



OFFICE OF THE SPECIAL INSPECTOR GENERAL
FOR PANDEMIC RECOVERY

The Honorable Kelly Loeffler
United State Senate
131 Russell Senate Office Building
Washington, DC 20510

August 12, 2020

Dear Senator Loeffler,

Thank you for your letter dated August 6, 2020 regarding the 43 Planned Parenthood affiliates that applied for and received CARES Act funds through the Small Business Administration's Paycheck Protection Program (PPP). I appreciate your concern for any potential instance of fraud or abuse.

As I indicated in my 60-day report, SIGPR's mission is to ensure the American taxpayer gets the best return on investment by efficiently rooting out fraud, waste, and abuse. As such, SIGPR is a key part of making sure CARES Act funds are put to their proper purpose: restoring our robust economy and sustaining every American during these challenging times. Any group of business affiliates knowingly and intentionally engaged in falsifying documents to improperly obtain CARES Act funds would therefore constitute the kind of corrupt conduct SIGPR intends to investigate and, when appropriate, refer for prosecution.

Even assuming Planned Parenthood affiliates have engaged in the illicit behavior described by your letter, however, it is not clear SIGPR has jurisdiction over the PPP. The CARES Act grants SIGPR jurisdiction over Division A loans, loan guarantees, and other investments made by the Secretary of the Treasury, as well as Division A programs managed by the Secretary.¹ The PPP falls within Division A, but the Small Business Administration administers and forgives (when warranted) loans awarded under the program and is empowered to guarantee those loans.² It thus appears the Secretary of the Treasury neither manages the PPP nor makes loans, loan guarantees, or other investments under the program. If that is the case, SIGPR lacks jurisdiction. But as I also indicated in the 60-day report, "[w]hich programs are managed by the Secretary is ultimately a factual question that will require ongoing analysis."³

We will work diligently to determine precisely which Division A programs fall within SIGPR's purview, paying close attention to the operational facts on the ground and the plain text of the CARES Act. As my initial report emphasized, "[t]he mission of the office is not to correct every

¹ See CARES Act § 4018(c).

² See CARES Act §§ 1102(a)(2), 1106(b); see also 15 U.S.C. § 636(a) ("The Administration is empowered to the extent and in such amounts as provided in advance in appropriation Acts . . . to make loans to any qualified small business concern, including those owned by qualified Indian tribes, for purposes of this chapter.").

³ Special Inspector General for Pandemic Recovery Initial Report to Congress (Initial Report), at 13 (Aug. 3, 2020), available at <https://www.oversight.gov/report/prig/special-inspector-general-pandemic-recovery-initial-report-congress>.

wrong,” but, instead, it is “through a specific statutory mandate” that “SIGPR serves the people of the United States.”⁴ And I, like “all government officials[,] must be careful to exercise only the authority ultimately given by the consent of the governed,” as reflected by enacted text.⁵

To the extent your letter, like similar statements by your colleagues, should be read to indicate Congress intended to grant SIGPR jurisdiction over the PPP and beyond,⁶ SIGPR welcomes textual clarification in future legislation. Our initial report simply offers our best analysis of the law as written.⁷ Reasonable minds certainly can and do differ on that analysis. But where the text is clear and the mandate unmistakable, I commit to you that our office will execute our mission fully and faithfully.

In the meantime, I will provide a copy of your letter, as well as this letter, to the Department of Justice, the Small Business Administration Office of Inspector General, and the Pandemic Response Accountability Committee.

Respectfully Submitted,



Brian Miller, Inspector General
Special Inspector General for Pandemic Recovery

⁴ *Id.* 25

⁵ *Id.*

⁶ *See, e.g.*, Letter from Senator Elizabeth Warren to Brian D. Miller, Special Inspector General for Pandemic Recovery, at 1 (July 15, 2020),

<https://www.warren.senate.gov/imo/media/doc/2020.07.15%20Letter%20to%20SIGPR%20on%20CARES%20Act%20lobbying2.pdf> (“As the Special Inspector General appointed to investigate *any* fraud, waste and abuse of *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) funds” (emphasis added)).

⁷ Initial Report, *supra* note 3, at 5 (“[W]hile redundancies reinforce accountability, efficiency and fairness counsel in favor of clarity and deconfliction. Interpreting the text of the CARES Act, SIGPR therefore uses this initial report to offer its best, objective understanding of the jurisdictional contours for each of the entities assigned a major oversight role by the CARES Act and invites Congress to clarify the areas where potential ambiguities remain.”).

United States Senate

WASHINGTON, DC 20510

August 6, 2020

The Honorable Brian D. Miller,
Special Inspector General for Pandemic Recovery
U.S. Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220

Dear Special Inspector General Miller,

As the newly confirmed Special Inspector General for Pandemic Recovery (SIGPR), you have the authority to investigate and audit all loans made or managed by the Secretary of the Treasury, including those made under the Paycheck Protection Program (PPP). We write, therefore, to ask that you review the loans made to at least 43 Planned Parenthood affiliates.¹ Specifically, we ask that you investigate how these affiliates were able to obtain PPP loans despite their ineligibility under the Small Business Administration's (SBA) affiliation rules,² whether any Planned Parenthood affiliates knowingly provided false information in their PPP loan applications, and to what extent the parent organization, Planned Parenthood for America (PPFA), was involved in the application process for said loans.

On May 19, 2020, SBA sent a letter to a number of Planned Parenthood affiliates who had received PPP loans informing them that it had made a preliminary determination that the affiliates did not qualify for the loans and all funds must be returned.³ SBA's preliminary determination found that the affiliates did not qualify under affiliation rules, citing specifically to affiliation arising from management.⁴

In support of its preliminary determination, SBA cited a number of areas in which PPFA exercises control over its affiliates as described by PPFA's bylaws. The cited control included: requirements outlined in PPFA's bylaws dictating a certification process for becoming a Planned Parenthood affiliate; a requirement that affiliate bylaws conform to PPFA policies; and 17 "affiliation mandates" affiliates must abide by covering core medical functions. In addition, SBA found that PPFA requires reaccreditation of affiliates and reserves the right to strip them of

¹ See SBA Paycheck Protection Program Loans of \$150,000 and Above by State, available at <https://home.treasury.gov/policy-issues/cares-act/assistance-for-small-businesses/sba-paycheck-protection-program-loan-level-data>

² See Affiliation Rules Applicable to U.S. Small Business Administration Paycheck Protection Program, Apr. 3, 2020, available at <https://home.treasury.gov/system/files/136/Affiliation%20rules%20overview%20%28for%20public%29.pdf>

³ Sarah McCammon, Trump Administration To Planned Parenthood: Return Coronavirus Relief Funds, NPR.org, May 21, 2020.

⁴ See e.g. Letter to Dr. Laura Meyers, Planned Parenthood of Metropolitan Washington, Inc., from William Manger, Associate Administrator, U.S. Small Business Administration, May 19, 2020, available at <https://www.documentcloud.org/documents/6922122-SBA-Letter-Planned-Parenthood-DC.html>

affiliation with PPFA or eject them from the PPFA network.⁵ Taken together, along with SBA's correct assertion that the receipt of these loans by Planned Parenthood affiliates violates the intent of Congress in creating the PPP loans⁶, these facts clearly show that these affiliates should neither have been deemed eligible nor received taxpayer funds in the form of PPP loans.

Statements made by Planned Parenthood suggest that the submissions were done with prior knowledge that the organizations were not eligible for the PPP loans. As noted in a letter to Attorney General William Barr signed by 27 Senators, including many of the undersigned here, Planned Parenthood Action Fund, the political action committee for Planned Parenthood, expressly acknowledged that the CARES Act "gives the Small Business Administration broad discretion to exclude Planned Parenthood affiliates and other non-profits serving people with low incomes and deny them benefits under the new small business loan program."⁷ This acknowledgement raises serious questions about not only the intent of Planned Parenthood affiliates in submitting PPP applications, but also the role that PPFA played in inducing or encouraging affiliates to apply for loans in deliberate violation of law.

We therefore ask you to conduct a thorough investigation of all PPP loans applied for and received by any Planned Parenthood affiliate, to determine how those affiliates were able to obtain PPP loans, and if any of their applications were submitted with information that was known or should have been known to be false, and make any civil or criminal referrals that you deem necessary and proper. We also ask that you review the extent to which PPFA was involved in the submission of any affiliate applications containing false or incorrect information. If such involvement is found, we ask that you consider whether it should be referred as a violation of 18 U.S.C. §371 or any other criminal or civil statute.

Sincerely,



Kelly Loeffler
United States Senator



James E. Risch
United States Senator



Steve Daines
United States Senator



Mike Braun
United States Senator

⁵ *Id.*

⁶ *Id.*

⁷ Letter to the Honorable William Barr, Attorney General, U.S. Department of Justice, from Tom Cotton, Senator, et. Al., May 21, 2020.



James M. Inhofe
United States Senator



Marsha Blackburn
United States Senator



Thom Tillis
United States Senator



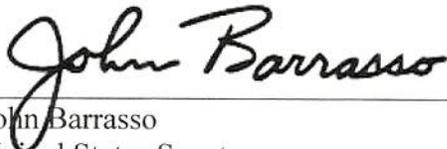
M. Michael Rounds
United States Senator



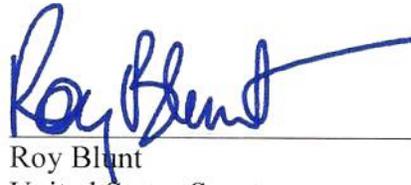
Kevin Cramer
United States Senator



James Lankford
United States Senator



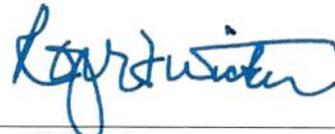
John Barrasso
United States Senator



Roy Blunt
United States Senator



Bill Cassidy, M.D.
United States Senator



Roger F. Wicker
United States Senator



Rob Portman
United States Senator



John Thune
United States Senator



Josh Hawley
United States Senator



John Hoeven
United States Senator



John Boozman
United States Senator



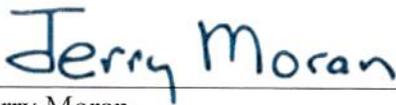
Ben Sasse
United States Senator



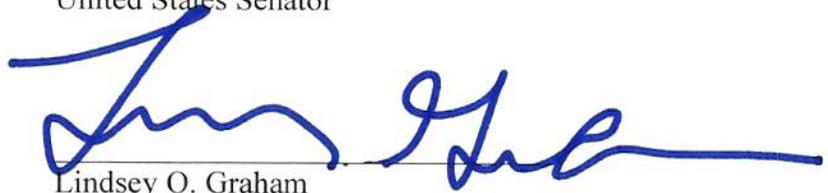
Tom Cotton
United States Senator



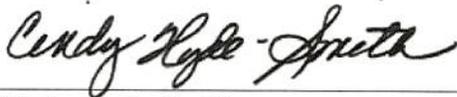
Tim Scott
United States Senator



Jerry Moran
United States Senator



Lindsey O. Graham
United States Senator



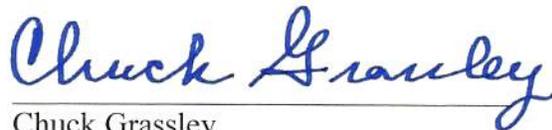
Cindy Hyde-Smith
United States Senator



Deb Fischer
United States Senator



Rick Scott
United States Senator



Chuck Grassley
United States Senator



Michael B. Enzi
United States Senator