

SBA'S ADMINISTRATIVE PROCESS TO ADDRESS POTENTIALLY FRAUDULENT RESTAURANT REVITALIZATION FUND AWARDS

Report 23-10 | July 5, 2023





EXECUTIVE SUMMARY

Report 23-10
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SBA'S ADMINISTRATIVE PROCESS TO ADDRESS POTENTIALLY FRAUDULENT RESTAURANT REVITALIZATION FUND AWARDS

What OIG Reviewed

We inspected the U.S. Small Business Administration's (SBA) administrative process used to review potentially fraudulent Restaurant Revitalization Fund (RRF) applications and recover funds.

The American Rescue Plan Act of 2021 authorized SBA to administer the RRF and provided \$28.6 billion to assist qualifying small businesses adversely affected by the Coronavirus Disease 2019 pandemic.

Eligible food and drink businesses had several options to apply for an RRF award, including using SBA's point-of-sale partners to accept the applications on behalf of SBA. Because point-of-sale partners were to use their historical sales data to validate the customers' gross sales claimed on the applications, SBA did not perform an additional verification.

The objective of our inspection was to determine whether SBA took appropriate administrative actions to review potentially fraudulent RRF awards reported by one point-of-sale partner and recover improper payments.

To meet our objective, we reviewed the authorizing legislation, the Government Accountability Office (GAO) *A Framework for Managing Fraud Risks in Federal Programs*, SBA's April 2021 RRF Implementation Plan, federal regulations, and applicable policies and procedures. We met with program officials, SBA contractors, and a point-of-sale partner.

We selected all 3,790 applications that the point-of-sale partner reported to SBA in which gross sales were not supported by historical sales records. The partner also identified that 1,056 of these applications had indicators of potential fraud which were then reported to the OIG Hotline. For a sample of these potentially fraudulent applicants, we reviewed the actions SBA took to review and recover any improper payments after the point-of-sale partner notified SBA of the discrepancies.

What OIG Found

Program officials designed the RRF application validation and approval processes using GAO's framework for managing fraud risks. However,

3,790 applications submitted through a point-of-sale partner were processed without verifying gross sales, a key control designed to prevent ineligible entities from receiving awards.

As a result, SBA's RRF application processing system approved almost all 3,790 applications for awards, totaling \$557 million, despite not having gross sales verified.

Once notified, SBA took quick action and prevented \$278.4 million from being disbursed to 1,618 of the 3,790 applicants, including 946 of the 1,056 potentially fraudulent awards which had been reported to the OIG Hotline.

However, SBA has not reviewed the remaining 2,172 awards, totaling \$278.6 million, which included the remaining 110 potentially fraudulent awards reported to OIG, totaling \$20.7 million.

Until all 2,172 awards are completely reviewed, SBA has no assurance that \$278.6 million in RRF program funds were awarded based on accurate gross sales and cannot attempt to recover improper payments.

OIG Recommendation

We made one recommendation to prioritize and complete the review of 2,172 RRF awards, which includes 110 RRF awards that were suspected of fraud and referred to the OIG Hotline. These awards were flagged for having unsupported gross sales. SBA should take appropriate administrative actions to recover improper payments.

Agency Response

SBA agreed with the recommendation. SBA managers planned to review all 2,172 RRF awards during the post-award process resolve the recommendation.



Office of Inspector General

U.S. Small Business Administration

DATE: July 5, 2023

TO: Isabella Casillas Guzman
Administrator

FROM: Hannibal "Mike" Ware
Inspector General

A handwritten signature in black ink, appearing to be "H. Ware", written over the printed name of the sender.

SUBJECT: Inspection of SBA's Administrative Process to Address Potentially Fraudulent Restaurant Revitalization Fund Awards (Report 23-10)

This report represents the results of our inspection *SBA's Administrative Process to Address Potentially Fraudulent Restaurant Revitalization Fund Awards*. We considered management comments on the draft of this report when preparing the final report. SBA management agreed with our recommendation.

We appreciate the cooperation and courtesies provided by your staff. If you have any questions, please contact me or Andrea Deadwyler, Assistant Inspector General for Audits, at (202) 205 6586.

cc: Arthur Plews, Chief of Staff
Therese Meers, General Counsel
Peggy Delinois Hamilton, Special Counsel for Enterprise Risk
Bailey DeVries, Acting Associate Administrator, Office of Capital Access
John Miller, Deputy Associate Administrator, Office of Capital Access
Katherine Aaby, Chief Financial Officer, Office of Performance, Planning, and the
Chief Financial Officer
Cindy Pitts, Acting Director, Office of Continuous Operations and Risk
Management
Melissa Atwood, Director, Office of Financial Operations and Acquisition
Management
Michael Simmons, Attorney Advisor, Office of General Counsel
Tonia Butler, Director, Office of Internal Controls

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Introduction

On March 11, 2021, the President signed the American Rescue Plan Act of 2021, which provided economic relief to restaurants. The legislation made \$28.6 billion available for the Restaurant Revitalization Fund (RRF) to assist small businesses in the food and drink service industry by awarding grants to offset pandemic-related revenue loss.¹ The U.S. Small Business Administration (SBA) Office of Capital Access was charged with implementing the RRF program.

To help agencies implement the American Rescue Plan Act relief programs in a way that promotes public trust in the government, the Office of Management Budget (OMB) urged agencies to use 2 CFR 200 to provide the highest integrity in financial assistance management.² Also, OMB required agencies to work with the Pandemic Response Accountability Committee and the Inspectors General to strengthen payment integrity to minimize misuse and improve the overall award and administration of financial assistance programs. Agencies needed to submit proposed implementation plans of 2 CFR 200 for any new program authorized by the American Rescue Plan Act to OMB for approval.

In accordance with OMB guidance, SBA program officials established an implementation plan for the RRF program that incorporated 2 CFR 200 controls for awarding federal assistance. Program officials also considered lessons learned from administering a prior Coronavirus Disease 2019 (COVID-19) pandemic relief program, the Paycheck Protection Program, and incorporated fraud detection controls that the Office of Inspector General (OIG) recommended in a memorandum sent to agency management.³ Additionally, program officials considered the U.S. Government Accountability Office's (GAO) *A Framework for Managing Fraud Risks in Federal Programs*⁴ when they designed the system of controls to prevent, respond, and detect fraud in the RRF program.

In April 2021, SBA provided the OIG, the Pandemic Response Accountability Committee, and OMB the RRF implementation plan as required by OMB guidance. At that time, OMB accepted SBA's plan without having any outstanding questions.

¹ Pub. L. No. 117-2 American Rescue Plan Act of 2021, § 5003 Support for Restaurants (March 11, 2021).

² OMB Circular M-21-20, "Promoting Public Trust in the Federal Government through Effective Implementation of the American Rescue Plan Act and Stewardship of the Taxpayer Resources" (March 19, 2021).

³ SBA OIG Memorandum "Key Recommendations Based on Lessons Learned from Prior COVID-19 Economic Injury Disaster and Paycheck Protection Program Loan Programs" (December 23, 2020).

⁴ GAO, GAO-15-593SP, *A Framework for Managing Fraud Risks in Federal Programs*, (July 2015).

SBA's Planned Application Review Procedures

Eligible businesses included those not permanently closed and businesses where patrons are primarily served food or drinks, including but not limited to restaurants, food stands, food trucks, food carts, caterers, and bars.

Eligible businesses had three options to apply for an RRF award:

- call a customer service help line to complete an application questionnaire with a support agent;
- use SBA's online RRF award portal, restaurants.sba.gov;
- submit the application to SBA through their current point-of-sale vendor.

Point-of-sale vendors are technology companies that provide transaction systems to a business to calculate a customer's purchase amount, add applicable taxes, process the payment, and track sales. Every time a customer makes a purchase, they are completing a point-of-sale transaction. According to SBA's RRF Implementation Plan, partnering with these vendors leveraged their "Know Your Customers" capabilities. Having already established relationships with their customers, the intention was to provide an easier process for applicants in which historical sales data could be an added layer of validation. SBA partnered with four point-of-sale companies. Two point-of-sale partners integrated with SBA to provide the RRF application on their websites for their customers, while two other point-of-sale companies only provided a statement to confirm their customer's gross sales.

SBA established four methods to calculate the RRF award amount based on the applicant's gross receipts and operational status, see Table 1.

Table 1: Four Methods Used to Calculate an Applicant RRF Award Amount

Applicant Operational Status	Award Amount Calculation
In operation on or prior to January 1, 2019	The award amount equaled the 2019 gross receipts, minus 2020 gross receipts, minus any Paycheck Protection Program (PPP) loan amounts.
Began operations partially through 2019	The award amount equaled the average 2019 monthly gross receipts, times 12, minus 2020 gross receipts, minus any PPP loan amounts.
Began operations on or between January 1, 2020 and March 10, 2021 or had not yet opened but incurred eligible expenses	The award amount equaled the amount spent on eligible expenses between February 15, 2020 and March 11, 2021, minus gross receipts earned from January 1, 2020 through March 11, 2021, minus any PPP loan amounts.
Operated multiple locations	The aggregate of the award amounts calculated for each location using separate calculation methods.

Source: OIG generated based on Public Law 117-2, American Rescue Plan Act of 2021, Section 5003(a)(7) and RRF Program Guide as of April 28, 2021

SBA required applicants to complete and sign Internal Revenue Service (IRS) Form 4506-T, Request for Transcript of Tax Return, for verification of tax information and then to also submit gross receipts documentation. SBA designed a risk-based tiered validation process that determined the level of review prior to award. At a minimum, these tiers were planned for basic verifications against private and public data sources using the U.S. Department of the Treasury’s Do Not Pay List and other widely used database records. Depending on the risk level assessed, SBA also planned to verify the applicant’s gross receipts using IRS transcripts.

Based on the risk model, SBA assigned applications submitted through its point-of-sale vendor partners at the lowest risk tiers. SBA intended for the partners to use historical sales data already available within their point-of-sale systems to verify the applicants’ reported 2019 and 2020 gross receipts used to calculate the award amount. As such, SBA did not require IRS tax transcripts for applicants who submitted through the point-of-sales partners.

Once the point-of-sales partner received the customer’s application, the partner sent the information to a third-party, who in turn, sent the information to SBA’s RRF online application portal that was developed to validate the applicants’ information. The application was then sent to RRF program officials for review and approval.

Application Discrepancies Reported to SBA by a Point-of-Sale Vendor Partner

From May 3, 2021 to May 19, 2021, one point-of-sale partner submitted 9,726 RRF applications to SBA on behalf of its customers. The partner identified 3,790 applications that included gross sales that were generated outside the partner's point-of-sales systems. The partner also identified trends and similarities among 1,056 of the 3,790 applications that had indications of potential fraud. Both the partner and program officials confirmed the partner reported these discrepancies to SBA on May 17, 2021. Program officials later reported this to SBA OIG. The point-of-sales partner stopped accepting new applications and directed applicants to SBA's direct portal on May 19, 2021.

Objective

Our objective was to determine whether SBA took appropriate administrative actions to review potentially fraudulent RRF awards reported by a point-of-sale vendor partner and recover any improper payments.

Finding: SBA Needs to Review Potentially Ineligible RRF Awards and Recover Improper Payments

Program officials designed the RRF application validation and approval processes using GAO's *A Framework for Managing Fraud Risks in Federal Programs*. The framework provides leading practices for designing and implementing an antifraud strategy with control activities to mitigate fraud risk. The framework recommends federal managers develop, document, and communicate an antifraud strategy to employees and stakeholders that describes the program's activities for preventing, detecting, and responding to fraud, as well as monitoring and evaluating fraud risk management activities.⁵

The RRF's April 2021 Implementation Plan incorporated parts of GAO's framework by establishing a risk-based approval process. Program officials also had the benefit of lessons learned and recommendations that addressed internal control gaps identified in our SBA OIG reports on the Paycheck Protection Program.⁶ The plan required that all applications undergo system validation procedures that checked various private and public data sources. SBA assigned applications submitted through its point-of-sale vendor partners at the lowest risk tiers because SBA relied on the partners to validate the applicant's information and the gross sales amounts using the customers historical sales records.

Because SBA assigned applications submitted by a point-of-sale vendor partner the lowest-risk tier, gross sales were not validated against tax returns. During RRF program implementation, a point-of-sale vendor partner notified program officials that 3,790 RRF applications it accepted included unsupported gross sales, and that 1,056 of these applications showed strong indications of fraud.

Although SBA's application processing system approved the 3,790 applications for awards totaling \$557 million, SBA program officials took quick action and prevented \$278.4 million from being disbursed to 1,618 applicants. This includes 946 of the 1,056 potentially fraudulent awards.

However, 2 years have passed since the point-of-sale partner notification and program officials have not fully reviewed or recovered the 2,172 awards that were already disbursed, totaling \$278.6 million, which includes 110 awards that were identified to SBA

⁵ GAO, GAO-15-593SP, *The Fraud Risk Management Framework and Selected Leading Practices* (July 2015), advises agencies to plan regular fraud risk assessments and assess risks to determine a fraud risk profile.

⁶ SBA OIG, 21-06, *Paycheck Protection Program Loan Recipients on the Department of Treasury's Do Not Pay List*, (January 2021); 21-07, *Inspection of SBA's Implementation of the Paycheck Protection Program*, (January 2021); 21-09, *Duplicate Loans Made Under the Paycheck Protection Program*, (March 2021); also 22-09, 22-13, and 22-25 collectively identify internal control gaps in the PPP and require that SBA officials implement corrective actions relative to the PPP and future pandemic related programs.

OIG by the vendor as potentially fraudulent (see Appendix II). Though program officials plan to conduct post-award audits of these awards, 665 were not included in their audit sample.

SBA relied on the partner to validate the applicants' gross sales amount. However, the point-of-sales partner documented that they were not responsible for verifying gross sales outside of their database. Until all 2,172 awards are reviewed, SBA has no assurance that the \$278.6 million in RRF program funds were awarded based on accurate gross sales and cannot attempt to recover improper payments.

Point-of-Sale Applications Processed Without Gross Sales Verification

To prevent improper payments from occurring, SBA established controls to verify that an application was eligible for an RRF award. According to the RRF's April 2021 Implementation Plan, the point-of-sale partners were expected to use the historical sales data for their customers to validate the applicants' gross receipts. As a result, SBA classified applications accepted by point-of-sale partners as a lower risk with a tier 1 or 2 designation and did not compare gross sales against IRS tax transcripts. The RRF implementation plan also required that program officials review applications flagged during the validation process prior to issuing award payments. Although SBA established a number of controls to mitigate the risk of fraud, they were not adequately used.

Without the point-of-sale partner reporting that 3,790 of the applications submitted to SBA included gross sales amounts that were unsupported by historical sales records, SBA more than likely would not have detected this discrepancy for some of these applications.

Of the 3,790 awards that the partner flagged for having included unsupported gross sales in the application, 2,172 awards were disbursed for a total of \$278.6 million without adequate verification of the gross sales amounts. SBA officials told us that these applications were incorrectly classified as being verified due to a technical error in the partner's system.

SBA program officials noted that these awards will be part of their post-award audit reviews. However, when we matched their post-award audit sample listing against these 2,172 awards, we found 665 awards, totaling \$99.5 million, were missing from the post-award audit sample population.

SBA should also include the 665 awards with unsupported gross sales to determine whether the payment was proper. Federal regulations and SBA's federal assistance

directive require program officials to demand awardees return any payments made in excess of the entitled amount to the government.⁷

Applications Identified for Potential Fraud

Of the 3,790 awards the partner reported to SBA, the partner reported that 1,056 showed strong indications of fraud. The partner submitted the suspected fraudulent applications to the OIG Hotline. The partner detected that nearly all the suspicious applications were submitted by accounts that were created on or after May 3, 2021, which was the first day the point-of-sale partner and SBA began to accept RRF applications.

The point-of-sale partner detected that many accounts listed a business name identical to the owner's first and last names and signed up with unusual email domains. The partner told us that some of these email domains registered high fraud scores on independent third-party databases that analyzes email addresses. Further, the partner found several merchant accounts shared assets with unrelated individuals. For instance, the same computer or email domain was used to file applications in various locations. The point-of-sale partner concluded that these unique patterns and shared assets between unrelated individuals in different locations were consistent with identity theft.

Although program officials were able to prevent most of the awards that had been reported as potentially fraudulent from receiving funds, 110 awards were paid \$20.7 million. Despite knowing that these awards were likely made to ineligible recipients, program officials have not reviewed these awards or attempted to recover the funds. They told us that these awards will be reviewed as part of a post-award audit of 10,058 awards without any priority placed on these applications flagged for potential fraud.

We also determined that none of the 110 award recipients completed the required annual reporting submissions or certifications that the recipient used the funds on eligible expenses. SBA's Federal Assistance Policy Directive requires that the agency take appropriate action when recipients do not comply with federal statutes, regulations, terms and conditions of the award. Federal regulations require agencies to issue a written demand for payment to recover debts to the government.⁸ Despite these requirements, SBA did not take any further action beyond referring the 110 awards to the OIG Hotline although SBA had administrative authority to review these potentially fraudulently obtained RRF awards and seek recovery of improper payments.

⁷ 2 C.F.R. § 200.346.

⁸ 31 C.F.R. § 901.2.

SBA Relied on Point-of-Sale Partner for Application Validations

SBA developed a Security and Application Programming Interface Agreement, and the point-of-sale partner prepared the Product Definition document which collectively expressed the terms of the partnership. SBA program officials stated the point-of-sale partner had a responsibility to screen and check the validity of the financial information submitted by the applicant. However, it was the point-of-sales partner's understanding that they were only an intake portal that would forward all information provided by the applicant to a third-party for SBA to review. Additionally, the Product Definition document made it clear that the partner was not responsible for verifying any information provided by the RRF applicant that did not originate from the point-of-sales partner's database.

The partner told us that they detected the potentially fraudulent applications as part of their normal monitoring of their system activity. They noticed an increased volume of RRF applications and determined that the spike corresponded with newly created accounts being used to apply for the awards. The partner voluntarily reported the suspicious activity to SBA.

There is a reasonable expectation that SBA should take responsibility for verifying data in the absence of historical data. In fact, the Implementation Plan required SBA to validate gross sales against tax returns in the absence of historical gross data.⁹ Once the point-of-sale partner notified SBA that it submitted applications without validating gross sales, SBA should have immediately reviewed the 2,172 applications (57 percent of the 3,790 applications reported by the point-of-sale partner), disbursed for a total of \$278.6 million, and attempted to recover any improperly disbursed funds.

Recommendation

We recommended that the Administrator direct the Associate Administrator for the Office of Capital Access to:

1. Prioritize and complete the review of the 2,172 awards that were flagged by the point-of-sale partner as having unsupported gross sales and take appropriate administrative actions to recover improper payments, which includes 110 awards that were suspected of fraud.

⁹ 2 CFR Implementation Plan Template for New Programs Authorized by the American Rescue Plan (April 2021).

Analysis of Agency Response

SBA management provided formal comments that are included in their entirety in Appendix III. Management fully agreed with recommendation 1. Subsequent to receiving management's written response, we followed up with program officials to clarify implementation timelines. We found that the agency's planned actions are sufficient to resolve the recommendation.

Summary of Actions Necessary to Close the Report

The following section details the status of the recommendation and the actions necessary to close it.

Recommendation 1

Prioritize and complete the review of 2,172 RRF awards, which includes 110 RRF awards that were suspected of fraud and referred to the OIG Hotline. These awards for having unsupported gross sales. SBA should take appropriate administrative actions to recover improper payments.

Status: Resolved.

SBA managers agreed with the recommendation and are reviewing all 2,172 RRF awards during the post-award process. Management plans to complete final action by June 30, 2024.

This recommendation can be closed when management provides results of the reviews for all 2,172 RRF awards and, if applicable, evidence that management took administrative action to recover improper payments.

Appendix I: Objective, Scope, and Methodology

Objective

To determine whether SBA took appropriate administrative actions to review potentially fraudulently obtained RRF program funds reported by point-of-sale partner and recover improper payments.

Scope and Methodology

To meet our inspection objective, we reviewed applicable Restaurant Revitalization Fund legislation, GAO's *A Framework for Managing Fraud Risks in Federal Programs*, RRF's April 2021 Implementation Plan, federal regulations in 2 CFR 200.345, and applicable SBA policies and procedures. We also reviewed SBA's RRF program webpage and all publicly available documents. We met with SBA program officials, contractors, and the point-of-sale partner for additional clarity and documentation.

We relied on the data SBA and the point-of-sale partner provided, showing the RRF applications that originated at the point-sale partner's website in May 2021.

The point-of-sale partner reported issues with applications it had submitted to SBA for processing. These applications were submitted between May 3, 2021 and May 17, 2021 (See Table 2 for the types of issues identified and number of awards).

Table 2: Point-of-Sale Partner Report to SBA about RRF Applications Transmitted

Point-of-Sale Partner Inventory of RRF Applications Transmitted for Processing	Number of Applications	Award Amount
Applications Identified with Unverified Gross Sales	3,790	\$556,970,119
Paid Applications Identified with Unverified Gross Sales	2,172	\$278,570,834
Unpaid Applications Described in Payment System as Fully Canceled, Active Un-Disbursed or Blank (No Description)	1,618	\$278,399,285

Source: OIG generated based on Office of Capital Access' listings containing RRF applications and point-of-sale partner's records

SBA used the RRF online application platform to help process and maintain program applications and awards. We selected all 3,790 applications identified by the point-of-sale partner with unverified gross sales totaling \$557 million. This included 1,056 applications that the point-of-sale partner also identified with potential fraud.

The scope of the inspection was limited to documented comments made by SBA and one point-of-sale partner, as well as official award documents held on the RRF online

application platform. We believe that the evidence we obtained provides a reasonable basis for our findings and conclusions based on our inspection objective.

We conducted this inspection in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*. Those standards require that we adequately plan and perform the inspection to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objective.

Use of Computer-Processed Data

We relied on computer-processed data in the RRF online application platform and E-Tran (payment data) files. We retrieved listings of applications, award information, and SBA's record for 3,790 RRF applicants. We tested the reliability of the data by comparing data received from the point-of-sale partner to data received from SBA. We believe the computer-processed information is reliable for the purposes of this inspection.

Appendix II: Monetary Impact

Questioned costs are expenditures that do not comply with legal, regulatory, or contractual requirements; are not supported by adequate documentation at the time of the inspection; or are unnecessary or unreasonable.¹⁰ Questioned costs may be remedied by offset, waiver, recovery of funds, the provision of supporting documentation, or contract ratification, where appropriate.

Table 3: OIG Schedule of Questioned Costs

Recommendation	Category	Amount
1	Unsupported award amounts	\$278,570,834
Total	-	\$278,570,834

Source: OIG analysis of data received from SBA and point-of-sale partner

¹⁰ Inspector General Act of 1978, as amended, section 5(f)(1).

Appendix III: Management Comments

SBA Management Response to Inspection Report



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, DC 20416

TO: Hannibal “Mike” Ware, Inspector General
The Office of Inspector General (OIG)

FROM: Jihoon Kim **JI KIM** Digitally signed by JI KIM
Date: 2023.06.21 14:42:04 -04'00'
Director, Office of Financial Program Operations

SUBJECT: Response to OIG Draft Report entitled “Inspection of SBA’s Procedures to Recover Potentially Fraudulently Obtained Restaurant Revitalization Funds”

DATE: June 21, 2023

Thank you for providing the Office of Capital Access (OCA) the opportunity to respond to OIG’s Draft Report entitled, “Inspection of SBA’s Procedures to Recover Potentially Fraudulently Obtained Restaurant Revitalization Funds,” dated May 5, 2023. The OIG’s audit objective for this draft report was to determine whether SBA took appropriate administrative actions to review potentially fraudulent RRF awards by a point-of-sale vendor and recover any improper payments.

OIG Recommendation 1 – We recommend to prioritize and complete the review of 2,172 RRF awards, which includes 110 RRF awards that were suspected of fraud and referred to the OIG Hotline. These awards were flagged for having unsupported gross sales. SBA should take appropriate administrative actions to recover improper payments.

SBA Response: SBA concurs with this recommendation and is currently reviewing all 2,172 RRF awards during the post-award process.