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# **SBA as a Vehicle for Crisis Relief: Lessons from the COVID-19 Pandemic**

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## SBA as a Vehicle for Crisis Relief: Lessons from the COVID-19 Pandemic

The Coronavirus Disease 2019 (COVID-19) pandemic and associated responses caused significant financial damage to many small businesses. To help address this, Congress authorized new financial relief programs, administered by the U.S. Small Business Administration (SBA). These programs made or guaranteed loans and grants directly to small businesses. SBA's pandemic relief programs included:

- the Paycheck Protection Program (PPP), which offered forgivable loans (fully guaranteed by SBA) up to \$10 million for small businesses and nonprofits to continue paying their employees;
- COVID Economic Injury Disaster Loans (EIDLs), which offered an expanded version of one of SBA's existing disaster loan programs;
- Emergency EIDL Advances, which offered COVID EIDL applicants \$1,000 per employee, up to \$10,000, for use while SBA processed EIDL applications, and which did not require repayment;
- Targeted EIDL Advances and Supplemental Targeted EIDL Advance, which offered \$10,000 and \$5,000 payments, respectively, to COVID EIDL applicants in low-income areas, and which did not require repayment;
- Section 1112 payments, which offered debt relief to small businesses that held pre-pandemic SBA loans;
- the Shuttered Venue Operators Grant (SVOG) program, which offered up to \$10 million for operators of live performance venues affected by the pandemic; and
- the Restaurant Revitalization Fund (RRF), which offered restaurant and bar owners up to \$5 million per permanent physical location to address the pandemic's impacts.

Congress appropriated hundreds of billions of dollars in FY2020 and FY2021 for SBA to implement its pandemic relief programs. This significantly increased SBA's appropriations and responsibilities. SBA's FY2019 appropriation was \$715 million; SBA's FY2020 appropriation was \$762 billion, an over one-thousand-fold increase. In one day—April 10, 2020—SBA received over 4.5 million COVID EIDL applications. Pre-pandemic, SBA received an average of 65,000 disaster loan applications (through SBA's non-COVID EIDL program as well as other types of disaster loans) annually. Congress also authorized SBA to provide relief in ways it had not done previously. SVOG and RRF represented the first time SBA gave grants directly to businesses.

SBA's pandemic relief programs required the agency to increase its capacities. SBA roughly doubled its staff from FY2019 to FY2021, and hired large numbers of contractors. SBA also had to scale up its grantmaking capacity, which was an area in which SBA had notably less staff than its loan making and evaluation activities. Despite these challenges, SBA disbursed large amounts of money to small businesses in a relatively short time frame. In doing so, SBA expedited program implementation and fund distribution, though this speed may have come at the expense of program integrity. In 2023, SBA's Office of Inspector General (OIG) found that SBA disbursed over \$200 billion in potentially fraudulent COVID EIDLs, Targeted and Supplemental Targeted EIDL Advances, and PPP loans—about 17% of funds distributed in those programs.

SBA's pandemic relief programs are closed to new applications. However, Congress may still consider certain issues related to SBA's role in the pandemic, either in relation to potential future scenarios requiring rapid financial relief or ongoing oversight concerns. Those issues include:

- **Balancing quick relief with internal controls.** SBA lowered certain internal controls, such as reducing the usual number of application reviewers, in an effort to set up large new programs and quickly provide funds to small businesses.
- **Monitoring SBA's capacity to administer and oversee its pandemic relief programs.** Although the programs are closed to new applicants, SBA still has many loans with sizeable outstanding balances to process. SBA OIG continues to provide program oversight and investigate fraud.

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- **Implementing an anti-fraud framework at SBA.** SBA did not have a centralized entity for fraud prevention and detection in its pandemic relief programs until two years after the first programs began. Congress may want to monitor this entity as it develops and consider whether to further define its responsibilities in statute.
- **Preexisting SBA challenges exacerbated by the pandemic.** SBA's pandemic relief programs brought certain preexisting issues to light anew, including staffing and training concerns, as well as grants management challenges.

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## Introduction

Congress authorized several new and expanded financial relief programs to address the impacts of the coronavirus disease 2019 (COVID-19) pandemic on small businesses. The U.S. Small Business Administration (SBA), which typically assists small business by making and guaranteeing loans, operating contracting preference programs, and coordinating technical assistance, implemented these programs.

SBA's pandemic relief programs represented a significant increase in the agency's responsibilities. After rescissions, Congress appropriated almost \$987 billion for SBA's pandemic relief programs over the course of approximately one year. From FY2019 to FY2020, SBA's appropriations increased from \$715 million to \$762 billion, a more than one-thousand-fold increase.<sup>1</sup> SBA's pandemic relief programs required the agency to outpace, over the course of about 18 months, SBA's entire cumulative output since its 1953 founding. For example, by the end of July 2020, SBA had approved about 3.2 million applications for COVID Economic Injury Disaster Loans (EIDLs), an expanded version of the agency's normal disaster loan program, for \$169.3 billion. Prior to 2020, SBA had approved about 2.2 million disaster loans (including EIDLs and a few other types of loans) for \$66.7 billion over the course of its entire history.<sup>2</sup>

Though they were enacted in different pieces of legislation, the SBA's pandemic relief programs included:

- the Paycheck Protection Program (PPP);
- COVID Economic Injury Disaster Loans (EIDLs);
- Emergency EIDL Advances;
- Targeted EIDL Advances and Supplemental Targeted EIDL Advances;
- Section 1112 payments for debt relief;
- the Shuttered Venue Operators Grant (SVOG) program; and
- the Restaurant Revitalization Fund (RRF).

**Table 1** presents appropriations for SBA's pandemic relief programs by the law containing the appropriations.

**Table 1. SBA Pandemic Relief Program Appropriations by Law**

Dollars in Millions

Program	P.L. 116-136	P.L. 116-139	P.L. 116-260 <sup>a</sup>	P.L. 117-2	Total
PPP	349,000	321,335	284,450	7,250	962,035
COVID EIDL	562	50,000	—	460	51,022
Emergency EIDL Advance	10,000	10,000	—	—	20,000
Targeted EIDL Advance	—	—	20,000	15,000	35,000

<sup>1</sup> For more information, see CRS Report R43846, *Small Business Administration (SBA) Funding: Overview and Recent Trends*, by Robert Jay Dilger, R. Corinne Blackford, and Anthony A. Cilluffo.

<sup>2</sup> SBA Office of Inspector General (OIG), *Follow-Up Inspection of SBA's Internal Controls to Prevent COVID-19 EIDLs to Ineligible Applicants*, September 29, 2022, p. 2, <https://www.sba.gov/document/report-22-22-follow-inspection-sbas-internal-controls-prevent-covid-19-eidls-ineligible-applicants>.

Program	P.L. 116-136	P.L. 116-139	P.L. 116-260 <sup>a</sup>	P.L. 117-2	Total
Section 1112 payments	17,000	—	3,500	—	20,500
SVOG	—	—	15,000	1,250	16,250
RRF	—	—	—	28,600	28,600
<b>Total Before Rescissions</b>	<b>376,562</b>	<b>381,335</b>	<b>322,950</b>	<b>52,560</b>	<b>1,133,407</b>
Rescissions	—	—	(146,500)	—	(146,500)
<b>Total After Rescissions</b>	<b>376,562</b>	<b>381,335</b>	<b>176,450</b>	<b>52,560</b>	<b>986,907</b>

**Source:** CRS analysis of various appropriations laws.

**Notes:** P.L. 116-136 is the Coronavirus Aid, Relief, and Economic Security (CARES) Act; P.L. 116-139 is the Paycheck Protection Program and Health Care Enhancement Act; P.L. 116-260 is the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act of 2021); P.L. 117-2 is the American Rescue Plan Act of 2021.

- a. As noted, P.L. 116-260 included a rescission of \$146.5 billion from the account that was used to fund both PPP and Section 1112 payments. Congress did not allocate the rescission between PPP and Section 1112 payments. Therefore, the appropriations shown in the table for PPP and Section 1112 payments do not reflect the rescission. While the funds in that account were used for both programs, it is likely that the rescission mostly affected PPP appropriations.

SBA took a number of steps to manage its increased workload, comply with the requirements of various statutory provisions, and quickly distribute funds to small businesses. Those included hiring new staff and contractors, detailing existing SBA employees to work on the new programs, and issuing regulations for certain programs less than a week after Congress authorized them. In general, SBA was able to stand up and implement its pandemic relief programs in a matter of days, weeks, or months, and to distribute funds quickly. However, in some cases, the measures SBA took to do so included reducing certain internal controls, which may have contributed to making some of the programs more susceptible to fraud, waste, and abuse.

This report provides an overview of SBA's pandemic relief programs, examines SBA's capacity and experience in implementing the programs, and presents related policy considerations. The appendices provide greater detail on each of SBA's pandemic relief programs.

#### Internal Controls

This report uses the term "internal controls." This refers to the policies and procedures in place at a federal agency (in this case, SBA) to ensure that the agency meets the requirements of any program statutes, regulations, and guidelines, and to guard against fraud, waste, and abuse. For example, one internal control that SBA commonly uses for some of its loan programs is its "rule of two," whereby at least two SBA personnel are required to approve a loan application before the agency gives its official approval.

## SBA's Pandemic Relief Programs

This section provides brief overviews of each of SBA's pandemic relief programs, including their authorizing statute and the amount of funds distributed. The appendices provide more detailed information on each of the programs.

## Paycheck Protection Program (PPP)

PPP was one of the largest economic relief programs in U.S. history.<sup>3</sup> Congress authorized PPP in the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136). Between April 3, 2020, and May 31, 2021, SBA approved more than 11.8 million PPP loans totaling over \$799.8 billion.<sup>4</sup> Notably, PPP loans could be completely forgiven—including accrued interest—provided that the funds were used for eligible purposes and the employer maintained pre-COVID-19 levels of employment and wages. SBA has forgiven all or part of at least 10.5 million PPP loans, with a total forgiveness amount of \$755.7 billion.<sup>5</sup>

There were two types, or “draws”, of PPP loans. First-draw PPP loans were the only loans made during 2020 and continued into 2021. All borrowers who met PPP eligibility requirements could get a first-draw loan. During 2021, second-draw PPP loans were available to borrowers who already received and exhausted their first-draw PPP loan, met a smaller entity size standard, and who could document significant continuing revenue losses during the pandemic compared with before the pandemic. Most requirements related to calculating loan amounts, eligible uses for forgiveness, and the forgiveness process were the same for first- and second-draw PPP loans.

See **Appendix A** for more details on PPP.

## SBA COVID Economic Injury Disaster Loans (EIDLs)

SBA has been a major source of federal disaster assistance since the agency’s creation in 1953. Through SBA’s Office of Capital Access (OCA), the SBA Disaster Loan program offers direct, low-interest, long-term loans for physical and economic damages to businesses to help repair, rebuild, and recover from economic losses after a declared disaster. SBA provides two types of disaster loans to businesses and nonprofit organizations: (1) Physical Disaster Business Loans (which were not provided for COVID-19) and (2) EIDLs.<sup>6</sup>

SBA EIDLs are available to businesses (as well as small agricultural cooperatives and most private nonprofit organizations) located in a declared disaster area. The business must have suffered substantial economic injury, be unable to obtain credit elsewhere, and be defined as small by SBA size regulations (which vary from industry to industry).<sup>7</sup> An SBA EIDL provides up to \$2 million to help meet financial obligations and operating expenses “that could have been met had the disaster not occurred.”<sup>8</sup>

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<sup>3</sup> Amy Yee, Andre Tartar, and Marie Patino, “How Fixes to the \$800 Billion Covid Relief Program Got Money to More Small Businesses,” *Bloomberg*, August 22, 2022, <https://www.bloomberg.com/graphics/2022-covid-relief-ppp-loans-small-business>.

<sup>4</sup> SBA, *Paycheck Protection Program (PPP) Report: Approvals Through 05/31/2021*, May 31, 2021, p. 2, [https://www.sba.gov/sites/sbagov/files/2021-06/PPP\\_Report\\_Public\\_210531-508.pdf](https://www.sba.gov/sites/sbagov/files/2021-06/PPP_Report_Public_210531-508.pdf).

<sup>5</sup> SBA, *Forgiveness Platform Lender Submission Metrics*, October 26, 2022, p. 1, [https://www.sba.gov/sites/sbagov/files/2022-10/2022.10.24\\_Weekly%20Forgiveness%20Report\\_Public.pdf](https://www.sba.gov/sites/sbagov/files/2022-10/2022.10.24_Weekly%20Forgiveness%20Report_Public.pdf).

<sup>6</sup> For more information, see CRS Report R44412, *SBA Disaster Loan Program: Frequently Asked Questions*, by Bruce R. Lindsay.

<sup>7</sup> For more information on size standards, see 13 C.F.R. §123.300. Size standards vary according to a variety of factors, including industry type, average firm size, and start-up costs and entry barriers. Size standards are codified at 13 C.F.R. Part 121. For further analysis, see CRS Report R40860, *Small Business Size Standards: A Historical Analysis of Contemporary Issues*, by R. Corinne Blackford and Anthony A. Cilluffo.

<sup>8</sup> SBA, *Economic Injury Disaster Loans*, <https://www.sba.gov/funding-programs/disaster-assistance/economic-injury-disaster-loans>.

Title II of P.L. 116-123 (the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020), deemed COVID-19 a disaster under Section 7(b)(2)(D) of the Small Business Act of 1953,<sup>9</sup> making economic injury from COVID-19 an eligible expense under SBA EIDL.

The CARES Act also authorized emergency payments (Emergency EIDL Advances) to all eligible COVID EIDL applicants. The SBA Administrator could provide up to \$10,000 as an advance payment within three days after receiving a COVID EIDL application from an eligible entity. Applicants were not required to repay the advance payment, even if subsequently denied an EIDL.<sup>10</sup>

Additionally, the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act<sup>11</sup> authorized the Targeted EIDL Advance program. Targeted EIDL Advances were available to COVID EIDL applicants in low-income communities with revenue loss greater than 30% over specified time periods and with no more than 300 employees. The Economic Aid Act required SBA to provide first priority to eligible borrowers in low-income communities who had already received an Emergency EIDL Advance below the \$10,000 maximum, and second priority to eligible first-time applicants located in low-income communities.

Lastly, the American Rescue Plan Act of 2021 (ARPA; P.L. 117-2) authorized Supplemental Targeted EIDL Advances, which provided payments of \$5,000 to businesses in low-income communities with revenue loss greater than 50% over specified time periods and with no more than 10 employees. Like the Emergency EIDL Advances, Supplemental Targeted EIDL Advances did not have to be repaid.

As of April 27, 2022, SBA had approved over 3.9 million COVID EIDLs totaling over \$378.4 billion; disbursed 5,781,390 EIDL advances totaling \$20 billion; disbursed 601,058 Targeted EIDL Advances totaling over \$5.2 billion; and disbursed 453,417 Supplemental Targeted EIDL Advances totaling over \$2.3 billion.<sup>12</sup>

See **Appendix B** for more details on COVID EIDLs.

## **Section 1112 Payments for Debt Relief**

As part of the CARES Act, Congress authorized and appropriated money for SBA to make monthly scheduled loan payments on existing SBA business loans. These payments, known as Section 1112 payments in reference to the section of the CARES Act that authorized them, were allowed to be made for a six-month period at the beginning of the COVID-19 pandemic. Congress later provided another period for payments to be made—the length of which varied among businesses—in the Economic Aid Act. Section 1112 payments could only be used for payments that SBA automatically remitted to lenders on behalf of borrowers for SBA business loans.

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<sup>9</sup> Small Business Act; P.L. 83-163, as amended; 15 U.S.C. §§631 et seq. Hereinafter Small Business Act.

<sup>10</sup> Section 1110(3) of the CARES Act.

<sup>11</sup> Division N, Title III of the Consolidated Appropriations Act, 2021, P.L. 116-260; hereinafter Economic Aid Act.

<sup>12</sup> SBA, “Disaster Assistance Update Nationwide COVID EIDL, Targeted EIDL Advances, Supplemental Targeted Advances, April 28, 2022 (figures as of April 27, 2022),” <https://www.sba.gov/document/report-covid-19-eidl-reports-2022>. As of January 1, 2022, SBA stopped accepting applications for new COVID EIDL loans or advances. See SBA, *About Targeted EIDL Advance and Supplemental Targeted Advance*, June 26, 2023, <https://www.sba.gov/funding-programs/loans/covid-19-relief-options/covid-19-economic-injury-disaster-loan/about-targeted-eidl-advance-supplemental-targeted-advance#id-program-overview>.

See **Appendix C** for more information on Section 1112 payments.

## **Shuttered Venue Operators Grant (SVOG) Program**

Prior to the passage of the Economic Aid Act, certain organizations, including the National Independent Venue Association (NIVA), argued that the pandemic relief programs were inadequately tailored to the needs of live venue operators. For example, NIVA pointed out that, in general, PPP loans were available only to businesses with 500 or fewer employees, regardless of whether those employees were full-time or part-time. NIVA argued that this unfairly excluded venue operators, which often have over 500 employees, but many of whom are part-time. As a result, venue operators often have less than 500 full-time equivalent (FTE) employees, but still could not access PPP loans.<sup>13</sup>

In 2020, the Economic Aid Act authorized SVOG. SVOG provided awards to venues that had experienced revenue loss because of COVID-19. SVOG awards were capped at \$10 million. SBA approved 22,811 awards (including initial and supplemental grants, the latter of which were for up to 50% of the initial award) and disbursed a total of nearly \$14.6 billion.<sup>14</sup>

See **Appendix D** for more details on SVOG.

## **Restaurant Revitalization Fund (RRF)**

Restaurant trade associations also argued that COVID-19 uniquely affected the restaurant industry, necessitating targeted relief. For example, in a March 2021 letter to Members of Congress, the National Restaurant Association wrote that, “no other industry has lost more jobs and more revenue than the restaurant industry, and we have been consistent in urging a restaurant-specific recovery plan from Congress.”<sup>15</sup>

Following these concerns, ARPA authorized the RRF. RRF awards provided grants up to \$5 million per permanent physical location (not to exceed \$10 million per applicant) to restaurants and similar businesses “where the public or patrons assemble for the primary purpose of being served food or drink.”<sup>16</sup> SBA approved 101,004 applications for \$28.6 billion.<sup>17</sup> SBA received over 278,000 applications requesting \$72.2 billion.<sup>18</sup>

See **Appendix E** for more details on RRF.

## **SBA’s Pre-Pandemic Capacity and Surge Response**

With the exception of EIDL, which Congress significantly expanded for the pandemic, SBA’s pandemic relief programs addressed in this report were new. To open the programs quickly and to

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<sup>13</sup> National Independent Venue Association, “What is NIVA (National Independent Venue Association),” <https://www.saveourstages.com/about-us>.

<sup>14</sup> SBA, *Shuttered Venue Operators Grant Public Report*, July 5, 2022, p. 2, [https://www.sba.gov/sites/default/files/2022-07/SVOG%20Public%20Report%20-%20Midday%205%20July%202022-508\\_0.pdf](https://www.sba.gov/sites/default/files/2022-07/SVOG%20Public%20Report%20-%20Midday%205%20July%202022-508_0.pdf).

<sup>15</sup> Letter from Sean Kennedy, Executive Vice President, Public Affairs, National Restaurant Association, to The Honorable Nancy Pelosi, The Honorable Chuck Schumer, The Honorable Kevin McCarthy, The Honorable Mitch McConnell, March 2, 2021, <https://restaurant.org/NRA/media/Downloads/PDFs/advocacy/2021/Survey-Letter-to-Hill.pdf>.

<sup>16</sup> 135 Stat. 86.

<sup>17</sup> SBA, *Restaurant Revitalization Fund (RRF) Report*, June 30, 2021, p. 2, <https://www.sba.gov/document/report-restaurant-revitalization-fund-reports>.

<sup>18</sup> SBA, “SBA Administrator Announces Closure of Restaurant Revitalization Fund Program.”

prepare to respond to anticipated high demand for the programs and a sudden strain on agency resources, SBA hired new staff and contractors, some of whom were relatively inexperienced.

SBA implemented most of these programs shortly after Congress authorized them. For example, PPP launched on April 3, 2020,<sup>19</sup> just seven days after the CARES Act was enacted. By April 16, lenders had approved 1,661,367 PPP loans worth \$342.3 billion.<sup>20</sup> Most of the other programs underwent similarly rapid rollouts, and were accepting applications within weeks of authorization.

## Staffing

SBA's pandemic relief programs significantly expanded the agency's operations. To cite one example, as of May 31, 2022, SBA was servicing about four million outstanding disaster loans—more than 15 times the number of loans the agency was servicing before the pandemic.<sup>21</sup>

SBA had occasional pre-pandemic staffing challenges. In April 2020, one SBA Office of Inspector General (OIG) report noted that, “SBA experienced challenges with having experienced staff to provide the appropriate and accurate assistance needed to respond to large scale disasters.”<sup>22</sup> Another report found that SBA had dealt with staffing issues, including lack of training, for “several years” before the pandemic, despite making recent progress.<sup>23</sup>

Through supplemental appropriations, Congress provided SBA approximately \$3.4 billion in FY2020 to use for either salaries or administrative expenses (which can include salaries).

**Table 2** presents SBA's FY2020 supplemental appropriations for salaries and expenses.

**Table 2. FY2020 Supplemental Appropriations for SBA Salaries and Administrative Expenses**

Law	U.S. Statutes Citation	Appropriation (millions)
Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (P.L. 116-123)	134 Stat. 147	\$20.0
CARES Act (P.L. 116-136)	134 Stat. 301	\$675.0
CARES Act (P.L. 116-136)	134 Stat. 533	\$562.0

<sup>19</sup> SBA, “SBA’s Paycheck Protection Program for Small Businesses Affected by the Coronavirus Pandemic Launches,” press release, April 3, 2020, <https://www.sba.gov/article/2020/apr/03/sbas-paycheck-protection-program-small-businesses-affected-coronavirus-pandemic-launches>.

<sup>20</sup> SBA, *Paycheck Protection Program (PPP) Report*, April 16, 2020, p. 2, [https://www.sba.gov/sites/default/files/2021-09/PPP%20Deck%20copy-508\\_4.16.pdf](https://www.sba.gov/sites/default/files/2021-09/PPP%20Deck%20copy-508_4.16.pdf).

<sup>21</sup> SBA OIG, *Top Management and Performance Challenges Facing the Small Business Administration in Fiscal Year 2023*, Report 23-01, October 14, 2022, p. 31, [https://www.sba.gov/sites/default/files/2022-10/SBA%20OIG%20Report%2023-01\\_0.pdf](https://www.sba.gov/sites/default/files/2022-10/SBA%20OIG%20Report%2023-01_0.pdf). Hereinafter FY2023 Management Challenges.

<sup>22</sup> SBA OIG, *Second White Paper: Risk Awareness and Lessons Learned from Audits and Inspections of Economic Injury Disaster Loans*, Report 20-12, April 3, 2020, p. 4, <https://www.sba.gov/document/report-20-12-second-white-paper-risk-awareness-lessons-learned-audits-inspections-economic-injury-disaster-loans>.

<sup>23</sup> SBA OIG, *Top Management and Performance Challenges Facing the Small Business Administration in Fiscal Year 2022*, Report 22-02, October 15, 2021, p. 26, <https://www.oversight.gov/sites/default/files/oig-reports/SBA/SBA-OIG-Report-22-02.pdf>. Hereinafter FY2022 Management Challenges.

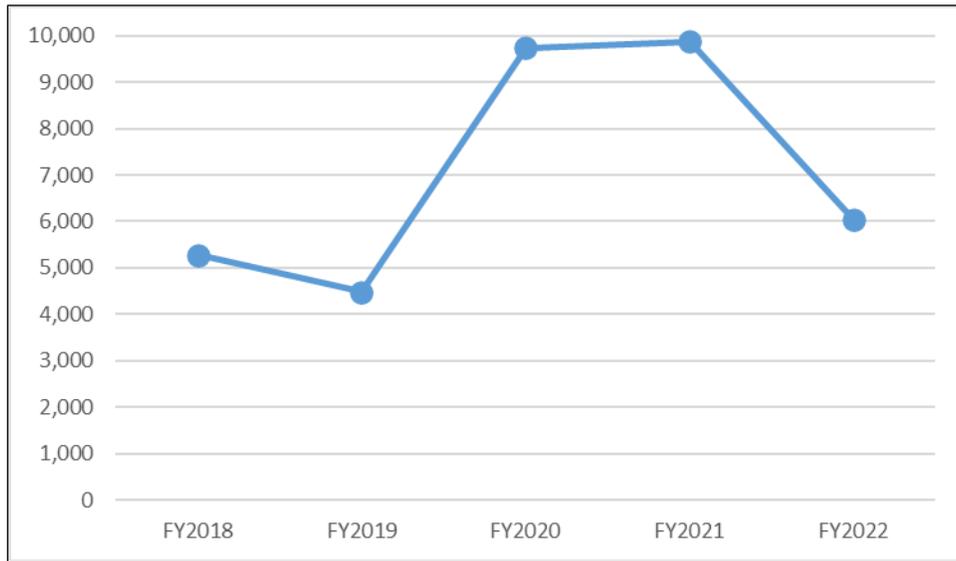
Law	U.S. Statutes Citation	Appropriation (millions)
Paycheck Protection Program and Health Care Enhancement Act (P.L. 116-139)	134 Stat. 628	\$2,100.0

**Source:** CRS analysis of enacted bills.

SBA subsequently added staff and contractors to implement its pandemic relief programs. SBA increased employee levels to almost double the agency’s previous high.<sup>24</sup>

**Figure 1** presents SBA employment (excluding contractors) from FY2018 to FY2022.

**Figure 1. SBA Employment, FY2018-FY2022**



**Source:** U.S. Office of Personnel Management (OPM), FedScope, *SBA Employment Trend*.

**Notes:** FedScope uses the “on-board employment” method to capture the number of employees in a federal agency. This includes the number of employees in pay status at the end of a given quarter, and counts full-time, part-time, and temporary/non-permanent employees. Contract workers are not included in the data. Data are from September, aligning with the end of the federal fiscal year.

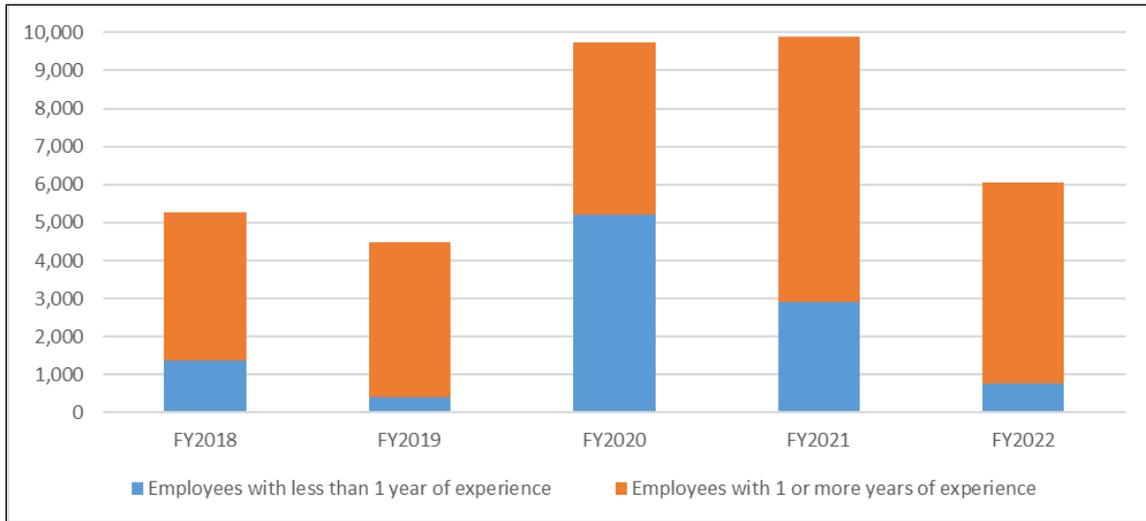
SBA’s staff count roughly doubled during the pandemic. However, much of the increase included staff with relatively little experience or non-permanent employees. Noting this dynamic at a March 2023 congressional hearing, SBA’s Deputy Inspector General said, “SBA needs experienced and well-trained personnel to provide appropriate assistance and handle the increased loan volumes and expedited processing timeframes.”<sup>25</sup>

**Figure 2** shows SBA’s employment by tenure.

<sup>24</sup> FY2023 Management Challenges, p. 28.

<sup>25</sup> Sheldon Shoemaker, Deputy Inspector General, U.S. Small Business Administration, Statement for the Record Before the Subcommittee on Government Operations and the Federal Workforce, Committee on Oversight and Accountability, U.S. House of Representatives, March 9, 2023, p. 4, [https://oversight.house.gov/wp-content/uploads/2023/03/Statement-for-the-Record-03-09-2023\\_Final-Shoemaker.pdf](https://oversight.house.gov/wp-content/uploads/2023/03/Statement-for-the-Record-03-09-2023_Final-Shoemaker.pdf).

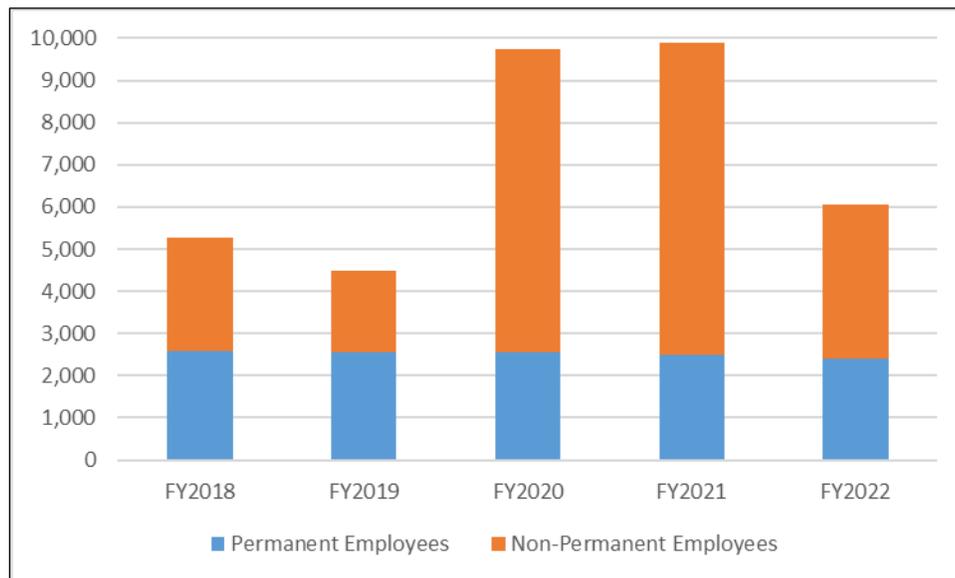
**Figure 2. SBA Employees by Years of Experience, FY2018-FY2022**



Source: OPM, FedScope, SBA Employment Trend.

Figure 3 shows SBA employment by permanent and non-permanent status.

**Figure 3. SBA Employees by Permanent and Non-Permanent Status, FY2018-FY2022**



Source: OPM, FedScope, SBA Employment Trend.

SBA OIG has stated that staffing challenges are likely to recur anytime SBA needs to increase staffing in response to a disaster. As a result, SBA OIG suggested the agency develop “training that is comprehensive and reoccurring to improve the overall customer experience, reduce applicant processing times, and increase the number of loans and grants designated for approval.”<sup>26</sup>

<sup>26</sup> FY2022 Management Challenges, p. 27.

## SBA's Use of Contractors

In addition to agency staff, SBA hired contractors (who are not included in OPM's employee data) to help administer its pandemic relief programs. According to SBA, OPM grants SBA a long-standing appointment hiring authority specifically for disaster loan-making activities.<sup>27</sup>

**Table 3** presents SBA's Office of Disaster Assistance's (ODA's) staffing figures from February 2020 to November 2020, when ODA's pandemic hiring efforts paused.<sup>28</sup>

**Table 3. ODA Employee and Contract Workforce**

February 2020 to November 2020

Month	Employees	Contractors	Total Workforce
February	1,093	87	1,180
March	1,653	90	1,743
April	2,215	1,655	3,870
May	2,880	2,398	5,278
June	3,677	3,020	6,697
July	4,585	2,966	7,551
August	5,903	3,123	9,026
September	6,870	2,395	9,265
October	7,293	2,201	9,494
November	7,592	2,174	9,766

**Source:** Employee and contract workforce data provided by SBA Office of Legislative Affairs to CRS, April 18, 2023.

In some cases, contractors were relatively unfamiliar with SBA programs, and the Government Accountability Office (GAO) expressed concern that SBA did not properly oversee its contractors.<sup>29</sup> In one example, SBA outsourced the receiving and processing of some COVID EIDL applications to an existing SBA contractor. However, the contractor had done only limited work on disaster loans before the pandemic.

SBA reserved certain grantmaking and loan processing functions for agency staff. For example, SBA staff performed final manual reviews of PPP applications instead of contractors, who helped conduct automated reviews and preliminary manual reviews of loans marked for further screening.<sup>30</sup>

<sup>27</sup> Correspondence from SBA Office of Legislative Affairs to CRS, April 18, 2023.

<sup>28</sup> SBA's ODA was transferred to the OCA on July 3, 2022.

<sup>29</sup> U.S. Congress, House Committee on Small Business, *Update on SBA's Pandemic Response Programs*, 117<sup>th</sup> Cong., 1<sup>st</sup> sess., April 20, 2021 (Washington: GPO, 2021), p. 21.

<sup>30</sup> Until June 2021, PPP applications were initially marked for manual review based on loan dollar amount, random statistical sampling, and loans unresolved after automated and preliminary manual reviews. After that, PPP applications were marked for manual review based on the application's specific fraud risk. See SBA OIG, *SBA's Paycheck Protection Program Loan Review Processes*, Report 22-09, February 28, 2022, pp. 2 and 10, <https://www.sba.gov/document/report-22-09-sbas-paycheck-protection-program-loan-review-processes>.

## SBA's Pandemic Grant Programs

Congress authorized the SVOG and RRF programs to give grants directly to businesses, a practice SBA was not previously authorized to do.<sup>31</sup> Although SBA does make grants—its entrepreneurial development programs provide grants to “resource partners”, which then offer training and technical assistance to small businesses—it generally does not give grants directly to small businesses, and is more often considered to have expertise in making and guaranteeing loans than giving grants.

An illustration of this is that SBA has far fewer employees working in grants management than as loan specialists. At the conclusion of FY2019, SBA had only 19 employees working in grants management, which did not rank among the 20 largest occupational categories at the agency.<sup>32</sup> By contrast, SBA had 609 loan specialists at that time—its second largest occupational category.<sup>33</sup>

To implement its new direct grant programs—SVOG and RRF—SBA increased its grants management staffing. By the end of FY2021, SBA had 175 employees working in grants management. SBA also detailed employees from other parts of the agency to work on the grant programs. Approximately 400 staff from SBA's OCA and field offices were assigned to review RRF applications.<sup>34</sup> At its peak, SVOG had approximately 500 permanent and contract staff providing review.<sup>35</sup>

SBA developed experience, training, and certification requirements and a training plan for those administering its pandemic grant programs. According to SBA OIG, SBA implemented these plans and requirements “to address the systemic weaknesses OIG found in prior audits of SBA's grants management.”<sup>36</sup> However, to expedite hiring, SBA's acting Chief Operating Officer waived the requirements and the training plan for new grants management staff in March 2021, which SBA OIG warned could result in mismanagement.<sup>37</sup> SBA OIG had also previously warned that SBA would need to ensure its grant programs identified, developed, and implemented proper training for grants management staff before expanding the agency's grantmaking activities.<sup>38</sup>

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<sup>31</sup> The Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs, which SBA administers but are operated by 11 other federal departments and agencies, award grants directly to businesses. For more information, see CRS Report R43695, *Small Business Research Programs: SBIR and STTR*, by Marcy E. Gallo.

<sup>32</sup> OPM defines grants management positions as those whose work involves “(1) the management, award, and/or obligation of funds for grants, cooperative agreements, and other related instruments and services such as discretionary and mandatory grants, using financial, administrative, business and negotiation procedures; (2) the competitive or non-competitive evaluation of grants proposals; and/or (3) the administration or termination, and/or closeout of grants and/or grants assistance and agreement awards.” See OPM, *Handbook of Occupational Groups and Families*, December 2018, p. 86, <https://www.opm.gov/policy-data-oversight/classification-qualifications/classifying-general-schedule-positions/occupationalhandbook.pdf>. Prior to the pandemic, the bulk of SBA's grantmaking was done by giving grants to resource partners or intermediaries, outside organizations which then operated technical assistance programs, and were overseen by SBA.

<sup>33</sup> OPM, FedScope, *SBA Employment*, <https://www.fedscope.opm.gov/employment.aspx>.

<sup>34</sup> U.S. Government Accountability Office, *Restaurant Revitalization Fund: Opportunities Exist to Improve Oversight*, GAO-22-105442, July 14, 2022, p. 33, <https://www.gao.gov/products/gao-22-105442>.

<sup>35</sup> FY2023 Management Challenges, p. 31.

<sup>36</sup> SBA OIG, *Serious Concerns About SBA's Control Environment and the Tracking of Performance Results in the Shuttered Venue Operators Grant Program*, Report 21-13, April 7, 2021, p. 5, <https://www.sba.gov/document/report-21-13-management-alert-serious-concerns-about-sbas-control-environment-tracking-performance-results>.

<sup>37</sup> FY2022 Management Challenges, p. 35.

<sup>38</sup> SBA OIG, *White Paper: Risk Awareness and Lessons Learned from Prior Audits of Entrepreneurial Development Programs*, Report 20-13, April 23, 2020, p. 6, <https://www.sba.gov/document/report-20-13-white-paper-risk-awareness-lessons-learned-prior-audits-entrepreneurial-development-programs>.

### Comparison with SBA's Great Recession Programs

Congress also authorized SBA to provide financial relief during the Great Recession. The American Recovery and Reinvestment Act of 2009 (P.L. 111-5) provided \$730 million to SBA. Of that, Congress appropriated \$255 million for the America's Recovery Capital (ARC) Loan Program to provide small businesses with loans up to \$35,000.

The implementation timelines for ARC and SBA's pandemic relief programs (which were orders of magnitude larger than ARC) were notably different. SBA did not publish its first rule on ARC until nearly four months after Congress authorized the program.<sup>39</sup> Conversely, the CARES Act required SBA to issue PPP regulations within 15 days of enactment.<sup>40</sup> SBA issued its first interim final rule for PPP on April 2, 2020 (six days after enactment of the CARES Act) and two additional interim final rules on April 15.<sup>41</sup> By June 30, SBA had published 22 interim final rules for PPP.

SBA also stood up its other pandemic relief programs more quickly than ARC. SBA issued initial ARC procedural guidance on June 8, nearly four months after Congress authorized the program.<sup>42</sup> By the end of July—a month and a half after ARC launched—SBA had approved 799 loans and disbursed \$25.8 million.<sup>43</sup> In contrast, PPP began accepting applications on April 3, 2020—seven days after Congress authorized the program and one day after SBA issued its first interim final rule on PPP. As of May 16, PPP lenders had approved 4,341,145 loans worth \$513.3 billion.<sup>44</sup>

PPP's rapid start-up helped provide quick financial relief to small businesses and nonprofits, but may have also—in addition to the evolving nature of the pandemic—exposed some weaknesses in the initial structuring of the program by Congress and SBA. Over the duration of PPP, Congress amended the program at least six times, while SBA and the Department of the Treasury (Treasury) published more than 30 interim final rules for the program.<sup>45</sup>

## SBA's Experience Starting New Programs

SBA's pandemic relief programs provided significant funding to businesses harmed by the pandemic. In doing so, Congress and SBA authorized provisions and procedures that required certain tradeoffs. Those included allowing new applicants and lenders to take part in SBA's pandemic relief programs and relaxing certain internal controls, for example through SBA's policy (later revoked) of requiring loan reviewers to process a certain amount of applications in a specified time.

This section examines the major issues SBA encountered in standing up and implementing its pandemic relief programs.

<sup>39</sup> SBA, "American Recovery and Reinvestment Act: America's Recovery Capital (Business Stabilization) Loan Program," 74 *Federal Register* 27243-27248, June 9, 2009.

<sup>40</sup> 134 Stat. 312.

<sup>41</sup> SBA, "Business Loan Program Temporary Changes; Paycheck Protection Program," 85 *Federal Register* 20811-20821, April 15, 2020.

<sup>42</sup> SBA, SBA Information Notice: Updated SBA's ARC Loan Program Procedural Guide, August 31, 2009, p. 1, <https://www.sba.gov/document/information-notice-5000-1120-updated-sbas-arc-loan-program-procedural-guide>.

<sup>43</sup> U.S. Government Accountability Office, Status of the Small Business Administration's Implementation of Administrative Provisions in the American Recovery and Reinvestment Act of 2009, GAO-10-298R, January 19, 2010, p. 28, <https://www.gao.gov/products/gao-10-298r>.

<sup>44</sup> SBA, Paycheck Protection Program (PPP) Report, May 16, 2020, p. 2, [https://www.sba.gov/sites/default/files/2021-09/PPP\\_Report\\_200518-508.pdf](https://www.sba.gov/sites/default/files/2021-09/PPP_Report_200518-508.pdf).

<sup>45</sup> Following the CARES Act, statutory amendments include P.L. 116-139, P.L. 116-142, P.L. 116-147, P.L. 116-260, P.L. 117-2, and P.L. 117-6. For a list of PPP-related interim final rules, see U.S. Department of the Treasury, "Paycheck Protection Program," accessed August 15, 2023, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-small-businesses/paycheck-protection-program>.

## PPP and Fintechs

Financial technology firms (fintechs) participated in PPP to a greater extent than in other SBA business loan programs. In 2020, 19 fintechs and other state-regulated lenders participated in PPP as lenders, making 250,720 PPP loans for a total of \$6.1 billion.<sup>46</sup> Fintech participation in PPP expanded in 2021. In 2021, 41 fintechs and other state-regulated lenders participated in PPP as lenders, making 1.2 million loans for a total of \$21.9 billion.<sup>47</sup> Fintechs also participated as Loan Service Providers (LSPs), a longstanding feature of SBA’s business loan programs where third-party entities provide loan-related services (such as applicant referrals or application processing) for SBA-approved lenders. SBA has not released comprehensive data on participation by fintechs as LSPs. However, an investigation by the House Select Committee on the Coronavirus Crisis found that fintechs participating in PPP as LSPs may have facilitated fraud in the program.<sup>48</sup>

Different observers have taken away different lessons from fintech participation in PPP. In November 2022, SBA proposed to revise business loan program regulations to license additional Small Business Lending Companies (SBLCs), which are non-depository loan funds who receive special permission to participate in SBA’s longstanding, flagship 7(a) loan program (The CARES Act made PPP part of SBA’s 7(a) program, so all 7(a) lenders were automatically approved to make PPP loans.<sup>49</sup>) In the rulemaking, SBA specifically pointed to their experience with PPP, stating that “many non-traditional lenders participated” in PPP, and “based on the success of the PPP,” licensing additional SBLCs would open “opportunities for non-traditional lenders to participate in 7(a) ... providing additional sources of capital to America’s small businesses and targeting gaps in the credit market.”<sup>50</sup> Some Members of Congress interpreted the experience of fintechs in PPP differently. In a letter to SBA Administrator Guzman regarding the proposed changes, Senate Committee on Small Business and Entrepreneurship Chair Benjamin Cardin and Ranking Member Joni Ernst pointed to SBA’s experience with PPP as a reason to not move forward with the proposed changes:

Taken together, the proposed changes seem to be intended to make 7(a) lending more accessible to non-federally regulated, non-depository financial technology companies, or “fintechs.” These proposals come just as the Select Subcommittee on the Coronavirus Crisis published a report on December 1, 2022, attributing billions of fraudulent PPP loans to fintechs operating without fraud controls or an adequate regulatory framework. We acknowledge that SBA has responded to the report by taking steps to either suspend or further investigate some of the named entities. While there are currently some fintech lenders in the 7(a) program, they must comply with current 7(a) guardrails. However, we are concerned that SBA continues to press forward with a strategy aimed at granting more

<sup>46</sup> SBA, *Paycheck Protection Program (PPP) Report: Approvals through 08/08/2020*, August 8, 2020, p. 4, [https://www.sba.gov/sites/sbagov/files/2021-09/PPP\\_Report%20-%202020-08-10-508.pdf](https://www.sba.gov/sites/sbagov/files/2021-09/PPP_Report%20-%202020-08-10-508.pdf).

<sup>47</sup> SBA, *Paycheck Protection Program (PPP) Report: Approvals through 05/31/2021*, May 31, 2021, p. 3, [https://www.sba.gov/sites/sbagov/files/2021-06/PPP\\_Report\\_Public\\_210531-508.pdf](https://www.sba.gov/sites/sbagov/files/2021-06/PPP_Report_Public_210531-508.pdf).

<sup>48</sup> House Select Committee on the Coronavirus Crisis, “‘We Are Not the Fraud Police’: How Fintechs Facilitated Fraud in the Paycheck Protection Program,” staff report, December 1, 2022, archived by the National Archives and Records Administration at <https://www.webharvest.gov/congress/117th/2022/1225055243/https://coronavirus.house.gov/news/reports/new-select-subcommittee-report-reveals-how-fintech-companies-facilitated-fraud-paycheck>.

<sup>49</sup> Some lenders participated in more than one program, so the number of unique lenders participating in at least one SBA business loan program is less than the sum of lenders in each program. For 7(a) and 504 data, see SBA Office of Capital Access, “7(a) & 504 Lender Report: FY2019,” data as of July 31, 2023, <https://careports.sba.gov/views/7a504LenderReport/LenderReport?%3Aembed=yes&%3Atoolbar=no>. For Microloan data, see SBA Office of Capital Access, “Microloan Lender Report: FY2019,” data as of July 31, 2023, <https://careports.sba.gov/views/MicroloanLenderReport/Report?%3Aembed=yes&%3Atoolbar=no>.

<sup>50</sup> SBA, “Small Business Lending Company (SBLC) Moratorium Rescission and Removal of the Requirement for a Loan Authorization,” 87 *Federal Register* 66963, November 7, 2022, <https://www.federalregister.gov/d/2022-23597>.

fintech entities access to the 7(a) program without taking into account the risks these types of entities pose to consumer protection or program integrity.<sup>51</sup>

## **CARES Act Prohibitions for COVID EIDL**

SBA was aware from the inception of the COVID EIDL program that it may face implementation and administrative challenges. An April 2020 SBA OIG report noted that “SBA’s oversight of loan applications will be unprecedentedly stretched as a result of the increased loan volume and expedited timeframes.”<sup>52</sup>

The CARES Act prohibited SBA from requiring tax return transcripts to prove COVID EIDL eligibility. SBA has requested tax transcripts to prove eligibility for EIDLs in the past, as well as for other types of disaster assistance loan applications. The CARES Act also allowed SBA to accept applicant self-certifications of eligibility. (The Economic Aid Act later allowed SBA to obtain tax transcripts to verify eligibility and ended the use of applicant self-certification.)

These provisions may have allowed SBA to quickly process COVID EIDL applications. However, such reduced requirements might also have encouraged fraud and “unscrupulous borrowers.”<sup>53</sup> While the CARES Act allowed SBA to rely on applicant self-certification, it did not prohibit the agency from establishing internal controls to verify applicant eligibility. Not doing so may have contributed to COVID EIDL fraud. For example, to help save time, SBA did not check applicants’ Employer Identification Numbers, which would have indicated whether an applicant had any employees. Taking this step “would have reduced the likelihood of fraud and applicant errors” and may have prevented SBA from disbursing \$4.5 billion more in COVID EIDLs to sole proprietors and independent contractors than those entities were entitled to receive.<sup>54</sup>

## **SBA Reduced Internal Controls**

In addition to the provisions of the CARES Act that emphasize expedience, SBA acted independently to quickly disburse COVID EIDLs. In doing so, SBA’s Inspector General stated:

SBA’s initial response to implement the COVID-19 EIDL program made billions of dollars of capital available to provide prompt economic relief to businesses affected by COVID-19. To expedite the process, SBA “lowered the guardrails” or relaxed internal controls, which significantly increased the risk of program fraud. The unprecedented demand for COVID-19 EIDLs and the equally unprecedented challenges SBA had in responding to this pandemic combined with lowered controls resulted in billions of dollars in potentially fraudulent loans and loans to potentially ineligible businesses.<sup>55</sup>

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<sup>51</sup> Senator Benjamin Cardin, Chairman, and Senator Joni Ernst, Ranking Member, Senate Committee on Small Business & Entrepreneurship, “Letter to the Honorable Isabella Casillas Guzman, SBA Administrator,” March 6, 2023, [https://www.ernst.senate.gov/imo/media/doc/cardin\\_and\\_ernst\\_letter\\_to\\_sba\\_re\\_proposed\\_rulespdf.pdf](https://www.ernst.senate.gov/imo/media/doc/cardin_and_ernst_letter_to_sba_re_proposed_rulespdf.pdf).

<sup>52</sup> SBA OIG, *Second White Paper: Risk Awareness and Lessons Learned from Audits and Inspections of Economic Injury Disaster Loans*, Report 20-12, April 3, 2020, p. 2, <https://www.sba.gov/document/report-20-12-second-white-paper-risk-awareness-lessons-learned-audits-inspections-economic-injury-disaster-loans>.

<sup>53</sup> SBA OIG, *Follow-up Inspection of SBA’s Internal Controls to Prevent COVID-19 EIDLs to Ineligible Applicants*, Report 22-22, September 29, 2022, p. 7, <https://www.sba.gov/document/report-22-22-follow-inspection-sbas-internal-controls-prevent-covid-19-eidls-ineligible-applicants>.

<sup>54</sup> SBA OIG, *SBA Emergency EIDL Grants to Sole Proprietors and Independent Contractors*, Report 22-01, October 7, 2021, p. 7, <https://www.sba.gov/document/report-22-01-sba-emergency-eidl-grants-sole-proprietors-independent-contractors>.

<sup>55</sup> SBA OIG, Hannibal “Mike” Ware, Inspector General, U.S. Small Business Administration, Before the Select Subcommittee on the Coronavirus Crisis, U.S. House of Representatives, March 25, 2021, p. 4, [https://www.sba.gov/sites/default/files/2021-04/Statement%20for%20the%20Record\\_Final%20SSCC%20508.pdf](https://www.sba.gov/sites/default/files/2021-04/Statement%20for%20the%20Record_Final%20SSCC%20508.pdf).

SBA OIG found that to quickly disburse funds, SBA loosened certain internal controls, including:

- Not using its “rule of two.” Typically, SBA requires two personnel to approve a loan. However, SBA did not utilize this system for COVID EIDLs, instead relying on an initial subcontractor review and then a batch approval by an SBA team that included little to no vetting of application information.<sup>56</sup>
- Establishing timing goals for loan decisions. Officials in SBA’s ODA instituted production goals for COVID EIDL approvals. Loan officers were to make final loan decisions on at least four loans per hour, while team leads were required to make final loan decisions for 10 to 12 loans per hour. To match these paces, loan officers had an average of 15 minutes to make a decision on a loan, and for team leads, an average of five to six minutes. These goals resulted in what SBA OIG described as “cursory reviews.”<sup>57</sup> In August 2020, SBA instituted a new rule that curtailed these goals.
- Discarding subcontractor system warnings. A COVID EIDL subcontractor’s system documented fraudulent applications with duplicate names, account numbers, addresses, or other information. Despite this, SBA officials did not always act on the notifications and still approved some of the applications.<sup>58</sup>

## **SVOG’s Single Advance Payment System**

Partly in an effort to distribute funds in a timely manner, SBA took steps to implement SVOG that may have affected program integrity. As noted, SBA officials waived the agency’s standard experience, training, and certification requirements for grants officers, as well as SBA’s training plan for administering pandemic-related grants. (See “SBA’s Pandemic Grant Programs”.) In addition, SBA used a potentially risky payment method and waived certain documentation requirements for grantees.

SBA initially gave out SVOG awards to grantees deemed a moderate or high risk in two or more disbursements. According to SBA OIG, such a system can better detect fraud than disbursing awards in a single payment, as the awarding agency can use interim financial reporting on the use of funds to monitor grantee compliance.<sup>59</sup>

However, four months after starting to disburse SVOG funds, SBA switched to a single advance payment for all grantees, regardless of risk level. Although the move enabled SBA to disburse funds more quickly, it removed internal fraud, waste, and abuse controls.<sup>60</sup>

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<sup>56</sup> SBA OIG, *Inspection of Small Business Administration’s Initial Disaster Assistance Response to the Coronavirus Pandemic*, Report 21-02, October 28, 2020, pp. 24-25, <https://www.sba.gov/document/report-21-02-inspection-small-business-administrations-initial-disaster-assistance-response-coronavirus-pandemic>.

<sup>57</sup> *Ibid.*, p. 25.

<sup>58</sup> *Ibid.*, pp. 24-25.

<sup>59</sup> SBA OIG, *SBA’s Award and Payment Practices in the Shuttered Venue Operators Grant Program*, Report 22-15, July 5, 2022, p. 3, <https://www.sba.gov/document/report-22-15-sbas-award-payment-practices-shuttered-venue-operators-grant-program>. Hereinafter SBA’s Award and Payment Practices.

<sup>60</sup> *Ibid.*, p. 3.

## Waiver of Pre-Approval for Grantee Budgetary Changes for SVOG

Office of Management and Budget (OMB) regulations require that federal grantees prepare a budget that represents a financial plan for use of the awards.<sup>61</sup> In most cases, grantees are required to report budget changes to the awarding agency and request prior approval for the changes.<sup>62</sup>

SBA waived the prior approval requirement for changes between line items within SVOG grantees' budgets.<sup>63</sup> Federal regulations allow agencies to do so.<sup>64</sup> However, SBA commonly requires prior approval for such changes.<sup>65</sup> Removing the requirement left SBA without a process for monitoring how grantees would use award funds. Further, many SVOG applicants may have not applied for a federal grant before, and therefore may have had less experience complying with government requirements. Requiring grantees to follow their proposed budgets could have reduced the risk of noncompliance.<sup>66</sup>

## Policy Considerations

Congress has demonstrated ongoing interest in SBA's pandemic relief programs. In the 118<sup>th</sup> Congress, the Senate Committee on Small Business and Entrepreneurship, House Committee on Small Business, and House Committee on Oversight and Accountability each held hearings on SBA's pandemic relief programs. The 117<sup>th</sup> Congress passed the COVID-19 EIDL Fraud Statute of Limitations Act (P.L. 117-165) and the PPP and Bank Fraud Enforcement Harmonization Act of 2022 (P.L. 117-166), which, respectively, extended the statutes of limitations for prosecuting COVID EIDL and PPP fraud to 10 years.

Given Congress's interest in SBA's pandemic relief programs and the amount of money spent, it may opt to examine several issues.

## Balancing Quick Relief with Internal Controls and Fraud Prevention

SBA's quick implementation of its pandemic relief programs involved tradeoffs. By acting quickly, SBA might have made its programs more vulnerable to waste, fraud, and abuse. According to GAO, "While millions of small businesses have benefited from these programs, the speed with which the programs were implemented left SBA with limited safeguards to identify and respond to program risks, including susceptibility to improper payments and fraud."<sup>67</sup>

A June 2023 SBA OIG report found that SBA disbursed more than \$200 billion in potentially fraudulent COVID EIDLs, Targeted and Supplemental Targeted EIDL Advances, and PPP loans—equating to about 17% of funds distributed in those programs.<sup>68</sup> The activities were concentrated in COVID EIDL. SBA OIG estimated that \$136 billion of the potential fraud was

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<sup>61</sup> 2 C.F.R. §200.308(a).

<sup>62</sup> 2 C.F.R. §200.308(b).

<sup>63</sup> SBA's Award and Payment Practices, p. 5.

<sup>64</sup> 2 C.F.R. §200.308(f).

<sup>65</sup> SBA's Award and Payment Practices, p. 5.

<sup>66</sup> SBA's Award and Payment Practices, p. 6.

<sup>67</sup> U.S. Congress, House Committee on Small Business, *Update on SBA's Pandemic Response Programs*, 117<sup>th</sup> Cong., 1<sup>st</sup> sess., April 20, 2021 (Washington: GPO, 2021), p. 38.

<sup>68</sup> SBA OIG, *COVID-19 Pandemic EIDL and PPP Loan Fraud Landscape*, Report 23-09, June 27, 2023, p. 8, <https://www.sba.gov/document/report-23-09-covid-19-pandemic-eidl-ppp-loan-fraud-landscape>.

from COVID EIDL, representing approximately 33% of total COVID EIDL funds distributed. In contrast, SBA OIG estimated only about 8% of total PPP funds distributed—about \$66 billion—was potentially fraudulent. (A separate report from SBA, issued the same day as the SBA OIG report, estimated that there was a total of \$36 billion of pandemic relief loans and grants issued fraudulently.)<sup>69</sup>

By comparison, GAO found that in FY2021, federal unemployment insurance (which Congress expanded in response to the pandemic, and which has also received attention for being the subject of potential fraud) had an approximately 19% improper payment rate, and in FY2022, an approximately 22% improper payment rate. These figures were a significant increase from FY2020, when federal unemployment insurance had a 9.2% improper payment rate.<sup>70</sup>

To prepare for future emergencies, Congress may assess the impacts of the tradeoffs it made in authorizing SBA's pandemic relief programs. Certain stipulations of these authorizations—for example, that SBA promulgate regulations for PPP within 15 days of the CARES Act's enactment—may have helped SBA quickly distribute money to needy businesses, but may also have helped lead SBA to prioritize speed above all other concerns.<sup>71</sup> Congress may seek to develop a framework for assessing the implications of such decisions in future scenarios. For example, Congress may assess whether, in future emergencies, potential program authorizations should be more explicit about whether the program should prioritize getting relief out quickly or prioritize program integrity (and what that may require of agencies administering the programs). Congress could also determine whether SBA's actions in its pandemic relief programs met Congress's intent.

Separate from actions that Congress mandated, SBA also lowered certain internal controls on its own recognizance. In a March 2023 statement submitted to Congress regarding SBA's decision to rely on self-certification of eligibility for COVID EIDLs, SBA's Deputy Inspector General noted:

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 need. 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 pandemic and that it had been adversely affected by the economic downturn.<sup>72</sup>

In any potential future legislation authorizing financial relief programs, Congress could determine how much latitude to give agencies to implement their own policies. Congress could also be more explicit about its goals in any potential legislation, for example by making clear in legislative or committee report language that any implementing agencies are to make the provision of quick financial relief their highest priority, and that agencies should make decisions with that in mind.

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<sup>69</sup> SBA, *Protecting the Integrity of the Pandemic Relief Programs: SBA's Actions to Prevent, Detect and Tackle Fraud*, June 27, 2023, p. 6, <https://www.sba.gov/document/report-protecting-integrity-pandemic-relief-programs>.

<sup>70</sup> U.S. Government Accountability Office, *Unemployment Insurance: DOL Needs to Address Substantial Pandemic UI Fraud and Reduce Persistent Risks*, GAO-23-106586, February 8, 2023, p. 19, <https://www.gao.gov/products/gao-23-106586>. CRS was not able to locate information on pre-pandemic EIDL fraud rates.

<sup>71</sup> See SBA OIG, *SBA's Handling of Potentially Fraudulent Paycheck Protection Program Loans*, Report 22-13, May 26, 2022, p. 2, <https://www.sba.gov/document/report-22-13-sbas-handling-potentially-fraudulent-paycheck-protection-program-loans>.

<sup>72</sup> SBA OIG, Sheldon Shoemaker, Deputy Inspector General, U.S. Small Business Administration, Before the Subcommittee on Government Operations and the Federal Workforce, Committee on Oversight and Accountability, U.S. House of Representatives, March 9, 2023, p. 3, [https://oversight.house.gov/wp-content/uploads/2023/03/Statement-for-the-Record-03-09-2023\\_Final-Shoemaker.pdf](https://oversight.house.gov/wp-content/uploads/2023/03/Statement-for-the-Record-03-09-2023_Final-Shoemaker.pdf).

Congress could also determine that its direction in the laws authorizing SBA’s pandemic relief programs was sufficient.

## Does SBA Have Sufficient Capacity?

Given SBA’s increased appropriations, responsibilities, and personnel during the COVID-19 pandemic, Congress may be interested in assessing whether the agency had—and continues to have—sufficient capacity to implement and oversee its relief programs.

Despite SBA standing up new programs within days, weeks, or months of congressional authorization, there may still be concerns as to whether SBA had or has enough resources to administer its relief programs. SBA’s appropriations in FY2022 and FY2023, after increasing dramatically in FY2020 and FY2021, were closer to pre-pandemic levels. SBA OIG received an approximately \$32 million base appropriation for FY2023—roughly \$10 million higher than its FY2022 appropriation—as well as transfers worth a further \$1.6 million. This met SBA OIG’s FY2023 budget request.<sup>73</sup> However, SBA OIG’s budget request for FY2024 was \$63.3 million, which the office argued was necessary to oversee SBA’s expanded loan portfolio and manage the extended statutes of limitation for PPP and COVID EIDL fraud.<sup>74</sup>

**Table 4** presents SBA appropriations from FY2014 to FY2023.

**Table 4. SBA Appropriations, FY2014-FY2023**

Fiscal Year	Appropriation (millions)
2014	\$928.9
2015	\$887.6
2016	\$871.0
2017	\$1,336.8
2018	\$2,359.8
2019	\$715.4
2020	\$761,980.5
2021	\$379,496.7
2022	\$2,219.8
2023	\$2,077.8

**Source:** CRS analysis of various appropriations bills and reports, joint accompanying statements, and congressional budget justifications. For more information, see CRS Report R43846, *Small Business Administration (SBA) Funding: Overview and Recent Trends*, by Robert Jay Dilger, R. Corinne Blackford, and Anthony A. Cilluffo.

According to its FY2024 budget request, SBA will service almost 3.6 million COVID EIDLs in FY2023 and FY2024. As of May 31, 2022, SBA was servicing approximately 4 million pandemic relief loans (PPP and COVID EIDLs) worth approximately \$390 billion—more than 43 times the dollar amount of SBA’s pre-pandemic loan portfolio.<sup>75</sup> For FY2024, SBA proposed transferring

<sup>73</sup> SBA, *FY 2023 Congressional Budget Justification FY 2021 Annual Performance Report*, March 28, 2022, p. 181, <https://www.sba.gov/sites/sbagov/files/2022-04/FY%202023%20SBA%20Congressional%20Budget%20Justification-508-2022-0413%20updated.pdf>.

<sup>74</sup> SBA, *FY 2024 Congressional Budget Justification FY 2022 Annual Performance Report*, March 13, 2023, p. 204, [https://www.sba.gov/sites/sbagov/files/2023-05/FY\\_2024\\_CBJ-508.pdf](https://www.sba.gov/sites/sbagov/files/2023-05/FY_2024_CBJ-508.pdf). Hereinafter FY2024 CBJ.

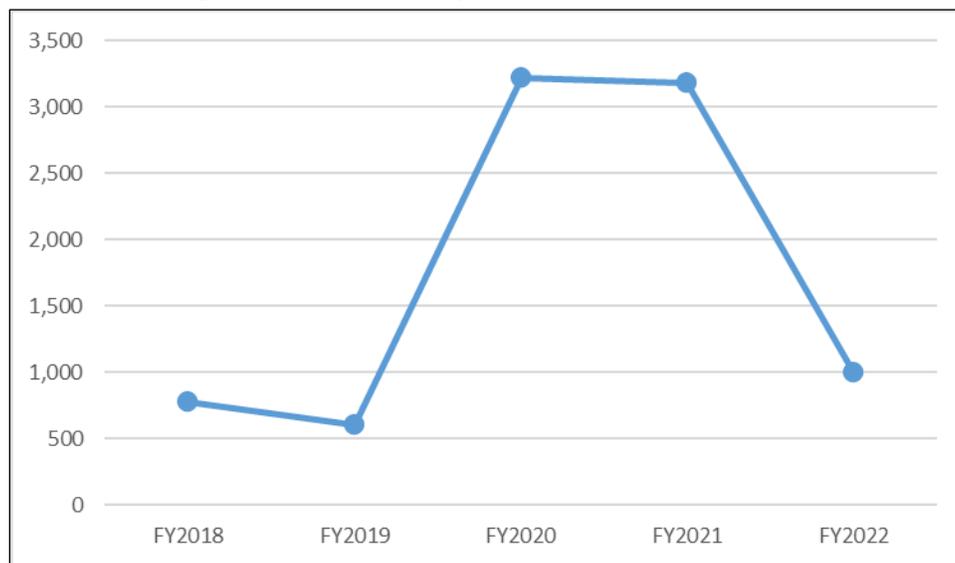
<sup>75</sup> FY2023 Management Challenges, p. 31.

\$227 million from its disaster loan account (which funds SBA’s disaster loan programs, including non-COVID EIDL) to use on pandemic relief program salaries, administrative needs, and oversight.<sup>76</sup>

Noting the amount of COVID EIDLs still in need of servicing, SBA OIG warned in October 2021 that SBA “does not have the staff or infrastructure to manage the unprecedented volume.”<sup>77</sup> SBA significantly increased its number of loan specialists during the pandemic.<sup>78</sup> However, by FY2022 the number of SBA loan specialists had declined to near pre-pandemic levels.

**Figure 4** shows the number of SBA loan specialists.

**Figure 4. SBA Loan Specialists, FY2018-FY2022**



**Source:** OPM, FedScope, *SBA Employment Trend*.

Given the ongoing administration of its pandemic relief programs, Congress may wish to consider whether SBA has sufficient resources, both for operations and oversight.

## Implementing a Fraud Prevention Framework at SBA

While SBA stood up its pandemic relief programs quickly, the agency’s ability to guard against fraud may have been hindered both by choices SBA made in setting up its fraud detection systems and by the lack of a centralized fraud prevention entity.

In 2022, SBA OIG found that SBA did not establish a central entity to manage and coordinate attempts to find PPP fraud and did not formalize roles, responsibilities, and written processes to deal with potential PPP fraud. While the CARES Act did not require the agency to establish a

<sup>76</sup> FY2024 CBJ, p. 21.

<sup>77</sup> FY2022 Management Challenges, p. 31.

<sup>78</sup> OPM defines loan specialists as positions which require knowledge of “(1) credit risk factors and lending principles involved in loans of specialized types granted, insured, or guaranteed by the Federal Government; (2) financial structures and practices of business organizations concerned with such loans; and (3) pertinent statutory, regulatory, and administrative provisions.” See OPM, *Handbook of Occupational Groups and Families*, December 2018, p. 89, <https://www.opm.gov/policy-data-oversight/classification-qualifications/classifying-general-schedule-positions/occupationalhandbook.pdf>.

fraud prevention framework, SBA OIG suggested that it may have reduced the risk of fraud. SBA officials, though, argued that the speed with which they were required to start PPP precluded the agency from implementing these processes.<sup>79</sup> GAO suggested SBA designate one of its existing departments to lead risk management efforts, but, according to GAO, SBA instead formed a fraud risk council that GAO described as an “informal body.”<sup>80</sup> Concerning SBA’s fraud detection efforts, GAO officials testified that, “There is no clear responsibility to carry this out.”<sup>81</sup>

SBA did not conduct fraud risk assessments for PPP and COVID EIDL applications until October 2021. This was after PPP applications closed for the final time and about two months before COVID EIDL applications closed. According to GAO, fraud risk assessments are more effective at developing preventive fraud controls than at detecting fraud that has already occurred.<sup>82</sup> However, SBA designed PPP fraud risk management with more controls at the forgiveness stage than the application stage. Because fraudulent PPP borrowers were unlikely to seek forgiveness, this lessened the effectiveness of SBA’s fraud controls.<sup>83</sup> Congress may evaluate how to provide departments and agencies the tools and time to implement fraud controls while also being able to provide quick relief. For example, Congress could authorize federal agencies to detail employees to an agency implementing fiscal relief programs, or provide additional resources for fraud prevention.

In April 2022, SBA created a Fraud Risk Management Board (FRMB) intended to serve as “the designated anti-fraud entity responsible for oversight and coordination of SBA’s fraud risk prevention, detection, and response activities.”<sup>84</sup> Congress may be interested in conducting oversight of the FRMB to assess its effectiveness.

## **Preexisting SBA Challenges Exacerbated by the Pandemic**

SBA’s implementation of its pandemic relief programs highlighted and, in some cases, exacerbated some of the agency’s challenges that existed before the pandemic. These included SBA’s internal controls for fraud prevention, certain agency capacities, and SBA’s grant management.

As discussed above, in order to expedite financial assistance, SBA sometimes loosened or did not fully adhere to internal controls in implementing its pandemic relief programs. (See “SBA Reduced Internal Controls”.) For example, in reviewing COVID EIDL applications, SBA did not use its usual “rule of two,” whereby at least two SBA staff must approve a loan. These types of actions were not unprecedented. Following the Great Recession, SBA made ARC loans without proper documentation to ensure borrower eligibility and allowable use of loan proceeds.<sup>85</sup> SBA

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<sup>79</sup> Ibid., p. 5.

<sup>80</sup> U.S. Congress, House Committee on Small Business, *Update on SBA’s Pandemic Response Programs*, 117<sup>th</sup> Cong., 1<sup>st</sup> sess., April 20, 2021 (Washington: GPO, 2021), p. 21.

<sup>81</sup> Ibid.

<sup>82</sup> U.S. Government Accountability Office, *Emergency Relief Funds: Significant Improvements are Needed to Address Fraud and Improper Payments*, GAO-23-106556, February 1, 2023, p. 15, <https://www.gao.gov/products/gao-23-106556>.

<sup>83</sup> FY2023 Management Challenges, pp. 6-7.

<sup>84</sup> SBA, “Administrator Guzman Announces Expanded Efforts to Aggressively Crack Down on Bad Actors and Prevent Fraud in Programs,” press release, April 1, 2022, <https://www.sba.gov/article/2022/apr/01/administrator-guzman-announces-expanded-efforts-aggressively-crack-down-bad-actors-prevent-fraud>.

<sup>85</sup> SBA OIG, *America’s Recovery Capital Loans Were Not Originated and Closed in Accordance with SBA’s Policies and Procedures*, Report 11-03, March 2, 2011, p. 3, <https://www.sba.gov/document/report-11-03-rom-11-03-americas-recovery-capital-loans-were-not-originated-closed-accordance-sbas-policies>.

OIG noted the need to establish proper controls to ensure applicant eligibility in an April 2020 white paper on previous SBA stimulus loans.<sup>86</sup>

SBA's pandemic relief programs increased the agency's workload. However, SBA also had a pre-pandemic need to increase and train staff.<sup>87</sup> SBA OIG noted that, with the sudden increase in SBA disaster loans during the pandemic, the agency's disaster assistance systems were insufficient to meet the demand, requiring the agency to use contractors.<sup>88</sup> As noted, SBA's staffing levels have also decreased since their peak in FY2021 (see **Figure 1**).

SBA OIG has cited oversight of grants management at SBA as a challenge for the agency each year since at least FY2019. This includes SBA's decentralized grant management structure.<sup>89</sup> In FY2020 and FY2021, SBA implemented the GrantSolutions platform and trained program officials on the system. However, SVOG and RRF program officials chose to use other grant management systems.<sup>90</sup> Pre-pandemic, SBA also lacked complete and accurate performance data for its grant problems, impeding program evaluation.<sup>91</sup> This challenge persisted with SVOG, as SBA did not require performance goals or establish performance requirements.

Congress may consider directing SBA to address some of these challenges. Congress may also opt to let SBA address any challenges without congressional input.

## **SBA's Grantmaking Authority**

As noted, SBA had more expertise in making and guaranteeing loans to small businesses than in making direct grants to small businesses. As a result, SBA may have comparatively less experience making direct grants than other agencies that more commonly perform the task. Conversely, SBA has more experience working with small businesses than other agencies.

Should Congress authorize grants to businesses in potential future emergencies, it may want to evaluate how to balance SBA's capacity as a grantmaking agency against the agency's knowledge of small business needs in deciding which agencies to authorize to provide financial relief. Other agencies, such as the Federal Emergency Management Agency, have authority to make grants, but may have less experience with small businesses. Congress could also determine whether it wants to give SBA permanent authority to make direct grants, and under what scenarios. Lastly, as it did during the COVID-19 pandemic, Congress could address future expansions of SBA's grantmaking authority in an ad hoc fashion.

In making these determinations, it is worth noting that there are tradeoffs between providing assistance as a loan or as a grant. In general, grants are subject to more stringent requirements than loans. For example, grants sometimes have narrower eligibility requirements than loans,

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<sup>86</sup> SBA OIG, *White Paper: Risk Awareness and Lessons Learned from Prior Audits of Economic Stimulus Loans*, Report 20-11, April 3, 2020, p. 6, <https://www.sba.gov/document/report-20-11-white-paper-risk-awareness-lessons-learned-prior-audits-economic-stimulus-loans>.

<sup>87</sup> FY2022 Management Challenges, p. 26.

<sup>88</sup> FY2023 Management Challenges, p. 28.

<sup>89</sup> SBA OIG, *Consolidated Findings of OIG Reports on SBA's Grant Programs FYs 2014-2018*, Report 19-02, November 8, 2018, p. 2, <https://www.sba.gov/document/report-19-02-consolidated-findings-oig-reports-sbas-grant-programs-fys-2014-2018>.

<sup>90</sup> FY2023 Management Challenges, p. 34.

<sup>91</sup> SBA OIG, *Consolidated Findings of OIG Reports on SBA's Grant Programs FYs 2014-2018*, Report 19-02, November 8, 2018, p. 4, <https://www.sba.gov/document/report-19-02-consolidated-findings-oig-reports-sbas-grant-programs-fys-2014-2018>.

have greater reporting requirements, and are subject to more post-award processes.<sup>92</sup> This can mean that administering grants takes more time and resources than loans. It can also mean that grants may have more built-in oversight mechanisms. However, during the pandemic, OMB also relaxed certain guidance for administration of federal grants. For example, OMB eased agency requirements for publishing notices of funding opportunity and allowed grant recipients to delay submitting closeout reports, which can include financial and performance data, for one year after the grant expired.<sup>93</sup>

Such actions may have both facilitated agencies' ability to award grants quickly and made aspects of oversight more challenging. If Congress examines the types of financial relief SBA is authorized to provide, it should be aware of the tradeoffs between loans and grants.

## Concluding Observations

SBA's pandemic relief programs represented a dramatic increase in the agency's appropriations and responsibilities. Congress authorized SBA to administer some of the largest financial relief programs in U.S. history. The scale of these pandemic relief programs was unlike anything SBA had previously undertaken.

SBA's implementation and administration of its pandemic relief programs entailed a process of balancing quick financial relief with effective management and oversight. Questions of how to achieve the right mix of those considerations are likely to recur in potential future scenarios with federal fiscal relief. As a result, the lessons from SBA's experience with its pandemic relief programs may be an area of congressional interest for the foreseeable future.

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<sup>92</sup> For more information on federal grants, see CRS Report R42769, *Federal Grants-in-Aid Administration: A Primer*, by Natalie Keegan.

<sup>93</sup> OMB, M-20-17, *Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) due to Loss of Operations*, March 19, 2020, p. 4, <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf>.

## Appendix A. Paycheck Protection Program (PPP)

### Eligibility

When Congress authorized PPP in the CARES Act, PPP loans were available to for-profit small businesses,<sup>94</sup> as well as the following nonprofit organizations if they had 500 or fewer employees:<sup>95</sup> nonprofit organizations eligible for a Section 501(c)(3) federal tax exemption, veterans' organizations eligible for a Section 501(c)(19) federal tax exemption, and tribal businesses. Self-employed individuals, such as sole proprietors and independent contractors, were also eligible. PPP loan amounts were primarily based on an employer's payroll costs, so an employer would have had to pay payroll to qualify. Self-employed individuals calculated their PPP loan amount based on their own earnings. In addition, entities must have been in operation on February 15, 2020.

PPP eligibility changed during the course of the program to expand it to other small entities and to further restrict it from large entities. The Economic Aid Act expanded eligibility to certain housing cooperatives, news organizations, destination marketing organizations, and 501(c)(6) tax-exempt organizations (such as business leagues and chambers of commerce). At the same time, the law restricted eligibility for PPP loans for publicly traded companies and for entities in which the President, Vice President, head of an Executive Department, or Member of Congress (or the spouse of any of those individuals) owned at least a 20% stake in the entity. ARPA expanded PPP eligibility to additional types of nonprofit entities and internet news publishing organizations.

Eligibility was different for second-draw PPP loans, authorized as part of the Economic Aid Act. To qualify for a second-draw PPP loan, a borrower had to have received a first-draw PPP loan and used the full amount of the loan, had fewer than 300 employees, and have been able to document revenue losses of at least 25% in the first, second, or third quarter of 2020 relative to the same quarter of 2019.

### Eligible Uses

When considering eligible uses for a PPP loan, there were two important calculations: the maximum amount an applicant could borrow (and therefore the maximum amount that could be forgiven), and the amount actually eligible for forgiveness (based on how the borrower used the PPP loan funds).

### *Maximum Loan Amount*

When Congress authorized PPP in the CARES Act, there were three methods of calculating the maximum loan amount, up to \$10 million:

1. for most borrowers, the average monthly payroll costs during the one-year period before the date the PPP loan was made, multiplied by 2.5;
2. for most seasonal business borrowers, the average monthly payroll costs during the 12-week period beginning either February 15, 2019, or, at the borrower's choice, March 1, 2019, multiplied by 2.5; and

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<sup>94</sup> A for-profit small business needed to meet the industry-based size standard established by SBA. The industry-based size standards are generally based on average annual gross receipts or average annual employment.

<sup>95</sup> The nonprofit organization could use a higher employment threshold if it operated in an industry for which SBA established a higher employment-based size standard.

3. for borrowers that were not in business between February 15, 2019, and June 30, 2019, the average monthly payroll during the period beginning January 1, 2020, and ending February 29, 2020, multiplied by 2.5.

In addition, if a borrower received an EIDL between January 31, 2020, and the date they received a PPP loan, they were required to roll the EIDL into their PPP loan. They could add the EIDL amount to the maximum PPP loan amount calculated using the relevant method above. PPP was later changed so that borrowers were not required to roll over their EIDL into their PPP loan.

Self-employed borrowers could add an amount to their PPP loan for owner-equivalent wages. This amount was the net profit reported on IRS Form 1040 Schedule C that covered the relevant base period, up to a maximum of \$100,000, divided by 12, and multiplied by 2.5. Therefore, the maximum owner-equivalent wage was \$20,833. For self-employed individuals without employees, this was the maximum PPP loan they could receive. For self-employed individuals who had employees, they could add the owner-equivalent wage to their employee payroll costs.

Second-draw PPP loans had a maximum of \$2 million. There were four methods of calculating the maximum amount of a second-draw PPP loan:

1. for most borrowers, the average monthly payroll during either (at the borrower's choice): the one-year period before the date the loan was made, or calendar year 2019, multiplied by 2.5;
2. for seasonal borrowers, the average monthly payroll cost incurred during any 12-week period of the borrower's choice between February 15, 2019, and February 15, 2020, multiplied by 2.5;
3. for borrowers who were not in business during the one-year period preceding February 15, 2020, the average monthly payroll cost for the period that the entity was in operation, multiplied by 2.5; and
4. for businesses in the accommodation and food services industry, the average monthly payroll during either (at the borrower's choice): the one-year period before the date the loan was made, or calendar year 2019, multiplied by 3.5 (this was a higher multiple).

### *Eligible Uses for Forgiveness*

The eligible uses of proceeds of a PPP loan that qualified for forgiveness also varied over the course of the program. At all times, most of the loan had to be spent on the employer's payroll costs. The share of the loan that could be used for nonpayroll costs changed, as did the eligible nonpayroll costs.

When Congress authorized PPP in the CARES Act, the following were eligible uses of PPP loan proceeds:

- payroll costs;
- costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
- employee salaries, commissions, or similar compensations;
- payments of interest on any mortgage obligation (not including prepayments);
- rent;
- utilities; and
- interest on any other debt obligation incurred before the covered period.

The Economic Aid Act added four more eligible uses for PPP loan proceeds:

- covered operations expenditures, meaning payments for business software or cloud computing services used for a variety of specified business purposes;
- covered property damage costs, meaning costs due to property damage and vandalism or looting due to public disturbances that occurred during 2020 that were not covered by insurance;
- covered supplier costs, meaning costs paid to suppliers of certain goods that are essential to the borrower's operations; and
- covered worker protection expenditures, meaning costs, including operating or capital expenditures, to adapt business activities to COVID health guidelines issued by a government entity.

The CARES Act did not specify a share of PPP loan proceeds that must go toward payroll costs. In SBA's first interim final rule on PPP, SBA imposed a requirement that at least 75% of PPP loan proceeds be used for payroll costs.<sup>96</sup>

This restriction meant that non-payroll costs in excess of 25% of the loan amount would not be eligible for forgiveness. Congress changed this in June 2020 by adding a provision to the PPP forgiveness statute, requiring borrowers to spend at least 60% of the PPP loan on payroll costs, and allowing up to 40% for non-payroll costs.<sup>97</sup>

To qualify for forgiveness, a borrower needed to use PPP loan proceeds for one or more of the above eligible uses during the loan's covered period.<sup>98</sup> As authorized by the CARES Act, all PPP loans had a covered period of eight weeks, starting on the date the loan was originated. The Paycheck Protection Program Flexibility Act of 2020 (P.L. 116-142) changed the covered period to be the period beginning on the date the loan is originated and ending on the earlier of (1) 24 weeks later, or (2) December 31, 2020. Borrowers whose loan was originated before June 5, 2020 (the date the law was enacted) could elect to keep an 8-week covered period. The Economic Aid Act changed the covered period to allow all borrowers to elect a covered period of either (1) eight weeks after origination, or (2) 24 weeks after origination.

Additionally, borrowers would only be eligible for full forgiveness if they maintained their employee count and wages during the loan's covered period, or if they qualified for an exemption. Generally, if a borrower reduced their FTE employees during the covered period compared with their reference period, then their forgiveness amount would be reduced by the same percentage.<sup>99</sup> For example, if a borrower had 10 FTE employees but reduced their staffing to eight FTE employees during the covered period, the borrower would only be eligible for 80% of their otherwise qualifying forgiveness amount. Additionally, the borrower must reduce their forgiveness amount dollar-for-dollar if the borrower reduced an employee's wages beyond 25%.

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<sup>96</sup> SBA, "Business Loan Program Temporary Changes; Paycheck Protection Program," 85 *Federal Register* 20811, April 15, 2020, <https://www.federalregister.gov/d/2020-07672>.

<sup>97</sup> Section 3 of the Paycheck Protection Program Flexibility Act of 2020 (P.L. 116-142).

<sup>98</sup> The term "covered period" was used differently in the statutes covering loan eligibility (15 U.S.C. §636(a)(36)) and loan forgiveness (15 U.S.C. §636m). For the purposes of determining eligibility, the covered period referred to the period from February 15, 2020, through June 30, 2021 (this period was amended several times during the course of the program) that related to several purposes in the program, including when the SBA could guarantee PPP loans. For the purposes of loan forgiveness, the covered period meant the time after the PPP loan's origination, during which the borrower had to use the loan proceeds for eligible uses to qualify for forgiveness.

<sup>99</sup> The reference period was, at the borrower's election, either: (1) February 15, 2019, through June 30, 2019; (2) January 1, 2020, through February 29, 2020; or (3) for seasonal employers, any consecutive 12-week period between February 15, 2019, and February 15, 2020.

For example, if a borrower reduced a full-time employee's weekly wages from \$1,000 during the reference period to \$700, the first 25% (\$250 per week) is exempt, but the remainder (\$50 per week) must reduce the forgiveness amount. The reduction would depend upon the length of the covered period the borrower chose: \$400 for an 8-week covered period ( $\$50 * 8$  weeks) or \$1,200 for a 24-week covered period ( $\$50 * 24$  weeks).<sup>100</sup>

The CARES Act granted the SBA Administrator and Secretary of the Treasury discretion to determine de minimis exemptions from limits on forgiveness.<sup>101</sup> SBA and Treasury regulations adopted the following exemptions to the loan forgiveness limits due to employee count or wage reductions:

- the borrower offered to restore employee hours at the same salary and wages, even if the employee did not accept;
- the borrower fired an employee for cause, or the employee voluntarily resigned or voluntarily requested a schedule reduction;
- the borrower eliminated employee count or wage reductions by December 31, 2020, or, for loans made after December 27, 2020, the last day of the covered period;
- the borrower has a PPP loan of \$50,000 or less.<sup>102</sup>

The last exemption, for PPP loans of \$50,000 or less, exempted over 75% of PPP loans from the employee count- and wage-maintenance requirements.<sup>103</sup> It is not clear from publicly available data how many loans the first three exemptions may have affected.

Eligible uses for a second-draw PPP loan were generally the same as those for first-draw PPP loans. The covered period for a second-draw PPP loan could not overlap with that of a first-draw PPP loan—meaning a borrower could not “double count” the same expenses towards forgiveness of both loans. Additionally, the borrower had to use all of the first-draw PPP loan for eligible expenses before disbursement of a second-draw PPP loan.<sup>104</sup>

The forgiveness process began with the borrower submitting an application for forgiveness to their lender. Borrowers with a PPP loan of \$150,000 or less could use a simplified forgiveness application process. The lender made an initial decision on the application. If the lender determined the borrower is eligible for full or partial forgiveness, the lender would request payment for that amount from SBA. SBA could review the amount the lender submitted for forgiveness, but SBA was required to remit payment within 90 days of the lender's initial application. Second-draw PPP loans followed the same process, but an application for forgiveness of a second-draw PPP loan must have been submitted at the same time or after an application for

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<sup>100</sup> SBA, “Business Loan Program Temporary Changes; Paycheck Protection Program—Loan Forgiveness Requirements and Loan Review Procedures as Amended by Economic Aid Act,” 86 *Federal Register* 8283, February 5, 2021, <https://www.federalregister.gov/d/2021-02314>.

<sup>101</sup> Section 1106(d)(6) of P.L. 116-136.

<sup>102</sup> SBA, “Business Loan Program Temporary Changes; Paycheck Protection Program—Loan Forgiveness Requirements and Loan Review Procedures as Amended by Economic Aid Act,” 86 *Federal Register* 8283, February 5, 2021, <https://www.federalregister.gov/d/2021-02314>.

<sup>103</sup> Based on CRS analysis of SBA PPP FOIA data as of September 30, 2022. Fully 78% of PPP loans (9.0 million of 11.5 million) had an amount of *less than* \$50,000. The number of loans that qualify for the de minimis exemption would be higher, since it would also include loans of exactly \$50,000. For more current source data, see Small Business Administration Office of Capital Access, *PPP FOIA*, <https://data.sba.gov/dataset/ppp-foia>.

<sup>104</sup> SBA, “Business Loan Program Temporary Changes; Paycheck Protection Program—Loan Forgiveness Requirements and Loan Review Procedures as Amended by Economic Aid Act,” 86 *Federal Register* 8283, February 5, 2021, <https://www.federalregister.gov/d/2021-02314>.

forgiveness of a first-draw PPP loan—meaning, the borrower could not apply for forgiveness of a second-draw PPP loan before a first-draw PPP loan.<sup>105</sup>

## Funding

Congress provided appropriations and authorization levels for PPP, and both amounts increased over time:

- When authorized in the CARES Act, Congress appropriated \$349 billion for PPP, and authorized \$349 billion of PPP lending between February 15, 2020, and June 30, 2020.
- The Paycheck Protection Program and Health Care Enhancement Act (PPP Enhancement Act, P.L. 116-139,) amended the CARES Act to increase the appropriation for PPP to \$670.3 billion (an increase of \$321.3 billion), and increased the lending authorization to \$659 billion.
- Congress extended the PPP lending authority (but did not change the amount) through August 8, 2020, in P.L. 116-147.
- The Economic Aid Act made several changes to PPP appropriations and lending authorizations. First, it rescinded \$146.5 billion from the combined account that funded PPP and Section 1112 debt payments.<sup>106</sup> The Economic Aid Act also appropriated \$284.5 billion for first- and second-draw PPP loans. Finally, it amended the lending authorization to include first- and second-draw PPP loans, extended lending authority through March 31, 2021, and increased the lending authorization to \$806.5 billion (an increase of \$147.45 billion).
- ARPA appropriated an additional \$7.3 billion for the cost of the law’s amendments to PPP. ARPA also increased the lending authorization to \$813.7 billion (an increase of \$7.3 billion).
- The PPP Extension Act of 2021 (P.L. 117-6) extended SBA’s authority to approve PPP loans from March 31, 2021, through June 30, 2021. However, under the law, SBA could only accept new applications through May 31, 2021. During June 2021, SBA could only process applications received through the end of May.

## PPP Demand

There was significant demand from small businesses for PPP loans, especially in the early stages of the program. PPP lending occurred in three “rounds”:

- round one ran from April 3, 2020, through April 15, 2020. SBA began to accept applications for PPP loans on April 3, 2020, and the initial authorization of \$349.0 billion was exhausted in 13 days;
- round two ran from April 27, 2020, through August 8, 2020, with a short interruption in early July 2020; and
- round three included all loans for first- and second-draw PPP approved in 2021.

**Table A-1** shows the number of loans approved and the net dollars for PPP lending for 2020, 2021, and, for 2021, first- and second-draw loans. More PPP loans were made in 2021 than in

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<sup>105</sup> Ibid.

<sup>106</sup> Congress did not allocate the rescission between funds for PPP and Section 1112 payments. While the funds in that account were used for both programs, it is likely that the rescission mostly affected PPP appropriations.

2020 (57% vs. 43%). The average PPP loan was larger in 2020 than in 2021 (\$101,549 vs. \$41,560). In 2021, fewer than half of PPP loans were second-draw loans (44% of the 2021 total), but 75% of the 2021 net dollars lent in PPP were for second-draw loans. First-draw loans approved during 2021 had a lower average size (\$18,288) than either 2020 PPP loans or second-draw loans.

**Table A-I. PPP Lending, 2020 and 2021**

Time Period	Loans Approved	Net Dollars
2020 and 2021	11,823,594	\$799,832,866,520
2020	5,141,665	\$522,132,758,441
2021	6,681,929	\$277,700,108,079
During 2021, First-Draw Loans	3,768,309	\$68,915,276,574
During 2021, Second-Draw Loans	2,913,620	\$208,784,831,505

**Source:** SBA, “Paycheck Protection Program (PPP) Report: Approvals through 05/31/2021,” [https://www.sba.gov/sites/sbagov/files/2021-06/PPP\\_Report\\_Public\\_210531-508.pdf](https://www.sba.gov/sites/sbagov/files/2021-06/PPP_Report_Public_210531-508.pdf).

**Notes:** Totals for 2020 were not reported by SBA in the source report. The amounts in this table were calculated by subtracting the reported 2021 totals from the program totals.

## Lending Set-Asides

As authorized in the CARES Act, PPP did not include set-asides for any groups of lenders or businesses. Some Members of Congress and observers were concerned that some businesses and nonprofit organizations may not be able to access a lender that would make a PPP loan for them, and that smaller lenders may have faced barriers to participating in the program.<sup>107</sup> Partially in response to those concerns, Congress included set-asides for portions of PPP lending in later expansions of the program.

The PPP Enhancement Act required that SBA approve at least \$60 billion in PPP loans from certain lenders. The law required SBA to approve at least \$30 billion in PPP loans from mid-size banks and credit unions (with assets between \$10 billion and \$50 billion). The law also required SBA to approve an additional at least \$30 billion in PPP loans from Community Development Financial Institutions (CDFIs), and small banks and credit unions (with assets below \$10 billion).<sup>108</sup>

The Economic Aid Act required that SBA approve at least \$15 billion in PPP loans from CDFIs and at least \$15 billion from small banks, credit unions, and Farm Credit System lenders (with assets below \$10 billion). The law also included set-asides for particular types of borrowers:

- at least \$15 billion in first-draw PPP loans for borrowers that either (1) had 10 employees or fewer, or (2) received a loan of \$250,000 or less and were located in a low- to moderate-income neighborhood;

<sup>107</sup> For example, see U.S. Senate Committee on Small Business and Entrepreneurship, “Cardin Statement on Passage of the Interim COVID-19 Relief Package,” press release, April 21, 2020, <https://www.sbc.senate.gov/public/index.cfm/pressreleases?ID=683E2D75-7B8F-411B-B5F3-56EF7D400325>; and U.S. Government Accountability Office, “Paycheck Protection Program: Program Changes Increased Lending to the Smallest Businesses and in Underserved Locations,” GAO-21-601, September 21, 2021, <https://www.gao.gov/products/gao-21-601>.

<sup>108</sup> For more information on CDFIs, see CRS Report R42769, *Federal Grants-in-Aid Administration: A Primer*, by Natalie Keegan.

- at least \$35 billion for borrowers who had not previously received a PPP loan; and
- at least \$25 billion in second-draw PPP loans for borrowers that either (1) had 10 employees or fewer, or (2) received a loan of \$250,000 or less and were located in a low- to moderate-income neighborhood.

ARPA did not include any explicit set-asides for lenders or borrowers. However, the law appropriated \$7.3 billion to PPP for the costs of carrying out that section (Section 5001) of ARPA, thereby effectively setting aside the whole amount for the entities to which ARPA expanded PPP eligibility. SBA could also use any remaining funds from amounts previously appropriated to approve loans to newly eligible borrowers.

## **PPP Lenders**

As mentioned, the CARES Act made PPP part of SBA's 7(a) program, so all 7(a) lenders were automatically approved to make PPP loans. The CARES Act also gave SBA and Treasury authority to approve additional lenders to participate in PPP.<sup>109</sup> Under SBA's first interim final rule on PPP, the following types of lenders were eligible to make PPP loans:

- federally insured depository institutions and credit unions;
- Farm Credit System institutions (other than the Federal Agricultural Mortgage Corporation) that met Bank Secrecy Act requirements; and
- other depository or non-depository institutions that had originated, maintained, and serviced more than \$50 million in business or commercial loans during a consecutive 12-month period in the previous 36 months, or that were service providers to an insured depository institution, and that met Bank Secrecy Act requirements.<sup>110</sup>

SBA later amended those regulations to expand the number of lenders eligible to participate in PPP to “ensure broad and diverse lender participation.”<sup>111</sup> Under the amended regulations, non-bank lenders or non-insured depository institutions were eligible to participate if they met the \$50 million volume requirement over a recent 12-month period for any of the three functions: originating, maintaining, or servicing loans (the original interim final rule required all three). Additionally, SBA amended the regulations to allow CDFIs that were not federally insured banks or credit unions (CDFIs that were federally insured banks or credit unions could already participate), and minority-, women-, or veteran-owned non-bank lenders to participate if they originated, maintained, or serviced (any of the three) at least \$10 million in business or commercial loans (instead of \$50 million) during a recent 12-month period.

Most PPP lenders were not recently active in other SBA programs, although the exact number of new lenders is unclear. A total of 5,467 lenders participated in PPP in 2020, 2021, or both

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<sup>109</sup> 15 U.S.C. §636(a)(36)(F)(iii).

<sup>110</sup> SBA, “Business Loan Program Temporary Changes; Paycheck Protection Program,” 85 *Federal Register* 20811, April 15, 2020, <https://www.federalregister.gov/d/2020-07672>. Lenders meeting these stipulations were still ineligible to make PPP loans if they were in troubled condition or subject to a formal enforcement action from their federal regulator.

<sup>111</sup> SBA, “Business Loan Program Temporary Changes; Paycheck Protection Program—Requirements—Corporate Groups and Non-Bank and Non-Insured Depository Institution Lenders,” 85 *Federal Register* 26324, May 4, 2020, <https://www.federalregister.gov/d/2020-09576>.

years.<sup>112</sup> For comparison with other SBA lending programs, in FY2019, 1,532 lenders made at least one 7(a) loan,<sup>113</sup> 185 Certified Development Companies (CDCs) made at least one 504 loan,<sup>114</sup> and 144 Microloan Intermediaries made at least one microloan.<sup>115</sup>

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<sup>112</sup> SBA, *Paycheck Protection Program (PPP) Report: Approvals Through 05/31/2021*, May 31, 2021, p. 2, [https://www.sba.gov/sites/sbagov/files/2021-06/PPP\\_Report\\_Public\\_210531-508.pdf](https://www.sba.gov/sites/sbagov/files/2021-06/PPP_Report_Public_210531-508.pdf).

<sup>113</sup> For more information on the 7(a) program, see CRS Report R41146, *Small Business Administration 7(a) Loan Guaranty Program*, by Robert Jay Dilger and Anthony A. Cilluffo.

<sup>114</sup> For more information on the 504 program, see CRS Report R41184, *Small Business Administration 504/CDC Loan Guaranty Program*, by Robert Jay Dilger and Anthony A. Cilluffo.

<sup>115</sup> For more information on the Microloan program, see CRS Report R41057, *Small Business Administration Microloan Program*, by Robert Jay Dilger and Anthony A. Cilluffo.

## **Appendix B. SBA COVID Economic Injury Disaster Loan (EIDL)**

### **Eligibility**

Although the SBA EIDL program was already in existence, Congress took a number of steps to make the loans available in response to the pandemic and streamline the application process to meet EIDL demand.

### ***Disaster Definition***

A declaration must be issued under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, as amended; 42 U.S.C. §§5121 et seq.) or the Small Business Act of 1953 (P.L. 83-163, as amended; 15 U.S.C. §§631 et seq.) to make SBA EIDL available. There was concern, however, that a pandemic would not meet the Small Business Act’s definition of a disaster:

a sudden event which causes severe damage including, but not limited to, floods, hurricanes, tornadoes, earthquakes, fires, explosions, volcanoes, windstorms, landslides or mudslides, tidal waves, commercial fishery failures or fishery resource disasters ... ocean conditions resulting in the closure of customary fishing waters, riots, civil disorders or other catastrophes, except it does not include economic dislocations.<sup>116</sup>

As mentioned, Title II of P.L. 116-123 (the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020), deemed COVID-19 a disaster under Section 7(b)(2)(D) of the Small Business Act, making economic injury from the pandemic an eligible expense under SBA EIDL.

### ***Streamlined Loan Processing***

In anticipation of increased demand for COVID EIDLs, the CARES Act addressed anticipated delays in loan application processing by authorizing the SBA Administrator, in response to economic injuries caused by COVID-19, to:

- waive the “credit not available elsewhere” requirement;
- approve an applicant based solely on their credit score; and
- waive the requirement that the applicant needs to be in business for the one-year period before the disaster declaration (except that no waiver may be made for a business that was not in operation on January 31, 2020).

The CARES Act also prohibited SBA from obtaining Internal Revenue Service tax records and required SBA to accept an applicant’s self-certification to determine eligibility to help streamline the application process.

The CARES Act expanded eligibility for COVID EIDL to include businesses of not more than 500 employees, 501(c)(3) nonprofit organizations, 501(c)(19) veterans’ organizations, or tribal business that were not currently eligible that had not more than 500 employees or, if applicable, the SBA’s size standard in number of employees for the industry in which they operate. Sole proprietors, independent contractors, and eligible self-employed individuals were also eligible.

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<sup>116</sup> 15 U.S.C. §632(k).

## Eligible Uses and Loan Amount Limits

COVID EIDL borrowers could only use loan proceeds for working capital necessary to alleviate the specific economic injury and to resume normal operations.<sup>117</sup> The maximum loan amount for COVID EIDLs fluctuated over the course of the program due to budgetary concerns. Some key maximum limit changes include:

- on May 3, 2020, SBA reduced the maximum loan amount for a COVID EIDL to \$150,000;
- on March 24, 2021, SBA increased the maximum loan amount from \$150,000 to \$500,000 (effective April 6, 2021),<sup>118</sup> and
- on September 9, 2021, SBA increased the maximum loan amount from \$500,000 to \$2 million (effective October 8, 2021).<sup>119</sup>

## Funding

The CARES Act appropriated \$562 million for COVID EIDLs. The law also appropriated \$10 billion for Emergency EIDL Advances. The PPP Enhancement Act appropriated a further \$50 billion for COVID EIDLs and \$10 billion for Emergency EIDL Advances. The Economic Aid Act appropriated \$20 billion for Targeted EIDL Advances. ARPA appropriated \$10 billion for Targeted EIDL Advances, \$5 billion for Supplemental Targeted EIDL Advances, and \$460 million for COVID EIDL.

## COVID EIDL Demand

Demand for COVID EIDL was significant. SBA received 27.7 million applications for COVID EIDLs by December 31, 2021.<sup>120</sup> On January 1, 2022, SBA stopped accepting applications for new COVID EIDLs or advances. As of May 6, 2022, SBA's COVID EIDL funds were exhausted and SBA stopped accepting COVID EIDL loan increase requests or requests for reconsideration. SBA closed the COVID EIDL application portal on May 16, 2022.

At the time of this writing, SBA had approved over 3.9 million COVID EIDLs totaling more than \$378.4 billion; disbursed 5,781,390 EIDL advances totaling \$20 billion; disbursed 601,058 Targeted EIDL Advances totaling more than \$5.2 billion; and disbursed 453,417 Supplemental Targeted EIDL Advances totaling more than \$2.3 billion.<sup>121</sup>

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<sup>117</sup> 13 C.F.R. §123.105(2).

<sup>118</sup> SBA, "SBA to Increase Lending Limit for COVID-19 Economic Injury Disaster Loans," March 24, 2021, <https://www.sba.gov/article/2021/mar/24/sba-increase-lending-limit-covid-19-economic-injury-disaster-loans>.

<sup>119</sup> SBA, "SBA Administrator Guzman Enhances COVID Economic Injury Disaster Loan Program to Aid Small Businesses Facing Challenges from Delta Variant," September 9, 2021, <https://www.sba.gov/article/2021/sep/09/sba-administrator-guzman-enhances-covid-economic-injury-disaster-loan-program-aid-small-businesses>; and SBA, "SBA Administrator Guzman Announces Key Policy Change: Existing COVID Economic Injury Disaster Loan Program Borrowers to Receive an Additional Deferment," March 15, 2022, <https://www.sba.gov/article/2022/mar/15/sba-administrator-guzman-announces-key-policy-change-existing-covid-economic-injury-disaster-loan>.

<sup>120</sup> FY2023 Management Challenges, p. 28.

<sup>121</sup> SBA, "Disaster Assistance Update Nationwide COVID EIDL, Targeted EIDL Advances, Supplemental Targeted Advances, April 28, 2022 (figures as of April 27, 2022)," <https://www.sba.gov/document/report-covid-19-eidl-reports-2022>.

## **Appendix C. Section 1112 Payments for Debt Relief**

### **Eligibility**

For the CARES Act version of Section 1112 payments, SBA automatically remitted the required monthly payment, including principal, interest, and any associated fees, to the lender on the behalf of borrowers. Loans made through the following SBA business loan programs were eligible:

- 7(a) loans, including loans made through the Community Advantage Pilot Program, and excluding PPP loans;
- 504 program loans, only including the CDC portion; and
- Microloans made to a small business by a Microloan Intermediary.

All SBA business loans in regular servicing status were eligible for six months of payments from SBA in the first round of Section 1112 payments. Loans in repayment and not on deferral were eligible for six months of payments, starting with the next payment due after the CARES Act's enactment. Loans in repayment but in deferral were eligible for six months of payments, starting with the next payment due after the deferral ended. Loans made after the CARES Act was enacted (March 27, 2020) but before six months after that date (September 27, 2020) were eligible for six months of payments, beginning with the first payment due on that loan.

The Economic Aid Act authorized a second round of Section 1112 payments. The law provided different durations of payments based on the characteristics of the business and loan. All loans were eligible for at least three months of additional payments, with the longest duration being eight months of additional payments. As explained further below, SBA determined Congress did not provide enough appropriations to make all of the payments and used the authority granted in the Economic Aid Act to modify the prioritization to fit the funds available.

### **Eligible Uses**

Section 1112 payments could only be used for payments that SBA automatically remitted to lenders on behalf of borrowers for SBA business loans.

### **Funding**

The CARES Act appropriated \$17 billion for Section 1112 payments. The Economic Aid Act made two changes to Section 1112 appropriations. First, it rescinded \$146.5 billion from the appropriations account shared by PPP and Section 1112.<sup>122</sup> Second, it appropriated \$3.5 billion for additional Section 1112 payments.

### **Prioritization of Payments**

Congress authorized different amounts of second round Section 1112 payments based on the characteristics of the loan and the borrower. Congress appropriated \$3.5 billion for the purpose of making the Section 1112 payments authorized by the Economic Aid Act (first round payments for expanded eligibility borrowers and all second round payments). Additionally, if SBA determined that the \$3.5 billion Congress appropriated for the additional Section 1112 payments was not

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<sup>122</sup> Congress did not allocate the rescission between funds for PPP and Section 1112 payments. While the funds in that account were used for both programs, it is likely that the rescission mostly affected PPP appropriations.

sufficient, Congress required SBA to “develop a plan to proportionally reduce the number of months [of payments], while ensuring all [appropriations] are fully expended.”<sup>123</sup> SBA determined that the appropriations were not sufficient to make all the Section 1112 payments Congress authorized, and created such a prioritization plan.<sup>124</sup>

**Table C-1** compares the Section 1112 payments authorized by Congress with SBA’s prioritization plan. Congress authorized a minimum of three additional monthly payments and a maximum of eight additional monthly payments for the second round Section 1112 payments. SBA’s prioritization plan made a minimum of two additional monthly payments and a maximum of five additional monthly payments. Congress also expanded eligibility to six months of first round Section 1112 payments for loans that were approved on or before September 27, 2020, but fully disbursed after that date. SBA made three months of first round Section 1112 payments for these expanded eligibility loans.

**Table C-1. Prioritization of Section 1112 Debt Relief Payments**  
First Round Plus Second Round Payments, In Months

Characteristics of Loan and Borrower	Authorized in the Economic Aid Act	SBA’s Prioritization Plan
<i>Loans approved before March 27, 2020, and not on deferment</i>		
7(a) and 504 loans generally	6 + 3	6 + 2
7(a) and 504 loans to certain industries <sup>a</sup>	6 + 8	6 + 5
Community Advantage loans and Microloans	6 + 8	6 + 5
<i>Loans approved before March 27, 2020 and on determent</i>		
7(a) and 504 loans generally	6 + 3	6 + 2
7(a) and 504 loans to certain industries	6 + 8	6 + 5
Community Advance loans and Microloans	6 + 8	6 + 5
All loans approved from March 27, 2020 to September 27, 2020 <sup>b</sup>	6 + 0	6 + 0 or 3 + 0 <sup>c</sup>
All loans approved from September 28, 2020 to January 31, 2021	0 + 0	0 + 0
All loans approved from February 1, 2021 to September 30, 2021	0 + 6	0 + 3

**Source:** Table created by CRS using information from Section 325 of the Economic Aid Act and SBA, “Adjustment to the Number of Months of Section 1112 Payments in the 7(a), 504 and Microloan Programs Due to Insufficiency of Funds,” SBA Procedural Notice 5000-20095, February 16, 2021, <https://www.sba.gov/sites/sbagov/files/2021-02/Procedural%20Notice%205000-20095%20Adjustment%20to%20Number%20of%20Months%20for%20Section%201112%20Payments-508.pdf>.

- a. The Economic Aid Act authorized additional monthly payments to businesses in certain industries, identified by a sequence of numbers at the beginning of their 2017 North American Industry Classification System (NAICS) industry code: 61 educational services; 71 arts, entertainment, and recreation; 72 accommodation and food services; 213 support activities for mining; 315 apparel manufacturing; 448 clothing and clothing accessories stores; 451 sporting goods, hobby, musical instrument, and book stores; 481 air transportation; 485 transit and ground passenger transportation; 487 scenic and sightseeing transportation; 511 publishing

<sup>123</sup> Section 325 of the Economic Aid Act.

<sup>124</sup> SBA, “Adjustment to the Number of Months of Section 1112 Payments in the 7(a), 504 and Microloan Programs Due to Insufficiency of Funds,” SBA Procedural Notice 5000-20095, February 16, 2021, <https://www.sba.gov/sites/sbagov/files/2021-02/Procedural%20Notice%205000-20095%20Adjustment%20to%20Number%20of%20Months%20for%20Section%201112%20Payments-508.pdf>.

- industries (except internet); 512 motion picture and sound recording industries; 515 broadcasting (except internet); 532 rental and leasing services; and 812 personal and laundry services.
- b. Under the CARES Act, SBA made Round 1 Section 1112 payments for all loans with a final disbursement on or before September 27, 2020. The Economic Aid Act amended the CARES Act to authorize Round 1 Section 1112 payments to all loans approved on or before September 27, 2020. This expanded the Round 1 Section 1112 payments to any loans that were approved but were not yet fully disbursed on or before September 27, 2020.
  - c. SBA's plan allowed for the full 6 months of Round 1 Section 1112 payments for all loans that were fully disbursed on or before September 27, 2020. For loans that were approved on or before September 27, 2020, but had not been fully disbursed by that date (loans that gained eligibility for Round 1 Section 1112 payments in P.L. 116-260), SBA only made 3 months of Round 1 Section 1112 payments.

## Appendix D. Shuttered Venue Operators Grant (SVOG) Program

### Eligibility

The SBA's ODA administered the SVOG program. Awards were available to a range of businesses, including:

- live venue operators or promoters;
- theatrical producers;
- live performing arts organization operators;
- “relevant” museum operators, including zoos and aquariums;
- motion picture theater operators;
- talent representatives; and
- subsidiaries of eligible entities that also met the eligibility requirements.<sup>125</sup>

SVOG applicants must have been in operation as of February 29, 2020, and experienced a 25% or more reduction in gross earned revenue during at least one quarter of 2020 as compared to the corresponding quarter of 2019. Entities that owned or operated otherwise eligible businesses in more than one country, owned or operated otherwise eligible businesses in more than 10 states, and had more than 500 employees as of February 29, 2020, were ineligible for awards.<sup>126</sup>

SVOG awards were for up to \$10 million. The Economic Aid Act set aside \$2 billion for employers with 50 or fewer FTE employees. The law also authorized SBA to offer supplemental SVOG awards in certain cases, worth up to 50% of the initial award. The law also authorized SBA to distribute SVOG awards during three priority periods:

- in the first period, which lasted for the first 14 days after SBA began accepting applications, only applicants with at least a 90% revenue loss from April 1, 2020, to December 31, 2020, compared with the same period in the previous year, could receive awards;
- in the second period, which lasted for the next 14 days, only applicants with at least a 70% revenue loss under the same parameters as the first priority period could receive awards;
- in the third period, SVOG initial grants were open to all applicants (supplemental grants could not be awarded until all applications for initial grants that were submitted within the program's first 60 days were processed).

### Eligible Uses

The Economic Aid Act mandated that grant recipients could use SVOG awards on expenses including:

- payroll costs;

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<sup>125</sup> SBA, *FAQ Regarding Shuttered Venue Operators Grant (SVOG)*, October 20, 2021, p. 2, [https://www.sba.gov/sites/default/files/2021-10/10-20-21%20SVOG%20FAQ%20FINAL\\_508\\_final.pdf](https://www.sba.gov/sites/default/files/2021-10/10-20-21%20SVOG%20FAQ%20FINAL_508_final.pdf).

<sup>126</sup> *Ibid.*

- rent and scheduled mortgage payments;
- utility payments;
- scheduled debt payments;
- worker protection expenditures;
- payments to independent contractors;
- advertising;
- production transportation; and
- capital expenditures.

The Economic Aid Act contained expanded oversight requirements for SVOG. Those included requiring SVOG recipients to keep business records for four years following receiving an award; requiring SVOG recipients to keep other supporting documentation for three years after receiving an award; and requiring the SBA Administrator to submit to the Senate Committee on Small Business and Entrepreneurship and House Committee on Small Business an audit plan for SVOG.

## **Funding**

The Economic Aid Act appropriated \$15 billion to SBA to carry out SVOG. ARPA appropriated an additional \$1.25 billion to SVOG.

## **SVOG Demand and Implementation Delays**

SVOG’s implementation had several delays. On March 19, 2021, SBA announced the SVOG application portal would open on April 8.<sup>127</sup> However, the application portal had technical issues and did not accept any applications on April 8. On April 23, SBA announced the portal would open on the next day.<sup>128</sup> The portal ultimately opened on April 26.

In addition to delays opening the portal, SBA’s pace of distributing SVOG awards drew criticism from some Members of Congress. For example, as of June 1—past the 28 days comprising the first two priority periods—SBA had received 13,619 applications and approved 31 awards worth a total of \$34.2 million.<sup>129</sup> In a June 15, 2021 letter to SBA Administrator Isabella Casillas Guzman, 55 Senators wrote, “We urge you to immediately take steps to ensure the funds are distributed to qualified applicants ... the SVOG program requires the award of funding to eligible applicants who meet the simple requirements of the program.”<sup>130</sup> In a written response to questions from Representative Blaine Luetkemeyer, SBA Administrator Guzman wrote that, “The

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<sup>127</sup> SBA, “SBA Launches Portal to Begin Accepting Shuttered Venue Operators Grant Applications on April 8,” press release, March 19, 2021, <https://www.sba.gov/article/2021/mar/19/sba-launches-portal-begin-accepting-shuttered-venue-operators-grant-applications-april-8>.

<sup>128</sup> SBA, “SBA to Reopen Shuttered Venue Operators Grants for Applications on April 24 at 12:30 p.m. EDT,” press release, April 23, 2021, <https://www.sba.gov/article/2021/apr/23/sba-reopen-shuttered-venue-operators-grants-applications-april-24-1230-pm-edt>.

<sup>129</sup> SBA, *Shuttered Venues Public Report*, June 1, 2021, p. 2, <https://www.sba.gov/sites/default/files/2021-06/Shuttered%20Venues%20Public%20Report%20-%20-%20Midday%201%20June%202021-508.pdf>.

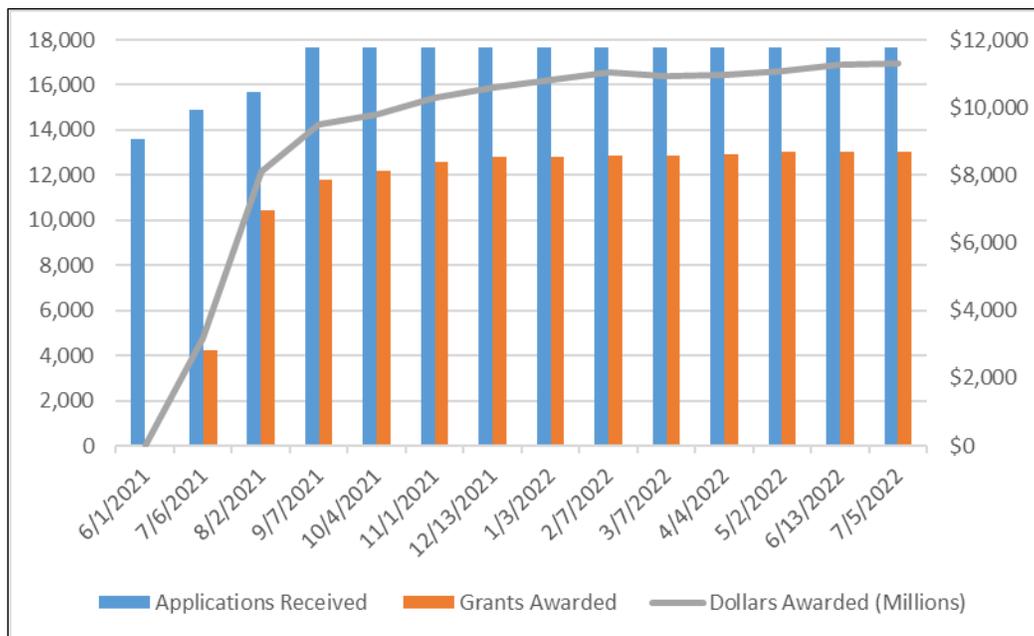
<sup>130</sup> Letter from John Cornyn, United States Senator; Amy Klobuchar, United States Senator; and Bill Cassidy, United States Senator, et al. to The Honorable Isabella Casillas Guzman, Administrator, Small Business Administration, June 15, 2021, [https://static1.squarespace.com/static/5e91157c96fe495a4baf48f2/t/60c8d7a135a12d342fc9df9c/1623775138394/Guzman+Letter\\_SVOG+Approval+Delays.pdf](https://static1.squarespace.com/static/5e91157c96fe495a4baf48f2/t/60c8d7a135a12d342fc9df9c/1623775138394/Guzman+Letter_SVOG+Approval+Delays.pdf).

SBA recognized the pace of SVOG awards did not meet the need for this emergency funding program.”<sup>131</sup>

SBA’s review and disbursement pace increased following the June 2021 letter. For example, as of July 6, 2021 SBA had received 14,884 applications and approved 4,222 awards worth a total of \$3.2 billion.<sup>132</sup> By August 2, 2021 SBA had received 15,707 applications and approved 10,448 awards worth a total of \$8.1 billion.<sup>133</sup> SBA opened applications for supplemental SVOG awards on August 11.<sup>134</sup> SBA stopped accepting all SVOG applications (initial and supplemental) on August 20, 2021. Ultimately, SBA approved 22,811 awards (including initial and supplemental grants) and disbursed a total of nearly \$14.6 billion.<sup>135</sup>

Figure D-1 presents data on SVOG initial applications and awards.

**Figure D-1. SVOG Cumulative Applications and Awards**



**Source:** SBA, various SVOG public reports. Available at SBA, *SVOG Data*, <https://www.sba.gov/funding-programs/loans/covid-19-relief-options/shuttered-venue-operators-grant/svog-data>.

**Notes:** Does not include SVOG supplemental awards. SBA did not make data on the number of supplemental applications publicly available.

<sup>131</sup> U.S. Congress, House Committee on Small Business, *An Examination of the SBA’s COVID-19 Programs*, 117<sup>th</sup> Cong., 1<sup>st</sup> sess., May 26, 2021, H.Rept. 117-15 (Washington: GPO, 2022), p. 70.

<sup>132</sup> SBA, *Shuttered Venue Operators Grant Public Report*, July 6, 2021, p. 2, <https://www.sba.gov/sites/default/files/2021-07/SVOG%20Public%20Report%20-%20Midday%20July%206%202021-508.pdf>.

<sup>133</sup> SBA, *Shuttered Venue Operators Grant Public Report*, August 2, 2021, p. 2, <https://www.sba.gov/sites/default/files/2021-08/SVOG%20Public%20Report%20-%20Midday%20Aug%202%202021-508.pdf>.

<sup>134</sup> SBA, “SBA Announces Plan to Open Supplemental Grants for Shuttered Venue Operators Grant Applicants,” press release, August 11, 2021, <https://www.sba.gov/article/2021/aug/11/sba-announces-plan-open-supplemental-grants-shuttered-venue-operators-grant-applicants>.

<sup>135</sup> SBA, *Shuttered Venue Operators Grant Public Report*, July 5, 2022, p. 2, [https://www.sba.gov/sites/default/files/2022-07/SVOG%20Public%20Report%20-%20Midday%205%20July%202022-508\\_0.pdf](https://www.sba.gov/sites/default/files/2022-07/SVOG%20Public%20Report%20-%20Midday%205%20July%202022-508_0.pdf).

## Appendix E. Restaurant Revitalization Fund (RRF)

### Eligibility

The SBA's OCA administered the RRF program. As stipulated in ARPA, in addition to restaurants, eligible applicants included:

- food stands, trucks, and carts;
- caterers;
- bars;
- bakeries;
- breweries; and
- wineries and distilleries.

Applicants may not have owned or operated more than 20 locations as of March 13, 2020, and could not be publicly traded. The award amount was equal to the amount of COVID-19-related revenue loss an entity experienced, as determined by formulas and up to program limits. Entities that received SVOG awards were not eligible to receive RRF awards.

### Eligible Uses

ARPA mandated that grant recipients could use RRF awards on expenses including:

- business payroll costs;
- rent and mortgage payments;
- business debt service;
- business utility payments;
- business maintenance expenses;
- construction of outdoor seating;
- business supplies (including protective equipment and cleaning materials); and
- covered supplier costs.

### Funding

ARPA appropriated \$28.6 billion to the RRF. ARPA required SBA to set aside \$5 billion for entities with 2019 gross receipts of \$500,000 or less. Additionally, SBA set aside \$4 billion for entities with 2019 gross receipts from \$500,001 to \$1.5 million, and \$500 million for entities with 2019 gross receipts of not more than \$50,000.<sup>136</sup>

### RRF Demand

SBA announced on May 5—two days after the RRF application portal opened—that it had received over 186,000 applications.<sup>137</sup> On May 10, SBA announced it had approved over 16,000

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<sup>136</sup> SBA, *Restaurant Revitalization Funding Program*, April 28, 2021, p. 15, <https://www.sba.gov/document/support-restaurant-revitalization-funding-program-guide>.

<sup>137</sup> SBA, “Administrator Isabella Casillas Guzman Announces Initial Results of Restaurant Revitalization Fund,” press (continued...)

applications worth over \$2 billion.<sup>138</sup> On May 12, SBA announced it had received over 147,000 applications requesting \$29 billion—more than the total appropriated to the program.<sup>139</sup> On May 18, SBA announced that businesses had until May 24 to submit their applications.<sup>140</sup> On July 2, SBA announced the RRF’s closure.<sup>141</sup>

In total, SBA approved 101,004 applications worth \$28.6 billion.<sup>142</sup> SBA received over 278,000 applications requesting \$72.2 billion.<sup>143</sup>

## **Prioritization Lawsuits**

ARPA required SBA to give priority to applicants owned by socially- and economically-disadvantaged individuals, women, and veterans. The law defined “socially- and economically-disadvantaged” through reference to the Small Business Act; under an applicable SBA regulation, some applicants are presumed to be “socially disadvantaged” because they belong to a specified race or ethnicity.<sup>144</sup> ARPA directed SBA to only make awards to businesses owned by members of those groups for the RRF’s first 21 days of operations.

Three lawsuits challenged the constitutionality of the prioritization period. The lawsuits were successful, and federal courts ruled that SBA could not prioritize businesses owned by women or socially- and economically-disadvantaged individuals. (The courts allowed the veterans’ prioritization to stand).<sup>145</sup>

By the time the courts announced their decisions, SBA had already begun taking applications. (The RRF’s application portal opened on May 3, 2021.) According to press reports, this resulted in the agency having to freeze pending payments to 2,965 priority applicants.<sup>146</sup>

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release, May 5, 2021, <https://www.sba.gov/article/2021/may/05/administrator-isabella-casillas-guzman-announces-initial-results-restaurant-revitalization-fund>.

<sup>138</sup> SBA, “The SBA Funds 16,000 Restaurant Revitalization Fund Awards,” press release, May 10, 2021, <https://www.sba.gov/article/2021/may/10/sba-funds-16000-restaurant-revitalization-fund-awards>.

<sup>139</sup> SBA, “Recovery for the Smallest Restaurants and Bars: Administrator Guzman Announces Latest Application Data Results for the Restaurant Revitalization Fund,” press release, May 12, 2021, <https://www.sba.gov/article/2021/may/12/recovery-smallest-restaurants-bars-administrator-guzman-announces-latest-application-data-results>.

<sup>140</sup> SBA, “Last Call: Administrator Guzman Announces Final Push for Restaurant Revitalization Fund Applications,” press release, May 18, 2021, <https://www.sba.gov/article/2021/may/18/last-call-administrator-guzman-announces-final-push-restaurant-revitalization-fund-applications>.

<sup>141</sup> SBA, “SBA Administrator Announces Closure of Restaurant Revitalization Fund Program,” press release, July 2, 2021, <https://www.sba.gov/article/2021/jul/02/sba-administrator-announces-closure-restaurant-revitalization-fund-program>.

<sup>142</sup> SBA, *Restaurant Revitalization Fund (RRF) Report*, June 30, 2021, p. 2, <https://www.sba.gov/document/report-restaurant-revitalization-fund-reports>.

<sup>143</sup> SBA, “SBA Administrator Announces Closure of Restaurant Revitalization Fund Program,” press release, July 2, 2021, <https://www.sba.gov/article/2021/jul/02/sba-administrator-announces-closure-restaurant-revitalization-fund-program>.

<sup>144</sup> 13 C.F.R. §124.103.

<sup>145</sup> See CRS Legal Sidebar LSB10631, *The American Rescue Plan Act: Equal Protection Challenges*, by Christine J. Back and April J. Anderson.

<sup>146</sup> Andy Medici, “Pressure Builds on SBA to Disburse \$180M in Unused Restaurant Grants,” *The Business Journals*, August 11, 2022.

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