

September 2020

COVID-19

Federal Efforts Could Be Strengthened by Timely and Concerted Actions

Edited to include just PPP topics.
Sept. 22, 2020

Assistance to Industry and the Economy

This section provides information on government assistance to industry and the economy, including the PPP and the housing industry.

Paycheck Protection Program

The CARES Act and the Paycheck Protection Program and Health Care Enhancement Act appropriated a total of \$670 billion for PPP, including for lender fees.¹⁴⁵ PPP loans, which are made by lenders but guaranteed 100 percent by the Small Business Administration (SBA), are low interest (1 percent) and fully forgivable if certain conditions are met. The Paycheck Protection Program Flexibility Act of 2020 modified the program, including provisions related to loan forgiveness.¹⁴⁶ As modified, at least 60 percent of the loan forgiveness amount must be for payroll costs to qualify for full loan forgiveness.

As of June 30, 2020—the date PPP was originally scheduled to end—about \$132 billion in loan funding remained. On July 4, 2020, PPP was extended for another 5 weeks until August 8, 2020.¹⁴⁷ SBA reopened the program for applications 2 days later. As of August 8, 2020, lenders had made over 5.2 million loans totaling more than \$525 billion, excluding canceled loans.¹⁴⁸ According to SBA, canceled loans may include, but are not limited to, duplicative loans, loans not closed for any reason, and loans that were paid off.

Geographic distribution of PPP funds. As of August 8, 2020, businesses in 10 states had received \$9,000 or more in PPP loans for every small business employee in that state (see fig. 7).¹⁴⁹

¹⁴⁵See Paycheck Protection and Health Care Enhancement Act, Pub. L. No. 116-139, § 101(a), 134 Stat. at 620; CARES Act, Pub. L. No. 116-136, §§ 1102(b)(1), 1107(a)(1), 134 Stat. at 293, 301. PPP was authorized under SBA's 7(a) small business lending program.

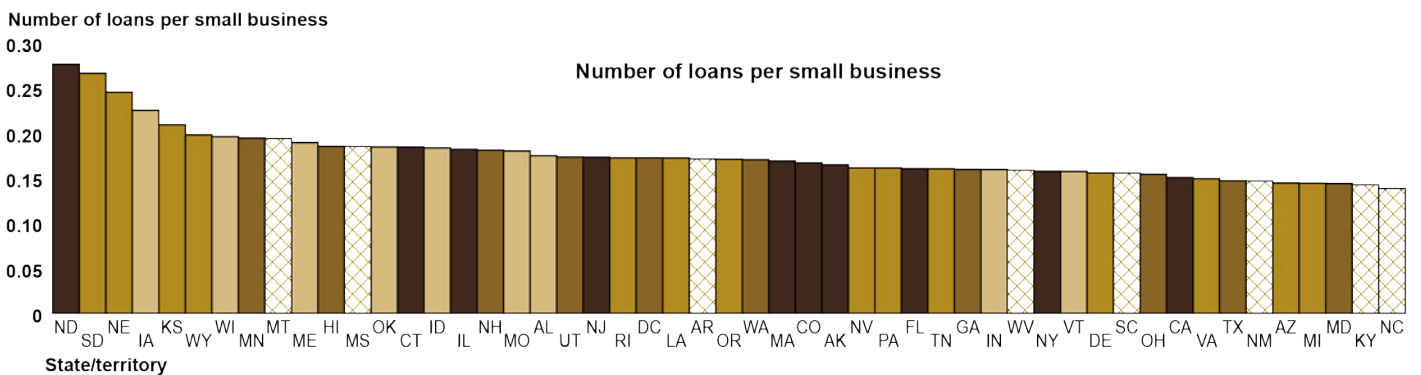
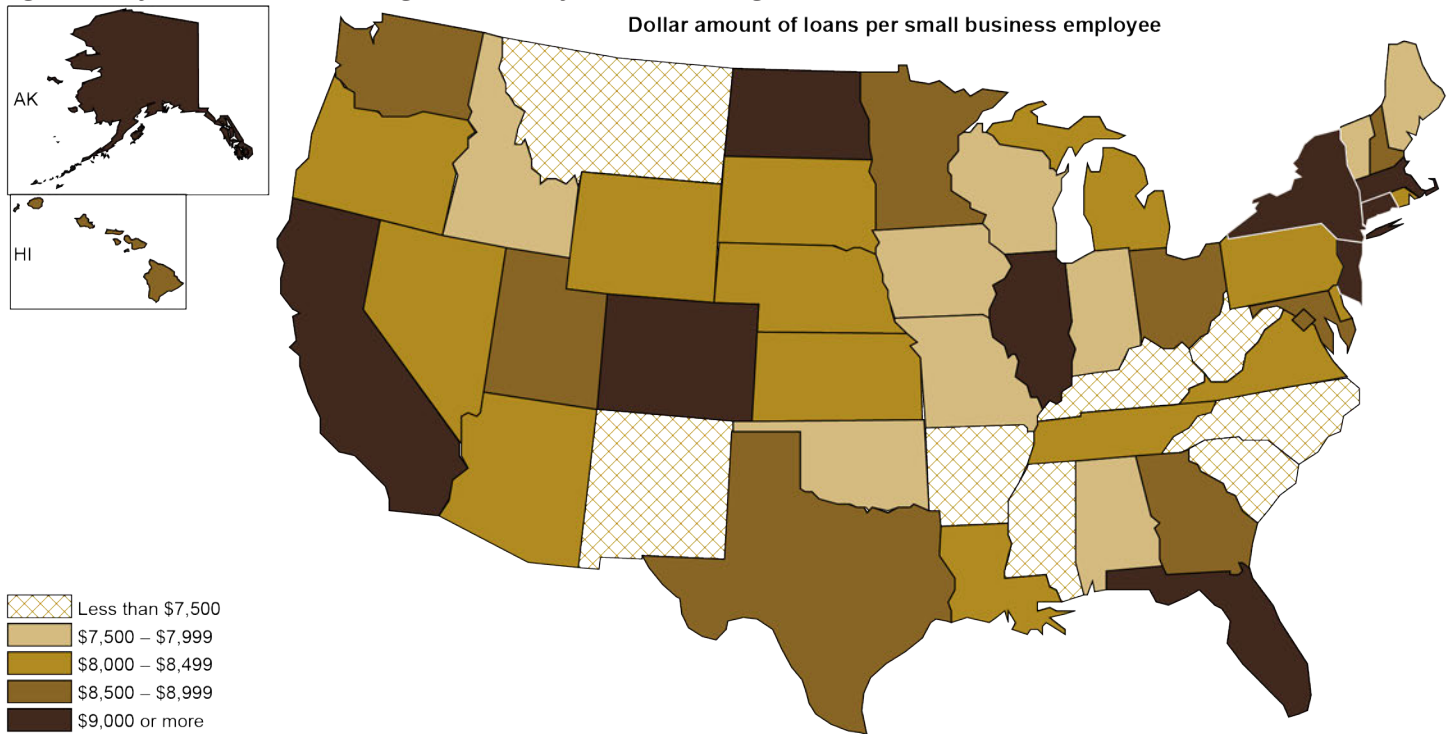
¹⁴⁶See Pub. L. No. 116-142, 134 Stat. 641 (2020).

¹⁴⁷See Pub. L. No. 116-147, 134 Stat. 660 (2020).

¹⁴⁸As of August 8, 2020, about \$134 billion in loan funding still remained.

¹⁴⁹The 10 states are Alaska, California, Colorado, Connecticut, Florida, Illinois, Massachusetts, New Jersey, New York, and North Dakota.

Figure 7: Paycheck Protection Program Loans by State, as of August 8, 2020



Sources: GAO analysis of Small Business Administration data. | GAO-20-701

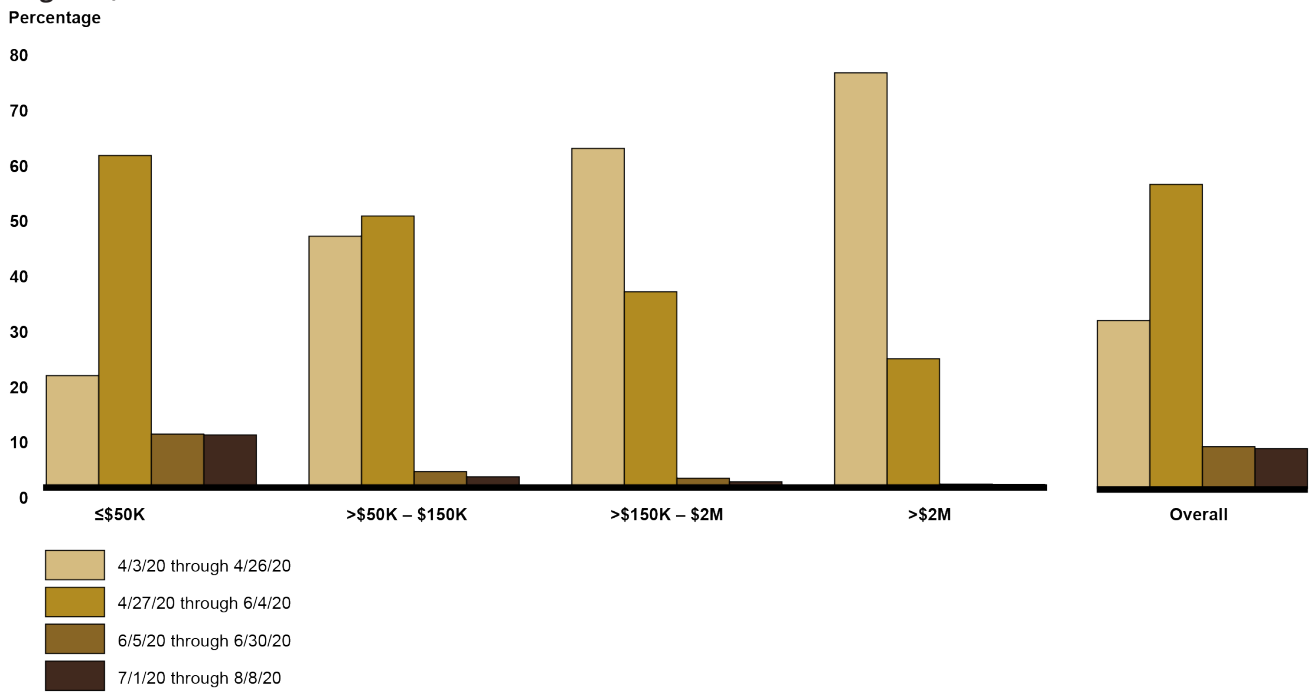
Note: Numbers of small business employees and small businesses are from the Small Business Administration's 2020 Small Business Profile, and dollar amounts and number of loans are from its Paycheck Protection Program data as of August 8, 2020. We excluded U.S. territories from the figure because the 2020 Small Business Profile used different measures for them.

PPP loan size over time. Most of the large loans (above \$2 million) were made during the first phase of the program (April 3–26, 2020), and most of the smallest loans (under \$50,000) were made during subsequent phases (see fig. 8). SBA has provided us loan-level data on all PPP loans approved as of August 8, 2020, including loans under \$150,000.¹⁵⁰ According to our analysis of

¹⁵⁰On July 6, 2020, SBA publicly released loan-level data for loans over \$150,000, including the borrower's name and the loan amount within a range. For loans under \$150,000, SBA released the loan amount within a range but did not release the borrower's name. SBA later updated these data to include loans made through the close of the program's application period (August 8, 2020).

these loan-level data, 75 percent of approved loans above \$2 million were approved during the first phase of the program. As discussed in more detail later in this section, the demand for larger loans may have diminished over time due to increased scrutiny from the public, Treasury, and SBA. In contrast, 60 percent of smaller loans (less than \$50,000) were approved during the second phase of the program. Of all loans approved, smaller loans (less than \$50,000) comprised 46 percent during the first phase, 75 percent during the second phase, 90 percent during the third phase, and 93 percent during the fourth phase.

Figure 8: Percentage of Approved Paycheck Protection Program Loans, by Amount and Program Phase, as of August 8, 2020



Source: GAO analysis of Small Business Administration data. | GAO-20-701

Note: This analysis includes loans that were approved and subsequently canceled. Canceled loans may include, but are not limited to, duplicative loans, loans not closed for any reason, and loans that were paid off. The first phase of the program extends from April 3, 2020, when the Small Business Administration (SBA) first began accepting applications, through April 26, 2020, the day before SBA resumed accepting applications again following the second appropriation of funding (the first appropriation lapsed on April 16, 2020).

The second phase extends from April 27, 2020, when SBA resumed accepting applications, through June 4, 2020, the day before the Paycheck Protection Program Flexibility Act of 2020 was enacted (which extended the period for eligible loan forgiveness expenses from 8 weeks to up to 24 weeks). The third phase extended from June 5, 2020, through June 30, 2020, the initial loan application deadline. The fourth phase extended from July 1, 2020, through August 8, 2020, the current loan application deadline.

PPP loans by business size. The vast majority of loans to businesses that reported employees (94 percent) went to businesses with 100 or fewer employees (see table 4).

Table 4: Paycheck Protection Program Loans, by Business Size, as of August 8, 2020

Number of employees	Number of approved loans	Dollar amount of approved loans	Percentage of approved loans	Percentage of approved amount
Not reported or zero	231,260	11,794,604,768	4.4	2.2
1	1,448,737	16,717,316,163	27.8	3.2
2–10	2,387,327	91,259,559,977	45.8	17.4
11–100	1,054,665	246,556,076,954	20.2	47.0
101–500	85,913	142,437,640,445	1.6	27.1
500+ ^a	4,226	16,247,002,816	0.1	3.1
Total	5,212,128	525,012,201,124	100.0	100.0

Source: GAO analysis of Small Business Administration data. | [GAO-20-701](#)

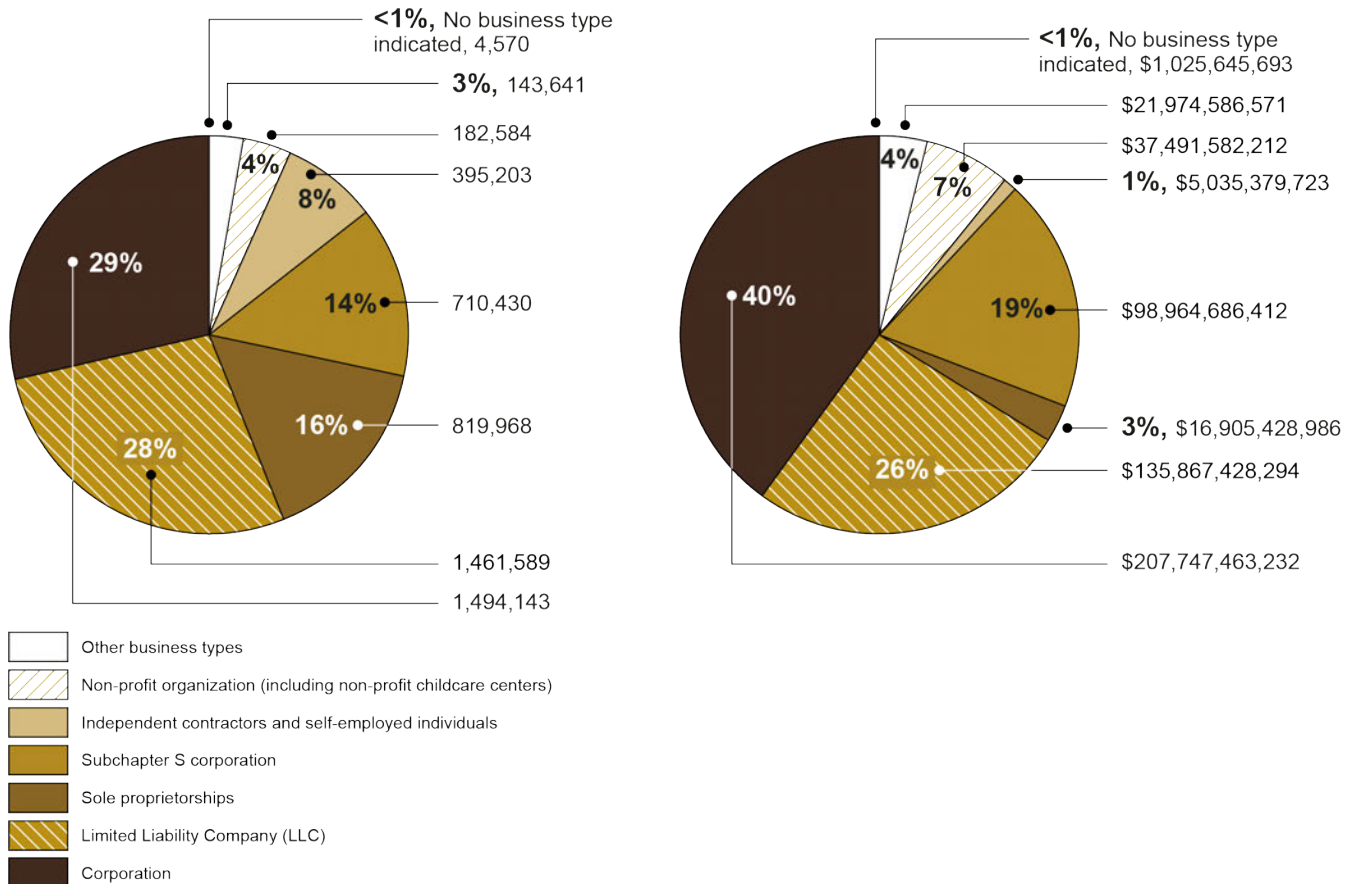
^aSome businesses with more than 500 employees were eligible for Paycheck Protection Program loans if they were considered small in their industries per the Small Business Administration's size standards or if they were in the accommodation and food services industry and had not more than 500 employees per physical location.

Types of businesses approved for PPP loans over time. Several types of businesses received PPP loans, but corporations and limited liability companies received the largest percentages of the approved loan amounts—40 percent and 26 percent, respectively (see fig. 9).

Figure 9: Percentage of Approved Paycheck Protection Program Loans and Approved Dollars, by Business Type, as of August 8, 2020

Number of loans (5,212,128)

Dollar amount of loans (\$525,012,201,123)



Source: GAO analysis of Small Business Administration data. | GAO-20-701

Note: S corporations are corporations that are taxed through their shareholders rather than through the corporation itself. The data field for “other business types” includes cooperatives, employee stock ownership plans, joint ventures, limited liability partnerships, partnerships, professional associations, and trusts.

In addition, certain types of businesses participated in the program in greater numbers at certain times. Ninety-six percent of loans to independent contractors and self-employed individuals were approved during the last three phases of the program (from April 27, 2020, through August 8, 2020). SBA did not post application guidelines for these two groups until 18 calendar days after the CARES Act was enacted (2 days before the first phase of PPP funding was exhausted).¹⁵¹ Similarly, 85 percent of sole proprietorships were approved during the last three phases (from April 27, 2020, through August 8, 2020).

¹⁵¹ According to SBA and Treasury officials, it took time to determine how to calculate payroll costs for independent contractors and sole proprietorships, as this was not a concept naturally applied to these types of entities. Treasury officials also stated that these types of entities had not previously been eligible for SBA programs.

Canceled PPP loans. Borrowers of loans in varying amounts canceled PPP loans.¹⁵² As of August 8, 2020, lenders had canceled about 311,000 loans totaling about \$46 billion. Following reports that publicly traded companies had received PPP loans, SBA issued guidance reminding borrowers that they should carefully review the required economic necessity certification to ensure that they qualify.¹⁵³ In subsequent rules and guidance, SBA announced that borrowers who had previously applied for a PPP loan could repay the loan in full by May 18, 2020, and would be considered to have made their economic necessity certification in “good faith.” About 15 percent of all loans over \$2 million were canceled (see table 5). However, the majority of loans that were canceled (about 75 percent) were less than \$50,000.

¹⁵²As noted previously, canceled loans include loans canceled for a variety of reasons. The data SBA provided did not specify the reason for loan cancellation (for example, because they were duplicates).

¹⁵³Borrowers must certify in good faith that the “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” SBA also stated that any borrower that received a PPP loan with an original principal amount of less than \$2 million would be deemed to have made the required certification concerning the necessity of the loan request in good faith.

Table 5: Canceled Paycheck Protection Program Loans, by Loan Amount, as of August 8, 2020

Amount of loan (\$)	Number of canceled loans	Amount of canceled loans (\$)	Percentage of approved loans canceled	Percentage of approved amount canceled
50,000 and less	232,946	3,425,420,004	6	5
50,001–150,000	38,991	3,409,857,567	4	4
150,001–2,000,000	33,296	17,113,890,518	5	6
More than 2 million	5,336	22,351,390,851	15	17
Total	310,569	46,300,558,940	6	8

Source: GAO analysis of Small Business Administration data. | [GAO-20-701](#)

Note: For purposes of this analysis, canceled loans are those in SBA’s loan-level data with a status of “fully canceled.”

Demographic data on PPP loans. The loan-level data that SBA provided include limited demographic data on borrowers, as SBA did not ask for demographic information on the PPP loan application. According to SBA officials, SBA does not have the legal authority to require a borrower to submit demographic data on a loan application. In a May 2020 report, the SBA Office of Inspector General noted that SBA did not request optional demographic information on the PPP loan application and suggested that the agency (1) revise the borrower application to request these optional data and (2) include optional demographic information on the loan forgiveness form.¹⁵⁴ SBA did not revise the borrower application to collect such information in an effort to streamline the application process, according to agency officials. Consequently, information was not reported for business owners’ race for 90 percent of approved loans, gender for 79 percent of approved loans, and veteran status for 85 percent of approved loans.

To collect some demographic information, SBA has included an optional form as part of the loan forgiveness application. The form requests information such as the race, gender, and ethnicity of the borrower’s principal business owner or owners. Data are not yet available to determine whether this optional form will increase the available demographic data on PPP borrowers.

Data on jobs retained with PPP loans. The system lenders were required to use to submit information on approved PPP loans to SBA included a field for the number of jobs retained, although borrowers were not asked to include this information on their loan applications.¹⁵⁵ Consequently, while SBA’s loan-level data includes data on jobs retained with PPP loans, questions exist about the completeness and accuracy of these data. For example, for 18 percent of loans, these data were either not reported or indicated zero jobs retained, and for 1 percent of loans (about 24,000), the number of jobs retained exceeded the number of employees reported.

¹⁵⁴Small Business Administration, Office of Inspector General, *Small Business Administration’s Implementation of the Paycheck Protection Program Requirements*, Report No. 20-14 (Washington, D.C.: May 8, 2020). SBA includes optional demographic information—including race, gender, and veteran status—for principal business owners on its application for the standard 7(a) program.

¹⁵⁵Instead, borrowers were required to include the number of employees.

Although SBA has addressed how applicants should count employees and calculate payroll for PPP in guidance and regulation, none of the guidance on its website includes instructions to help lenders calculate jobs retained.

When SBA released updated PPP loan-level data as of August 2020, the agency changed the data field previously labeled as *jobs retained* to *jobs reported*. According to SBA officials, this change properly identifies the source of the column's data since the information in it was taken from the PPP loan borrower application where applicants were asked to report their number of employees. However, the system asked lenders for both jobs retained and the number of current employees, and the two numbers sometimes differed in the data we received from SBA. The difference between what lenders were asked to report and how these data are characterized by SBA raises further questions about the quality of the jobs data.

According to SBA officials, lenders will have an opportunity to update or supplement data when they report on disbursed loans and during the loan forgiveness process.¹⁵⁶ SBA has added a form to its website that borrowers and lenders can use to correct any data errors. We will continue to examine the reliability of these data.

SBA's oversight plans. Although SBA has begun developing its oversight plans, including of the loan forgiveness process, it had not yet finalized or implemented them as of August 14, 2020. In our June 2020 report, we recommended that SBA develop and implement plans to identify and respond to risks in PPP to ensure program integrity, achieve program effectiveness, and address potential fraud, including in loans of \$2 million or less.¹⁵⁷ SBA neither agreed nor disagreed with our recommendation. Because SBA had limited time to implement up-front safeguards for the PPP loan approval process and assess program risks, we reported that ongoing oversight would be crucial. We also reported that although SBA had announced efforts to implement safeguards after loan approval, the agency had provided limited information on how it would implement these safeguards.

According to SBA officials, SBA is currently working with Treasury and contractors to finalize plans for loan reviews and loan forgiveness reviews. As we previously reported, SBA and Treasury announced that SBA would review all loans of more than \$2 million, and SBA said these reviews would focus on the borrower's good faith certification concerning the economic necessity of the loan request. SBA officials later clarified that the agency also would review these loans, as necessary, for compliance with general program requirements.

SBA officials told us that a contractor and SBA staff will conduct the reviews of loans over \$2 million and provided the following details. The contractor will review all loans using an automated review tool and will conduct additional manual reviews of some loans based on risks detected by the automated review tool. The contractor also will review the borrower's economic necessity certification. Following the contractor's portion of the review, SBA will review all loans over \$2 million with a combination of SBA contract and federal staff. In addition, a separate and

¹⁵⁶For example, in a procedural notice issued on July 23, 2020, SBA stated that lenders must confirm that the information provided by the lender to SBA when transmitting loan forgiveness decisions accurately reflects the lender's records for the PPP loan. We discuss the loan forgiveness process in more detail later in this section.

¹⁵⁷[GAO-20-625](#).

independent contractor will provide a quality assurance review on a sample of loans. As of August 14, 2020, SBA was still working with Treasury and a contractor to finalize the specific review procedures its contractors and staff would follow.

In an interim final rule posted on May 22, 2020, SBA noted that it may review any PPP loan it deems appropriate, which includes loans of less than \$2 million.¹⁵⁸ According to SBA officials, all of the loans will undergo an automated review to flag potentially questionable loans. They stated that selected loans will undergo a manual review that may include whether a borrower was eligible for the PPP loan, calculated the loan amount correctly and used loan proceeds for the allowable uses, or was entitled to loan forgiveness in the amount claimed. On July 28, 2020, SBA officials said that the agency plans to review loans identified through specific reports of potential noncompliance or fraud and through stratified statistical sampling based on various loan characteristics. They also noted that they had begun reviews based on reports of potential noncompliance or fraud. As of August 14, 2020, SBA was working with Treasury and contractors to finalize plans to review loans of less than \$2 million.

SBA officials also told us that they refer questionable loans to the SBA Office of Inspector General or the Department of Justice for further investigation. Since May 2020, the Department of Justice has publicly announced charges in over 40 fraud-related cases associated with PPP funds. The charges—filed across the United States and investigated by a range of law enforcement agencies—include making false statements and engaging in identity theft, wire and bank fraud, and money laundering.

According to GAO's Fraud Risk Framework, one of the leading practices in managing fraud risks involves the use of data analytics to detect suspicious activity, anomalies, or patterns so that managers can determine which cases of potential fraud to review in detail or identify high-risk program participants for increased oversight or review.¹⁵⁹ However, the usefulness of data analytics for fraud detection can be limited by the data's reliability. In conducting PPP oversight, SBA will be relying on data provided by lenders and borrowers during the loan approval and loan forgiveness processes. We and others have identified some gaps, outliers, duplicates, and anomalies in PPP loan-level data provided by lenders. Although further analysis is needed to determine whether these instances are errors that could be corrected by borrowers and lenders or whether they indicate fraud, they underscore the importance of reliable data for oversight purposes. As noted previously, SBA officials told us lenders will have an opportunity to correct loan-level data when they report on disbursed loans and during the loan forgiveness process, and borrowers can submit a form to SBA requesting a correction. It remains to be seen how much of SBA's oversight also will involve improving the quality of the data.

¹⁵⁸See 85 Fed. Reg. 33,010, 33,012 (June 1, 2020).

¹⁵⁹GAO, *A Framework for Managing Fraud Risks in Federal Programs*, [GAO-15-593SP](#) (Washington, D.C.: July 28, 2015). In its Circular A-123, OMB directed that agencies should adhere to the Fraud Risk Framework's leading practices as part of their efforts to effectively design, implement, and operate an internal control system that addresses fraud risks. Managers are responsible for determining the extent to which the leading practices in the framework are relevant to their program and for tailoring the practices, as appropriate, to align with the program's operations. Office of Management and Budget, *Management's Responsibility for Enterprise Risk Management and Internal Control*, OMB Circular A-123 (Washington, D.C.: July 15, 2016).

We maintain the importance of our prior recommendation that SBA develop and implement plans to identify and respond to risks in PPP, including risks of fraud and improper payments. As SBA finalizes the oversight plans currently under development, such plans could focus on data quality.

Loan forgiveness process. SBA posted additional guidance on the loan forgiveness process on July 23, 2020, August 4, 2020, and August 11, 2020, including on how lenders would transmit their decisions on loan forgiveness to SBA. Based on our review of SBA's rules and discussions with lender associations, uncertainty remains about some aspects of lenders' role in the process. In addition, according to SBA officials, SBA was still developing its plans for overseeing the loan forgiveness process as of August 14, 2020.

- SBA's interim final rules on loan forgiveness and a procedural notice issued on July 23, 2020, indicate that the lender is to review the borrower's application for loan forgiveness and make the decision on forgiveness.¹⁶⁰ However, the extent of lender review required is unclear.¹⁶¹ Prior to making the decision, lenders are expected to perform a "good-faith review" in a reasonable amount of time of the borrower's calculations and supporting documents and confirm the borrower's calculations concerning amounts eligible for loan forgiveness. The interim final rules and procedural notice do not clearly define the extent of review required but one rule provides an example.¹⁶² At the same time, the loan review procedures interim final rule and the procedural notice state that an accurate calculation of the loan forgiveness amount is the responsibility of the borrower and that lenders may rely on borrower representations.

On August 4, 2020, SBA posted responses to frequently asked questions on loan forgiveness that answer technical questions, but do not address broader questions about lenders' role. After SBA issued additional guidance in July and August 2020, representatives of two lender associations we interviewed still had questions or concerns about the lender's role in the forgiveness process, including the level of review required and the extent to which lenders could rely on borrower certifications and calculations.

- In its July 23, 2020, procedural notice, SBA noted that it had contracted with a company to develop and make available a secure platform for lenders to submit loan forgiveness

¹⁶⁰SBA posted interim final rules on the loan forgiveness process and on loan review procedures on May 22, 2020, and revised these rules to reflect changes made by the Paycheck Protection Program Flexibility Act of 2020 in an additional interim final rule posted on June 22, 2020. See 85 Fed. Reg. 33,004 (June 1, 2020); 85 Fed. Reg. 33,010 (June 1, 2020); 85 Fed. Reg. 38,304 (June 26, 2020). In its initial interim final rule posted on April 2, 2020, SBA provided some information on loan forgiveness for both borrowers and lenders, such as the percentage that borrowers had to spend on payroll costs to be eligible for forgiveness. See 85 Fed. Reg. 20,811 (Apr. 15, 2020). In addition, SBA has provided information on loan forgiveness in responses to frequently asked questions posted on an ongoing basis and released separate PPP loan forgiveness FAQs on August 4, 2020.

¹⁶¹The lender has 60 days from receipt of a borrower's complete loan forgiveness application to review the application and make a forgiveness decision. See Pub. L. No. 116-136, § 1106(g), 134 Stat. at 301.

¹⁶²The loan review procedures interim final rule states that minimal review of calculations based on a payroll report by a recognized third-party payroll processor would be reasonable. By contrast, if payroll costs are not documented with such recognized sources, it notes that more extensive review of calculations and data would be appropriate. 85 Fed. Reg. 33,010, 33,013 (June 1, 2020).

decisions, supporting documentation, and requests for forgiveness payments.¹⁶³ SBA launched the platform on August 10, 2020. SBA officials told us they did not expect to receive a large number of loan forgiveness decisions from lenders until early August 2020 due to the timing of the CARES Act and SBA rules.¹⁶⁴

- According to SBA officials, as part of its oversight SBA will put all lender decisions granting full or partial loan forgiveness through the automated review tool provided by one of its contractors. SBA's interim final rule on loan review procedures and the July 23, 2020, procedural notice indicate that SBA reserves the right to direct a lender to deny an application or to review the lender's decision.¹⁶⁵ As of August 14, 2020, SBA was still developing its processes for loan reviews, which include overseeing loan forgiveness.¹⁶⁶

New Renters' Relief Follows Expiration of Key CARES Act Provisions

Many credit the CARES Act with ensuring short-term housing stability during the pandemic by temporarily halting evictions for non-payment of rent and providing an additional \$600 in weekly unemployment benefits. These provisions expired at the end of July, potentially leaving many millions of renters at risk of eviction.

On September 1, 2020, the CDC issued an order halting evictions of qualifying renters to prevent the further spread of COVID-19. This moratorium is in effect from September 4, 2020, through December 31, 2020 and potentially covers up to 44 million renter households.¹⁶⁷

Section 4024 of the CARES Act prohibited evictions of renters living in any property with a federally backed mortgage or tenants living in rental units participating in specified federal programs for

¹⁶³This platform, the PPP Forgiveness Platform, also allows lenders to monitor the status of forgiveness requests and respond to any SBA inquiries or loan reviews.

¹⁶⁴A lender must disburse funds for an approved loan within 10 days of making a decision, and must make a decision on loan forgiveness within 60 days of receiving a loan forgiveness application. Borrowers have either 8 or 24 weeks to incur eligible expenses for loan forgiveness.

¹⁶⁵See 85 Fed. Reg. 33,010, 33,012-13 (June 1, 2020); 85 Fed. Reg. 38,304, 38,310 (June 26, 2020).

¹⁶⁶SBA has 90 days from receipt of the lender's decision on loan forgiveness to remit the forgiveness amount to the lender, subject to any review of the loan, the lender's loan forgiveness decision, or the borrower's completed loan forgiveness application.

¹⁶⁷Department of Health and Human Services, Centers for Disease Control and Prevention, Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 (Sept. 1, 2020) printed in the Federal Register at 85 Fed. Reg. 55292 (Sept. 4, 2020). This order follows an executive order signed by President Trump on August 8, 2020, which directed HHS and CDC to consider whether measures to temporarily halt tenant evictions for failure to pay rent were reasonably necessary in order to prevent the spread of COVID-19. Exec. Order No. 13,945, 85 Fed. Reg. 49,935 (Aug. 14, 2020). This estimate of covered households is the total number of rental households from the 2018 American Community Survey, the most recent estimate of the number of renter households in the U.S. The September 2020 moratorium applies to "any tenant, lessee, or resident of a residential property" who provides a declaration, under penalty of perjury, that they meet certain requirements. Among other requirements, the individual must declare they have used their best efforts to obtain all available government assistance for rent or housing, their expected income for calendar year 2020 is no more than \$99,000 (or no more than \$198,000 if filing a joint tax return), and they are unable to pay the full rent or make a full housing payment for certain reasons.

Paycheck Protection Program

The Paycheck Protection Program closed to new applicants on August 8, 2020, and as of that date, lenders had made over 5.2 million loans totaling more than \$525 billion. The Small Business Administration has started accepting loan forgiveness applications. In response to our recommendation that the Small Business Administration develop and implement plans to identify and respond to risks in the program, the agency has begun to develop oversight plans but has not yet finalized or implemented them.

Entities involved: Small Business Administration, Department of the Treasury

Key Considerations and Future GAO Work

In June 2020, we recommended that the Small Business Administration (SBA) develop and implement plans to identify and respond to risks in the Paycheck Protection Program (PPP) to ensure program integrity, achieve program effectiveness, and address potential fraud, including in loans of \$2 million or less. In response to our recommendation, SBA has begun to develop oversight plans but has not yet finalized or implemented them.

Since June 2020, the PPP loan forgiveness process has begun, but uncertainty about the lender's role in the process and the complexity of the process could result in additional difficulties and delays for borrowers in obtaining loan forgiveness.

We have additional work underway on the borrowers that received the PPP loans and the safeguards SBA has implemented to help ensure that lenders and borrowers complied with program requirements.

Background

The CARES Act and the Paycheck Protection Program and Health Care Enhancement Act appropriated a total of \$670 billion for PPP under SBA's largest guaranteed loan program, its 7(a) small business lending program.⁴⁴² PPP loans, made by lenders but guaranteed 100 percent by SBA, are low interest (1 percent) and fully forgivable if certain conditions are met.⁴⁴³

⁴⁴²See Pub. L. No. 116-136, §§ 1102(b), 1107(a)(1), 1112, 134 Stat. 281, 293, 301; Pub. L. No. 116-139, § 101(a), 134 Stat. 620, 620 (2020).

⁴⁴³As originally implemented by SBA, at least 75 percent of the loan forgiveness amount must have been for payroll costs. In addition, the CARES Act required loans to be used within an 8-week period. However, the Paycheck Protection Program Flexibility Act of 2020 modified this to at least 60 percent and allowed borrowers to incur those expenses over a 24-week period. Pub. L. No. 116-142, § 3, 134 Stat. 641, 641-42 (2020). Under the Flexibility Act, the covered period for PPP loans is the earlier of 24 weeks after origination or December 31, 2020.

As of August 8, 2020 (the close of the program’s application period), lenders had made over 5.2 million PPP loans totaling more than \$525 billion.⁴⁴⁴

Overview of Key Issues

Cases of potential PPP fraud. Since May 2020, the Department of Justice has publicly announced charges in over 40 fraud-related cases associated with PPP funds. The charges—filed across the United States and investigated by a range of law enforcement agencies—include making false statements and engaging in identity theft, wire and bank fraud, and money laundering.

Loan forgiveness process. As established by the CARES Act and implemented in SBA’s interim final rules, the PPP loan forgiveness process involves three steps (see figure below). First, the borrower is to submit a complete loan forgiveness application and associated supporting documents to the lender.⁴⁴⁵ The date by which a borrower may apply for loan forgiveness varies because the borrower may submit the loan forgiveness application any time on or before the maturity date of the loan—including before the end of the 8- or 24-week covered period—if the borrower has used all of the loan funds for which the borrower is requesting forgiveness.⁴⁴⁶ Next, no later than 60 days from receipt of a borrower’s complete loan forgiveness application, the lender is to review the application and make a decision regarding loan forgiveness.⁴⁴⁷ According to SBA officials, SBA had received about 56,000 loan forgiveness decisions from lenders as of September 8, 2020. Finally, no later than 90 days from receipt of the lender’s decision on loan forgiveness, SBA is to send the appropriate forgiveness amount to the lender, subject to any SBA review of the loan or loan application.⁴⁴⁸

⁴⁴⁴Totals exclude loans that have been canceled. According to SBA, canceled loans may include, but are not limited to, duplicative loans, loans not closed for any reason, and loans that were fully paid off.

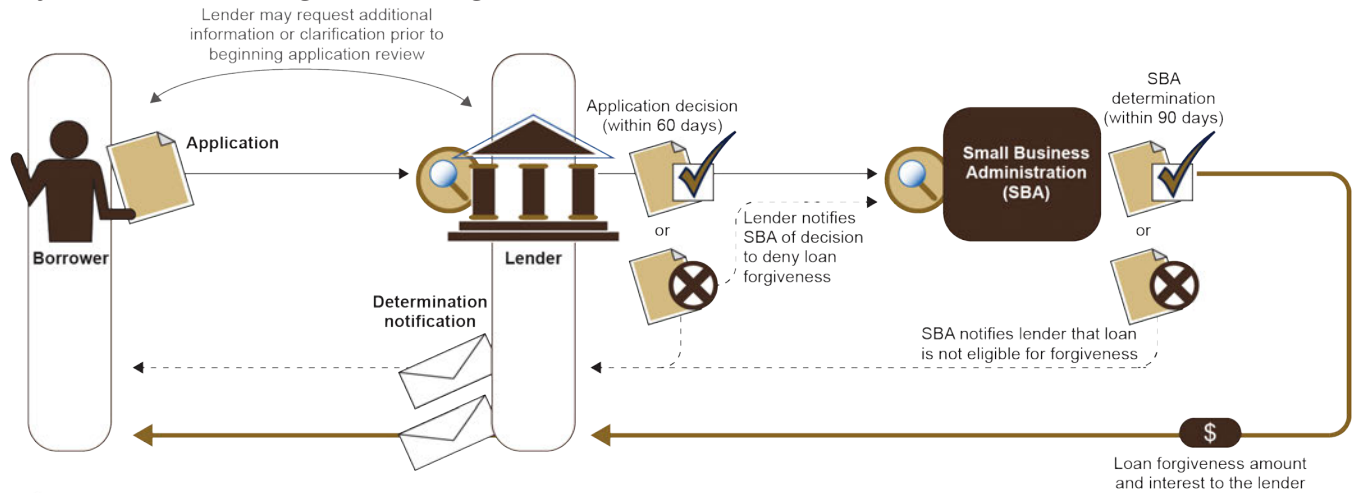
⁴⁴⁵There are two types of SBA loan forgiveness applications: SBA Form 3508 and SBA Form 3508EZ (which is limited to borrowers such as self-employed individuals, independent contractors, and sole proprietors who had no employees at the time of the PPP loan application and borrowers that met certain conditions such as not reducing annual salary or hourly wages of any employee by more than 25 percent). In addition, lenders can develop their own forms as long as they are equivalent to SBA’s forms. With the SBA Form 3508, each borrower must submit a Schedule A that includes costs and adjustments for a loan forgiveness calculation. With both forms, the borrower must submit documentation verifying payroll and non-payroll expenses. Borrowers might also need to produce other documentation if they are using Form 3508 or if the loan is selected for SBA review.

⁴⁴⁶For loans made before June 5, 2020, the maturity is 2 years; however, borrowers and lenders may mutually agree to extend the maturity of such loans to 5 years. For loans made on or after June 5, 2020, the maturity is 5 years. For purposes of loan forgiveness, the covered period is generally the 24-week period beginning on the date the lender disburses the PPP loan. Alternatively, a borrower that received a PPP loan before June 5, 2020, may elect for the covered period to end 8 weeks after the date of disbursement of the PPP loan.

⁴⁴⁷If the lender denies a borrower’s request for loan forgiveness, the borrower may subsequently request that SBA review the lender’s decision.

⁴⁴⁸If SBA determines that the borrower was ineligible for the PPP loan based on the provisions of the CARES Act, SBA rules or guidance available at the time of the borrower’s loan application, or the terms of the borrower’s PPP loan application, the loan will not be eligible for forgiveness. For example, the borrower may have lacked an adequate basis for the certifications that it made in its PPP loan application, in which case SBA would not forgive the loan.

Paycheck Protection Program Loan Forgiveness Process



- Application may include SBA Form 3508, 3508EZ, or lender equivalent, and required documents
- Review stage (Lender reviews completed application; SBA may review the loan, lender's decision, and application)^a
- Loan (all/some) eligible for forgiveness
- Loan not eligible for forgiveness (borrower may request lender reconsideration or SBA review, as appropriate)^b
- Borrower notified about loan forgiveness status:
 - Loan eligible for forgiveness (lender notifies borrower of SBA payment amount); or
 - Some/all of loan not eligible for forgiveness (lender informs borrower of first payment due date)

Source: GAO. | GAO-20-701

^aIndependent of the lender's loan forgiveness application review, SBA may conduct a review of selected loans at any time.

^bSBA posted an interim final rule governing appeals of SBA Paycheck Protection Program loan review decisions on August 11, 2020. 85 Fed. Reg. 52,883 (Aug. 27, 2020).

Loan forgiveness challenges. We identified additional difficulties and delays for borrowers in obtaining loan forgiveness:

- **Need for additional rules and guidance.** As SBA did for the loan application process, the agency has issued rules and guidance on the loan forgiveness process on a rolling basis. SBA posted interim final rules on the loan forgiveness process and on loan review procedures on May 22, 2020, and revised these rules to reflect changes made by the Paycheck Protection Program Flexibility Act in an additional interim final rule posted on June 22, 2020.⁴⁴⁹ The agency also posted a procedural notice on the loan forgiveness process on July 23, 2020, and responses to frequently asked questions on loan forgiveness on August 4, 2020. Finally, on August 11, 2020, SBA posted an interim final rule on appealing SBA loan review decisions, including its decisions related to loan forgiveness.

⁴⁴⁹In its initial interim final rule posted on April 2, 2020, SBA provided some information on loan forgiveness for both borrowers and lenders, such as the percentage that borrowers had to spend on payroll costs to be eligible for forgiveness. See 85 Fed. Reg. 20,811 (Apr. 15, 2020). In addition, SBA has provided information on loan forgiveness in responses to frequently asked questions posted on an ongoing basis and released separate PPP loan forgiveness FAQs on August 4, 2020.

However, questions remain about the process, including the extent of SBA's review of lenders' loan forgiveness decisions. According to SBA officials, SBA intends to put all lender decisions granting full or partial loan forgiveness through an automated review tool provided by one of its contractors, and—when requested by borrowers—to review lenders' decisions to deny loan forgiveness. However, as of August 14, 2020, SBA was still developing its processes for reviewing lenders' forgiveness decisions.

- **Lender role in loan forgiveness potentially unclear.** Under SBA's interim final rules, the lenders make the final decision about loan forgiveness.⁴⁵⁰ Representatives of the four lender associations we interviewed initially had questions or concerns about lenders' role in reviewing borrowers' loan forgiveness applications. According to representatives of two of the associations, the guidance SBA issued in July and August answered their questions. However, representatives of two associations still had questions about the level of review required and the extent to which lenders could rely on borrower certifications and calculations. Representatives of another lending association stated that it was a conflict of interest for lenders to be heavily involved in loan forgiveness because it was in their best interest for the loans to be forgiven.

SBA's interim final rules on loan review procedures and the procedural notice posted on July 23, 2020, state that the borrower is responsible for providing an accurate calculation of the loan forgiveness amount, and the rule states that the borrower is to attest to the accuracy of its reported information and calculations on the loan forgiveness application. However, the interim final rules and notice also state that lenders are expected to perform a good-faith review, in a reasonable amount of time, of the borrower's calculations and supporting documents concerning amounts eligible for loan forgiveness before making their decision on loan forgiveness.⁴⁵¹

The interim final rule on loan review procedures and the procedural notice state that SBA reserves the right to direct a lender to deny an application or to review the lender's decision. As noted previously, SBA was still developing its processes for reviewing lenders' loan forgiveness decisions as of August 14, 2020.

Finally, representatives of two associations commented that the resource demands and the lack of clarity surrounding the application and forgiveness processes have led to lender fatigue with the program. Representatives noted that this lender fatigue could result in members being less likely to participate should there be future rounds of the program. According to SBA officials, lenders receive fees for originating and administering PPP loans, and the process for loan forgiveness is more complex than the loan origination process because the CARES Act has specific requirements for loan forgiveness.

- **Complexity of loan forgiveness process creates burden.** In part because the CARES Act includes specific requirements for loan forgiveness, applying for loan forgiveness is more time consuming than applying for the PPP loan itself and requires more lender review.

⁴⁵⁰The CARES Act requires lenders to issue a decision within 60 days of receiving a PPP loan forgiveness application. Pub. L. No. 116-136, § 1106(g), 134 Stat. at 301 (2020).

⁴⁵¹The interim final rules and procedural notice do not clearly define the extent of review required, but one rule provides an example. The loan review procedures interim final rule states that minimal review of calculations based on a payroll report by a recognized third-party payroll processor would be reasonable. By contrast, if payroll costs are not documented with such recognized sources, it notes that more extensive review of calculations and data would be appropriate. See 85 Fed. Reg. 33,010, 33,013 (June 1, 2020).

SBA estimated that the loan application would take 8 minutes to complete, and its interim final rules and guidance have stated that lenders could rely on the applicant's certifications regarding its eligibility and use of the loan proceeds. In contrast, SBA estimates on its loan forgiveness applications that borrowers will need 3 hours to fill out the standard form, or 20 minutes for the abbreviated application.⁴⁵² And, as previously discussed, lenders are to do a good-faith review of loan forgiveness applications and make a decision about whether the loan should be forgiven. As noted previously, SBA officials told us that loan forgiveness is more complex than the loan origination process because the CARES Act has specific requirements for loan forgiveness. In addition, OMB officials stated that it makes sense for the loan forgiveness process to take longer than the application process to ensure the necessary accountability to warrant forgiveness and prevent fraud.

Representatives of all four lender associations we interviewed stated they had concerns about the complexity of the loan forgiveness process and the amount of time it would take borrowers and lenders. Although SBA states on its standard loan forgiveness application that it will take borrowers 3 hours to complete, representatives from one association heard from lenders that it could take 15 hours for some borrowers to complete. To help applicants with these applications, there are free online forgiveness calculators that borrowers can use to populate their loan forgiveness applications.⁴⁵³ Representatives from a lender association estimated it could take 50-75 hours for lenders to review a complex forgiveness application and the supporting documentation.⁴⁵⁴

Representatives of all four lender associations we interviewed favored simplifying the process for smaller loans, citing the resources that could be saved for borrowers and lenders. Legislation has been proposed that would simplify the loan forgiveness process for borrowers with loans under a certain threshold.

- **Wait to transmit lender decisions to SBA.** On August 10, 2020, SBA activated the platform that lenders would use to transmit their loan forgiveness decisions to SBA. According to the July 23, 2020, procedural notice on loan forgiveness, SBA contracted with a company to make available a secure platform for lenders to submit loan forgiveness decisions, supporting documentation, and requests for forgiveness payments.⁴⁵⁵ According to representatives of the four associations we interviewed, some borrowers were ready to submit their applications to lenders prior to that date. If these applications were complete, the clock would start on the 60 days lenders had to make a decision on loan forgiveness. In addition, organizations such as the American Institute of CPAs advised borrowers in July 2020 to delay submitting their applications for loan forgiveness until SBA released more guidance.

⁴⁵²Some borrowers, such as the self-employed with no employees, are eligible to use the abbreviated form without meeting additional criteria. Others may need to conduct calculations to determine whether they are eligible to use the abbreviated form. For example, borrowers who are not self-employed with no employees must determine if they did not reduce annual salary or hourly wages of any employee by more than 25 percent.

⁴⁵³For example, the American Institute of CPAs offers a free PPP loan forgiveness calculator on its website.

⁴⁵⁴Although some lenders plan to contract with vendors to electronically accept and facilitate the review of the loan forgiveness applications, representatives of the lender associations we spoke with told us that other lenders, especially smaller ones, plan to review the applications manually.

⁴⁵⁵The PPP Forgiveness Platform also allows lenders to monitor the status of forgiveness requests and respond to any SBA inquiries or loan reviews.

GAO Methodology and Agency Comments

To conduct this work, we reviewed interim final rules and guidance issued by SBA and Treasury and interviewed SBA officials. In addition, we interviewed officials from four associations that represent a variety of lenders (American Bankers Association, National Association of Federally-Insured Credit Unions, National Association of Government Guaranteed Lenders, and Opportunity Finance Network) and from the American Institute of CPAs. Their views are not generalizable to other associations that represent lenders and accountants but offered important perspectives.

We provided a draft of this enclosure to SBA, Treasury, and the Office of Management and Budget (OMB). SBA provided technical comments that are summarized in the Agency Comments and Our Evaluation section of this report. Treasury and OMB provided technical comments that we incorporated as appropriate.

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