

Congress of the United States

Washington, DC 20515

May 22, 2020

The Honorable Jovita Carranza
Administrator
U.S. Small Business Administration
409 3rd Street, SW
Washington, D.C. 20416

Dear Administrator Carranza:

We write to request the full investigation of how affiliates of the Planned Parenthood Federation of America (“Planned Parenthood”), a national organization with central control over its affiliates and which has nearly \$2 billion in assets, were able to obtain loans through the Paycheck Protection Program (“the program”), and the appropriate enforcement of federal law based upon the findings of such an investigation.

It has come to our attention that affiliates of Planned Parenthood improperly applied for, and received loans, through the program. While we appreciate the Small Business Administration’s (“SBA”) efforts to promptly cancel those loans, the circumstances under which they were made merit further investigation of possible wrongdoing. Section 7(a)(36)(D)(vi) of the Small Business Act, as added by the *Coronavirus Aid, Relief, and Economic Security (“CARES”) Act* (P.L. 116-36), established that affiliation rules apply to nonprofits for the purpose of determining whether a nonprofit has 500 or fewer employees. Planned Parenthood’s aggregate employee size is about 16,000 employees nationwide.¹

As you know, SBA affiliation rules generally consider entities to be affiliated “when one controls or has the power to control the other, or a third party or parties controls or has the power to control both.”² Among the factors the SBA considers for determining control is whether the entities are under common management, involving the exercise of “critical influence or the ability to exercise substantive control over a concern’s operations.”³ Planned Parenthood refers to its affiliates as “local offices” despite being separately incorporated.⁴ Planned Parenthood’s bylaws describe an affiliate structure in which its management can uniformly and unilaterally impose policies and practices on its affiliates.⁵ By its governance and practice, Planned Parenthood operates as an affiliated group.

The public record is similarly clear. On March 25, shortly after the passage of the *CARES Act*, Planned Parenthood’s lobbying arm, Planned Parenthood Action Fund, issued a statement arguing that the bill, “gives the Small Business Administration broad discretion to exclude Planned Parenthood affiliates... and deny them

¹ Data obtained on March 25, 2020 by Congressional Research Service from the subscription business database, Mergent Intellect, by using the search term “Planned Parenthood” and summing the columns “Employees this site” (16,389) or “Employees All Sites” (15,911). PPFA reported employing 676 individuals on its 2017 tax return: https://www.plannedparenthood.org/uploads/filer_public/3b/75/3b757e47-db59-4cd7-b9a9-e17bc6c75280/ppfa_fy18_990_-_public_disclosure.pdf.

² 13 C.F.R. 121.103(f)

³ Size Appeal of DMI Educ. Training LLC, SBA No. SIZ-5275 (2011)

⁴ <https://www.plannedparenthood.org/about-us/contact-us>

⁵ PPFA’s Bylaws, as amended and restated on March 29, 2008, attached to PPFA’s 2007 tax return:

https://projects.propublica.org/nonprofits/display_990/131644147/2009_05_EO%2F13-1644147_990_200806

Included on PPFA’s registration with the California Registry of Charitable Trusts:

http://rct.doj.ca.gov/Verification/Web/Download.aspx?saveas=Founding+Documents.pdf&document_id=09027b8f80004bd8

benefits under the new small business loan program.”⁶ For the reasons listed above, the administration has already made the decision to make such an exclusion.⁷

Under these circumstances, the application for and receipt of loans through the program suggests unlawful conduct. The *CARES Act* establishes that borrowers have liability for the wrongful application for a loan through the program. The Borrower Application Form requires that the applicant answer whether they “have common management with... any other business” and, if so, requires that they “list all such businesses and describe the relationship.”⁸ The Form also requires that the applicant “certify that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects.”⁹ The application for a loan through the program would have required a Planned Parenthood affiliate to list the national organization as an affiliate organization.

Furthermore, the SBA and Department of the Treasury have indicated that they will review the applications of borrowers receiving loans through the program of an amount equal to \$2 million or more for the accuracy of the borrower’s attestations of affiliation and whether “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.”¹⁰ Public reporting indicates that at least one Planned Parenthood affiliate, Planned Parenthood of Orange and San Bernardino Counties, California, received a loan in excess of this amount. The review of this chapter’s certification of need should take into account its affiliation with a national organization that has nearly \$2 billion in assets.

These circumstances require a full investigation in order to determine whether there was wrongdoing, and we urge that any such misconduct be prosecuted to the fullest extent of the law. We urge that the SBA promptly open an investigation into how these loans were made in clear violation of the applicable affiliation rules and if Planned Parenthood, relevant lenders, or staff at the SBA knowingly violated the law, and that appropriate legal action be taken if so.

CC:
The Honorable William Barr, United States Attorney General

Sincerely,



Marco Rubio
Chairman

Senate Committee on Small Business and Entrepreneurship



Mitch McConnell
Senate Majority Leader



Steve Daines
U.S. Senator



Cindy Hyde-Smith
U.S. Senator

⁶ <https://www.plannedparenthoodaction.org/pressroom/senate-covid-19-response-package-leaves-much-to-be-done-for-our-families-and-public-health-response>

⁷ <https://www.dailysignal.com/2020/04/30/exclusive-trump-denies-covid-19-funds-to-planned-parenthood/>

⁸ Borrower Application Form. <https://home.treasury.gov/system/files/136/PPP-Borrower-Application-Form-Fillable.pdf>.

⁹ *Ibid.*

¹⁰ Questions 39 and 46, Paycheck Protection Program Frequently Asked Questions. <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>.



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U.S. Senator



John Barrasso
U.S. Senator



James E. Risch
U.S. Senator



Kelly Loeffler
U.S. Senator



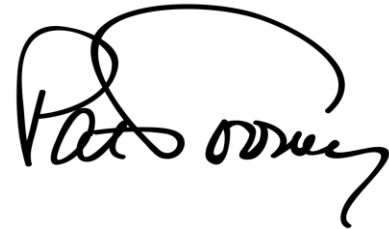
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