

THOUGHT LEADERSHIP**ARTICLES**

PUBLISHED: MAY 1, 2025

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Professionals

REBECCA FURDEK

MILWAUKEE:

414.978.5348

REBECCA.FURDEK@
HUSCHBLACKWELL.COM

EMILY LOFTIS

WASHINGTON:

202.378.9313

EMILY.LOFTIS@
HUSCHBLACKWELL.COM

KYLE J. GILSTER

WASHINGTON:

202.378.2303

OMAHA:

402.964.5030

KYLE.GILSTER@
HUSCHBLACKWELL.COM

PPP Loan Audits and Investigations Expected to Continue

**WHAT INDIVIDUALS AND COMPANIES NEED TO KNOW ABOUT AUDITS,
ENFORCEMENT, REPAYMENT, AND COLLECTIONS UNDER THE NEW TRUMP
ADMINISTRATION.**

While the COVID-19 pandemic and its accompanying challenges for businesses may feel long ago as we near the middle of 2025, federal government scrutiny through audits and enforcement actions—including repayment of millions of dollars in borrowed funds—are a growing reality for many. Audits and investigations related to U.S. Small Business Administration (SBA) Paycheck Protection Program (PPP) loans remain a significant focus of federal agencies, and repayment on unforgiven PPP loans have been coming due for borrowers, in some cases leading to solvency issues. This circumstance has created significant legal issues, including complexities related to the SBA audit process and U.S. Department of Justice (DOJ) investigations.

PPP Background and Implementation

The PPP was established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which was signed into law during the early days of the pandemic. The program was an immediate hit with business owners, as lockdowns and other public health countermeasures effectively shut down large swaths of the U.S. economy and imperiled the livelihoods of millions of people. Approximately \$800 billion was disbursed by the SBA via PPP loans. By the end of 2022, the SBA reported that 10.5 million loans had been forgiven, accounting for \$755 billion.

Not long thereafter came reports of massive amounts of fraud in connection with PPP loans. In May 2023, the U.S. Government Accountability Office

“flagged” nearly four million loans “as having warning signs consistent with potential fraud. Even the SBA’s own Inspector General estimated that that SBA disbursed over \$200 billion, or roughly 17 percent of all EIDL and PPP funds, “to potentially fraudulent actors.”

Amid such breathtaking fraud, the federal government cited the need to deploy cash quickly in order to stave off the most destructive consequences of the pandemic lockdowns. However, the government has also been revisiting the PPP and using its broad authority to claw back money and hold fraudulent individuals to account.

While many businesses qualified for PPP loan forgiveness, those that did not now have loans coming due. The SBA has referred more than 10,000 delinquent PPP loans with balances over \$100,000 to the Treasury Department for collection and at this time last year began referring around \$20 billion in delinquent PPP loans with balances of less than \$100,000 to the Treasury Department for collection.

This seems like a large sum of money, but in reality, it is less than three percent of the funds disbursed. The larger effort concerns fraud, and this focus has been sharpened by bizarre-but-true stories recounting just how easy it was to hoodwink the SBA, such as the so-called Tax Bandits scheme run by an inmate out of a prison in California. That instance of fraud in particular focused attention on the Employee Retention Tax Credit (ERC), a tax credit program implemented to assist eligible businesses in retaining employees by providing a refundable payroll tax credit. Pursuant to the Consolidated Appropriations Act of 2021, businesses could qualify for both a PPP loan and ERC, but now, as evidence mounts that these programs were jointly the locus of massive fraud, businesses that availed themselves of both programs are likely face a greater chance of being audited.

Legal Framework for PPP Loan Audits

According to the rules set forth in the implementation of the PPP, the SBA may undertake a loan review at any time in SBA’s discretion, including after forgiveness has been extended to a borrower. Audit activities can include an investigation into whether the borrower accurately calculated its PPP loan amount eligibility, whether the PPP loan funds were used in accordance with the CARES Act (i.e., the portion of the funds used for payroll costs vs. non-payroll costs), and the borrower’s eligibility for forgiveness based on the information provided in the borrower’s application for forgiveness.

If the SBA decides to conduct such an audit, it will send written notice to the lender, who shall provide notice of the audit to the borrower within five business days. In an effort to eliminate potential delays in the audit process, it is wise for PPP loan borrowers to work with outside counsel to begin compiling the documentation likely to be requested during the audit process.

If a borrower fails to respond to an SBA audit inquiry, the SBA may determine that the borrower was ineligible to receive the PPP loan, ineligible to receive the amount of the PPP loan, or ineligible for the loan forgiveness amount claimed by the borrower and may seek repayment of the outstanding PPP loan balance or pursue any other available remedy. Additionally, following an audit of the borrower's PPP loan, if the SBA reaches a final loan review decision that is unfavorable to the borrower, the borrower has 30 calendar days to file an appeal with the Office of Hearings and Appeals (OHA).

PPP-Focused Audits and Investigations Are Likely to Continue under Trump 2.0

In addition to the SBA audit process, DOJ has spearheaded a significant effort across the federal government in recent years to investigate—and as appropriate—prosecute pandemic fraud. Such investigations may include both potential criminal investigations or civil investigations and often include at the early stages the issuance of subpoenas or Civil Investigative Demands (CID), including under the False Claims Act (the FCA).

In April 2024, then-U.S. Attorney General Merrick Garland relayed in a report detailing the prior three years of enforcement efforts that DOJ had “charged more than 3,500 defendants, seized or forfeited over \$1.4 billion in stolen COVID-19 relief funds, and filed more than 400 civil lawsuits resulting in court judgments and settlements.” That trend built upon several years of focus by DOJ in combatting pandemic-related fraud, including through the creation of DOJ’s COVID-19 Fraud Enforcement Task Force (CFETF) in 2021, in which DOJ has partnered with several other federal agencies, including the SBA.

Such enforcement activities continue today and are unlikely to significantly wane in the near future. For example, on March 12, 2025, DOJ announced a consent judgment totaling over \$20 million to resolve False Claims Act (FCA) allegations concerning information provided in support of PPP and other pandemic loan applications. The corresponding press release included a statement that DOJ is “committed to holding accountable those who undermined the purpose” of the PPP, and similarly, a statement from the SBA that “[t]his settlement is a victory over bad actors seeking to exploit taxpayer-funded programs.” As another example, on April 8, 2025, DOJ announced a settlement totaling over \$10 million to resolve FCA allegations concerning Congress’ limitation of eligibility for PPP loans to businesses with fewer than 500 employees. The corresponding press release emphasized the “continuing commitment of the Department of Justice and the Small Business Administration to hold accountable sophisticated business that abused this emergency program.” It appears that PPP enforcement remains alive and well in the new administration. Similarly, on the SBA audit front, we expect that borrowers will continue to need assistance with PPP-related matters in the new administration, as the increase in SBA audits is also unlikely to change. While President Trump has not yet outlined a plan to address PPP fraud specifically, he and many of his close advisors have raised concerns about inefficient and wasteful federal programs. Even if there is a temporary lag in

enforcement efforts while the new administration continues ramping up, President Trump has signaled he remains interested in aggressively addressing waste and abuse, which would presumably include PPP fraud.

In a statement announcing former senator Kelly Loeffler as his pick to lead the SBA, the President previewed that Loeffler will be “cracking down on waste, fraud, and regulatory overreach.” Similarly, in a February 20 statement, Loeffler characterized the prior four years as being marked by “unchecked fraud, waste, and abuse” and promised to focus on “accountability” as a core priority. Despite the change in administration, business owners with exposure to potential PPP-related liability need to remain alert to the federal government’s continuing focus on PPP loans and take steps to mitigate risk.