



Office of the Special Inspector General for
Pandemic Recovery
Office of Audits

Review of Yellow's Compliance with Section 12.05 of its Loan and Guarantee Agreement

Report Number: SIGPR-A-23-004

September 6, 2024



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TO: Jessica Milano
Chief Program Officer, Office of Capital Access
U.S. Department of the Treasury

FROM: Kevin Gallagher
Acting Assistant Inspector General for Auditing
Special Inspector General for Pandemic Recovery (SIGPR)

SUBJECT: Review of Yellow Corporation's Compliance with Section 12.05 of
its Loan and Guarantee Agreement

This report presents the results of our independent review of Yellow Corporation's (Yellow) compliance with Section 12.05, Limitations on Certain Compensation (Sect. 12.05). We performed this review because Treasury disclosed that Yellow had violated Sect. 12.05 of its loan agreement by exceeding limits on corporate officer compensation for one officer of the company.¹ Our review attempted to identify any other violations of the clause.

Based on our review, we are not aware of any additional violations of Sect. 12.05 committed by Yellow.

Please address questions regarding this report to Michael Sinclair at (202) 923-8021 or Michael.Sinclair@sigpr.gov.

¹ Yellow remedied the violation as the officer repaid the full amount that caused the violation.

Introduction

Section 4003 of the CARES Act authorizes the Treasury to make loans, loan guarantees, and other investments to provide liquidity to eligible businesses related to losses incurred as a result of the coronavirus pandemic. Sections 4003(b)(1)-(3) appropriated \$46 billion to help stabilize the airline industry and businesses critical to maintaining national security.

The breakdown of available funding was as follows:

1. Up to \$25 billion for passenger air carriers; businesses certified to perform inspection, repair, replace or overhaul services; and ticket agents;
2. Up to \$4 billion for cargo air carriers; and
3. Up to \$17 billion for businesses critical to maintaining national security.

Treasury provided loans to businesses critical to maintaining national security to eleven businesses under the National Security Loan Program (NSLP), totaling over \$735 million. Yellow was one such business, and its loan of \$700 million accounted for approximately 95 percent of the NSLP.

Background

On April 29, 2020, YRC Worldwide, Inc. (Yellow) applied for an NSLP loan under Application Number NSL-200428000022. Treasury agreed to a \$700 million loan on July 8, 2020, which was to be made in two tranches. Tranche A would provide \$300 million to meet Yellow's near-term contractual obligations and non-vehicle capital expenditures. Tranche B would provide \$400 million for capital investments subject to Treasury's approval of capital plans developed by Yellow.

Section 12.05, Limitations of Certain Compensation (Sect. 12.05), in Yellow's loan and guarantee agreement, states:

(a) Beginning on the Effective Date and ending on the date that is one year after the date on which the Loan is no longer outstanding, the Borrower and its Affiliates shall not pay any of the Borrower's Corporate Officers or Employees whose Total Compensation exceeded \$425,000 in calendar year 2019 or the Subsequent Reference Period (other than an Employee whose compensation is determined through an existing collective bargaining agreement entered into before March 1, 2020):

(i) Total Compensation which exceeds, during any 12 consecutive months of the period beginning on the Effective Date, and ending on the date that is one year after the date on which the Loan is no longer outstanding, the Total Compensation the Corporate Officer or Employee received in calendar year 2019 or the Subsequent Reference Period.

The clause also states:

(b) Beginning on the Effective Date, and ending on the date that is one year after the date on which the Loan is no longer outstanding, the Borrower and its Affiliates shall not pay any of the Borrower's Corporate Officers or Employees whose Total

Compensation exceeded \$3,000,000 in calendar year 2019 or the Subsequent Reference Period Total Compensation in excess of the sum of:

(i) \$3,000,000; and

(ii) 50 percent of the excess over \$3,000,000 of the Total Compensation received by such Corporate Officer or Employee in calendar year 2019 or the Subsequent Reference Period.

Finally, the clause states that borrowers shall not pay severance pay, or other benefits associated with a termination of employment, which exceeds twice the total compensation received in 2019.

Results in Brief

On July 30 and August 1 of 2023, Yellow informed Treasury that it had made retention payments to certain corporate officers. After confirming the payments, Treasury determined that the payments made to one corporate officer violated limits on corporate officer compensation in Section 12.05 of its loan agreement. On August 4, Treasury provided a notice of the violation to Yellow's legal advisors. Ultimately, Yellow's corporate officer repaid the retention payment that caused the violation. We conducted a review of the compensation of Yellow's other corporate officers to determine if there were any additional violations of Section 12.05 of the loan and guarantee agreement.

Based on our review, we are not aware that Yellow committed any additional violations of Section 12.05 of its loan and guarantee agreement with Treasury.

Compliance Statement

We conducted our review in accordance with generally accepted government auditing standards. A review is substantially less in scope than an examination, the objective of which is to obtain reasonable assurance and express an opinion on the subject matter. We believe that our review provides a reasonable basis for our conclusion.

Audit Team

This review was conducted the individuals listed below:

Michael Sinclair	Audit Manager
Kevin Gallagher	Audit Manager

Appendix A – Objective, Scope, and Methodology

We have reviewed Yellow's supporting documentation for employee compensation relating to certain Yellow employees that were agreed upon between SIGPR and Yellow. Our responsibility is to express a conclusion about whether any material modification should come forth from Yellow regarding its compliance with Section 12.05 of its loan agreement with Treasury.

The objective of this review was to determine whether Yellow violated Section 12.05 - Limitations on Certain Compensation, of its loan agreement. Treasury previously identified that it did violate Sect. 12.05 for one officer of the company. We performed this review based on that information. We performed this review remotely relying on mostly electronic records and discussions with Yellow's legal representation.

To accomplish the review objective, our fieldwork included, but was not limited to, the following procedures:

- Reviewed Yellow's loan agreement focusing on Sect. 12.05;
- Reviewed Yellow's self-disclosure submitted to Treasury;
- Reviewed Yellow's submission of supporting documents as requested by SIGPR;
- Held discussions with Treasury officials when applicable;
- Requested additional documentation from Treasury officials when needed; and
- Held discussions with Yellow's legal counsel;

The review was conducted in accordance with generally accepted government auditing standards for attestation engagements.

Appendix B – Report Distribution

Chief Program Officer – U.S. Department of the Treasury

Office of General Counsel – U.S. Department of the Treasury

Inspector General – Special Inspector General for Pandemic Recovery

Asst. Inspector General for Auditing – Special Inspector General for Pandemic Recovery

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