP loan eligibility, loan forgiveness, guaranty purchase, and lender activities to determine the effectiveness of agency implemented controls.

Questions for Mr. Hannibal "Mike" Ware
Inspector General, U.S. Small Business Administration

April 19, 2023: U.S. House of Representatives Committee on Small Business - Subcommittee on Oversight, Investigations, and Regulations Hearing titled "Office of Inspector General Reports to Congress on Investigations of SBA Programs"

Questions from Ranking Member – Rep. Nydia Velázquez

1. **In the last Congress, I, along with Mr. Luetkemeyer, had two bills enacted into law that would extend the statute of limitations for PPP and EIDL fraud to 10 years. How do these new laws aid your ability to recover fraudulent loans?**

   OIG was only at the tip of the iceberg with time running out when this timely, bipartisan legislation was passed by Congress and signed into law by the President. The extension of the statute of limitation from 5 year to 10 years truly provides us with the time needed to sufficiently combat fraud. However, that hinges on whether we have a sufficient operating budget to capitalize on these new laws. Without the total budgetary resources requested for OIG in the 2024 Budget, we will not have a sufficient operating budget to combat the fraud within SBA programs and to provide effective oversight over its flagship programs.

   As the landscape continues to unfold, we are collaborating across government to shine a light on rampant potential fraud in pandemic relief programs. The true magnitude of fraud in SBA pandemic assistance programs will be coming to light for years as these programs move into new stages. In the upcoming weeks, OIG will release our long-awaited fraud landscape report that will highlight our latest estimate of potential fraud in the SBA's pandemic relief programs (COVID-19 EIDL and PPP). We will continue to evaluate and recommend corrections for the most critical risks facing SBA, but oversight of pandemic relief funds and combating fraud in these programs will be a top priority for years to come and will require adequate oversight resources.

2. **Given the number of allegations your office is receiving related to pandemic relief fraud, can you share with us how your office decides which allegations to pursue and how you prioritize investigations?**

   OIG is employing machine learning to identify outliers in the portfolios for investigation, as well as employing data analytics to develop investigative leads for our agents working in tandem with task force partners. Data analytics also has been integral to assessing complaints received on our OIG Hotline and identifying efficient processes to appropriately resolve and prioritize the work needed to follow up on these valuable leads. OIG data analytics will be a vital tool in our oversight of SBA's flagship programs, to include disaster assistance programs.

   OIG prioritizes investigations involving allegations likely to have a major effect or loss associated with SBA programs or operations, major cost to the American taxpayers, or those that pose a threat of serious bodily harm. Generally, this means our priorities are:

   - Pandemic response program fraud schemes (PPP/RRF/SVOG/EIDL);
   - Fraud schemes involving traditional SBA loans;
   - Fraud schemes involving Presidentially declared disasters;
   - Procurement fraud schemes;
   - Unauthorized access to, or misuse of, SBA data or systems;

- Schemes involving small business innovation research grants;
- Insider threats (potential for a current/former employee, contractor, or vendor to use their authorized access or understanding of the organization to harm SBA);
- Serious allegations of misconduct or criminal violations involving SBA employees, or public officials, such that it draws into question the propriety of a major portion of an SBA funded program;
- The intentional theft or exfiltration of personally identifiable information; and
- Complaint of whistleblower retaliation by an SBA contractor or affiliated entity.

3. **How many times a month does your office meet with SBA program staff to go over audit recommendations and ongoing audits?**

   a. ***Follow-up:*** **How does the number of meetings your staff has with SBA program staff during this current administration compare to the previous administration?**

OIG has a recurring meeting every 6 weeks with OCA management to review audit recommendations and the status of audits. This meeting was held monthly during the prior administration, but OCA subsequently changed the frequency to every 6 weeks. Other meetings to discuss audit status and specific recommendations vary by audit project and are conducted on an as needed basis.

   b. **Has SBA leadership and staff been responsive to your office's document and meeting request? And have they submitted the requested materials in a timely manner?**

SBA staff is generally responsive in providing documentation related to ongoing audit work and closing out of prior recommendations. However, in regard to timeliness, SBA has frequently taken a longer time to provide information than by the deadline requested by OIG. Scheduling meetings with responsible SBA officials has not always been timely, primarily due to scheduling conflicts.

4. **Your latest report underscores misreporting of small procurement data due to large subcontractors having performed the bulk of the work. What has been SBA's response to this concern?**

   a. ***Follow-up:*** **How would you recommend they address it?**

OIG considers the risk that businesses ineligible to participate in SBA's contracting programs may perform the majority of the small business award as a long-standing, top challenge for SBA management to address. In our evaluation of SBA's set-aside contract for COVID-19 EIDL recommendation services (*Evaluation of SBA's Contract for Disaster Assistance Loan Recommendation Services*, Report 22-10), we found the SBA awarded the contract to a small business that subcontracted with a large business without assessing whether the relationship made the two businesses affiliated. Also, we found the subcontractor exceeded the subcontracting limits for this contract, which totaled $773.8 million, at the time of our review. SBA has implemented corrective actions to address the five recommendations we made related to these issues.

In response to OIG's concerns, SBA officials have implemented the following:

- Training staff on the Federal Acquisition Regulations related small business size protests and subcontracting limitations;
- Requiring the contractor to attest to its small business status before exercising option year 4 of the base indefinite delivery indefinite quantity contract, extending the period of performance to March 17, 2024;
- Establishing agency procedures for assessing and documenting compliance with Limitations on Subcontracting requirements and established a local terms and conditions requiring contractors to submit sufficient information to demonstrate compliance with the limitations considering similarly situated, non-similarly situated, and second-tier subcontracts of similarly situated entities; and
- Establishing a determination-and-findings template in the contract writing system to ensure contracting officers document price analysis before exercising options.

5. **Your office has highlighted the importance of adding controls within the contracting programs to ensure ineligible firms are identified. Are there any controls that SBA still needs to implement?**

While SBA has implemented corrective actions to address many of the control weaknesses OIG identified in their contracting programs, SBA has determined that it will not verify that businesses meet small business size standards to be certified as a Women-Owned Small Business (WOSB) program participant, as recommended in OIG's report 22-20, *SBA's Implementation of the Women-Owned Small Business Certification Program*. SBA continues to rely on a WOSB applicant's self-certification that it meets the business size standards instead of verifying supporting documentation. OIG believes SBA has not met the statutory requirement to ensure only eligible small businesses owned and controlled by women are certified to participate in the program.

Further, recent OIG investigative cases show that more controls are needed. Specifically, investigators found that International Inc. fraudulently claimed special status and bid on a $99 million HUBZone small business contract. Investigators also identified fraud occurring in the service-disabled, veteran owned small business program. In this instance, the owner of several construction companies falsely claimed to be a service-disabled veteran, depriving an eligible U.S. veteran of these lucrative contracts and business development opportunity.

Additionally, OIG investigations currently have 35 cases involving contracting programs to include WOSB, service-disabled veteran, and HUBZone certifications. SBA needs to further strengthen its controls in reviewing eligibility to ensure that only businesses meeting program requirements are awarded these lucrative contracts intended to help small businesses and diversify our American economy.

Our office is currently auditing the HUBZone program's continuing eligibility review process. We plan to issue a report in the first quarter of FY 2024 that will include recommendations for improvements. We plan to conduct an audit to review the service-disabled veteran certification program in the first quarter of FY 2024. As part of this audit, we will search for control weaknesses and make recommendations to improve controls.

6. **One concern highlighted by your office is that SBA has not fully established an IT system to monitor 8(a) participants and ensure they progress within their business**

plans. What steps, if any, has SBA taken to put this IT system in place?

Although SBA management has announced plans to bring all certification and loan programs under one IT system, 8(a) Business Development program officials are using excel workbook solutions, instead of an IT system, to monitor program participants progress within their business plans.

In Report 22-08, *SBA's Business Development Assistance to 8(a) Program Participants*, OIG recommended that SBA improve its monitoring of the program participants. Our office meets regularly with program officials to discuss the status of the corrective actions.

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