

**THE PANDEMIC RESPONSE AND THE  
SMALL BUSINESS ECONOMY: AN UPDATE FROM  
THE U.S. SMALL BUSINESS ADMINISTRATION**

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**HEARING**  
BEFORE THE  
**COMMITTEE ON SMALL BUSINESS  
AND ENTREPRENEURSHIP**  
OF THE  
**UNITED STATES SENATE**  
**ONE HUNDRED SEVENTEENTH CONGRESS**  
FIRST SESSION

\_\_\_\_\_  
MAY 26, 2021  
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Printed for the Committee on Small Business and Entrepreneurship



Available via the World Wide Web: <http://www.govinfo.gov>

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U.S. GOVERNMENT PUBLISHING OFFICE

46-999 PDF

WASHINGTON : 2022

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP  
ONE HUNDRED SEVENTEENTH CONGRESS

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# C O N T E N T S

## OPENING STATEMENTS

	Page
Cardin, Hon. Benjamin L., Chairman, a U.S. Senator from Maryland .....	1
Paul, Hon. Rand, Ranking Member, a U.S. Senator from Kentucky .....	3

## WITNESS

Guzman, Hon. Isabella Casillas, Administrator, U.S. Small Business Administration, Washington, DC .....	61
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## ALPHABETICAL LISTING AND APPENDIX MATERIAL SUBMITTED

Cardin, Hon. Benjamin L. Opening statement .....	1
Guzman, Hon. Isabella Casillas Testimony .....	61
Prepared statement .....	64
Responses to questions submitted by Ranking Member Paul and Senators Duckworth, Rosen, Rubio, Scott, Ernst, Inhofe, Young, and Kennedy .....	113
Let Them Learn in Jefferson County Public School Grassroots Letter dated May 6, 2021 .....	50
National Association of Federally-Insured Credit Unions Letter dated May 26, 2021 .....	110
Paul, Hon. Rand Opening statement .....	3
Secretary Yellen's Public Engagements March 2, 2021–May 25, 2021 .....	58
U.S. Senate Committee on Small Business and Entrepreneurship to Administrator Guzman Letter dated April 15, 2021 .....	75
U.S. Senate Committee on Small Business and Entrepreneurship to Administrator Guzman Letter dated May 10, 2021 .....	78
U.S. Senate Committee on Small Business and Entrepreneurship Roundtable Transcript dated May 6, 2021 .....	5
U.S. Senator Rand Paul to Secretary Janet Yellen Letter dated May 6, 2021 .....	57
U.S. Small Business Administrator Guzman to Hon. Paul Rand and Committee Members Letter dated May 25, 2021 .....	100
U.S. Small Business Administration Letter to Planned Parenthood of Delaware, Inc. Letter dated May 19, 2020 .....	92
U.S. Small Business Administration Letter to Planned Parenthood of Metropolitan Washington, Inc. Letter dated May 19, 2020 .....	88



**THE PANDEMIC RESPONSE AND  
THE SMALL BUSINESS ECONOMY:  
AN UPDATE FROM THE  
U.S. SMALL BUSINESS ADMINISTRATION**

**WEDNESDAY, MAY 26, 2021**

UNITED STATES SENATE,  
COMMITTEE ON SMALL BUSINESS  
AND ENTREPRENEURSHIP,  
*Washington, DC.*

The Committee met, pursuant to notice, at 1:30 p.m., via Webex and in Room 215, Dirksen Senate Office Building, Hon. Ben Cardin, Chairman of the Committee, presiding.

Present: Senators Cardin, Cantwell, Markey, Booker, Hirono, Duckworth, Rosen, Hickenlooper, Paul, Scott, Ernst, Hawley, and Marshall.

**OPENING STATEMENT OF HON. BENJAMIN L. CARDIN,  
CHAIRMAN, A U.S. SENATOR FROM MARYLAND**

Chairman CARDIN. The Small Business Committee will come to order. Let me thank our Ranking Member, Senator Paul, for accommodating the change in time. As I think some are aware, there is a markup starting this afternoon in the Senate Finance Committee that some of our members need to be at, and there are a lot of other things going on. So we appreciate the change in schedule. It may affect some of our members' ability to be here in person.

Administrator Guzman, I want to thank you also for the accommodation so that we could start this hearing at 1:30.

It has been 14 months since Congress passed the CARES Act, and the SBA had really stood up to the challenge. Over \$1 trillion in aid has been provided to American small businesses. In the Paycheck Protection Program alone, over 11 million forgivable loans have been issued, and the latest number was to the tune of about \$791 billion. There is now optimism among small businesses with the rollout of the COVID-19 vaccine that businesses may be returning to a more normal volume.

So let me first thank Administrator Guzman for your leadership. You hit the ground ready to go, and you were particularly focused on our most vulnerable small businesses, and you made a real difference. I also want to thank your workforce, because it was an extraordinary challenge for our Federal workers at the Small Business Administration.

You have supervised the expansion of the Paycheck Protection Program and the EIDL Advance program, and you have stood up

new programs, the Shuttered Venue Program, the Restaurant Revitalization Fund, the Community Navigator Pilot Program.

The key has been Congress and the administration, open lines of communication, working together to implement these tools for small business. Transparency is absolutely essential and sharing information timely. And unlike in the previous administration where Treasury took a good part of the lead in regards to the administration and implementation of the tools for small business, under the Biden administration it has been the Small Business Administration that has had the principal responsibility. And I want to thank you for the transparency and information that you have made available to all the staff here on the Small Business Committee and to us personally, and sharing information in a very timely way.

The coordination between Congress and the Executive branch is incorporated into the Economic Aid Act, which was passed this past December. Your presence here today, and the Treasury Secretary's appearance before this Committee, was included in that Act. So I want to thank you for being here today and carrying out that legislative responsibility.

We will arrange for a convenient time for Secretary Yellen to appear before our Committee. We have had some discussions and we are looking for a date in which she will be able to testify before the Small Business Committee.

So I am looking forward to this hearing and your update as to how these programs are working. The traditional lending programs were enhanced by the Economic Aid Act in December, so I am curious as to how those modifications worked. We have changed the eligibility of the PPP program, both by legislation and by administrative actions, so I am curious as to how those changes have been implemented.

The EIDL Advance program, which is really one aimed at our most challenged small businesses, we need to know what outreach is being given so that those that could benefit from this program have an opportunity to participate, because we are concerned that they do not have the same avenues of information as other small businesses might have, and might be left behind.

The Community Navigator Pilot Program, information notice was sent on March 3rd. We would be interested to see how that program is moving forward. The Shuttered Venue Program, applications opened on April 26th, and you had, I believe, somewhere around 13,000 applications, so we will be interested in that program. The Restaurant Revitalization Fund, you started accepting applications on May 3rd. I understand as of the middle of this month you had over 300,000 applications for the Restaurant Revitalization Act. Fifty-seven percent were businesses of women, veteran-owned, or socially and economically disadvantaged individuals, which is the priority in 21 days.

It is my understanding that the funding there is not going to be enough to meet the demand, and we appreciate your assessment as to where we are in regards to the moneys that have been appropriated versus the demand as shown by the applications that have been filed.

And just to let you know how important these programs are, last week Administrator Guzman joined me and the Second Gentleman, Doug Emhoff, in a roundtable discussion, to listen to restauranteurs in Annapolis, Maryland. And I must tell you, they made it very clear that they would not be here today but for the PPP program, the EIDL program, and now the Restaurant Revitalization Fund.

Let me just relate some of what I heard during that visit. Monica Alvarado told about the harrowing experiences of deciding whether she could keep her restaurant opened or not. There were days that she thought she would not be able to make it. But the tools allowed her to get through that period. She became more creative in online and delivery orders, in addition to in-person dining, and today her future looks very bright. She was named Annapolis Person of the Year because of her leading efforts with other restaurant owners to help feed a community that desperately needed food during the pandemic, and helped her neighbors, neighbors helping neighbors, and we certainly know that from our small business community.

And then there is Spencer Jones, who owns Chick and Ruth's. I mention that because that is an iconic restaurant in Annapolis. I spent 20 years of my life in the State legislature in Annapolis. He had to take over suddenly after he lost his dad. He is optimistic thanks to the SBA tools, and said he had the busiest week he has had since the pandemic.

So things are coming back, and I think we can take pride in the fact that we helped that come along.

We now have another opportunity, the American Jobs Plan, a once-in-a-generation investment in our infrastructure. So how can we use that opportunity to help underserved and disadvantaged communities? Last week, in a hearing on this Committee, we heard about what we could do to help women-owned businesses and minority-owned small businesses. This must be our priority as to how we are going to help the underserved entrepreneurs.

Administrator Guzman, you are the voice of small businesses, particularly those who have been underserved in the Biden administration. So we look forward to your testimony and how we can work together to support our Nation's small businesses in the months and years to come.

With that let me turn to Senator Paul.

**OPENING STATEMENT OF HON. RAND PAUL,  
A U.S. SENATOR FROM KENTUCKY**

Senator PAUL. Thank you, Mr. Chairman. After more than a year of arbitrary lockdowns and other unnecessary government regulation, Americans are finally getting some of their freedoms back. Just a few weeks ago, the CDC started to follow the science and admit to the public that there is no need for those who have been vaccinated to continue wearing masks. Public officials across the Nation are finally beginning to allow businesses to reopen and children to get back to school.

These actions should have been taken months ago, and are only the first step as we begin to try to heal our Nation and the economy from government's unnecessary intervention in our day-to-day lives.

As inflation rises to the highest level since the Great Recession, it appears that we are starting to realize the cost of rampant government spending. I have heard it from many small businesses who are having trouble filling positions and experiencing exorbitant increases in the cost of materials. Earlier this month I held a roundtable with Kentucky small business owners from a number of different industries. The message was clear: economic lockdowns, the closures of our schools, and rehiring workers are the greatest challenges that small businesses face today.

Mr. Chairman, I ask for the unanimous consent to submit the transcript of the roundtable into the record today.

Chairman CARDIN. Without objection, it will be included in the record.

[The information referred to follows:]

5

1	CONTENTS	
2	Opening Remarks of	Page
3	Opening Remarks Senator Paul	3
4	Opening Remarks of Alan Hincks, Owner,	
5	Dundee Tavern, Louisville, Kentucky	9
6	Opening Remarks of Dawne Perkins, General	
7	Manager, Team Spirit Shop, School	
8	Reopening Activist, Georgetown,	
9	Kentucky	12
10	Opening Remarks of Adam Hinton, Vice President,	
11	Hinton Mills, Eastern Kentucky	19
12	Opening Remarks of Aaron Anderkin, President,	
13	Integrated Sign & Graphic, ISG,	
14	Lexington, Kentucky	26
15	Opening Remarks of Kaelyn Query, Founder and	
16	President, Lexington Event Company,	
17	Lex Effect Venues, LLC, Lexington,	
18	Kentucky	30
19		
20		
21		
22		
23		
24		
25		

6

1 EXAMINING THE IMPACTS OF COVID-19 ON  
2 SMALL BUSINESSES AND FAMILIES  
3

4 Thursday, May 6, 2021  
5

6 U.S. Senate  
7 Committee on Small Business and Entrepreneurship  
8 Lexington, KY.  
9

10 The roundtable convened, pursuant to notice, at 9:24  
11 a.m., in 550 S Limestone, 3rd floor, Gatton College of  
12 Business and Economics, University of Kentucky, Lexington,  
13 KY, Hon. Rand Paul, ranking member of the committee,  
14 presiding.

15 Present: Senator Paul [presiding].  
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## OPENING REMARKS OF SENATOR PAUL

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Senator Paul. Good morning. Thanks everybody for coming. I's like to talk about a little bit of the problems that small businesses have been having over the last year. I want to thank the University and Dean Sheather for allowing us to use the facilities here, the Gatton College of Business in University of Kentucky. I would like to welcome everyone here today.

I became the ranking member of the Small Business committee this year, and in that role, our job is to advocate for small businesses across the country. And I think part of that is listening to what kind of troubles you guys have been having. We are acutely aware of the devastating impact that COVID lockdowns have had on small businesses and families. Instead of what was originally said, 15 days to slow the virus, these lockdowns became protracted and on and on and on, and to some extent, they still continue.

Larger businesses were often deemed essential and got to escape the restrictions, but the small business community was told do it or else basically. Certain industries locked down completely, and this has caused sort of a ripple effect throughout supply chains. Washington's spending problem is also contributes to this, causing the cost of goods and

1 supplies to skyrocket in some industries. While local  
2 officials continue to keep many of the large businesses  
3 open, schools throughout the country, including here in  
4 Kentucky, are still not fully operational. This has created  
5 many obstacles for working parents and families as they try  
6 to make ends meet. The science is clear though, the  
7 children are at minimal risk for the disease and are not  
8 super spreaders. In fact, when you look at transmission  
9 studies in several different countries, you find that the  
10 children aren't really spreading the disease.

11 Most countries in Europe have kept their schools open  
12 throughout. Some of them closed down for a month or so last  
13 year, and were back open by May and June, and have been  
14 operating continuously. We have had some private schools in  
15 both the Lexington area and in Louisville area and in  
16 Northern Kentucky, and up in the Ashland that were open  
17 throughout, never had any super spreading events and had  
18 really no diagnosed illnesses at school. I have always  
19 asserted that these Orwellian lockdowns have severe  
20 consequences. We will experience the impact of these  
21 lockdowns on our economy and damage to our children for  
22 years to come.

23 Now, as vaccine distribution and new therapeutics are  
24 widely available, it is imperative that we fully re-open.  
25 The question has now become, why are those in power

1 continuing to assert control over people's livelihoods and  
2 our children's future? As I have said before, Florida is  
3 open. Texas is open. Neighboring Tennessee has repealed  
4 their mandates. Even New York, the king of lockdowns in New  
5 York, even New York has set a firm date to reopen, and yet  
6 we still don't have a firm date in Kentucky to reopen. To  
7 make matters worse, in our state, the State legislature has  
8 said that these edicts from the Governor should expire.  
9 They passed a law. Now the Governor openly is defying that  
10 law, suing in court today, saying he is not subject to the  
11 State legislature.

12 This is a very, very dangerous time when you have a  
13 Governor that will resist the will of the popularly elected  
14 people. It is in court now, but this is very, very  
15 dangerous to our State and to the constitutional aspect of  
16 our State to have a Governor that is acting beyond the  
17 authority of the State legislature and in defiance of the  
18 State legislature. I hope we get this sorted out very soon.  
19 I look forward to our discussion today and on the challenges  
20 facing businesses and families. We have a stenographer here  
21 who will record all this as we make an official transcript  
22 to the committee.

23 And hopefully people will learn from this and take to  
24 heart the different problems each of you have had in your  
25 businesses. This is a great panel, and I think it will be

1 quite interesting to hear from each of you. I am going to  
2 introduce one at a time, and I think what we will do is --  
3 okay. I have been told the Dean Sheather would like to say  
4 a few words.

5 Mr. Sheather. Thank you. Good morning. My name is  
6 Simon Sheather, and I am proud to say I am the dean of the  
7 Gatton College of Business and Economics here at the  
8 University of Kentucky. On behalf of the University of  
9 Kentucky, we welcome Senator Rand Paul of Kentucky to the  
10 university and to our magnificent facility here at the  
11 university. Senator Paul, we appreciate your leadership and  
12 your focus on Kentucky first. There is no better time to  
13 inspire creativity and entrepreneurship in our small  
14 business owners than now.

15 We appreciate all the business leaders in attendance  
16 today, including Gatton alum Kaelyn Query, the Founder and  
17 President of Lexington Event Company, and Dawne Perkins, the  
18 General Manager of the Team Spirit shop. I am pleased to  
19 briefly report on the success of the Gatton College and the  
20 University of Kentucky in dealing with the pandemic.

21 For example, in spring 2020, our college was able to  
22 move over 215 in-person core sections, totaling 35,000  
23 student credit hours, to fully online in a matter of just 10  
24 days in mid-semester. In fall 2020, we delivered courses in  
25 a number of different modes. 15 percent were completely in-

1 person classes. 40 percent of our classes used technology  
2 to provide a highly interactive environment that mixed in  
3 person and online. 30 percent of our classes were online  
4 with synchronous class meetings, and 15 percent of the  
5 classes were too large to offer in-person or via zoom and  
6 were done online asynchronously.

7 I am proud to report our faculty has done important  
8 research regarding COVID-19 that helped both on a local and  
9 a national level. A couple of highlights. One study showed  
10 how both businesses should respond to the crisis with both  
11 speed and agility, as well as our economists studied the  
12 effectiveness of social distancing at the start of the  
13 pandemic. In February, The Gatton College hosted the 11th  
14 annual supply chain forum. With over 200 attendees, we  
15 brought together national caliber supply chain leaders who  
16 are practitioners, academics, and consultants.

17 The forum allowed business to share their supply chain  
18 initiatives, especially related to the theme of thriving in  
19 disruption. Last month, the college hosted a conference on  
20 business, innovation, and entrepreneurship. Three Gatton  
21 College alumni who are now successful small business  
22 entrepreneurs spoke on the first day of the conference. On  
23 the second day of the conference, 22 teams pitched new  
24 business ideas, 12 undergraduates teams, 5 graduate teams,  
25 and 5 non-profits. Over \$20,000 in prize money was awarded.

1 The graduate division winner is an engineering graduate  
2 student who had previously completed the Gatton College  
3 Entrepreneurs Boot Camp, something we offer every semester.  
4 Next weekend, I personally look forward to being part of two  
5 important commencement ceremonies for the Gatton College.  
6 It will be great to have that back in person. Thank you for  
7 your attendance today.

8 Senator Paul. Thank you, Dean Sheather. I think what  
9 we are going to do is rather than do all the introductions  
10 at once, why don't we do introductions one by one of them  
11 here from each individual after the introduction. So, Alan  
12 Hincks. Why don't we start with Alan first? Alan Hincks is  
13 the owner of Dundee Tavern in Louisville. Mr. Hincks has  
14 owned and operated Dundee Tavern for six years. He has  
15 worked in the hospitality industry for over 30 years,  
16 including a decade at Captain's Quarters, Riverside Grill,  
17 and Charlie's Restaurant and Bar. Mr. Hincks, why don't you  
18 start us off and if you can limit your testimony to about  
19 five minutes.

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1       OPENING REMARKS OF ALAN HINCKS, OWNER, DUNDEE TAVERN,  
2                               LOUISVILLE, KENTUCKY

3       Mr. Hincks. I am glad to be here and thank you so much  
4 Dr. Paul for inviting me here to this event. Obviously, we  
5 have all had our horror stories when it came to the mandates  
6 starting back in March. And the Tavern and myself  
7 throughout the three decades I have been in this business  
8 have always been employee oriented. And when all this  
9 started, my whole goal was to make payroll, and we did  
10 everything we possibly could do to make payroll. And what  
11 was really challenging with us in the beginning was the  
12 decisions that were made by people that never had to make  
13 payroll before.

14       And when everything came down the pike, the ways that  
15 everything was handled, not really following the science,  
16 not really asking for advice from fellow State leaders, or  
17 basically the citizens of Kentucky, it was time that we made  
18 a stance. I am currently involved in a lawsuit right now.  
19 We had a lawsuit last year against the Governor of Kentucky  
20 about the mandates and about the handling of the COVID-19 in  
21 our state. And I am just very, very honored to be here and  
22 I am proud of Kentucky.

23       I am a citizen of Kentucky. My son is from the  
24 University of Kentucky. He is in the Air Force now. He  
25 actually moved to Falls, Texas and I have two

1   granddaughters. And I don't want my granddaughters when it  
2   is their time around to experience what we have experienced  
3   this past year and a half. Thank you.

4

5           Senator Paul. Thank you, Mr. Hincks. And I think one  
6   of the points that is very important to hear from that  
7   testimony is I think there is a difference between advice,  
8   persuasion, suggestions, good ideas and mandates. And the  
9   problem, one of the problems with mandates is one size fits  
10  all and we are not all the same, and every restaurant is not  
11  the same, and every bar is not the same, and every retail  
12  outlet is not the same. And frankly, there is a difference  
13  in spread between rural communities and urban communities.  
14  And really in a free society, a lot of these decisions will  
15  be made by the individuals, not by the state.

16          Let's go to Dawne Perkins next. Dawne is the General  
17  Manager of Team Spirit Shop in Georgetown and is a school  
18  reopening activist. She led Let Them Play Kentucky and Let  
19  Them Learn Kentucky, I like both of those, which advocate  
20  for starting youth sports and restarting in-person  
21  instructions. And I hope she will tell us that you don't  
22  have to wear a mask when you are playing soccer. Dawne.

23

24          OPENING REMARKS OF DAWNE PERKINS, GENERAL MANAGER, TEAM  
25  SPIRIT SHOP, SCHOOL REOPENING ACTIVIST, GEORGETOWN, KENTUCKY



1           Ms. Perkins. I am Dawne Perkins. I am the General  
2 Manager of the Team Spirit Shop, which is a company that has  
3 turned 25 years in November. And when the Governor shut us  
4 down on March the 13th, it was like, oh, my gosh, what is  
5 next? I am not married. I don't have children. That was  
6 my husband. That was my baby. And that has been my life  
7 since I graduated from the university.

8           So, like everyone else with the first couple of weeks,  
9 I was like, okay, okay, we are fine. And then I quickly  
10 realized that a couple of weeks were a month and then two  
11 months and then three months. But having a business that is  
12 based 98 percent on spirit wear and PTO and activities and  
13 organizations, I don't have to tell you that the last 14  
14 months there has not been much of a business. I have a  
15 brother that runs on a transport team for Cincinnati  
16 Children's, and I have a sister who is married to someone in  
17 the military, and elderly parents, which caused us all to be  
18 a little bit separated.

19          But in August, one of my nephews had a birthday and I  
20 was at home. And I was home, first of all, for a funeral on  
21 a Monday and didn't have the opportunity to really engage  
22 with them. But on that Wednesday, I was back home, and I  
23 could feel the mental stress and the tension of my own  
24 nieces and nephews. And I thought to myself, I have got to  
25 do something. On that particular Thursday is when the KHSAA

1 was meeting, and I thought after watching Julian Tackett and  
2 the Board of Control, we are fine. That meeting ended at  
3 3:30. We logged on to the Governor at 4:00, and I thought,  
4 we are not moving anywhere.

5 And I wrestled that particular night, just if mine feel  
6 this way, not mine personally, but my nieces and nephews,  
7 what about the other 80,000 that play sports and the other  
8 however many that are in public education, private  
9 education, and daycares. They have to be feeling it. And  
10 on that Friday, I started a group called Let Them Play, and  
11 in two and a half days I found myself on the capital with  
12 30,000 people in the group and we were ready to go. And  
13 shortly after that, we did Let Them Learn. And that has  
14 been my focus.

15 And I have had to put my business on the side because  
16 it has not been about the Team Spirit shop, even though  
17 ultimately that is what my life is about. It has been about  
18 the academic, the mental, the physical, and the social well-  
19 being of the children of Kentucky. And sometimes we talk  
20 academically, but most of the time we don't want to mention  
21 the other things. And those are the things that won't be  
22 determined by test scores, and they will be years to come.

23 So, yes, I need to get my business up and running and  
24 supply chains and employees and working is all factors. But  
25 right now, my primary focus is on the children of Kentucky

1 because they are the future of Kentucky, and they deserve  
2 better.

3

4       Senator Paul. Well, we appreciate what you have done  
5 to try to get schools back open. I think one of the things  
6 that is alarming is there are now statistics showing  
7 thousands of children who never logged on at all. So even  
8 children, we have gotten them Internet access, we got them a  
9 computer, and they are still not logging on at all. They  
10 are lost to the system.

11       And so, I think we are going to find hundreds, if not  
12 thousands of kids not only throughout Kentucky, but  
13 throughout the whole country that basically have lost a  
14 year, maybe a year and a half of education. This is a real  
15 problem. And I personally believe that education is sort of  
16 that equalizing force. No matter what your background, came  
17 from, where you were on the socioeconomic ladder, it is your  
18 chance to get ahead if you can get an education. It is  
19 incredibly important, and I think we have lost that. And it  
20 would be one thing if we were looking at smallpox and a  
21 third of our children were dying. You would think that with  
22 the hype over this, but for kids, it is important to say,  
23 and it is absolutely incontrovertibly true that this disease  
24 is less dangerous than the seasonal flu for children. Now  
25 it is the opposite above 65.

1           It is by a thousand times more dangerous than the  
2   seasonal flu. So, we should be just honest. But we decided  
3   one size fits all and that we are going to treat our 5 and  
4   10 and 15 year old kids the same way we are going to treat  
5   our 85 year old parents. And that just made no sense at  
6   all, no science to talk about it, and no evidence of spread  
7   in schools. Typically, in the past, you remember when we  
8   would get the flu, and the flu can be deadly for children,  
9   we would close the school down for a couple of weeks when we  
10   would get 10 or 15 cases, when we had an outbreak. We  
11   closed every school in Kentucky and every school in the  
12   entire country without an outbreak.

13           I know of no outbreak were 10 or 15 kids got COVID in a  
14   school. They just -- they haven't been reported because no  
15   kids went to school. All schools were closed. And so, I  
16   don't think we really based this on the science. With  
17   regard to athletics, there was a story the other day of a  
18   track coach in New Hampshire fired for not making his kids  
19   wear the mask while running outside. So, it is submit to my  
20   will or be fired -- not my will, to the state's will or be  
21   fired. And I think the burden should be on the State to  
22   prove that a mask outside is necessary. Now, they have  
23   finally admitted after a year and a half that you probably  
24   don't need a mask outside.

25           And yet people are still wearing them and enforcing it

1 and people are yelling down, the karens of this world, are  
2 yelling down at people. There was a teacher in a -- I think  
3 it was in Virginia. This was probably six months ago,  
4 yelled at two 14 year old boys who were grappling on a  
5 playground, you know, wrestling and, playing a little tackle  
6 football or whatever. You are committing genocide.

7 And she started yelling profanities at them. She was a  
8 schoolteacher in the public school system, and she was  
9 yelling profanities at this 14 year old, not based on any  
10 science, based on sort of opinions and conjecture. And so,  
11 by all means, we need to look at the science on this. There  
12 is a great deal of evidence because Europe went right back  
13 in. They also kept moving the goalpost on us. They said,  
14 well, we are going to flatten the curve. I remember we were  
15 going to flatten the curve. That sounded somewhat  
16 reasonable. You are going to close your shop. We are going  
17 to close all this for about three or four weeks, so we don't  
18 overwhelm hospitals.

19 And we did that, and we did it for another three weeks.  
20 And then it went on and on and on. And if you look at the  
21 curve of the incidence of the disease and the mandates,  
22 there is a long time, long curve over the last year or so.  
23 After every mandate, there is no evidence that the mandate  
24 does anything to the trajectory. In fact, we had the most  
25 mandates on in December when we hit the highest peak of all.

1 So, I think the virus pretty much had a mind of its own and  
2 did what it wanted no matter what we did other than the  
3 vaccine. And so, when people say, which I think is  
4 malpractice, that wearing a mask is somehow just as good as  
5 the vaccine, it is a lie.

6 The vaccine does work, and people should be encouraged  
7 to get the vaccine, encouraged and do it of their own free  
8 will, but it has made a difference. The one other thing  
9 that they have forgotten also is that about a third of the  
10 public has been vaccinated, but a third of the public has  
11 gotten the disease naturally. And they do work in tandem.  
12 They both have immunity, and that combined immunity is  
13 causing the curves to come dramatically down. But don't get  
14 me started. Alright.

15 [Laughter.]

16 Senator Paul. Adam Hinton. Adam Hinton is the Vice  
17 President of Hinton Mills, a group of five retail farm  
18 supply stores and feed mills based in eastern Kentucky. The  
19 family owned business is headquartered in Flemingsburg,  
20 Kentucky. He has also served as the Director of Kentucky  
21 Welding Institute, a private welding school to train  
22 students from across the U.S. Mr. Hinton and his wife,  
23 Melissa, own the Hinton agency, which specializes in group,  
24 life, and health benefits. Adam.

25

## 21

1           OPENING REMARKS OF ADAM HINTON, VICE PRESIDENT, HINTON  
2                           MILLS, EASTERN KENTUCKY

3 Mr. Hinton. Thanks for having us. I appreciate you  
4 having an ear for small business. I have a hard time  
5 talking about our business without talking about our  
6 origins. We have been in business for 103 years. My great  
7 grandfather started the business. He was an orphan at the  
8 age of 6 and by the age of 12 he had started his first  
9 business raising baby calves from, probably from his  
10 neighbor and took that money over the course of the next  
11 handful of years, and in 1918 started our business.

12 Our business not only, serves Fleming County, but we  
13 now have five locations. So, we serve a good portion of  
14 Northeastern Kentucky. So, folks that don't understand what  
15 a farm supply store is basically if you ate today, that is  
16 because of a farmer somewhere that has grown food, and here  
17 in rural Kentucky, there are a lot of farmers. And our  
18 business and businesses like ours serve those farmers with  
19 feed, seed, fertilizer, fencing materials, things of that  
20 nature. Because of that, we were deemed essential. So,  
21 both Hinton Mills, and I will speak to Kentucky Welding too  
22 in a moment, we were both deemed essential industries.

23 And like Alan had mentioned earlier, one of our biggest  
24 concerns is, number one is how do we take care of our  
25 employees. We have had employees that have stayed with us

1 in some cases 50 years, have several right now that have  
2 been with us 40 years, and more than have been with us 30  
3 some years. So how do we take care of those employees and  
4 how do we serve our customers? You know, one of our slogans  
5 on almost anything that you will see internally or with our  
6 employees is, work hard, be kind, serve others.

7       So, we have to think about that. And we are not  
8 medical doctors, so we had to take the advice of whether it  
9 is the local health department or others and try to follow  
10 those guidelines and stay open. It has been a challenge.  
11 The biggest challenge has been for us is trying to know what  
12 to do and who to listen to, number one. I think number two  
13 has been labor. We had folks that were apprehensive, like  
14 probably all of us in this room, when the pandemic started.  
15 Had three folks retire. And normally we have workforce  
16 among our locations of just over 60 full time employees.  
17 And right now, we are at 53.

18       So, we have got seven positions that we have been  
19 unable to fill as those positions were vacated just because  
20 they are -- either because of fear or now because of the,  
21 you know, the benefits of staying home, that the financial  
22 benefits for folks are greater because of some of the  
23 Government subsidies as opposed to finding jobs in Hinton  
24 Mills or places like us. One of our other big concerns  
25 right now: supply chain. One of our managers, we have got



1 five location managers, they are all like family to us, and  
2 one of those managers called me, you know, 6:45 last week.  
3 And he said, just want to -- it is not unusual for him to  
4 call me that early, but he was just, you know, kind of  
5 depressed.

6 And, you know, this is our most upbeat guy. He is the  
7 leader among leaders. He is the guy outside of our owners,  
8 number one in charge of our business. And he said -- you  
9 know, I asked him what was going on, he said, you know, it  
10 is really hard for us. We have built our business over the  
11 years on serving customers and we have customers that come  
12 in, and when we tell them what the price is, if we have the  
13 product, or how long it will take us to get them that  
14 product, you know, how upset you know that oftentimes that  
15 makes them.

16 And he said, you have prided yourself on always being  
17 able to take care of others, serve local farmers and we are  
18 not able to do that to the best of our ability. And I think  
19 a lot of that has to do, I am sure we will get into that  
20 later, with some of the Government money that is out there  
21 that discourages folks from working or producing products  
22 that we all buy. The welding school, Kentucky Welding, we  
23 have been in business for just over six years, and we have  
24 had students from 40 some states. So, we have turned into  
25 not just a small welding institute, but a larger welding

1 institute right here in Kentucky. Because we are training  
2 folks for critical infrastructure, we were able to stay  
3 open. We went from running three shifts. We were going  
4 three shifts to meet demand. We were going 24 hours a day,  
5 three shifts of students in March of last year. And by May  
6 of last year, we were down to 12 students and one shift.

7       Fortunately, right now we are much closer to our normal  
8 number, which is about 80 on two shifts, and look forward to  
9 getting back to three shifts. And so, it has been a  
10 challenge. Again, the biggest thing for us has been trying  
11 to know who to listen to, trying to make sure that we have  
12 workforce. We have had up here -- we have had two peers  
13 that had to close because the local health departments have  
14 closed them for some periods of time to quarantine  
15 employees.

16       And then a third competitor of ours who last week had a  
17 sign on their door that said that they would be closed until  
18 further notice because they didn't have enough employees to  
19 run their business. So, with that said, thank you again for  
20 being here and listening to the -- to those of us in small  
21 business.

22

23       Senator Paul. You know, Adam, when your manager called  
24 you at 6:45, since you are a farmer, you had already been up  
25 an hour and a half, right? So, you mentioned the essential

1 industries. And I think, sometimes we get it with some  
2 intelligence. Obviously, food is essential, farming is  
3 essential. But there were many people that were affected in  
4 a way where they had a small business that was a small  
5 retail outlet that competed with a big one like Wal-Mart.  
6 So, Wal-Mart became essential, and mom and pops retail was  
7 not essential, particularly in small town America. And the  
8 unfairness of that was just, you know, incredible.

9       We had in some States like California, where they  
10 banned in church -- in person church, but they allowed strip  
11 clubs to still operate. So, I have a friend, Pastor Rob,  
12 out in the L.A. area, and there is a hilarious video that  
13 you can watch where he says, well, he announces to his  
14 congregation, we can no longer be open, but today I am  
15 announcing we are converting to becoming a strip club and  
16 they play the music. And he does this elaborate dance,  
17 taking off his tie. He only takes his tie off fortunately.  
18 But, you know, the idea that we have a strip club open, but  
19 not that. And I think it is really, you know, hair salons  
20 just, you know, the people who own these small businesses  
21 that really have to work. And these are hardworking people,  
22 you know.

23       And so, I think that we really do need to understand  
24 that this is a policy, and we can disagree. I understand.  
25 You know, we have disagreements among all of us in a

1 republic, you know, a free country. But really one person,  
2 not me, not you, not any of us, we have got to make these  
3 decisions by ourselves, it is usually give and take.

4       If anybody knows the political process, usually you  
5 don't get your way. You have to discuss and persuade other  
6 people in the legislature, the public, you have got to get  
7 public opinion behind you. But it is really not consistent  
8 with the history of our country to have one person decide  
9 with no advice from the State legislature, and then when the  
10 State legislature gives you their firm legislative advice,  
11 to have it completely ignored. So, I think we have a real  
12 problem where we are now.

13       Mr. Hinton. Can chime in on one thing on that?

14       Senator Paul. Sure.

15       Mr. Hinton. You know, you talk about the one size fits  
16 all policy, and there is more people on campus today than  
17 there is in our county. So sometimes I think that people  
18 lose sight of that and how that one size doesn't fit all.

19       Senator Paul. Aaron Anderkin is with us today. Aaron  
20 is the President of Integrated Sign and Graphic, ISG, which  
21 is headquartered here in Lexington. Since 1988, ISG has  
22 provided industry leading design, manufacturing,  
23 installation and maintenance of signage, lighting, and  
24 architectural elements to construction companies, design  
25 firms, and national brands. ISG's work portfolio consists

1 of large venue projects like shopping malls, mixed use  
2 developments, convention centers, and casinos all across the  
3 United States. Welcome, Mr. Anderkin.

4

5 OPENING REMARKS OF AARON ANDERKIN, PRESIDENT, INTEGRATED  
6 SIGN & GRAPHIC, ISG, LEXINGTON, KENTUCKY

7 Mr. Anderkin. Thank you, Senator Paul, for having us  
8 today and for your continued advocacy of small business  
9 owners and small business interests on Capitol Hill. To  
10 build a little bit there on integrated design and graphic,  
11 and to shed some light and context on our experience as the  
12 pandemic hit us all in March and April. So, we were at the  
13 time, you know, we worked tirelessly for a number of years.

14 We have been open for 30 plus years, but we were really  
15 gaining a lot of momentum, a lot of traction with  
16 projections that 2020 would be your best year yet, that we  
17 were going to be able to add some -- add to our workforce,  
18 invest in new equipment, and really to see a lot of hard  
19 work, you know, kind of come to fruition. In April, we had,  
20 April 2020 unfortunately, we had \$4 million roughly of work  
21 canceled just right away. That was 80 percent of our  
22 backlog. And if you think about it in terms of who we  
23 supply to, our larger customers are the commercial real  
24 estate developers, the landlords, the management companies  
25 who, suddenly obviously got much more concerned about their

1 ability to collect rent from their tenants than, investing  
2 in infrastructure and continuing to develop and reinvest in  
3 their assets. And that had an immediate impact on us.

4       We did get creative, I am very proud of our team and  
5 our ability to be versatile in that we supplemented a lot of  
6 the lost revenue in manufacturing PPE. So, we were proud to  
7 be one of the first in the central Kentucky area in  
8 particular to be able to get the protective face shields and  
9 sneeze guards and things of that nature to the hospitals, to  
10 the senior living centers. And, you know, those that at the  
11 time were in need. From a small business perspective, it  
12 was something that you all have all shared, it was  
13 absolutely frightening.

14       From day to day, you didn't know whether you were going  
15 to be open. You didn't know what to tell your employees.  
16 You know, as a small business leader, one of the things that  
17 I take great pride in, as I am sure you all do, is your  
18 ability to communicate with your employees, to be able to  
19 tell them whether it is the good, the bad, and the ugly.  
20 You want to be able to say, hey, here is what we are up  
21 against. The reality was we didn't know. You know, we were  
22 waiting just like everybody at 4:00 every day to hear, you  
23 know, what we had to deal with. You know, the thing about  
24 entrepreneurship and owning and running a small business is  
25 that to an extent, you are in control of your own destiny.

1 If you put in the hard work, most oftentimes you are going  
2 to get rewards.

3 And the idea that that element was completely removed  
4 and that you were at someone else's beck and call was  
5 frightening. You know what we are seeing is that, we were  
6 down, I think, 35 percent revenue in both the third and  
7 fourth quarter. So, it definitely hit us hard. We weren't  
8 able to supplement everything. What we are still concerned  
9 about moving forward is that, the drastic amount of  
10 Government subsidies, and we have been beneficiaries of the  
11 PPP loan and are actually very appreciative of that.

12 But we also are afraid that based upon our kind of  
13 market research and what we have analyzed that the long term  
14 ramifications are going to be significant. That just  
15 because there is some confidence, consumer confidence right  
16 now, you know, at a certain point the Government subsidies  
17 are not going to fuel the economy. You got to have  
18 confidence from those in the private sector willing to  
19 invest.

20 And so, we want to try to do everything we can to put  
21 ourselves in a position to still be successful in that  
22 climate. But we are, you know, fearful that it is not over  
23 anytime soon. But again, we appreciate the opportunity for  
24 you to hear us out today and for certain everything you are  
25 doing to advocate for us.

1           Senator Paul. And so, where do things stand? You said  
2 third and fourth quarter down. How about the first quarter  
3 of this year?

4           Mr. Anderkin. The first quarter of this year was down  
5 about 25 percent. It got a little bit better. And then I  
6 think we are going to be down about 25 percent again,  
7 comparing the second quarter of 2021 to the first quarter of  
8 2020.

9           Senator Paul. Thanks. Kaelyn Query is the Founder and  
10 President of Lexington Event Company and Lex Effect Venues,  
11 LLC in Lexington. Ms. Query started her first business when  
12 she was in high school, and while didn't have a name at the  
13 time, it sparked a passion in her for entertainment,  
14 hospitality, and events. Welcome, Ms. Query.

15

16           OPENING REMARKS OF KAELYN QUERY, FOUNDER AND PRESIDENT,  
17 LEXINGTON EVENT COMPANY, LEX EFFECT VENUES, LLC, LEXINGTON,  
18 KENTUCKY

19           Ms. Query. Thank you for having me. Like others, we  
20 shut down on March 17th. So, Lexington Event Company  
21 produces events, conferences, trade shows, festivals,  
22 weddings. Pre-pandemic, we did this all over the country.  
23 That is not the case right now. We are hoping soon to get  
24 back to that. And then Lex Effect Venues owns and operates  
25 four venues in central Kentucky. So, folks rent those



1 spaces to host events.

2       Similar to you, the hospitality industry, we were shut  
3 down on March 17th with no real direction on when or what or  
4 how, and similar to Dawne, I told our clients and our staff,  
5 it is just going to be a couple of weeks and then a couple  
6 of weeks was a couple of months. And then after six months,  
7 I stopped saying when we were going to reopen. And clients  
8 were call in and I said, I just, I don't have an answer. I  
9 dreaded the 4:00 calls. I would turn my phone off, so I  
10 didn't get all the notifications.

11       My industry doesn't have an association in Kentucky, so  
12 I currently serve as the Small Business Policy Council Chair  
13 for the State Chamber, and I rely heavily on them to help  
14 navigate some of the noise with, what was a mandate, what  
15 was a recommendation, what has changed, where do we find the  
16 information, how do we interpret it. I am not an attorney.  
17 I don't want to be responsible for that. And they were a  
18 great advocate and a great resource for us. But a lot of  
19 confusion. And, you know, we want to be safe. I certainly  
20 don't want to be a super spreader. I don't want to get  
21 fined. I don't want to get shut down. I have not lost  
22 quite as much as him, but between our companies, we have  
23 lost over \$400,000 and counting, you know, and the residual  
24 effect will be around for several years.

25       So, you know, we are we are trying to navigate this.

1 We did not reopen until July 1. Events were not allowed.  
2 Yet everybody kept saying, we will sell gift cards. I said,  
3 well, I rent one of the venues for \$5,000 on a Saturday.  
4 How do I gift card that? You know, I would love to do carry  
5 out on a curbside. I have nothing to sell. I give you a  
6 chair, you have got to bring it back though. So, you know,  
7 we were kind of stuck. We had nothing to do, you know,  
8 except watch the news.

9       So, we navigated, and we adjusted, and we figured it  
10 out. We reopened July 1 with very few staff. Most of them  
11 were on unemployment. We did get a PPP loan, so we were  
12 able to bring some of our folks back. But as soon as we got  
13 them back up and running, we were shut down again in the  
14 winter. So just as we are telling our clients we are good  
15 to come back, we said, just kidding, stay home. We will see  
16 you maybe in April. I do think people are ready to be out,  
17 they are ready to be back. We do have a hard time with  
18 mandates and recommendations because everyone has different  
19 information. So, when they come to the events, we are  
20 responsible for regulating this. And outside of me  
21 physically putting a mask on, some people, you know, it is  
22 just not going to happen.

23       So, we are in a tough spot of what is required and what  
24 is not. And everyone has different information, and we  
25 provide copies of the mandates, but then they provide me

1 some website they found or something different. And, you  
 2 know, I get threatened with lawsuits daily at this point,  
 3 which is a lot less scary now than it was in March of 2020.

4

5 Senator Paul. Do you own a venue or just book venues?

6 Ms. Query. I own one and then I manage three others.

7 Senator Paul. Okay, and the one you own, how many  
 8 people -- it is indoors?

9 Ms. Query. It is.

10 Senator Paul. And how many people can it hold?

11 Ms. Query. Pre-COVID, 550 seated, 750 cocktail.

12 Senator Paul. What are you allowed to do now?

13 Ms. Query. Currently 350 with spacing and the  
 14 capacity. So, venues can have 60 percent capacity. So,  
 15 with spacing and distancing and you know, food has to be  
 16 staff served, not self-served. You know, social distancing.  
 17 Then you have got to have room for all the stuff, and then  
 18 people, you have to have room for them as well.

19 Senator Paul. Has anybody showed you any science that  
 20 staff served makes a difference between self-served?

21 Ms. Query. No.

22 Senator Paul. Someone just decided these things, just  
 23 popped out of their head and said, well, we will get less of  
 24 it if we do this. And there might be some logic, but there  
 25 is no science or studies to prove it. So, and what about

1 outdoor venues? What are the rules on outdoor venues?

2 Ms. Query. 100 percent capacity outside. As long as  
3 it is -- as long as there is one wall open. So, if it is a  
4 tent, you leave one side off. If it is a barn, you leave  
5 the doors open.

6 Senator Paul. What I love about the outdoor dining  
7 versus indoor dining is that you can be in a tent, you can  
8 have all these people crowded in a tent with no ventilation,  
9 but not in the restaurant where they actually have  
10 ventilation and ventilation probably does help reduce the  
11 risk of it. But in a tent, there is no ventilation at all.  
12 Everybody is just breathing into the tent, you know. But do  
13 you want to add anything else?

14 Ms. Query. Just similar to what everyone said, we have  
15 workforce issues. You know, we are now dealing with threats  
16 of lawsuits, you know, on multiple sides. We have got  
17 potential for taxes that are going to hurt small business  
18 and mandates, additional mandates that are going to hurt  
19 small business. So, you know, we appreciate you taking the  
20 time to hear from us and for advocating on behalf of small  
21 business. We have got to get back to whatever normal is  
22 going to look like.

23 Senator Paul. And so, the difficulty we have right now  
24 is you have all these mandates by the Governor, probably  
25 hundreds of mandates that he has issued, but then you have

1 the law that the State legislature passed that says that his  
2 edicts expire after 30 days. That is the law of Kentucky.  
3 And yet we have one single judge that is staying the entire  
4 State legislature. And this should give us pause to think  
5 about it, that we would have one person in the judiciary  
6 stop all of the elected officials.

7 I mean, we have 100 representatives. We have 38  
8 Senators. They have all been elected by all the people of  
9 Kentucky. They came together and I think nearly three  
10 fourths of them voted to say that emergency orders should  
11 end without the consent of the legislature, which to me, I  
12 think sounds pretty reasonable that one person shouldn't  
13 decide that we would disperse that power and have checks and  
14 balances. But now it goes before the Kentucky Supreme  
15 Court. Alan, why don't you tell us a little bit more about  
16 the court case and what is going on since you are part of  
17 that.

18 Mr. Hincks. Well, the Pacific Legal Foundation reached  
19 out to three of us three months ago, and Thomas Goodbury, he  
20 has locations in Jefferson County, Fayette County, Franklin  
21 County. And then there is Any Hawkins, she has got a  
22 location in Georgetown, Kentucky, and there is Dundee Tavern  
23 in Louisville, Kentucky. And when they reached out to us  
24 about filing the lawsuit against the State of Kentucky and  
25 Governor Beshear about unconstitutional lockdowns on

1 businesses, not just professional businesses, businesses as  
2 a whole in Kentucky. They have had some success. We  
3 actually, the judge Dr. Paul is referring to is Judge  
4 Sheppard in Franklin County. He basically sided with the  
5 Governor about the mandates.

6       Once the General Assembly convened and put new laws on  
7 the book, when that went forward, the judge -- I am not a  
8 political scholar like, excuse me, a legal scholar like you  
9 are or people in the room. But basically, the judge sided  
10 with the Governor and basically stopped the General Assembly  
11 from creating new laws to limit the Governor's powers. And  
12 we as citizens voted them in. We did.

13       So, the Pacific Legal Foundation found loopholes  
14 basically in what was going on with the Governor or excuse  
15 me, Judge Sheppard in Franklin County, and then Trendies, a  
16 restaurant in Georgetown, Kentucky, they lost both -- well,  
17 basically, our lawsuit was launched in Scott County. And  
18 there was a judge who basically overruled to a point of what  
19 Judge Sheppard was doing in Franklin County. So, we had  
20 four days of freedom. The Court of Appeals -- heard it. It  
21 was automatically forced, the Court of Appeals.

22       The goal of the Pacific Legal Foundation and us was to  
23 get to the State Supreme Court, because with these new laws,  
24 the thinking is how could you as a State Supreme Court, not  
25 go by the law? And I have been told as recently as last

1 week, the State Supreme Court does not go by the law all the  
2 time, which, okay, we have got that going on too. But the  
3 Court of Appeals sided with the Governor saying that it was  
4 irreparable harm to the Governor to let our businesses open  
5 up.

6 Now, and also about the virus and related to the  
7 general public, the city of Kentucky -- there is no science.  
8 So, the irreparable harm they are speaking of, not including  
9 the small businesses and the harm we have been through. So,  
10 it stands right now that the oral arguments are May 25th and  
11 then June 2nd goes to the State Supreme Court.

12 Senator Paul. Right. And the thing is, is while you  
13 can't directly lobby the Supreme Court, it is an elected  
14 position and we do get a chance to vote on these things.  
15 And so, I think we should watch carefully what happens. The  
16 interesting thing is, is I don't care whether you are a  
17 Republican or a Democrat or an Independent, emergency  
18 powers, most of us could agree to some basic emergency  
19 powers for the Governor. When they passed the law, they  
20 gave him these powers.

21 The State legislature gave the Governor's powers in the  
22 1990s. It was for the things that most of us would probably  
23 agree to, a tornado hits the middle of Lexington, the  
24 National Guard is called to bring in food, water, blankets.  
25 We set up tents. We set up places for people to sleep in a

1 school or a gymnasium. We would all agree to that. Nobody  
2 has a problem with that. But if you are going to tell Mr.  
3 Hincks that he can only have 25 percent of the people in his  
4 restaurant for a year, that is not an emergency, that is a  
5 policy.

6 That is a law. That is an edict that should have to go  
7 through the normal processes of law. So, I don't know how  
8 anybody can imagine that one person could have that power.  
9 Part of the problem with having that power for so long is  
10 that when our session, when our legislatures go out of  
11 session, they cannot call themselves back into session. So,  
12 from March of last year all the way until January, there was  
13 no way they could do anything. And so, the Governor  
14 basically ignored every plea from the legislature.

15 They came back in, passed the law, and then he  
16 immediately sued the legislature to say he wasn't going to  
17 obey the law of the land. This is a very, very dangerous  
18 precedent if it is enforced by the courts that we would  
19 allow one person to overturn the State legislature of 138  
20 people. The will of 138 people that represent 5 million  
21 people would be overturned by a court or by one individual.

22 And I have said this, and I will say this again, I  
23 don't care whether the Governor would be a Republican or a  
24 Democrat, I would have exactly the same position. We cannot  
25 have anybody of any party have unlimited power. It goes



1 against everything historically that our country stands for  
2 and the division in the checks and balances on power. What  
3 are the current restrictions for how many people can be in  
4 the restaurant?

5 Mr. Hincks. The State of Kentucky as of now is about  
6 50 percent, outside is unlimited. And of course, the world  
7 famous 1,000 people or less, no mask so -- I am sorry, I was  
8 talking to you guys about this past Saturday --

9 Senator Paul. What is a thousand people or less no  
10 mask? What is that? What is the rule? I don't understand  
11 what the rule is.

12 Ms. Query. If you have 1,000 people or less, you don't  
13 have to wear a mask. If you have 1,000 people or more, you  
14 have to have a mask at all the time. So, if you are seated  
15 at your table or you are eating or drinking, you don't have  
16 to wear a mask. Any other time you are supposed to wear it  
17 unless you have 1,000 people or less, or unless you are  
18 indoors and that rule changes. It also depends on where you  
19 are, what county you are in, or you just decide yourself.  
20 Just depends.

21 Senator Paul. Right. Where do we stand, Dawne, with  
22 the schools as far as getting back to school? I mean, do  
23 you know, like in Lexington, how much is in person versus  
24 how much is virtual?

25 Ms. Perkins: I don't know in Lexington. But I mean, we

1 had to -- speaking of the State legislators, I mean, it was  
2 so bad that we had to have legislation passed even to get  
3 our largest school district, Jefferson County, back in  
4 school two days a week. And they had the opportunity to  
5 pass with their Board of Education to go back even more than  
6 that and turned it down, said no. So, they are about the  
7 only district that I know here in the State of Kentucky that  
8 is in two days. Most are in four.

9 And then, of course, there is still virtually.  
10 Ironically about the masks, the outdoors, the Derby, and all  
11 of that fun stuff was that prior to the Derby and Mayor  
12 Fisher and Governor Beshear and the Derby, Jefferson County,  
13 kids couldn't even go out on the playground without wearing  
14 a mask. So, I think that --

15 Senator Paul. And yet 50,000 people could come to the  
16 Derby, right?

17 Ms. Perkins: In the same county. In the same county.  
18 So that has been kind of crazy. Most of our schools are  
19 back in four days. The fifth day is probably about 50  
20 percent, you know, whether they are there or not.

21 Senator Paul. And I think it is important to put this  
22 in perspective. If we were actually to look at the science  
23 of what is going on or the statistics of what is going on,  
24 85 percent of people over 65 have been vaccinated, 85  
25 percent of the country over 65 has been vaccinated. A third

1 of the country has gotten the disease and has natural  
2 infection. Some of them have been vaccinated too. Some of  
3 them have gotten the disease and have been vaccinated. But  
4 we have huge numbers.

5       If you want a vaccine in our state, you can get it.  
6 There is really no limitations now. Pretty much anybody can  
7 get it. I don't know if children are under a certain age  
8 and are allowed to get it because it hasn't gotten approval  
9 for that. But the vaccine is out there. The numbers, if  
10 you look at daily incidents, have gone through the peak in  
11 January, are down low. The deaths went through the peak in  
12 January and are down low. There is no real evidence that we  
13 should still be doing this.

14       And even States that have had significant lockdowns or  
15 even New York is going to be ahead of us and opening up.  
16 So, when the Governor says that we need to vaccinate 2.5  
17 million people, the burden should be on the Governor to say  
18 why. Why that number? Where is the scientific proof that  
19 we need that? Where is the evidence that we still have a  
20 great problem in Kentucky? Everything about Kentucky says  
21 we don't necessarily have that problem. And much of the  
22 reason we don't, I think, is because we are a rural State  
23 and the rural States have largely done better than the urban  
24 states. But we are stuck in sort of this place where I  
25 think the biggest thing is, is it can't be one person's

1 opinion.

2 We really need to be in a democratic republic of  
3 multiplicity of opinions that come together and somehow  
4 consensus forms Government. And that is what we have to, I  
5 think, truly be concerned with. One of the things about  
6 schools that I think puts it in perspective is that more  
7 children have died from suicide than from COVID. Can you  
8 imagine? And suicides are up.

9 Ms. Perkins: The suicides are definitely up. And that  
10 is one of the things I don't like about Let Them Play or Let  
11 Them Learn is because parents, you know, have reached out to  
12 me. And I don't say I don't like it, I don't mean it like  
13 that, but it is tough.

14 Senator Paul. But you have had to hear this, yes.

15 Ms. Perkins: It is tough. You know, you hear -- I grew  
16 up on a farm, so in a small rural community about an hour  
17 away. So, I understand the limitations that often rural  
18 Kentucky and rural America have. And it is just incredible.  
19 And I don't know what the numbers are now, but you were  
20 speaking of people not logged on. I do know that Jefferson  
21 County back in the fall was estimated between 5,000 and  
22 10,000 that never logged on. I know that the Kentucky  
23 Department of Education on their website estimated between  
24 50,000 and 100,000 that don't have Internet.

25 I know when we went virtual here in Fayette County,

1 12,000 kids didn't have a Chromebook. And we have sent  
2 these kids on their way in homes that maybe aren't as good  
3 as they need to be with families that don't have jobs or  
4 make tough decisions and mom is not working because she  
5 really is trying or maybe mom is by herself, and grandma is  
6 helping. You know, the information just continues, and  
7 continues, and continues.

8 Senator Paul. And we did all this without an iota of  
9 evidence of significant spread in the schools. Not one  
10 study. In fact, every study is showing the opposite. And  
11 we also have the experiment in all of our communities of  
12 private schools that have stayed open and not had any kind  
13 of super spreading event or any kind of surge in the  
14 community among the students or the teachers.

15 Ms. Perkins: And our surrounding States have been in. I  
16 think Indiana has been in since August. I mean, they have  
17 had a couple, you know, quirks and things that they have had  
18 to do. But Tennessee has been in. I mean, Virginia, West  
19 Virginia, they have all been in. At least three times, if  
20 not four times more than Kentucky, and we are still  
21 struggling to get in.

22 Senator Paul. I think we are going to wind up here  
23 pretty soon. Does anybody else have any subject or  
24 statement you would like to finish up with before we draw  
25 things to a close?

1           Ms. Query. I think we need to say that it is -- I am  
2 not envious of anybody that had to make any of these  
3 decisions. I think there is a lot of tough choices that had  
4 to be made. Not a lot of information, a lot of changing  
5 information. I in no way envy having to make those choices,  
6 but I think making those choices and providing some evidence  
7 to support it and maybe considering, you know, options or  
8 just maybe sticking with something and letting us all know.  
9 But we appreciate, I think I can speak for everyone when I  
10 say we appreciate those who are trying to get us safely  
11 reopened and get things back in focus. It has got to be a  
12 tough job to be making these choices and figuring out  
13 mandates and PPP and EIDL. So, you know, I am very  
14 appreciative of those who are working like you to get things  
15 reopened and to figure this out because it has got to be a  
16 tough job.

17           Senator Paul. You know, I think you hit the nail on  
18 the head about tough decisions, because when you think about  
19 it, the way a free society is set up is like if you are  
20 accused of a crime, you are presumed to be innocent. So,  
21 you go before the court, and it is the burden of the  
22 Government to prove that you are guilty. You don't have to  
23 prove that you are innocent because you are assumed to be  
24 innocent.

25           It is the same way in a free society. You are assumed

1 to have your liberty. If Government wants to take away your  
2 liberty, it is their burden to prove why. And it should be  
3 a big and a steep burden to say to a businessperson, we are  
4 going to dictate what you can or to say to someone who is in  
5 convention planning an event planning that we are going to  
6 do this. It is their burden.

7       And if it is going to be extraordinary to take away  
8 your freedom to make these decisions with the people you  
9 contract with, it has to be extraordinary. There has to be  
10 science, scientific evidence. There has to be proof of it.  
11 But there also should be the imprimatur or the approval of  
12 the legislature. You know, no one person should get to  
13 dictate to you how to run your business or how many people  
14 can be in your store or who what your clients can do.  
15 Because here is the danger. When you let one person decide,  
16 that person could make a mistake. Now, the whole  
17 legislature could make a mistake but at least now you have  
18 had a debate among a lot of people, and you have this give  
19 and take and checks and balances.

20       But this is sort of been the argument against the  
21 centralization of power all the way down to one person. It  
22 is sort of why we fought the revolution. We didn't like  
23 having a king. You know, we wanted to have that power  
24 dispersed so there would be debate. So, I think this is an  
25 issue of our time, not only devastating to individual

1 businesses, but this is a real issue of whether or not you  
2 are presumed to be free, and the Government has a burden to  
3 prove why they want to take your liberty, or if you can have  
4 some public health person just write a note and say go  
5 arrest them. I mean, we have lived through the last year  
6 where the police were sent to churches to take down license  
7 plates.

8 I think it is also important to say it is not that I  
9 don't care about safety. If you ask me in March of last  
10 year, if you were 85, should you go sit in a church for two  
11 hours? I would say I would advise against doing it. So, I  
12 mean, there is advice and I think most people -- so I tend  
13 to think of free society, in our society, people are smart  
14 enough to take advice from experts, filter through it, and  
15 make a decision. But also, if you ask me if you were 25  
16 years old, wanted to go sit in a church for two hours last  
17 March, I said, you know your risk for much less. You have  
18 some risk. You could get sick, but the chance of dying is  
19 one in a million.

20 So, I think people could take that advice. And this  
21 would be advice that we give to people. But there is a  
22 difference between persuasion and edict, and it is a one  
23 size fits all. We are not the same. I mean, one of the  
24 things that because we have had this sort of monolithic  
25 advice that we failed to tell people, I tell people



1 everywhere I go, there is something that can save your life,  
2 and nobody is telling you this. If you get COVID,  
3 particularly if you get COVID and you are overweight, 80  
4 percent of the people going in the hospital or dying are  
5 overweight.

6       So, if you get covered, you are overweight, you need to  
7 be much more cautious and careful of your symptoms to look  
8 for treatment. But there is a treatment. It is called  
9 monoclonal antibodies. President Trump got it. Chris  
10 Christie got it. Giuliani got it. But there is a window of  
11 time. If you don't get that treatment and you get sicker  
12 and sicker and sicker and you go to the hospital and you  
13 have to put you on the ventilator, they will say the  
14 monoclonal antibodies don't work. You missed your window.  
15 I don't hear anybody on television telling you that.

16       So, you would know that if your mom or your dad got  
17 sick and they were getting sick or beginning to cough, you  
18 have got to get them in soon. You have got to advocate to  
19 get them monoclonal antibodies. The doctor has to make a  
20 decision, but I promise you, being an advocate, a family  
21 advocate can make a difference. And it is about an 80  
22 percent reduction in death.

23       In fact, what they are doing for people, if you are  
24 living in a house with someone with COVID, let's say it is  
25 two elderly people. The woman has -- she is 85 and her

1 husband says, I am not leaving, I am our only hope, and I am  
2 going to stay with her. They can actually get the  
3 monoclonal antibodies to him, too, before he gets it. And  
4 so, it either prevents him from getting it or they get an  
5 incredibly mild case.

6 And instead, we are insistent on making a two-year-old  
7 wear a mask on a plane. And, you know, making a young kid  
8 with autism who is seven or eight put a mask on a plane and  
9 holding them down and kicking them off planes, instead of  
10 somebody saying there are ways we can save your life, you  
11 know, through medication, there are reasonable things you  
12 can do if you are at risk to avoid this disease, and to let  
13 people know the reasonable and obvious evidence that we are  
14 getting beyond this, that everything shows that we are  
15 getting beyond the part of this, and hopefully we will be  
16 getting beyond it soon. I want to thank you all for  
17 participating. We wish you the best of luck in your  
18 business.

19 I tell people that I think our job in Government is to  
20 make it easier for you to succeed in business. I can't help  
21 you with the business, but I can try to help keep Government  
22 out of your way. And I think in the last year, we have done  
23 nothing but put obstacles in the way of your business. We  
24 have had family businesses, restaurants run for 60, 80  
25 years, go out of business. You know, they have gone through

1 several generations of family members and then all sudden it  
 2 is gone, something that has been built up for generations.  
 3 That is very sad.

4 So, I hope we will see some sense very, very soon. I  
 5 hope the Supreme Court will look at this, at Kentucky and  
 6 say we cannot, let a Governor have unlimited power. Thank  
 7 you all very much.

8 [Whereupon, at 10:20 a.m., the roundtable was  
 9 adjourned.]

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11 Appendix. Letter for the Roundtable Record from Let Them  
 12 Learn JCPS

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May 6, 2021

The Honorable Ben Cardin  
Chairman  
Committee on Small Business and Entrepreneurship  
United States Senate  
Washington, DC 20515

The Honorable Rand Paul  
Ranking Member  
Committee on Small Business and Entrepreneurship  
United States Senate  
Washington, DC 20515

Dear Chairman Cardin and Ranking Member Paul:

Let Them Learn in JCPS is a grassroots group of about 2,000 parents of Jefferson County Public School (KY) students. It was initially formed in September 2020 as a response to the shutdown of public schools due to the Covid pandemic and the resulting complete shift to virtual learning (non-traditional instruction, "NTI"). While presented to families initially as a temporary safety measure, NTI quickly became an indefinite yet insufficient solution. Let Them Learn in JCPS recognized that students and families did not have a voice in such decisions. We began advocating that K-12 children should have the opportunity, immediately, to attend school in person full-time while following the proper guidelines as private schools and schools in other districts had been doing successfully since August 2020.

Throughout the fall of 2020, we launched a series of email and phone campaigns to rally our cause. In November 2020, Gov. Andy Beshear ordered a more severe state shutdown, including no in-person instruction and an indefinite pause of high school sports. In January 2021, Let Them Learn led a successful campaign to convince the JCPS Board of Education to vote to resume high school sports. Our focus on convincing the Board to vote to return to full-time in-person school continued, with a great deal of activity in March 2021. The Kentucky General Assembly passed House Bill 208, which required all districts to return to some in-person instruction by April 2021. The JCPS Board passed the minimum requirement, a little-understood hybrid model of two-day in-person instruction for K-12 students. Let Them Learn was not satisfied with this outcome and has continued advocating for full-time in-person learning. JCPS is the largest district in the state with nearly 100,000 students, and as of May 2021 is the only district in the state that still offers two days a week of in-person learning instead of four or five days.

Let Them Learn in JCPS was originally created as a spin-off from the popular statewide "Let Them Play" (Facebook) movement which promoted the continuation of youth sports during Covid. In just a few months, Let Them Learn in JCPS has become the most successful grassroots organization for JCPS families ever. It continues to grow, organize, refine its

mission, and be the voice for families as they seek to address ongoing and potential concerns in productive and positive ways with JCPS officials.

Let Them Learn in JCPS achievements during its first few months include:

- Continued growth of its member base and reach using Facebook and Twitter
- Rallied support to convince the Board to approve winter sports
- Organized and held a press conference at VanHoose Education Center in February 2021
- Became the media's go-to source for parent interviews Invited to provide representatives to testify before Kentucky's Senate Education Committee in February 2021
- Rallied support to convince the Board to vote 4-3 for in-person instruction
- Providing representation at all in-person JCPS Board meetings
- Contacted by a top federal lawmaker to provide feedback
- Collaborating with concerned and supportive local business leaders
- Formed partnerships with state and national school choice organizations
- Supported and provided grassroots support for state legislation important to our parents, including House Bill 563, Kentucky's first-ever school choice law; Senate Bill 128, which provides an optional extra year of school for students; and House Bill 208, which required school districts to provide at least some in-person instruction beginning April 2021.

We have learned a significant amount about JCPS from this experience and are reminded of a quote attributed to President Gerald Ford along the lines of, "Government big enough to give you everything you want, is a government big enough to take away everything you have." If you substitute "school district" for "government" and look through the perspective of our families, there are clear parallels with how our school district is an extensive fabric of our community that provides these in-person resources: education; extracurricular activities; access to the arts; sports; friends; connections with other (non-parent) adults/authority figures for students; employment opportunities (for those within JCPS who are not salaried and for those now home-schooling parents who cannot work from home and are therefore unemployed); motivation (the very act of preparing for the day/leaving the house and going to a school building); test/college/vocational preparation. For other students and their families, the fabric provides even more fundamental needs and services: food; ADA/special needs support; counseling. It is inconceivable that this fabric was suddenly, indefinitely, and unnecessarily ripped away, and our families have felt the absence of each and every piece.

The long-term ramifications of not allowing students to attend school in person for an entire year-plus are obviously not yet known, but education and mental health experts agree they will be comprehensive. The immediate impacts have been devastating for most families, particularly single parents, low-income families, students with learning differences, students and parents with existing or new mental health issues, and students from unstable home environments. There have been reports that as many as 5,000 students in JCPS alone have never logged on to their classes. Despite these realities and the CDC and other public health officials stating that it was safe for students to attend school in-person, the JCPS Board continued to oppose doing

so. As parents, our ability to communicate with the Board has been a significant struggle. We have tried, with no success, to speak during Board meetings, to ask questions in person or via email, and we have been continuously ignored and, sometimes, shamed and silenced through Board members' social media accounts and in emails. We have never had any of our questions or concerns addressed in any Board meeting.

We remain concerned that our children will not have the opportunity to attend school in person beginning with the new school year in August 2021, and that whatever time they are allowed to be in person will be filled with unnecessary restrictions, causing learning barriers as well as continued social and emotional trauma. We have learned we are powerless to influence decisions that affect our children and families, and we remain immensely concerned that the decisions of a very few number of people, namely our Governor and the seven members of our school board, have such wide-reaching implications for so many.

We have included three personal stories from families in our group to illustrate the issues we have all faced. We appreciate your interest in this important issue and for the opportunity to have our frustrations and concerns heard by this committee.

Sincerely,

Jennifer Griffin, Leigh Cameron and Steve Ullum  
JCPS Parents and Co-Founders, Let Them Learn in JCPS

#### **Personal Stories of JCPS Families from the 2020 and 2020-2021 School Years**

JCPS families all experienced varying degrees of the devastation caused by the unnecessary and prolonged school closures and the inadequacy of both NTI (March 2020 - March 2021) and the hybrid model of part-time live instruction (March 2021 - present).

1. Steve is the single father of a fourth grader who attends a JCPS elementary school. What is ironic and frustrating to Steve is that while his daughter could not attend her own school in person for thirteen months, she did have access to a very similar setting. Through a program called Child Enrichment Program (CEP), sponsored by the YMCA, she was able to attend a different JCPS public school five days a week from 9:00 am - 6:00 pm. Students could do NTI school work in a supervised classroom with other students, play games with friends in the gym, and gather in the cafeteria with other students. This was allowed and even partially funded by JCPS, yet JCPS school buildings were otherwise kept closed and considered "unsafe" by the JCPS board members.

The only differences between NTI at a CEP location and her typical school were: 1) Steve was charged about \$175 per week instead of benefiting from free public school; 2) the YMCA employees were the supervisors; and 3) the YMCA employees were supervisors, but not

instructors. Students like Steve's daughter were forced to do most of the learning on their own all day. His daughter had school work in math, reading, writing, science, and social studies every week; however, her classroom teacher taught lessons live only in math and mostly held calls where the class would read a book aloud instead of teaching. His daughter had no alternative other than to watch videos by herself, take notes, and then complete assignments on her own for all the other subjects.

Steve's 10-year-old daughter had a completely different schedule every day, with video calls held at different times and a different schedule of subjects every day. She suffers from ADHD, but had to manage it all on her own. Steve considered her learning challenges, coupled with "an impossible expectation" for learning remotely, to be "a recipe for disaster." Needless to say, some work could not get done, and some video calls were missed. Many weeks were "absolute train wrecks." Steve found himself working from home many days with his daughter doing her school work right by his side, just so he could catch her up on the work she was missing. Weeks like that meant less focus on his career, which meant less income and no other supplemental income from anyone else to help.

As this stress mounted, so did the frustration, the arguments, and the depression. As a result, Steve and his daughter experienced "more fighting than ever before." The solution his daughter's school counselor offered was that he should "stop worrying so much about his daughter doing her work correctly and getting the right answers." Instead, he should just let her do it her way, turn it in incorrectly, and wait for her teacher to recognize where she needed the extra help. The parent who was forced into the role as his daughter's teacher was now "told to literally stop caring," Steve says.

That was NTI as Steve and his daughter experienced it. That was the level of instruction his daughter received. That was an overview of how much "support" she received from her school. Steve watched as his daughter's grades slipped from "Outstanding" and "Satisfactory" to Cs, Ds, and "Unsatisfactory" during NTI. Since returning to school in person in March 2021, in a two-day/week hybrid model imposed by the JCPS board members, Steve was disturbed that the federal government and state sought "to punish students" further by forcing them to complete standardized testing. He feared this would serve as a reminder to students like his daughter of "all the things she didn't learn" during a year of NTI.

The transition from NTI to the hybrid model compounded problems for parents like Steve. JCPS decided to cancel the YMCA's CEP program at most of its schools once the hybrid model began. JCPS "did not seem to care that a decision like that would interfere with working parents and prevent them from earning an income for their families." Families who used CEP as their childcare were suddenly left to fend for themselves for the remainder of the school year and summer. With no childcare, his only option was to bring his daughter with him to work Monday, Tuesday, and Wednesday each week, adding to their stress.

Steve fears that "it will take years for my daughter to recover from the loss of over a year's worth of education, all while I struggle to recover from the loss of income and try to heal my family from the mental and emotional trauma that we experienced."

2. "Saniyah" and her family moved to JCPS from Flint, Michigan in 2019 because her mother wanted to escape Flint's lead water crisis.

Saniyah is a very capable student but requires extra services to help her reach her full potential. Her mother is a fierce advocate but is mostly likely reliant on government assistance herself and lacks the resources, including language skills, necessary to assist her daughter.

Saniyah started her third-grade year at Price Elementary in 2019, but her needs were not being met, and she asked to transfer to Hite Elementary. Because the timing of her transfer was not finalized until after schools were closed in spring 2020, Saniyah was not even able to enter her new school or meet the staff until JCPS reopened in March 2021. Since the start of the 2020-2021 school year, Saniyah and her mother depended on the volunteers at their church to communicate with her elementary school and help with NTI. Since school resumed with the in-person hybrid model, they now rely on a home school lab two days a week and on an individual church volunteer on Wednesdays. Even with all of this volunteer assistance, "there is a lot of confusion about assignments that are sent home, online work that neither Saniyah nor her mother understand, the process to have her reassessed for learning difficulties, and the decision whether to have her repeat fourth grade or move on."

3. Allyson is the mother of two JCPS students. Her daughters are in third and sixth grades. One has autism, and one has dyslexia. Throughout NTI, the implementation of her daughters' Individualized Education Plans (IEPs) was "severely lacking." They "were not getting the proper assistance and the proper education they need to be successful."

Her daughter with special needs would not attend a facility where she does not know people because she does not trust people, and she does not feel comfortable in those environments. Because her daughter's only option was to stay at home, this caused Allyson to be unable to work outside of her home. Since March 2020, she was forced to "live off unemployment benefits." Dissatisfied with such a situation beyond her control, Allyson asserted, "This is not what I want for my family. I should be allowed to work and provide for my kids."

Allyson was also seriously concerned about the amount of screen time that her children endured on a weekly basis. "They are literally in front of screens from 8:00 am to 3:00 pm, causing my child to have severe headaches. I bought special blue light glasses for her to be able to endure the amount of screen time."

Like many single parents finding themselves without options, Allyson did not have family available to assist her. She grew up in foster care and lacked "that support system to watch my



kids while I go out to work. I am stuck at home with two kids, living off unemployment while trying to educate my children." Allyson's daughters required close supervision "because during class time, all they are doing is going over the work in Google Classroom and doing the work they are expected to complete. The students are not actually being taught those assignments." Allyson, who enrolled in online college courses for herself, needed to interrupt her own instruction to teach her daughters their assignments, "causing my family great stress and anxiety."

For families like Allyson's, every single day that her children were not in their classrooms was a day of lost opportunity - for her daughters' education and for her income. Still, JCPS board members wasted months debating whether schools were safe. The debate lasted so long, that by February, there would only be weeks left of possible in-person instruction. Allyson argued, "I know that some board members are stating that it doesn't matter if we go back for just a few weeks, but it matters to the families, and it matters to the children. My autistic daughter has become severely depressed with being out of school and unable to socially interact with other children. It is causing her to regress deeply. I have had to seek out extra therapeutic assistance for her just because of NTI."

Senator PAUL. Since the beginning of the pandemic, the Federal Government has spent \$4.2 trillion on COVID-19 relief. Small Business Administration has been authorized to spend just under \$1 trillion, making it one of the largest spenders in the COVID economy, second only to the Department of Treasury.

Unfortunately, Treasury Secretary Yellen is not here today to answer for her Department's use of those funds. Despite being required by law—I repeat that, required by law—in a bill that was passed overwhelmingly to be here, she is not here today. Earlier this month I sent Secretary Yellen a letter reminding her of that obligation, yet I have received no reply.

Mr. Chairman, I ask consent to submit that letter for the record, along with a list of the public events Secretary Yellen has recently chosen to participate in instead of coming to this Committee.

Chairman CARDIN. Without objection, it will be included in the record.

[The information referred to follows:]

BENJAMIN L. CARDIN, MARYLAND, CHAIRMAN  
 RAND PAUL, KENTUCKY, RANKING MEMBER  
 MARIA CANTWELL, WASHINGTON  
 JEANNE SHAHEEN, NEW HAMPSHIRE  
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United States Senate  
 COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP  
 WASHINGTON, DC 20510-6350  
 TELEPHONE: (202) 224-5175 FAX: (202) 224-5619

May 6, 2021

The Honorable Janet Yellen  
 Secretary  
 Department of the Treasury  
 1500 Pennsylvania Avenue, NW  
 Washington, D.C. 20220

Secretary Yellen,

As you know, Section 321(b)<sup>1</sup> of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (title III of division N of Public Law 116-260) requires the Secretary of the Treasury to testify before the U.S. Senate Committee on Small Business and Entrepreneurship regarding the implementation of the Act and the amendments made by the Act.

As Ranking Member, I write to respectfully arrange a date for you to testify before the Committee, as required by law.

I am committed to working with you to identify a mutually agreeable date for you to fulfill your obligation to appear before the Committee. Unfortunately, previous efforts to work with your Department to schedule your testimony have been unsuccessful to date. For this reason, I respectfully request that you direct your office to provide the Committee with your availability for the months of May and June no later than 5PM on May 7, 2021.

Thank you for your prompt attention to this matter.

Sincerely,

Rand Paul, M.D.  
 Ranking Member

<sup>1</sup> TESTIMONY. – Not later than the date that is 120 days after the date of enactment of this Act, and not less than twice each year thereafter until the date that is 2 years after the date of enactment of this Act, the Administrator and the Secretary of the Treasury shall testify before the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding implementation of this Act and the amendments made by this Act.

## Secretary Yellen's Public Engagements

March 2<sup>nd</sup>-May 25<sup>th</sup>, 2021

Date of Speech	Organization	Title of Event	Topics Discussed
5/18/21	US Chamber of Commerce	Global Forum on Economic Recovery	COVID-19 pandemic, long-standing underinvestment in infrastructure, taxation, climate change, public and private responsibility to respond to structural inequities
5/18/21	Meeting with American Bankers Association (ABA)		Role of banks in emergency government support (PPP, Economic Impact Payments), banks investing in infrastructure, need for banks to expand financial services to underserved communities
5/18/21	Summit on Financing African Economies		US support for African nations' COVID-19 recovery, goal to make African economies more inclusive and resilient to future shocks, focus on sustainability in rebuilding the economy
5/14/21	Vatican's Pontifical Academy of Arts & Sciences	Dreaming of a Better Restart: Financial and Tax Solidarity	Role of international community in working to mitigate vaccine shortages, debt relief to poorest countries, proposal for a global minimum corporate tax rate, mobilizing finance community for climate mitigation
5/11/21	Democratic Women's Caucus		Increasing fair and accessible capital for women, supporting minority-owned businesses
5/7/21	The White House	Press Briefing with Jen Psaki	State of labor market, commentary on jobs report, the debt limit
5/4/21	The Atlantic	Future Economy Summit	The Biden Recovery Plan
5/4/21	Wall Street Journal	CEO Council Summit	Summit covers the Biden Admin's first 100 days, rebound from COVID-19
4/28/21	Meeting with Retail Industry Leaders Association (RILA)		How Biden administration is working to address underinvestment in public goods and challenges faced by families (increased cost of childcare & healthcare, lack of sufficient paid leave)
4/22/21	The State Department	Leaders Summit on Climate: Investing in Climate Solutions with John Kerry and Brian Deese	Goal of net-zero emissions, public and private sector roles in reducing emissions, attracting investment in clean energy, building the Green Climate Fund
4/21/21	Remarks to Institute of International Finance		Cost of climate change to the economy, climate change action, the American Jobs Plan infrastructure package
4/16/21	Center for American Progress, Corridor Partners, Environmental Defense Fund, Friends of the Earth, League of Conservation Voters, Moms Clean Air Force, National Wildlife Federation, Natural Resources Defense Council,	Roundtable Discussion on Corporate Tax Reform with Environmental Organizations	Importance of using all the tools (including the tax code) to drive toward net-zero emissions, how Biden admin seeks to remove subsidies for the fossil fuel industry and create tax incentives for clean energy

	NextGen America, and Sierra Club			
4/15/21	Meeting with NGA Executive Committee			Input, thoughts, and advice from governors as Treasury determines the most efficient and effective way to get resources to states
4/14/21	National Action Network	2021 Virtual Convention		Driving accountability in the utilization of asset materials, opening remarks by Yellen, moderators AJ Shapton/Robert Raben
4/9/21	IMF	Discussion with Fellow Western Hemisphere Finance Ministers & Central Bank Governors		Plans for multilateral efforts for economic recovery, the humanitarian emergency of migration from the Northern Triangle of Central America
4/6/21	Remarks to Coalition of Finance Ministers for Climate Action			The threat of climate change, rejoining Paris Agreement, Biden hosting Leaders' Summit, and G20 sustainable finance group
4/6/21	Briefing with the House Democratic Caucus			Thanked Pelosi and representatives for their support for the American Rescue Plan, also discussed: declining infrastructure, climate change, wage stagnation and systemic racial inequality
4/6/21	African Development Bank and Global Center on Adaptation	African Leaders Dialogue		Commitment to cooperate with African partners through multilateral financial institutions, goal to help people cope with impacts of climate change
4/6/21	IMF	2021 Spring Meetings Conversation (Economic Recovery: Toward a Green, Resilient, and Inclusive Future)		Pandemic recovery, role of developed countries in fighting global poverty, goal to build resilience for future health crises
4/5/21	The Chicago Council on Global Affairs	International Priorities		Fighting poverty to build inclusive economy, increase focus on equality for vulnerable populations (including women and girls)
3/30/21	US Hispanic Chamber of Commerce	Virtual Legislative Summit		Racial and ethnic disparities in economic outcomes, economic crises (including COVID-19) expanding inequalities, Biden's American Rescue Plan, Paycheck Protection Program
3/17/21	Meeting with co-chairs of National Governors Association's Bipartisan Economic Recovery and Revitalization Tax Force			Desire to work with bipartisan lawmakers to address the diverse needs facing states, localities, and Tribes and distribute much-needed aid
3/16/21	Meeting with Jubilee USA Network			Biden admin's goals to reduce global poverty, how the pandemic has accelerated global economic inequality, stressed that the global poor are the least responsible for climate change, but will suffer most from it
3/9/21	National League of Cities	Congressional City Conference		Role of municipalities in American Rescue Plan, challenges that climate change presents to municipal governments

3/8/21	IMF	International Women's Day: A Conversation on the Age of Womenomics	International Women's Day, role of women in economics, responding to crises in a more equitable way
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Senator PAUL. I also hope you will join me in calling on her to testify, including voting on a subpoena, if necessary.

Now I would like to welcome Administrator Guzman. A few months ago, at your nomination hearing I supported your nomination, in good faith, with the expectation that you would be responsive and cooperative as the Committee fulfills its oversight responsibilities. Unfortunately, this has not been the case. Since March, I have sent five letters requesting data and information necessary for the Committee to conduct adequate oversight over the SBA's COVID-19 programs. To date, we have received only two responses, which fail to provide the complete information we have requested.

The question we have at hand is whether or not groups in our country are receiving money illegally, against the policy of the Small Business Administration. We have these questions on legality, and you are stonewalling us. This is money that is being given to the Planned Parenthood organization. We found at least six different loans that have been given. Among the letters that we sent were multiple requests for specific information about PPP loans, illegally made to Planned Parenthood affiliates. Since you have been confirmed, we found that at least six additional PPP loans have been made to Planned Parenthood, for \$17.6 million.

This money is all in contravention to the SBA policy that it is illegal to give money to Planned Parenthood. In the previous administration, they made a ruling that Planned Parenthood was not eligible, and Planned Parenthood was directed to send the money back. But this administration is continuing to send money to an organization that the previous administration set a policy that was consistent with a longstanding policy on affiliates getting funds. When your deputy was here the last time we asked him, "Have you changed the policy?" He said, "No, the policy is still the same," and yet we cannot get any explanation from you. We have given you the questions in advance.

These loans were approved in defiance of the law, not in accordance with the law, and are just one of the many glaring issues with Small Business Administration programs. But unfortunately we cannot be sure, due to the continued failure on your part to be transparent and provide the committee with the information we need to do our job.

I look forward to hearing your testimony, and I am hopeful that we can find answers to our numerous outstanding questions.

Chairman CARDIN. Thank you, Senator Paul. Administrator Guzman, it is a pleasure to have you before our Committee. Your full testimony will be made part of our record. You may proceed as you wish.

**STATEMENT OF HON. ISABELLA CASILLAS GUZMAN, ADMINISTRATOR, U.S. SMALL BUSINESS ADMINISTRATION, WASHINGTON, DC**

Ms. GUZMAN. Thank you so much. Good afternoon, Chairman Cardin, Ranking Member Paul, and members of the Committee. Thank you for the invitation to be here and for the opportunity to discuss SBA's programs in response to the COVID-19 pandemic. When I appeared before you as a nominee recently I did mention

how this unprecedented crisis has impacted our Nation's 30 million small businesses and innovative startups, and it really created a sense of urgency for me, as well as my team, to work harder, think more creatively, and build more collaboration to meet the desperate need presented by this moment.

In my 2 1 / 2 months as SBA Administrator, I can tell you that my motivation to deliver for our entrepreneurs has only intensified, and I have to share how proud I am of my incredible mission-driven team at the SBA, who despite having had to scale at such a high intensity over the past 14 months remain incredibly committed to our Nation's entrepreneurs. They have been working around the clock to deliver the American Rescue Plan's crucial relief programs to ensure our small businesses can survive this disaster and get on the path to recovery, growth, and resilience.

We are making significant progress, particularly in our efforts to reach small businesses owned by women and people of color, who, because of longstanding barriers to capital markets and networks, suffered disproportionately from this pandemic, and by many accounts were not able to access relief.

We are seeing the impact, and the latest economic reports do show that small business jobs have begun to rebound, and proprietors' income levels have begun to recover. And we are hearing from the small businesses we serve that both our traditional and our new relief programs have created vital lifelines.

Earlier this month, we successfully launched the \$28.6 billion Restaurant Revitalization Fund. As of Monday, when the application portal closed, we have received more than 372,000 applications, representing over \$76 billion in requested funds, and more than half of those applications came from food and beverage businesses owned by women, veterans, and people of color who, as directed by Congress, received priority access to the program.

And we are reaching the smallest of the small food and beverage businesses, with one-third of the total funds set aside just for them, including a specific set-aside I created for businesses with revenues of \$50,000 and under. I am proud of how we rolled out this program in under two months while focusing on my key priorities of meeting small businesses where they are and integrating a customer-first, technology-driven and equitable approach.

We also launched the \$16.2 billion Shuttered Venue Operators Grant Program. As of May 25th, the SVOG program has received more than 13,000 applications for approximately \$11 billion in requested funds. We started awarding our SVOG funds this week and we hope to continue to help our Nation's venues hold on until they can bring back the performances and experience that are the life blood of our American culture.

Through our Paycheck Protection Program and Economic Injury Disaster Loan Programs we have now gone beyond \$1 trillion in relief, and so far, in 2021, 95 percent of PPP loans have gone to small businesses with fewer than 20 employees. Our priority across all our relief programs is to get funds into the hands of small businesses swiftly, efficiently, and equitably.

At the same time, we are also committed to maintaining a high level of oversight to minimize fraud and abuse while elevating transparency and open communication. We have implemented con-



trols and oversight to better achieve that balance and reverse some of the previous fraud challenges that initially plagued the PPP and EIDL programs. I was pleased to hear both GAO's Bill Shear and SBA's Inspector General Mike Ware in a recent House committee hearing that transparency at the SBA has improved under my watch and that our relationship is off to a very good start. There is a lot of work to do, but we are working diligently to ensure this relief gets into the hands of the businesses for whom it was intended.

Beyond our COVID relief programs we are also looking to the future and our Nation's economic recovery, with an eye toward equity. Small businesses are starting to reopen but they are still reeling from major revenue losses, and most expect recovery to take more than six months. This means that we will continue to see the need for capital, which is why SBA is exploring all options to open up capital access, including direct lending.

Additionally, we know that the best thing we can do for our small businesses is to help our Nation recover from COVID and get our marketplaces and Main Streets back to normal. With more than 61 percent of adult Americans who have taken at least one shot of the COVID vaccine, we are making progress. The SBA is doing its part by getting the word out about the American Rescue Plan's tax credit available to small businesses that provide paid leave to employees receiving or recovering from COVID vaccinations.

There is so much more work to do. As the voice for America's 30 million small businesses, I will be leveraging every tool at my disposal to bring businesses back, create jobs, and build an equitable economy that works for everyone. I look forward to partnering with you to give all entrepreneurs the tools they need to start, sustain, and grow into the future.

Thank you, Mr. Chairman, Ranking Member Paul, and all the members of the Committee for the opportunity to appear before you today.

[The prepared statement of Ms. Guzman follows:]

**Congressional testimony prepared for SBA Administrator Isabel Guzman  
U.S. Senate Committee on Small Business & Entrepreneurship  
Wednesday, May 26, 2021**

Good afternoon, Chairman Cardin, Ranking Member Paul, and members of the committee. Thank you for the invitation to be here and for the opportunity to discuss SBA's programs and response to the COVID pandemic.

When I sat before you as a nominee not so long ago, I mentioned how this unprecedented crisis for our nation's 30 million small businesses and innovative startups had created a sense of urgency to work harder, think more creatively and build more collaboration to meet the desperate need presented by this moment.

In my first 100 days as SBA Administrator, I can tell you that feeling – the constant drive to do one more thing to step up for our entrepreneurs – has only intensified. I'm extremely lucky to be supported by an amazing SBA team that is also mission-driven – and is working around the clock to deliver the relief our small businesses need to get through this disaster.

We're making significant progress – particularly in our efforts to reach small businesses owned by women and people of color, who, because of long-standing barriers to capital, markets and networks have suffered disproportionately from this pandemic.

We're seeing the impact. The latest economic reports show that small business jobs have begun to rebound, and proprietors' income levels have begun to recover. And, we're hearing from the small businesses we serve that our traditional services as well as our policy changes and newest recovery programs, funded because of the American Rescue Plan, are offering vital lifelines to help them recover and build back stronger.

We recently launched the \$28.6 billion Restaurant Revitalization Fund (RRF). In the month before the program went live, we conducted more than 1,100 stakeholder events – with close to 100 of those events held in multiple languages -- to ensure the process would be streamlined and accessible for our hardest-hit food and beverage businesses. I'm proud to say we were able to turn around and roll out this program successfully in less than two months.

This rollout included a brand-new public private partnership with point-of-sale vendors, allowing us to meet our food and beverage entrepreneurs where they're

already doing business. Applicants have been able to log into Square, Toast, and other platforms and get direct access to the SBA's application portal.

We heard from business owners like Michael Shemtov in Charleston, South Carolina, who owns the Butcher & Bee, that the entire application process took less than 20 minutes.

As of May 24, the RRF program has received more than 362,000 applications – with a total of \$75 billion in funding requested. More than 208,000 of those applications came from small businesses owned by women, veterans, and socially and economically-disadvantaged individuals, who, as directed by Congress, were given priority access to the program.

We've also successfully reached the smallest of our small businesses through this program. So far, we've received more than 139,000 applications for the three set-asides we created for the smallest applicants, which will be funded through \$9.5 billion in total set-asides.

Another program that was recently launched is the Shuttered Venue Operators Grant program, which provides \$16.2 billion to eligible performing arts organization operators, museums, talent representatives and more. As of May 24, the SVOG program has received 12,841 applications for \$11 billion in requested funds.

We hope these funds will help our nation's venues hold on until they can bring back the performances and experiences that are the lifeblood of our American culture.

With the Paycheck Protection Program (PPP), we've been focused on getting funds into the hands of those who need our help the most – as of May 23, we've approved more than 6 million loans totaling \$273.7 billion in 2021 alone, and 95% of those loans have gone to Main Street businesses with fewer than 20 employees.

We wouldn't have been able to deliver this relief without the partnership of more than 5,000 PPP lenders. We are extremely grateful for their hard work and dedication. With the involvement of banks, community banks, credit unions, Community Development Financial Institutions, Minority Depository Institutions, farm credit lenders, financial technology firms and other SBA lenders, we've been able to reach 8.5 million small business owners across America and support millions of jobs. We hope to continue to foster these relationships and expand access to capital even after the PPP.

While we've been working diligently to approve new PPP loans, the SBA has also been processing lender forgiveness decisions. To date, we've processed more than 3.3 million lender forgiveness decisions or more than 60% of 2020 loans, totaling \$279.4 billion -- greater than 99% received full forgiveness.

We continue to deliver funding through our Economic Injury Disaster Loan program, or EIDL, which has \$263 billion in loan program authority remaining. In addition, we're delivering Targeted Advance and Supplemental Targeted Advance grants to our smallest businesses in low-income communities, which received \$15 billion in funding from the American Rescue Plan.

Since the enactment of the Paycheck Protection and Healthcare Enhancement Act, we've approved 3.8 million EIDL loans for a total of \$208 billion in funding. Over the past year, we've approved and disbursed three times as many EIDL loans as we have in all the disasters combined over the past 68 years.

In one of my first actions as SBA Administrator, I raised the cap on EIDL loans to 24 months of working capital up to a maximum amount of \$500,000. Since the change in policy, we have disbursed more than \$1 billion in EIDL loans. We're also exploring increasing EIDL eligibility up to the full statutory loan limit of \$2 million.

The SBA also has been carrying out the Debt Relief program -- reducing or eliminating principal and interest payments for our 7(a), 504 and microloans -- to help provide critical economic stability and financial peace of mind for hundreds of thousands of small businesses, while protecting lender and SBA's loan portfolios, and stimulating new lending of long-term capital for small businesses.

Temporary fee waivers for borrowers and lenders in our core loan guaranty programs, along with a 7(a) higher guaranty, and 504 refinancing enhancements, have boosted lending. Commitments in both programs have nearly doubled loan volume overall since February.

While implementation of these relief programs is important, we also know that we need to develop systemic approaches to improving outreach to ensure all of America's entrepreneurs can connect to our resources and services. Just this week, we posted the Notice of Funding Opportunity for our Community Navigators pilot program. This is a program that I'm particularly excited about because it will help us build bridges to our small businesses owned by women, veterans, and socially and economically-disadvantaged individuals.

Our community navigators will act as on-the-ground ambassadors so that we can meet small businesses where they are, instead of waiting for them to come to us. The program will deliver \$100 million in grants to hub organizations – private nonprofit organizations, SBA resource partners, states, Tribes and local governments – which will be positioned at the center of a network of “spoke” organizations, or trusted community champions that connect with small businesses that need SBA services right now. The idea is that we’ll leverage the business and operational expertise of the central hub organizations, and the community credibility, connectivity and trust of spoke organizations.

In a similar vein, we continue to focus on improvements and better distribution of our resource partner networks. For example, we’ve greatly increased our outreach via our Women’s Business Centers – onboarding 20 new centers in March 2021, including five centers located at Historically Black Colleges and Universities – to establish the largest women’s business center network in our agency’s history. And, 60% of these new centers are focused on supporting rural communities.

These Women’s Business Centers will not only help us reach the fastest growing entrepreneurial segments in the nation, but they will also continue to expand our efforts to break down the historic barriers that stand between too many of our underserved entrepreneurs and their dreams.

We’re also working with all our resource partners, including our Small Business Development Centers, SCORE and Veterans Business Opportunity Centers to increase communication and information-sharing on our relief programs so they are better positioned to support small businesses on the SBA’s behalf.

While our focus with all our relief programs has been to get funds into the hands of small businesses swiftly, efficiently and equitably -- we’ve also maintained a high level of oversight to minimize fraud and abuse. We’re currently conducting a fraud risk assessment of our PPP, EIDL and EIDL Advance programs to proactively manage fraud and the risk of fraud.

And, as part of my commitment to elevate transparency and communication, we’ve instituted biweekly meetings with SBA’s Office of the Inspector General and have also been meeting more frequently with the GAO. I was pleased to hear both GAO’s Bill Shear and SBA’s Inspector General Mike Ware say in a recent House committee hearing that transparency at the SBA has improved under my watch, and that our relationship is off to a very good start.

While much of our energy is focused on delivering this crucial financial relief, we're also looking to the future to ensure that when small businesses can recover and reopen, there will be new growth opportunities out there for them – particularly in the federal marketplace.

We're working hard to deliver on President Biden's pledge to increase the small, disadvantaged business contracting goal from 5% to 15% by 2025. And, we're seeing a big increase in the number of applicants to our 8(a) program and our Women Owned Small Business certification program, which is averaging 1,000 applications per month.

President Biden's American Jobs Plan also gives small businesses more opportunities to sell their products and services to Uncle Sam – the world's largest customer – and participate in billions of additional investments in federal research and development.

Ideas know no geographic or demographic boundaries. SBA powers America's Seed Fund, the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs to help our small businesses grow and scale the next big idea – and we want to ensure that women-owned, minority-owned, and rural small businesses receive the support they need to take advantage of these opportunities. The American Jobs Plan would give the SBA the ability to create a national network of small business incubators, innovation hubs and technical assistance partners that would help us do that.

In addition, it would increase access to capital for small businesses by injecting \$20 billion in funding into SBA's 7(a) loan program and the Small Business Investment Company program, both of which I am committed to leveraging for increased equity and to support the American Jobs Plan's strategic investments in manufacturing, infrastructure, and clean energy.

We're also looking at other tools at our disposal to ensure all our small businesses can fund their companies -- including underserved businesses who too often have had trouble accessing capital via traditional financial markets. We need transformational change to drive economic growth – and that means we will be innovative and engage with our customers, stakeholders and private partners to come up with workable solutions -- including direct lending by the SBA to the smallest businesses.

Throughout this pandemic, I have been inspired by the ingenuity and creativity of our nation's small businesses as they've pivoted and adapted to new marketplaces. Businesses have adopted technology at high rates, leveraging e-commerce and social media strategies to serve customers in new ways. The SBA is committed to expanding those opportunities to ensure that our small businesses can compete globally.

The best thing we can do for our small businesses is to help our nation, to use President Biden's words, "declare our independence from COVID." With 250 million shots in arms delivered since President Biden took office and 61% of adult Americans who have taken at least one shot of the COVID vaccine, we're making progress. The SBA is doing our part to support that effort by getting the word out to small businesses about the tax credit they can receive for any paid leave they provide to their workers receiving, as well as recovering from, a vaccination.

There is so much more work to do. As the voice for America's small businesses and innovative startups, I will be leveraging every tool at my disposal to bring businesses back, create jobs and build an equitable economy that works for everyone.

Under my leadership at the SBA, we're focused on putting our customers first – America's small businesses. We want them to feel like the giants they are in our economy. Because the truth is, they are our economy's greatest driving force. And if we're going to help them build back better – we must meet them where they are and deliver the resources and services that will enable them to do what they do best – create jobs. At the same time, we must eliminate the historic barriers that have left too many entrepreneurs behind and caused inefficiencies in our economy.

I look forward to partnering with you to give all entrepreneurs the tools they need to start, sustain and grow into the future.

Thank you, Chairman Cardin, Ranking Member Paul, and members of the committee for the opportunity to appear before you today.

Chairman CARDIN. Thank you for your testimony. Let me just follow-up on the Restaurant Revitalization Fund. You have just given us the most up-to-date information, which looks like we are oversubscribed by a substantial amount over what Congress has provided.

Now, I must tell you, this is a bipartisan proposal. The original numbers that I saw were somewhat in excess of \$100 that was going to be needed. So the fact that you have applications at \$76 billion is not really a surprise. I think that is understood. And you are saying about 50 percent are coming from the target group of women, veterans, and disadvantaged communities, and you have that set-aside for the very small businesses.

It looks like you will have enough resources to handle the 21-day priorities in the set-aside, but you are not going to have much beyond that unless Congress provides additional funds. Is that accurate?

Ms. GUZMAN. That is correct.

Chairman CARDIN. Well, we need to work on that, and I hope that you will try to fine-tune this as to who is benefiting from the current program, who has been left out, and how much more we need in order to carry out the intent of the American Rescue Plan.

Ms. GUZMAN. We would be happy to share that data as we continue to award funds.

Chairman CARDIN. Now on the Shuttered Venue Program, it looks like to date you have enough resources in that program to meet the need. If I understand correctly, you still could accept up to, it looks like about \$5 billion more if the applications come in. Am I correct on those numbers?

Ms. GUZMAN. Correct. We can have new applicants, and then, of course, there is the supplemental.

Chairman CARDIN. Absolutely. So I want to get to an issue that came up in some of my conversations, and that is the length of time it takes on a PPP forgiveness. We have heard from some small business owners that they have been waiting a long time, they do not understand the delay, that they have not been kept informed. Congress took action in December to streamline the process for the smaller of the PPP loans—I should not say smaller—those that are not big of the PPP loans.

Is there a reason why there is a delay in approving the PPP forgiveness that we need to know about? We know you have to audit. We know that you have some where the first applications were rejected and now they filed a second and you put a hold on it. I know there are reasons that you have holds, but could you just share with us if there is any administrative reason why it would take so long to approve those forgivenesses?

Ms. GUZMAN. No, and in fact, over 60 percent of those applicants in 2020 have applied for forgiveness and been processed, and it is less than 1 percent are within those hold categories that we are discussing. It is, on average, taking the SBA six days to process once a lender submits that final approval and forgiveness. And so we feel strongly that the current system is working with those being expedited under \$150,000. We know, however, that more forgiveness loans need to come soon. There will be many businesses applying, and so the SBA is readying, talking to lenders to figure



out a simplified process as possible to help all of the loans, regardless of size, be expedited through the process.

Chairman CARDIN. Well, a six-day processing time is certainly very reasonable, so I am glad to hear that.

Is there a way where a business owner who has not heard within a reasonable period of time can get the status of why the PPP forgiveness form has not been processed?

Ms. GUZMAN. All of our communication does go through the lender portal, so via the lender. We do not directly engage with borrowers, and so we rely on the lender to share information about the requests that SBA has for additional information, if that is the case. In some of the cases it is a lender hold.

Chairman CARDIN. And one last question. Can you just inform me as to the update on the Navigator Pilot Program, how that is proceeding, and whether you have been able to identify partners and how that is likely to be unfolded?

Ms. GUZMAN. We have done extensive outreach to start readying partners across the country, and the Notice of Funding Opportunity was published yesterday and blasted out. So we will continue to try to hopefully bring in as many applicants as possible within the next 45-day window and report back to you once we have some navigator partners across the country.

Chairman CARDIN. Well, we will be very interested in working with you on that, because on the second round I am going to ask you about the EIDL Advance, and that is one area where we might be able to get help is through navigators to connect with more businesses who otherwise are not aware of what they are entitled to under the EIDL Advance program.

Senator PAUL?

Senator PAUL. Administrator Guzman, I have sent two letters to you, signed by 50 percent of the Committee members, requesting specific information regarding PPP loans to Planned Parenthood affiliates. We have not gotten a response so far.

How many first-draw PPP loans have been approved to Planned Parenthood affiliates?

Ms. GUZMAN. So specifically on specific borrowers, the SBA has not commented on specific borrowers.

Senator PAUL. Well, I am asking you. I am in charge of oversight over your trillion-dollar agency, and I am asking you, how many have been approved?

Ms. GUZMAN. We do not publicly release that information, and one thing—

Senator PAUL. So you are in defiance of Congress? You will do what you want and not what Congress wants?

Ms. GUZMAN. We have provided you a full listing—

Senator PAUL. You have not provided us with any listing of Planned Parenthood affiliates who have received money. This is an ongoing problem. The previous administration said it was unlawful. This is a big deal. The previous administration said it was unlawful and told them to return the money. Your administration is now giving them money. This is a legal question. This is a big deal. This is not something you come to Congress and just say, "I am not going to answer the questions."

Ms. GUZMAN. Not at all. While I cannot discuss specific borrower information—

Senator PAUL. No one is stopping you from discussing this. In your written testimony, you discussed an individual recipient of money through the program, so you are willing to talk about individual recipients. You are just not willing to talk about Planned Parenthood.

But there is a legal question here. We want to know how many first-draw loans were given. We want to know how many second-draw loans. We want to know, since Patrick Kelley, your associate, came here and told us that the affiliate rule has not been reversed. The affiliate rule predated, as far as I am concerned, the Trump administration. It goes back decades, because it was done to protect small businesses, so small business programs were supposed to go to small businesses, not big businesses.

So Planned Parenthood has 16,000 employees. The previous administration determined that they are a big business, and yet you continue to give them money, and you will not tell us how much you are giving. You will not tell us if you have reserved your policy. Have you reversed the longstanding affiliate policy that has been part of the Small Business Administration for decades?

Ms. GUZMAN. No, we have not, and if I may, what we did provide to you is the full listing of all of the PPP loans. We do not have a specific PPP file, but we did provide to your staff the full listing so that you could look at all of that information, including any Planned Parenthood.

You know, specifically on the affiliation rule, nothing has changed with that regard. However, what I would say is that, you know, specifically on affiliation what applies here is management.

Senator PAUL. Apparently the data you sent us that was in collection was sent months ago and does not include the new loans. So we want to know about the new loans. I think we discovered the old loans, and now we would like to know about the new loans.

But then we have an answer. If it is illegal, according to the Small Business office, to give money to Planned Parenthood, how did it become legal if you have not changed the policy? So the previous administration said they are a big business. They said give the money back. You are giving money to the people that the Small Business Administration said it was illegal to give money to. That is a conundrum. That is a real problem.

Ms. GUZMAN. And if I could speak to that letter, that letter was not a policy statement. It was not processed. In fact, the letter does not exist in SBA systems as it is not a formal process.

Senator PAUL. Which letter?

Ms. GUZMAN. The letter that you referenced before in your letters to us about this issue specifically. And so we do not have—

Senator PAUL. But what are you talking about? What letter are you talking about? You are talking about the policy?

Ms. GUZMAN. Right, which I would say is not a policy. How PPP—

Senator PAUL. So you are saying that the previous administration, when they denied funds to Planned Parenthood they did not refer to a policy? They did not refer to the affiliate policy, which is the policy—you are saying that the affiliate policy is not a policy?

Ms. GUZMAN. The affiliation rule is a policy. What they were referring to was general, the affiliation rule, as we shared with you in our recent letter to you—and I apologize, that was yesterday, so I am not sure if you have had a chance to review it—but affiliation arises under certain circumstances. Some of them do not apply to nonprofits, in the case of ownership or stock options or relations, identity of interest, which is more for foundations. But where this does apply is on management, and that is either where there is control of the officers—

Senator PAUL. You can see how common sense would dictate that you would put something forward saying that you have now reinterpreted the policy to say Planned Parenthood is no longer a big business but a small business, because you are working in direct contradiction to the previous Small Business Administration that said they are a big business. They went through all the same rules you are listing for me, and they concluded that yes, Planned Parenthood had direct control over the affiliates, that the policies and the actions were dependent on the national branch, and that they did not meet the definition of a small business.

And so you are aware that not only is Planned Parenthood a politically controversial entity, but it is also one that the rest of government has controls on. We have put the Hyde Amendment in for decades to try to prevent taxpayer money from paying for abortion. But now you are going around the Hyde Amendment, giving them money, but then you are also reclassifying them as not a big business, as a small business, but you are not being forthright.

Ms. GUZMAN. And if I may, I did not say that the—I am not judging on the policy specifically with affiliation for a specific borrower, because again, we do not do that. I am sharing the affiliation rule with you, for your guidance. However, basically the borrowers attest to certain eligibility, and the lenders can rely on that attestation. The SBA does not directly—

Senator PAUL. But they were ruled illegal by the Small Business Administration, and you are reversing that policy, and you are saying, “Oh, we don’t ever look at this. It is a self-attestation.” Well, someone determined that they were illegally getting the money and told them to get it back, and now they are getting the money. I do not know how that can happen without an explanation from the Small Business Administration.

Ms. GUZMAN. And then, just to add onto that, the point at which SBA would look at that would be at the point of forgiveness. And so that prior relationship is attestation by the borrower to the lender—

Senator PAUL. But in, I think, Patrick Kelley, when he testified he said you had thousands of ones that you had reviewed for honesty, and whether or not they had been honest, and there were lists of people that had not been, and apparently Planned Parenthood was on the list. They are still on the list. So they are on a list of people illegally getting it. The policy was send it back, and now you are sending them more. You can see how it does not make sense to us. And then you are unwilling to comment on it, and you are unwilling to give us information.

So my conclusion is that you believe you are above the law. And my only conclusion is that we still want the information. We are

here for oversight, and that our next step would be to subpoena you. But that is a disappointment to me, because when I voted for you I thought you said you would be transparent, and it looks like you are specifically hiding this information from us.

Ms. GUZMAN. And just one other thing to note is that, again, as we go through forgiveness, the SBA then starts to look at these loans. That is when hold codes can arise as well. Under those circumstances, you know, we would be happy to work with your staff to provide further information. But again, SBA, at this point in the loan processes, is obviously relying on the attestation of the borrowers as well the lenders.

Senator PAUL. So today no Planned Parenthood has been forgiven. No Planned Parenthood loan has been forgiven.

Ms. GUZMAN. That is correct.

Senator PAUL. So see, you know the information. You are just not willing to reveal it. So you know all about their information. The record should state you are unwilling to give the information to Congress.

[The information referred to follows:]

BENJAMIN L. CARDIN, MARYLAND, CHAIRMAN  
 RAND PAUL, KENTUCKY, RANKING MEMBER  
 MARIA CANTWELL, WASHINGTON  
 JEANNE SHAHEEN, NEW HAMPSHIRE  
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United States Senate  
 COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP  
 WASHINGTON, DC 20510-6350  
 TELEPHONE (202) 224-5175 FAX (202) 224-5619

April 15, 2021

The Honorable Isabella Casillas Guzman  
 Administrator  
 U.S. Small Business Administration  
 409 3rd Street, SW  
 Washington, D.C. 20416

Dear Administrator Guzman:

We write to request your immediate attention to the unlawful participation of the Planned Parenthood Federation of America (PPFA) in the Paycheck Protection Program (PPP).

PPP eligibility is limited to entities with 500 or fewer employees. Rules enacted by the *Coronavirus Aid, Relief, and Economic Security* ("CARES") Act (P.L. 116-36) and prior U. S. Small Business Administration (SBA) regulation establish that the size of an entity is considered with each of its affiliates in the determination of eligibility. 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."<sup>1</sup> To obtain a PPP loan, an applicant must certify that they are eligible to receive a loan under the rules in effect at the time the application is submitted. In making such certification, an applicant is required to apply the affiliation rules applicable to the PPP and identify its affiliates.

On May 19, 2020, SBA notified a number of PPFA affiliates that they had wrongfully applied for 38 PPP loans totaling more than \$80 million dollars. SBA determined that these local affiliates of PPFA were ineligible for PPP loans under the applicable affiliation rules and size standards and that the loans they received should be returned. SBA cited the control PPFA exercised over its local affiliates in a number of different areas, such as medical standards, affiliate patient transfers, and an accreditation review process administered every three years as evidence of an affiliated organizational structure. Given that PPFA has nearly 16,000 employees nationwide, SBA determined that these PPFA affiliates were ineligible for PPP and requested that each of the 38 affiliates return the \$80 million in PPP funds they wrongfully received.

On March 23, 2021, SBA provided the Senate Small Business Committee with an updated dataset on all PPP loans as of March 14, 2021. This data revealed that, not only have most of the PPFA affiliates not returned their PPP funds, as requested by SBA, but two have applied for and been approved for a second draw loan, with full knowledge of their ineligibility. During a March 24, 2021 Committee hearing, we questioned the Associate Administrator of SBA's Office of Capital Access, Patrick Kelley, about the new information suggesting Planned Parenthood

<sup>1</sup> 13 C.F.R. 121.103(f)

affiliates had received second draw loans despite the agency's previous determination that these entities were ineligible. Mr. Kelley testified that the SBA had not reversed the longstanding application of affiliation rules or changed any rule related to affiliation.

However, earlier this week SBA released updated data indicating that even more PPFA affiliates have been approved for PPP loans in the last month. According to the most recent SBA data, at least one additional PPFA affiliate was approved for a second draw loan since March 15, 2021. Additionally, another PPFA affiliate recently applied for and was approved for a first draw loan, despite the fact that the entity had previously returned its loan after SBA determined it was ineligible for PPP.

Borrowers who make incorrect or false eligibility certifications on their PPP application are subject to severe penalties. For this reason, we respectfully request that you investigate whether any PPFA affiliates made a knowingly false certification on their applications for PPP loans and pursue all appropriate penalties for any unlawful participation in the program. Additionally, we request that you provide the Committee with the following information no later than April 23, 2021:

1. A detailed explanation regarding how two PPFA affiliates were approved for second draw loans despite the SBA's determination that they were ineligible for the PPP;
2. A detailed explanation of the SBA's process for ensuring entities that were determined to be ineligible for first draw loans do not get second draw loans;
3. All forgiveness information associated with loans to PPFA entities; and
4. A description of any and all actions the SBA has taken to recover PPP funds unlawfully provided to PPFA affiliates.

Thank you for your prompt attention to this matter.

Sincerely,

Rand Paul, M.D.  
Ranking Member

Marco Rubio  
Member

James Risch  
Member

Tim Scott  
Member



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Joni K. Ernst  
Member



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Todd Young  
Member



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Josh Hawley  
Member



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James M. Inhofe  
Member



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John Kennedy  
Member



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Roger Marshall, M.D.  
Member

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**United States Senate**  
 COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP  
 WASHINGTON, DC 20510-6350  
 TELEPHONE: (202) 224-5175 FAX: (202) 224-5619

May 10, 2021

The Honorable Isabella Casillas Guzman  
 Administrator  
 U.S. Small Business Administration  
 409 3rd Street, SW  
 Washington, D.C. 20416

Dear Administrator Guzman:

We write to follow-up on our letter dated April 15, 2021 regarding the unlawful participation of the Planned Parenthood Federation of America (PPFA) in the Paycheck Protection Program (PPP). The letter requested that the U.S. Small Business Administration (SBA) investigate and provide additional information regarding PPFA affiliates participation in the PPP by April 23, 2021.

However, to date, we have not received the requested information or a formal response from you. In fact, since our April 15 letter to you, SBA approved PPP loans for at least two additional PPFA affiliates according to the most recent public data posted to the Agency's website. This includes a \$10 million dollar loan, the maximum loan amount, to a PPFA affiliate just last week. This is unacceptable. As members of the U.S. Senate Committee on Small Business and Entrepreneurship, we expect transparency and cooperation with requests for information from your agency.

For this reason, we would like to reiterate our April 15 request for an investigation into PPFA affiliates PPP loans and the following information:

1. A detailed explanation regarding how two PPFA affiliates were approved for second draw loans despite the SBA's determination that they were ineligible for the PPP;
2. A detailed explanation of the SBA's process for ensuring entities that were determined to be ineligible for first draw loans do not get second draw loans;
3. All forgiveness information associated with loans to PPFA entities; and
4. A description of any and all actions the SBA has taken to recover PPP funds unlawfully provided to PPFA affiliates.

Additionally, we request:

1. Complete PPP loan-level data for all PPFA affiliates, as of the date of this letter;
2. A detailed explanation regarding explaining why the SBA continues to approve PPP loans to PPFA affiliates despite the agency's previous determination that they were ineligible for PPP;



3. Unredacted copies of any and all agency decisions, determinations, guidance, policies, and/or documents related to PPP loans to PPFA affiliates.

Please provide the Committee with this information no later than May 17, 2021.

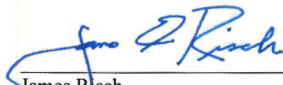
Sincerely,



Rand Paul, M.D.  
Ranking Member



Marco Rubio  
Member



James Risch  
Member



Tim Scott  
Member



Joni K. Ernst  
Member



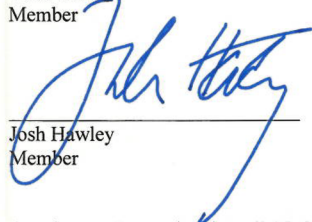
James M. Inhofe  
Member



Todd Young  
Member



John Kennedy  
Member



Josh Hawley  
Member



Roger Marshall, M.D.  
Member

Attachment: Letter dated April 15, 2021

CC: The Honorable Hannibal "Mike" Ware

Chairman CARDIN. I will certainly support Senator Paul's request for reasonable information for oversight. I think that is important for the Ranking Member and any member of this Committee to get us the information for oversight.

I do want to clarify, for the record, since I was in the room when the drafting was done on the CARES Act, and it was done in a very careful, bipartisan manner, Treasury was also in the room at the time, Small Business was, under the Trump administration, and we knew that we had a challenge in expanding SBA program to nonprofits, since nonprofits were not included in most of the tools available under the Small Business Administration. And there was a lot of give-and-take as to how we would handle nonprofits, and specific nonprofits were mentioned. And we made it clear we were not going to carve out for specific nonprofits, so we wanted one rule to apply.

So the affiliate rule was by design to apply as SBA had applied the affiliate rule previous the CARES Act, which applied mainly to for-profit entities, not for nonprofit entities. So we recognized that going in, and you are correct in that there they attest to their certifications and we wanted SBA to accept that because we wanted to get money out quickly.

So I just really wanted to clarify that for the Committee. There was no effort made to target into one specific group. We wanted the rules to apply to all nonprofits the same, and the former affiliation rules that were used by the SBA.

With that let me recognize Senator Rosen, via Webex.

Let me recognize Senator Hirono, in person.

Senator HIRONO. Thank you. So, Ms. Guzman, it is good to see you again. Whenever we talk about Planned Parenthood there are all kinds of allegations and perspectives tossed around, but I know that we were not planning to carve out or single out Planned Parenthood or any other nonprofit for any special kind of treatment. So SBA was supposed to apply the affiliation rule in a nondiscriminatory way, not depending on the political or any kind of leanings of a particular entity. But my understanding of the questioning that I just listened to is that the SBA, I suppose under the previous administration, wanted the previously awarded funds to the various Planned Parenthood affiliates back. Is that right? They sent a letter or something, the previous administration's SBA?

Ms. GUZMAN. That is my understanding from the information Dr. Paul shared.

Senator HIRONO. And when they did that, was some procedure supposed to be followed, or does the SBA Administrator or somebody there just decides that we are going to get this money back, and we are just going to send out letters? Is that what happened, or are there not supposed to be procedures for a reassessment of a previous decision that the SBA had made?

Ms. GUZMAN. Procedures and process were put in place, and that was previous to that and did not follow that, correct.

Senator HIRONO. So I have serious concerns about why that was not followed, and who was this person who sent out these letters saying to the Planned Parenthood affiliates that suddenly money that had been awarded to them under the program in an objective

way needed to be sent back? Who is this person who did that, who signed those letters? Do you know?

Ms. GUZMAN. Previous administration.

Senator HIRONO. Is there a name?

Ms. GUZMAN. Unfortunately, I know that the document exists as it was included in the documents provided by Dr. Paul, but that letter does not exist in SBA.

Senator HIRONO. Mr. Chairman, there should be a letter signed by an actual person in the SBA, in the previous administration, asking for all this money back. I would request that this Committee get this letter.

Chairman CARDIN. We will do our best.

Senator HIRONO. And did you say that there is no record of such a letter within your files?

Ms. GUZMAN. Within our formal process, our procedures, it was not a formal process or procedure.

Senator HIRONO. See, I find that totally amazing, that they want to get back millions of dollars without having followed the proper procedure.

And then as far as the use of the term like the previous administration had deemed that this was an illegal application, the word "illegal" is a legal term, and I would not apply that term to what was going on with the SBA and Planned Parenthood. Let's face it, there are people in this body that would like to defund Planned Parenthood at every turn.

So let's get back to the PPP program. Before I get to that, let me ask you about the Community Navigator Pilot Program. Yesterday, SBA launched the Community Navigator Pilot Program, and I am very excited about this program because it will provide an opportunity for businesses to learn about resources that are available as they continue to recover from this pandemic. And the program is also a great opportunity for SBA and others to engage with minority businesses, including Native Hawaiian businesses.

So what should potential community navigators know before they apply for the program, and how will SBA reach out to potential navigators, including those that work with minority businesses?

Ms. GUZMAN. We have been doing outreach via our field offices as well as through various nonprofits who are collaborating with us, to make sure that this information gets out to as many businesses, as well as the mayors, to make sure that entities can apply. And there is guidance on our website as well as in the Notice of Funding Opportunity, with specific advice.

Senator HIRONO. I think that is one of the concerns that we have. Whenever the SBA puts out any new program that there really has to be quite a lot of outreach, and then making the parts of the program very understandable for people who are going to apply to it. Because I know you have heard from many of us, who have heard from small businesses who have a hard time understanding what is required, what documents, what information, et cetera. So that is an ongoing concern for you folks.

And then there have been some programs that were so heavily subscribed that your website crashed. I do not know if was the Restaurant Rescue Program where you experienced that. I know for

one of the other programs—I cannot remember, was for places that do——

Ms. GUZMAN. The Shuttered Venues.

Senator HIRONO. Yes, Shuttered Venues. That site crashed. So that is an awareness that you have and you are doing everything you can prevent those things from happening.

Ms. GUZMAN. Yes, of course, and this will not be at the same scale. They actually will apply through grants.gov.

Senator HIRONO. Thank you. My time is up.

Chairman CARDIN. I have been informed by Senator Paul that the letter in question was made part of our record, so we will get a copy of that made available to you.

Senator ERNST?

Senator ERNST. Thank you, Mr. Chairman, and thank you, Ms. Guzman, as well, for being here today to testify on the Small Business Administration's response to the COVID-19 pandemic. And our Nation's small businesses continue on their very long path to recovery, and it is critical that this Committee continues its work with the SBA to ensure that the COVID relief programs we have worked on so hard over the past year, whether it is the Paycheck Protection Program, our Shuttered Venue Operators Grant Program, and the Restaurant Revitalization Fund are administered effectively and with transparency.

And I know we are having a very lively discussion today. I am going to just point out that the Planned Parenthood issue that is being discussed is very important to a number of us. Senator Paul, the Ranking Member, has gone through a number of those issues. And we do want to make sure that these funds have been directed to small businesses. So I would just echo the thoughts, we would love your participation and to be able to sort through this and get to the bottom of it. So please let's continue to look into that.

I would like to go ahead, since it has been discussed, we can continue with this conversation as we look for additional information. But I would like to go on to the issue of the Economic Injury Disaster Loan fraud that has been raised. There are a number of reports coming from the OIG, and it says that the SBA Office of Inspector General has released multiple reports regarding potential fraud and identity theft within the EIDL program, along with recommendations for tracking identity theft complaints.

Can you give us an update on how the SBA is actually working to combat this fraud and identity theft within this specific program?

Ms. GUZMAN. Yes. Definitely, you know, reducing the risks of fraud and waste and abuse across the board are a priority, and I have informed my team to be very transparent with the IG and GAO. We are working collaboratively to ensure that controls are in place. And beyond that, I have asked them to please consider all those controls at the onset, at the design.

A lot of these problems with EIDL fraud did occur in the past year, as originally they were required to issue these loans without tax documents. And so that led to a lot of challenges in their ability to provide oversight. But that was changed in December and implemented in this new year, and so we are seeing a sharp decline in those rates. But in the meantime we are collaborating with the IG

as well as the GAO to make sure that best practices for controls, fraud controls, and compliance checks are in place across EIDL.

And then specifically with identity theft, in February we did launch a process for businesses who were victims of identity theft to be able to work through those issues with the SBA directly. And so there is now an avenue and a procedure for them to work through those issues.

Senator ERNST. Okay. So those who have had their identity stolen, you are working with them directly. Are there ways then to recoup the dollars that have already gone out the door to those fraudulent applicants? Are you working with law enforcement agencies? How exactly does that work?

Ms. GUZMAN. We have increased the number of individuals within our EIDL fraud team as well, and so we have about 160 people that work collaboratively on investigations with the IG, and then, of course, the IG, the DOJ pursues any specific matters that we find. So we are working collaboratively and to hopefully that end, to collect the funds.

Senator ERNST. Okay. And again, I know that there have been so many programs to push, not just from this Committee but so many other committees. But specifically the programs that we have been working on here, they went out the door very quickly, and there was necessity to do that. So now we are going through the very difficult task of oversight and making sure that not only government funds are protected but the individuals as well. So identity theft is very concerning. It is serious. We have had some Iowans affected by that, and hopefully we will be able to work through a number of those issues.

I have very little time remaining. I do want to bring up the Restaurant Revitalization Fund as well. I know that we still have a number of those types of venues that are really struggling, and I hope that we can continue to work through that as well, as we are getting our economy back up and going.

But again, thank you for appearing in front of us today, Administrator Guzman, and I look forward to working further with you on some of these very concerning issues.

Ms. GUZMAN. Thank you, Senator.

Chairman CARDIN. Senator Cantwell.

Senator CANTWELL. Thank you, Chairman Cardin, and thank you and Senator Rand for this important hearing. We all have a lot going on today, but we are all here right now because of this issue that Senator Cardin brought up, Senator Ernst brought up. I did not hear what Senator Paul said but my guess is we all are very concerned about the Restaurant Fund running out of money as of yesterday, I guess, the \$20 billion, before the majority of people really had time to apply.

So I know my colleague asked you about this so I am sorry if I am going over some detail here. If Congress would approve more funds, how long would it take to get assistance to those restaurants? And if they have already been in the application process, will they receive priority over people who had not already filled out paperwork?

Ms. GUZMAN. When we first began outreach on the Restaurant Revitalization Fund we encouraged businesses to apply imme-

diately, regardless of their priority or set-aside category, because it is a first-in, first-out. And so if we received more funding we would be able to leverage those existing applicants so that we could speedily get these funds out to those who have applied.

Senator CANTWELL. Do you have any idea how many applicants you have that were unserved?

Ms. GUZMAN. Not the specific number of applicants, because we are still working through the specific awards, so there obviously will be an excessive number. We have \$76 billion in requests.

Senator CANTWELL. Do you have any idea how many restaurants that you are going to serve versus how many applicants you have left? I mean, just any idea, like, you know, there is 30 percent more applicants that we did not serve?

Ms. GUZMAN. You know, I do not have the specific numbers on how many we estimate at this point, but I can follow-up and get that to you—

Senator CANTWELL. Okay. Thank you.

Ms. GUZMAN [continuing]. Based on the awards made to date.

Senator CANTWELL. That would be great. I would love to see those numbers. And so you are saying that fairly quickly, is what you are saying, you could get the dollars out the door fairly quickly—

Ms. GUZMAN. Yes.

Senator CANTWELL [continuing]. To those who had already applied. Right? Okay.

So I also, in April, I think my entire Washington delegation sent you a letter about a technical barrier that prevented 120 Washington State distillers from accessing the Restaurant Revitalization Fund. In order to be considered for the grants, entities must have derived at least 33 percent of their revenue from onsite sales. Washington State law limits distilleries to gain no more than 30 percent of their revenue from onsite consumption. In my State, distillers sell more through local distribution to restaurants than in tasting rooms. Could the SBA address this problem and could you revise the eligibility criteria for Restaurant Fund to accommodate a limited number of distillers, such as those in Washington?

Ms. GUZMAN. We spoke with stakeholders in order to understand what the marketplace needs were, and we would welcome guidance on that if any additional fund is created.

Senator CANTWELL. What does “guidance” mean? I am giving you guidance. I am giving you guidance that it would be great to solve this problem.

Ms. GUZMAN. If it could be addressed in statute, that would be great.

Senator CANTWELL. Okay. And then how can we improve the communication with the venue application process? How can we improve that?

Ms. GUZMAN. With the Shuttered Venues we encouraged everyone to apply up front. We have a sizable group in both the first priority, second priority, and third priority. We are processing through those applications as quickly as possible. It is a very complex program by statute with various types of entities, which has created a lot of various eligibility requirements along the way, and it requires intensive applicant-by-applicant review.

But we have started awarding funds. We have been in communication regularly with the stakeholders. In fact, my team just met with them again this week to give them an update. We will continue to give them updates as frequently as possible, as well as this Committee.

Senator CANTWELL. So you would be surprised then if somebody had submitted an application, you know, a month ago, and had not heard anything?

Ms. GUZMAN. We are still in the process of reviewing, so no, I am not surprised by that, as we, obviously, in the initial launch, had some technical difficulties, and then beyond that have been working through processing and finalizing the technology to run through the review and award disbursement side.

Senator CANTWELL. Well, I think this is really important on the communication side. Look, we get the complexity of these and we are moving fast, but it would be great if people could say, "Yes, your application was received and it was completed and we are reviewing and we will get back to you," if they could get that.

Ms. GUZMAN. I will verify with the team.

Senator CANTWELL. Yes, I think that would be helpful.

Anyway, I know this is challenging in the complexity of the various programs, given how much SBA played a key role in everything, but I hope that we will continue to look at this revenue side of the equation for restaurants and for other entities, and make sure that we are continuing to move quickly, as we did on other aspects of the economy.

Thank you, Mr. Chairman.

Chairman CARDIN. Senator Cantwell, as I pointed out a little bit earlier, we recognize this is a bipartisan proposal in regards to restaurants. I have already alerted the leadership that we need a vehicle in order to deal with this, and I know that the leader's office is looking at this now. So we will get the specific information as a follow-up to this hearing, but I do think we are going to need additional funds in this program. We know we need additional funds in this program, and I am certain we are going to have strong bipartisan support for that. We will see whether we cannot find a way to make that a reality.

And I also want to just underscore the points you made about knowing the status of an application. I think that is very, very important.

Senator Marshall?

Senator MARSHALL. Okay. Thank you, Chairman, and welcome, Administrator. Welcome back to the Committee. The Restaurant Revitalization Fund is an example of a government solution to a problem, but as I talk to many restaurants, and really any small businesses for that matter, the biggest challenge they describe to me is getting people to come back to work. And they describe to me one of the barriers is we are paying people \$15 to \$20 an hour to stay at home and not come back to work. I signed a paycheck every other week for 25 years for a group of 300 people, as many as 300 people, and so the obvious comeback is, "Well, we just need to pay them more to come back to work." But there are certain break points where you just cannot afford to—you know, in the res-

restaurant industry I do not think you can make a profit if you are paying all your starting employees \$20 an hour.

Are you hearing that, and don't you agree that if we would end the Federal supplement that we would be helping these restaurants out quite a bit?

Ms. GUZMAN. I am actually hearing a combination of things, and what I have heard is, first and foremost, very debilitating, is the ability to attract workers because they have children at home. And so getting the marketplaces and Main Streets back to normal I think is really tied to those vaccination rates, and so I know that is why President Biden is really pushing to that 70 percent rate. As people are vaccinated it becomes safer for everyone to go back to schools, go back to normalcy, and then be able to have the freedom to be able to work.

So I know that is affecting a lot of especially women in the workforce. But in addition, across the board, it has been challenging for businesses to restart up, including attracting workers, but I am actually hearing a mix of things as well.

So what I would say is that, you know, we want to continue to try to support them as they grow. I mean, obviously, this influx of funding in the economy has spurred our economic growth as well and enabled people to spend. So I think I will leave it to the economists to fully evaluate the best path forward on that.

Senator MARSHALL. Okay. Do you feel Planned Parenthood should receive PPP funds?

Ms. GUZMAN. I am not in the business of picking winners and losers, and I follow the policies that are in place at the SBA on that front.

Senator MARSHALL. So you are the Administrator now. You have read the policy. Is Planned Parenthood, in your opinion, eligible for PPP funds?

Ms. GUZMAN. I wouldn't even be the one to assess whether or not they are affiliated or not. I know that we have 80,000 similarly situated type nonprofits, and SBA, of course, this is the first time that we have had to deal with this many nonprofits. But the affiliation rules that apply are most around management, and we have provided Ranking Member Paul and those who also joined him on that letter some specific outlines, guidance, on how the SBA applies the affiliation rule.

In the case of PPP, as I shared earlier, you know, the borrower attests to their eligibility, and the bank is allowed to rely on that.

Senator MARSHALL. That's good. That is kind of my next question. What penalties are currently in place for borrowers who misrepresent themselves on a PPP loan or an EIDL loan application?

Ms. GUZMAN. I'm sorry?

Senator MARSHALL. What are the penalties?

Ms. GUZMAN. Penalties. Well, I mean, it depends on if they were honestly misrepresenting, if they were fraudulently misrepresenting or not. SBA provides investigative support to the IG, who would then pursue action with DOJ and others.

Senator MARSHALL. What are the potential penalties, though, for misrepresenting themselves?



Ms. GUZMAN. I do not know the dollar amounts. I would have to follow-up with you to find out what those have been, what outcomes we have had.

Senator MARSHALL. Okay. Let's talk about the Shuttered Venue Operators Grant Program for just a second. It sounds like the first grants are going out this week. Can you describe any other specific issues that remain that could prevent grants from being approved and distributed?

Ms. GUZMAN. Just that it is a slow process, as we have shared with our stakeholders. Unfortunately, it is an arduous review process for eligibility as well as reviewing all the tax documents and everything else strong fraud controls. So we continue to work through those issues but do not anticipate any specific issues.

Senator MARSHALL. Okay. Let's talk about the Community Navigator Program, and just my concern about it getting out to rural communities. How are you ensuring it is getting out to rural communities? What are you doing, I guess, to market it and get it out there where people that are living, you know, two, three, four hours away from the main offices?

Ms. GUZMAN. Mm-hmm. Yes, those are definitely the individuals we hope to help with the Community Navigator Pilot Program. Our district offices are sharing with their networks broadly, and we have asked them to prioritize reaching communities that are underserved, both rural and urban, so that we can get these navigators funded locally and then getting the information out. So it is just a lot of outreach on our part through existing organizations that are in our network, and we would welcome an opportunity to work with your office to amplify it further.

Senator MARSHALL. Okay. Thank you so much, Mr. Chairman. I yield back.

Chairman CARDIN. Thank you. Before I recognize Senator Duckworth via Webex let me recognize the Ranking Member for some UCs.

Senator PAUL. I would just like to ask unanimous consent. I think we have entered these before, but just to make sure they are there for people. These are the letters to the Planned Parenthood of Washington and Delaware. They are from the Associate Administrator of the Small Business Administration, under the previous administration, and I am told that these letters are not sent without a process. Everyone has to review and sign off on these papers. There is a paper trail. And so it was said earlier that there was no paper trail, there is not a paper trail. And this was an official policy of the Small Business Administration, and I would like to ask unanimous consent that they be entered into the record.

Chairman CARDIN. Without objection, so ordered.

[The information referred to follows:]



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF CAPITAL ACCESS

May 19, 2020

Dr. Laura Meyers  
Planned Parenthood of Metropolitan Washington, Inc.  
1225 4th Street, NE  
Washington, DC 20002-3431

Re: Notice of Investigation and Request for Records

Dear Dr. Meyers:

Planned Parenthood of Metropolitan Washington, Inc. ("PPMW") applied for a loan through the Paycheck Protection Program. In its loan application, PPMW self-certified that it is eligible for a Paycheck Protection Program loan. PPMW, however, is a local affiliate of Planned Parenthood Federation of America, Inc. ("PPFA"). We have preliminarily concluded, therefore, that PPMW is ineligible for a Paycheck Protection Program loan under the applicable affiliation rules and size standards, consistent with Congressional intent, and that the loan you have received should be returned. If you wish to contest our preliminary conclusion, the Small Business Administration ("SBA") will conduct an investigation pursuant to Section 5(b)(11) of the Small Business Act<sup>1</sup> to assess PPMW's eligibility for a Paycheck Protection Program loan and the basis for PPMW's eligibility certification.

PPMW, which is identified as a PPFA "local office" on PPFA's website<sup>2</sup>, applied for a \$1,328,800 Paycheck Protection Program loan. This is one of 38 loans that PPFA local affiliates have applied for through the Paycheck Protection Program. In total, PPFA local affiliates have applied for more than \$80 million in Paycheck Protection Program loans.

To obtain its loan, PPMW certified in its Paycheck Protection Program Borrower Application Form that "[t]he Applicant is eligible to receive a loan under the rules in effect at the time this application is submitted that have been issued by the Small Business Administration (SBA) implementing the Paycheck Protection Program . . . ."<sup>3</sup> By making this certification, PPMW represented that it, when considered together with all of its affiliates, has 500 or fewer employees.<sup>4</sup>

<sup>1</sup> 15 U.S.C. § 634(b)(11) (authorizing the Administrator of the Small Business Administration ("SBA") to "make such investigations as he deems necessary to determine whether a recipient of or participant in any assistance under [the Small Business Act] or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of . . . , or of any rule or regulation under [the Small Business Act] . . .").

<sup>2</sup> Planned Parenthood Federation of America, Local Offices, Contact Us *available at* <https://www.plannedparenthood.org/about-us/contact-us>.

<sup>3</sup> SBA Form 2483.

<sup>4</sup> Small Business Administration, Business Loan Program Temporary Changes; Paycheck Protection Program, Affiliate Rules for Paycheck Protection Program, 85 Fed. Reg. 20817, 20818-19 (Apr. 15, 2020) ("In most cases, a borrower will be considered together with its affiliates for purposes of determining eligibility for the PPP. . . . An

To make such a certification properly, PPMW was required to apply the affiliation rules applicable to the Paycheck Protection Program<sup>5</sup> and identify its affiliates.<sup>6</sup> Those affiliation rules provide, among other things, that: “Concerns and entities are affiliates of each other 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. It does not matter whether control is exercised, so long as the power to control exists.”<sup>7</sup> For example, affiliation can arise from management:

**(3) Affiliation based on management.** Affiliation arises where the CEO or President of the applicant concern (or other officers, managing members, or partners who control the management of the concern) also controls the management of one or more other concerns. Affiliation also arises where a single individual, concern, or entity that controls the Board of Directors or management of one concern also controls the Board of Directors or management of one of more other concerns. Affiliation also arises where a single individual, concern or entity controls the management of the applicant concern through a management agreement.<sup>8</sup>

PPFA is known to have and to exercise control over its local affiliates, such as PPMW. PPFA’s bylaws, a version of which is publicly available, reveal that becoming a PPFA affiliate requires a certification by the PPFA board.<sup>9</sup> Once certified, “[e]ach Affiliate shall be governed by written bylaws which conform to PPFA policies.”<sup>10</sup> PPFA imposes 17 “affiliation mandates” on local affiliates on topics ranging from medical standards and guidelines to policies regarding inter-affiliate patient transfers.<sup>11</sup> To maintain their PPFA affiliation, affiliates must submit to a rigorous PPFA accreditation review every three years.<sup>12</sup> PPFA affiliates that fall short of PPFA’s standards

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entity generally is eligible for the PPP if it, combined with its affiliates, . . . (1) has 500 or fewer employees whose principal place of residence is in the United States . . . and (2) is a tax-exempt nonprofit organization described in section 501(c)(3) of the Internal Revenue Code (IRC) . . .”).

<sup>5</sup> See 15 U.S.C. § 636(a)(36)(D)(vi); 13 C.F.R. § 121.103; 85 Fed. Reg. at 20818-19.

<sup>6</sup> Paycheck Protection Program Loans, Frequently Asked Questions (FAQs), 4-5 (“It is the responsibility of the borrower to determine which entities (if any) are its affiliates and determine the employee headcount of the borrower and its affiliates.”).

<sup>7</sup> Affiliation Rules Applicable To U.S. Small Business Administration Paycheck Protection Program (Apr. 3, 2020), available at

<https://www.sba.gov/sites/default/files/202004/Affiliation%20rules%20overview%20%28for%20public%29%20v2.pdf>.

<sup>8</sup> *Id.*

<sup>9</sup> Amended and Restated Bylaws of the Planned Parenthood Federation of America, Inc., As Amended by the Membership at its Meeting on March 29, 2008 [hereinafter PPFA Bylaws], Art. II, § 1(ii) (attached to PPFA’s 2007 tax return), available at [https://projects.propublica.org/nonprofits/display\\_990/131644147/2009\\_05\\_EO%2F13-1644147\\_990\\_200806](https://projects.propublica.org/nonprofits/display_990/131644147/2009_05_EO%2F13-1644147_990_200806).

<sup>10</sup> *Id.* at Art. XI, § 4(i).

<sup>11</sup> *Id.* at Art. XI, § 5.

<sup>12</sup> Planned Parenthood Hudson Peconic provided the following description of PPFA’s accreditation program:

Every three years, each Planned Parenthood affiliate undergoes an accreditation, which involves a review of all aspects of the organization—from health services to fiscal operations to fundraising to board governance and more. We prepared for this extremely intensive process for months. Experts from PPFA’s offices reviewed all our procedures, interviewed and observed staff members, and toured our health centers. We are happy to report that we obtained full accreditation and remain in excellent standing with our national organization.

or jeopardize PPFA's trademark are stripped of their affiliation.<sup>13</sup> PPFA also mandates the services that each local affiliate must provide, including requiring each local affiliate to perform on-site abortions; local affiliates unable or unwilling to comply with this PPFA mandate have been forced to leave the PPFA network.<sup>14</sup> Ultimately, PPFA determines which affiliates become and remain a part of the "Federation," which PPFA defines as itself and the affiliates collectively.<sup>15</sup>

Yet, PPMW did not identify PPFA or any of PPFA's other local offices as affiliates—despite being identified as an affiliate of PPFA on PPFA's website. Indeed, PPMW could not have certified that it was eligible for a Paycheck Protection Program loan if it is affiliated with PPFA or any of PPFA's other local offices. PPFA alone reported employing 676 people in 2017,<sup>16</sup> and presently there are 49 local PPFA affiliates nationwide.<sup>17</sup>

On its face, PPMW's status as a local affiliate in the nationwide PPFA network subject to direction from PPFA on a number of management issues makes PPMW ineligible for a Paycheck Protection Program loan under the applicable affiliation rules and size standards. If you wish to dispute that assessment, then pursuant to the Administrator's investigative authority, SBA requests that PPMW demonstrate the basis for its certification that it is eligible for a Paycheck Protection Program loan. SBA also requests that PPMW produce documents concerning PPMW's eligibility certification within 10 calendar days of receipt of this letter. SBA's specific document requests are set forth in Attachment A to this letter.

Incorrect or false eligibility certifications by borrowers are subject to severe penalties. If SBA determines that a borrower made an eligibility certification that was incorrect or lacked adequate basis, SBA may seek repayment of the Paycheck Protection Program loan, and the borrower may be ineligible for loan forgiveness. If SBA determines that a borrower made a knowingly false certification on an application for a Paycheck Protection Program loan, SBA may refer the borrower for appropriate civil or criminal penalties.

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Planned Parenthood Hudson Peconic, 2014 Annual Report 1, *available at* [https://www.plannedparenthood.org/files/8714/4200/2638/PPMW\\_2014\\_AR\\_Final\\_for\\_website.pdf](https://www.plannedparenthood.org/files/8714/4200/2638/PPMW_2014_AR_Final_for_website.pdf).

<sup>13</sup> For example, PPFA disaffiliated Planned Parenthood Golden Gate and reassigned its patients to other Planned Parenthood clinics. Katharine Mieszkowski, *Planned Parenthood Clinics Are Stripped of Affiliation After Complaints*, The New York Times (Aug. 28, 2020), *available at* <https://www.nytimes.com/2010/08/29/us/29bcp Parenthood.html>. PPFA also commenced disaffiliation proceedings against Planned Parenthood of Hawaii on the grounds that the local affiliate failed "to meet PPFA's national standards medically and financially." Lori Tighe, *Isle Planned Parenthood Gains Support*, Star-Bulletin (1998), *available at* <http://archives.starbulletin.com/98/01/13/news/story3.html>.

<sup>14</sup> M. Alex Johnson, *Abortion mandate costs Planned Parenthood a few affiliates*, NBC News (Dec. 6, 2012), *available at* [http://usnews.nbcnews.com/\\_news/2012/12/06/15702142-abortion-mandate-costs-planned-parenthood-a-few-affiliates](http://usnews.nbcnews.com/_news/2012/12/06/15702142-abortion-mandate-costs-planned-parenthood-a-few-affiliates).

<sup>15</sup> PPFA Bylaws, Art. II, § 1(vi).

<sup>16</sup> PPFA 2017 tax return (publicly disclosed), *available at* [https://www.plannedparenthood.org/uploads/filer\\_public/3b/75/3b757e47-db59-4cd7-b9a9-e17bc6c75280/ppfa\\_fy18\\_990\\_-\\_public\\_disclosure.pdf](https://www.plannedparenthood.org/uploads/filer_public/3b/75/3b757e47-db59-4cd7-b9a9-e17bc6c75280/ppfa_fy18_990_-_public_disclosure.pdf).

<sup>17</sup> Planned Parenthood, *Who We Are* (stating that PPFA has 49 local affiliates nationwide), *available at* <https://www.plannedparenthood.org/about-us/who-we-are>.

Sincerely,



William Manger  
Associate Administrator  
U.S. Small Business Administration



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF CAPITAL ACCESS

May 19, 2020

Ruth Lytle-Barnaby  
Planned Parenthood of Delaware, Inc.  
625 N. Shipley Street  
Wilmington, DE 19801

Re: Notice of Investigation and Request for Records

Dear Ms. Lytle-Barnaby:

Planned Parenthood of Delaware, Inc. ("PPD") applied for a loan through the Paycheck Protection Program. In its loan application, PPD self-certified that it is eligible for a Paycheck Protection Program loan. PPD, however, is a local affiliate of Planned Parenthood Federation of America, Inc. ("PPFA"). We have preliminarily concluded, therefore, that PPD is ineligible for a Paycheck Protection Program loan under the applicable affiliation rules and size standards, consistent with Congressional intent, and that the loan you have received should be returned. If you wish to contest our preliminary conclusion, the Small Business Administration ("SBA") will conduct an investigation pursuant to Section 5(b)(11) of the Small Business Act<sup>1</sup> to assess PPD's eligibility for a Paycheck Protection Program loan and the basis for PPD's eligibility certification.

PPD, which is identified as a PPFA "local office" on PPFA's website<sup>2</sup>, applied for a \$496,225 Paycheck Protection Program loan. This is one of 38 loans that PPFA local affiliates have applied for through the Paycheck Protection Program. In total, PPFA local affiliates have applied for more than \$80 million in Paycheck Protection Program loans.

To obtain its loan, PPD certified in its Paycheck Protection Program Borrower Application Form that "[t]he Applicant is eligible to receive a loan under the rules in effect at the time this application is submitted that have been issued by the Small Business Administration (SBA) implementing the Paycheck Protection Program . . . ."<sup>3</sup> By making this certification, PPD represented that it, when considered together with all of its affiliates, has 500 or fewer employees.<sup>4</sup>

<sup>1</sup> 15 U.S.C. § 634(b)(11) (authorizing the Administrator of the Small Business Administration ("SBA") to "make such investigations as he deems necessary to determine whether a recipient of or participant in any assistance under [the Small Business Act] or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of . . . , or of any rule or regulation under [the Small Business Act] . . . .").

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<sup>4</sup> Small Business Administration, Business Loan Program Temporary Changes; Paycheck Protection Program, Affiliate Rules for Paycheck Protection Program, 85 Fed. Reg. 20817, 20818-19 (Apr. 15, 2020) ("In most cases, a borrower will be considered together with its affiliates for purposes of determining eligibility for the PPP. . . . An entity generally is eligible for the PPP if it, combined with its affiliates, . . . (1) has 500 or fewer employees whose

To make such a certification properly, PPD was required to apply the affiliation rules applicable to the Paycheck Protection Program<sup>5</sup> and identify its affiliates.<sup>6</sup> Those affiliation rules provide, among other things, that: “Concerns and entities are affiliates of each other 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. It does not matter whether control is exercised, so long as the power to control exists.”<sup>7</sup> For example, affiliation can arise from management:

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PPFA is known to have and to exercise control over its local affiliates, such as PPD. PPFA’s bylaws, a version of which is publicly available, reveal that becoming a PPFA affiliate requires a certification by the PPFA board.<sup>9</sup> Once certified, “[e]ach Affiliate shall be governed by written bylaws which conform to PPFA policies.”<sup>10</sup> PPFA imposes 17 “affiliation mandates” on local affiliates on topics ranging from medical standards and guidelines to policies regarding inter-affiliate patient transfers.<sup>11</sup> To maintain their PPFA affiliation, affiliates must submit to a rigorous PPFA accreditation review every three years.<sup>12</sup> PPFA affiliates that fall short of PPFA’s standards

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principal place of residence is in the United States . . . and (2) is a tax-exempt nonprofit organization described in section 501(c)(3) of the Internal Revenue Code (IRC) . . .”).

<sup>5</sup> See 15 U.S.C. § 636(a)(36)(D)(vi); 13 C.F.R. § 121.103; 85 Fed. Reg. at 2018-19.

<sup>6</sup> Paycheck Protection Program Loans, Frequently Asked Questions (FAQs), 4-5 (“It is the responsibility of the borrower to determine which entities (if any) are its affiliates and determine the employee headcount of the borrower and its affiliates.”).

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<sup>8</sup> *Id.*

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<sup>10</sup> *Id.* at Art. XI, § 4(i).

<sup>11</sup> *Id.* at Art. XI, § 5.

<sup>12</sup> Planned Parenthood Hudson Peconic provided the following description of PPFA’s accreditation program:

Every three years, each Planned Parenthood affiliate undergoes accreditation, which involves a review of all aspects of the organization—from health services to fiscal operations to fundraising to board governance and more. We prepared for this extremely intensive process for months. Experts from PPFA’s offices reviewed all our procedures, interviewed and observed staff members, and toured our health centers. We are happy to report that we obtained full accreditation and remain in excellent standing with our national organization.

Planned Parenthood Hudson Peconic, 2014 Annual Report 1, available at [https://www.plannedparenthood.org/files/8714/4200/2638/PPHIP\\_2014\\_AR\\_Final\\_for\\_website.pdf](https://www.plannedparenthood.org/files/8714/4200/2638/PPHIP_2014_AR_Final_for_website.pdf).

or jeopardize PPFA's trademark are stripped of their affiliation.<sup>13</sup> PPFA also mandates the services that each local affiliate must provide, including requiring each local affiliate to perform on-site abortions; local affiliates unable or unwilling to comply with this PPFA mandate have been forced to leave the PPFA network.<sup>14</sup> Ultimately, PPFA determines which affiliates become and remain a part of the "Federation," which PPFA defines as itself and the affiliates collectively.<sup>15</sup>

Yet, PPD did not identify PPFA or any of PPFA's other local offices as affiliates—despite being identified as an affiliate of PPFA on PPFA's website. Indeed, PPD could not have certified that it was eligible for a Paycheck Protection Program loan if it is affiliated with PPFA or any of PPFA's other local offices. PPFA alone reported employing 676 people in 2017,<sup>16</sup> and presently there are 49 local PPFA affiliates nationwide.<sup>17</sup>

On its face, PPD's status as a local affiliate in the nationwide PPFA network subject to direction from PPFA on a number of management issues makes PPD ineligible for a Paycheck Protection Program loan under the applicable affiliation rules and size standards. If you wish to dispute that assessment, then pursuant to the Administrator's investigative authority, SBA requests that PPD demonstrate the basis for its certification that it is eligible for a Paycheck Protection Program loan. SBA also requests that PPD produce documents concerning PPD's eligibility certification within 10 calendar days of receipt of this letter. SBA's specific document requests are set forth in Attachment A to this letter.

Incorrect or false eligibility certifications by borrowers are subject to severe penalties. If SBA determines that a borrower made an eligibility certification that was incorrect or lacked adequate basis, SBA may seek repayment of the Paycheck Protection Program loan, and the borrower may be ineligible for loan forgiveness. If SBA determines that a borrower made a knowingly false certification on an application for a Paycheck Protection Program loan, SBA may refer the borrower for appropriate civil or criminal penalties.

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<sup>13</sup> For example, PPFA disaffiliated Planned Parenthood Golden Gate and reassigned its patients to other Planned Parenthood clinics. Katharine Mieszkowski, *Planned Parenthood Clinics Are Stripped of Affiliation After Complaints*, The New York Times (Aug. 28, 2020), available at <https://www.nytimes.com/2010/08/29/us/29bcp Parenthood.html>. PPFA also commenced disaffiliation proceedings against Planned Parenthood of Hawaii on the grounds that the local affiliate failed "to meet PPFA's national standards medically and financially." Lori Tighe, *Isle Planned Parenthood Gains Support*, Star-Bulletin (1998), available at <http://archives.starbulletin.com/98/01/13/news/story3.html>.

<sup>14</sup> M. Alex Johnson, *Abortion mandate costs Planned Parenthood a few affiliates*, NBC News (Dec. 6, 2012), available at [http://usnews.nbcnews.com/\\_news/2012/12/06/15702142-abortion-mandate-costs-planned-parenthood-a-few-affiliates](http://usnews.nbcnews.com/_news/2012/12/06/15702142-abortion-mandate-costs-planned-parenthood-a-few-affiliates).

<sup>15</sup> PPFA Bylaws, Art. II, § 1(vi).

<sup>16</sup> PPFA 2017 tax return (publicly disclosed), available at [https://www.plannedparenthood.org/uploads/filer\\_public/3b/75/3b757e47-db59-4cd7-b9a9-e17bc6c75280/ppfa\\_fy18\\_990\\_-\\_public\\_disclosure.pdf](https://www.plannedparenthood.org/uploads/filer_public/3b/75/3b757e47-db59-4cd7-b9a9-e17bc6c75280/ppfa_fy18_990_-_public_disclosure.pdf).

<sup>17</sup> Planned Parenthood, *Who We Are* (stating that PPFA has 49 local affiliates nationwide), available at <https://www.plannedparenthood.org/about-us/who-we-are>.



Sincerely,



William Manger  
Associate Administrator  
U.S. Small Business Administration

**Attachment A****Document Requests**

1. All documents that evidence, reflect, relate to, or describe in any way the relationship between PPD and PPFA, including but not limited to articles of incorporation, bylaws, affiliation standards, management agreements, memoranda of understanding, financial statements, medical standards, policies, procedures, directories, organizational charts, and communications evidencing directions, guidance, or control from PPFA over PPD's management.
2. All documents that evidence, reflect, relate to, or describe in any way the relationship between PPD and other PPFA local affiliates, including but not limited to articles of incorporation, bylaws, affiliation standards, management agreements, memoranda of understanding, financial statements, medical standards, policies, procedures, directories, and organizational charts.
3. All documents that evidence, reflect, relate to, or describe in any way PPFA's "accreditation criteria" for local affiliates.
4. All documents that evidence, reflect, relate to, or describe in any way PPD's accreditation as a PPFA affiliate, including but not limited to PPFA's accreditation of PPD as a new affiliate, PPFA's renewal of PPD's affiliation, and any actions taken by PPFA to discipline PPD, place PPD on probation, or suspend or terminate PPD's affiliation with PPFA.
5. All documents that evidence, reflect, relate to, or describe in any way any contractual agreements between PPFA and PPD.
6. All documents that evidence, reflect, relate to, or describe in any way any payments or other financial transactions between PPFA and PPD within the past two years.
7. All documents that PPD provided to its lender to apply for a Paycheck Protection Program loan, including but not limited to, the Paycheck Protection Program Borrower Application Form and the documentation that PPD provided to the lender to verify the number of full-time equivalent employees on PPD's payroll.
8. All documents relating to the basis for PPD's certification on the Paycheck Protection Program Borrower Application Form that PPD is eligible to receive a Paycheck Protection Program loan.
9. All documents relating to the basis for PPD's certification that PPD applied the affiliation rules applicable to the Paycheck Protection Program and concluded that PPD, when combined with its affiliates, is eligible to receive a Paycheck Protection Program loan. Requested documents include, but are not limited to, all documents reflecting PPD's application of the affiliation rules, which entities PPD concluded are its affiliates, how PPD calculated the combined

employee headcount of PPD and its affiliates, and the combined employee headcount of PPD and its affiliates.

10. All documents that PPD referenced or relied upon when applying the affiliation rules.

11. All communications concerning PPD's application for a Paycheck Protection Program loan. Requested documents include but are not limited to communications between PPD, PPFA, and other PPFA local affiliates.

12. All documents relating to PPD's determination of whether it has common management with any other entity. Requested documents include but are not limited to any documents that PPD referenced or relied upon in answering the following question on the Paycheck Protection Program Borrower Application Form: "Is the Applicant or any owner of the Applicant an owner of any other business, or have common management with, any other business? If yes, list all such businesses and describe the relationship on a separate sheet identified as addendum A."

13. All documents relating to the basis for PPD's certification on the Paycheck Protection Program Borrower Application Form that "[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of" PPD.

14. All documents relating to the basis for PPD's certification on the Paycheck Protection Program Borrower Application Form that "[t]he funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud."

#### **Definitions and Instructions**

1. "Communication" means any exchange or transmittal of information by any means of transmission, including without limitation, face-to-face conversation, mail, overnight delivery, Internet, telephone, electronic mail, or facsimile.

2. "Document" is intended to be interpreted in its broadest possible sense and means the complete original or a true, correct, and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored, or reproduced, including but not limited to, any writing, letter, envelope, telegram, electronic mail, message, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in your possession, custody, or control, including all drafts of all such documents, and documents provided to your counsel.

3. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

4. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a Request all documents that otherwise might be construed to be outside of its scope.

5. For purposes of interpreting or construing the scope of these Requests, the terms used shall be given the most expansive and inclusive interpretation, unless otherwise specifically limited in the Request.

6. PPD shall produce responsive documents as they have been kept in the usual course, or shall organize and label the documents to correspond to the enumerated requests. If there is no document responsive to any particular category, PPD shall so state in writing.

7. If PPD withholds any document responsive to a Request under a claim of privilege, they shall, for each such withheld document, provide a description of the document and a statement of the basis upon which the privilege asserted is claimed.

8. In the event that any document called for hereby was formerly in the possession, custody, or control of PPD and has been lost or destroyed, that document is to be identified in writing as follows: (a) addressor, addressee, person who prepared or authorized the document, indicated or blind copies; (b) date of preparation of transmittal; (c) subject matter; (d) number of pages, attachments, or appendices; (e) all persons to whom distributed; (f) date of loss or destruction; and (g) if destroyed, the manner of destruction, reason for destruction, persons authorizing destruction and persons destroying the document.

Chairman CARDIN. And Senator Paul, I am going to ask that the Administrator's response to your letter dated May 25th, yesterday, be made part of the record. And it does answer Senator Marshall's inquiry about the penalties, and they are pretty severe. For false statements it is prison time and heavy fines. Depending on which section is violated it can be as much as 30 years and \$1 million. But the false statements to SBA generally fall into the 5-year maximum, \$250,000 fine range. So we will make that part of the record as well.

[The information referred to follows:]



OFFICE OF THE ADMINISTRATOR

U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

May 25, 2021

The Honorable Rand Paul  
United States Senate  
Committee on Small Business & Entrepreneurship  
Washington, DC 20510

Dear Dr. Paul and Committee Members:

Thank you for your letters concerning the Paycheck Protection Program (“PPP Letters”). These letters address certain concerns regarding affiliation rules, loan review processes, ineligibility, as well as penalties and remedies for fraud under the Paycheck Protection Program (PPP). As reflected in my testimony on February 03, 2021, SBA will follow the laws as established by Congress, as well as the regulations and guidance promulgated to carry out PPP. This letter will explain the framework for evaluating PPP applicants and borrowers.

Applicants are required to certify in good faith as to their eligibility under PPP. Specifically, in April 2020, applicants were required to indicate that they were “eligible to receive a loan under the rules in effect at the time this application is submitted that have been issued by the Small Business Administration (SBA) implementing the Paycheck Protection Program under Division A, Title I of the Coronavirus Aid, Relief, and Economic Security Act (The CARES Act).”<sup>1</sup> By statute and regulation, lenders are permitted to rely on a borrower’s certification.<sup>2</sup> A lender may rely on any certification or documentation submitted by an applicant for a PPP loan that (a) is submitted pursuant to all applicable statutory requirements, regulations and guidance related to a PPP loan and (b) attests that the applicant accurately provided the certification or documentation to the lender in accordance with the statutory requirements, regulations and guidance related to PPP loans.<sup>3</sup> When providing a loan, lenders confirm receipt of a borrower’s certification. Under the CARES Act, PPP lenders are deemed to have delegated authority to make and approve PPP loans without prior SBA review.<sup>4</sup>

With this backdrop of self-certification, the SBA was authorized to review any PPP loan of any size at any time at its discretion.<sup>5</sup> If the SBA determines that a borrower is ineligible for the PPP loan, SBA will direct the lender to deny the loan forgiveness application. If SBA undertakes such a review, SBA will notify the lender via the PPP Forgiveness Platform (now called the Paycheck

<sup>1</sup> Paycheck Protection Program Borrower Application Form (SBA Form 2483) posted on SBA’s website April 2, 2020.

<sup>2</sup> Section 7A(h) of the Small Business Act, as amended by the Economic Aid Act (15 U.S.C. 636m(h)); 85 FR 20811at 20815 (April 15, 2020), as amended by 86 FR 3692 at 3708 (January 14, 2021).

<sup>3</sup> Section 7A(h) of the Small Business Act (15 U.S.C. 636m(h)).

<sup>4</sup> Section 7(a)(36)(F)(ii) of the Small Business Act (15 U.S.C. 636(a)(36)(F)(ii)).

<sup>5</sup> 85 FR 33010 at 33012 (June 1, 2020) (posted on SBA’s website May 22, 2020).

Protection Platform) and the lender must notify the borrower. Although SBA has the authority to investigate any participant in any assistance program for violations of the Small Business Act under the Small Business Act Section 5(b) (11), in May 2020, SBA established a process for loan reviews and then described this process in a notice to lenders.<sup>6</sup> Given the emergency nature of the PPP and the enormous scale of the program, SBA relies on the loan review process to assess eligibility for the loan and the loan amount, use of proceeds, and whether the borrower is entitled to the amount of forgiveness claimed.

One of the matters described in the PPP letters concerns how affiliation is assessed under PPP. Under the statute, PPP loans are subject to the same affiliation rules that, in general, aggregate the employees or other size measures of entities under common control. The CARES Act mandated that SBA apply these affiliation rules to non-profit applicants for assistance under PPP. Prior to the PPP, SBA had very limited opportunities to apply its affiliation rules to non-profit borrowers because very few SBA programs were open to non-profit organizations. Nevertheless, the rules themselves and SBA's interpretative guidance allow SBA to assess the control—and thus the affiliations—of non-profit organizations in the same manner as with businesses. For business loan applicants, SBA applies the seven-part affiliation rule in 13 C.F.R. § 121.301(f)(1)-(f)(7). In an interim final rule, SBA announced that the Agency would apply the same § 121.301 rules to PPP applicants, including non-profit organizations.<sup>7</sup> In April 2020, SBA published on its website a two-page affiliation guide that digested SBA's seven-part rule into four tests that cover most PPP applicants.<sup>8</sup> (Affiliation Guide).

Although the PPP letters do not mention with specificity which of the affiliation rules are of concern, it appears that the inquiry relates to “affiliation based on management.” Of the four tests described in the Affiliation Guide, two generally are not applicable to non-profit organizations (affiliation based on ownership, and affiliation arising under stock option) and the third typically applies to private family foundations (affiliation based on identity of interest). Affiliation based on management as set forth in 13 CFR § 121.301(f)(3) provides three measures to assess this basis for affiliation:

- Affiliation arises where the CEO or President of the applicant concern (or other officers, managing members, or partners who control the management of the concern) also controls the management of one or more other concerns.
- Affiliation also arises where a single individual, concern, or entity that controls the Board of Directors or management of one concern also controls the Board of Directors or management of one or more other concerns.
- Affiliation also arises where a single individual, concern or entity controls the management of the applicant concern through a management agreement.

<sup>6</sup> SBA Procedural Notice 5000-20038, Procedures for Lender Submission of Paycheck Protection Program Loan Forgiveness Decisions to SBA and SBA Forgiveness Loan Reviews (July 23, 2020).

<sup>7</sup> 85 FR 20818 (April 15, 2020).

<sup>8</sup> [Affiliation Rules Applicable to U.S. Small Business Administration Paycheck Protection Program \(sba.gov\)](https://www.sba.gov/affiliation-rules-applicable-to-u.s.-small-business-administration-paycheck-protection-program) (effective April 3, 2020).

Each measure has several factors that informs the SBA when it determines when an applicant is affiliated with other entities under this rule. Each determination is fact and circumstance specific and cannot be generalized across all non-profit organizations or against any particular set of applicants. Moreover, applicants relied on this guidance when applying for PPP loans and can determine on their own whether affiliation as defined above is applicable to their organization.

When conducting program oversight and loan reviews, SBA will apply the affiliation rules as set forth in the CARES Act, as amended by the Economic Aid Act and the American Rescue Plan Act, and in accordance with the interim final rules issued to implement the PPP, as well as the existing affiliation rules set forth in 13 CFR § 121.301(f). It is not clear in the PPP letters whether the affiliation rule based on management was used and whether the application of the rule was appropriate and consistent with SBA precedent. SBA will continue to use the same standards that it has used in assessing affiliation for for-profit businesses when assessing affiliation for non-profit organizations, as applicable.

Another matter raised in the PPP letters concerned the process associated with applicants that may have been deemed ineligible for a First Draw PPP loan and their ability to obtain a Second Draw PPP loan. SBA has issued three Procedural Notices on hold codes and compliance check error messages.<sup>9</sup> As outlined in the Interim Final Rule for Second Draw PPP Loans, if information in SBA's possession indicates that a borrower may have been ineligible for the First Draw PPP Loan it received or for the loan amount received by the borrower, the lender will receive notification from SBA when the lender submits an application for guaranty of a Second Draw PPP Loan.<sup>10</sup> The lender will receive the notification through the Paycheck Protection Platform and it will include information regarding the hold code(s) on the 2020 First Draw PPP Loan. Once a hold code or compliance check error message is resolved, the loan guaranty application will be automatically submitted to the next stage of processing.

Third, the PPP letters raised a concern with regards to the appropriate remedies if a borrower is ineligible. "If SBA determines that the borrower is ineligible for the loan amount or loan forgiveness amount claimed by the borrower, SBA will direct the lender to deny the loan forgiveness application in whole or in part, as appropriate. SBA may also seek repayment of the outstanding PPP loan balance or pursue other available remedies."<sup>11</sup>

Fourth, the PPP letters raised a concern with regard to applicants who commit fraud, make a false certification, or misuse PPP loan funds. SBA's interim final rule states plainly the consequences for such acts. In the case of misuse: "If you use PPP funds for unauthorized purposes, SBA will direct you to repay those amounts. If you knowingly use the funds for unauthorized purposes, you will be subject to additional liability such as charges for fraud. If one

<sup>9</sup> (1) SBA Procedural Notice 5000-20083, SBA Paycheck Protection Platform Procedures for Addressing Unresolved Issues on Borrower First Draw PPP Loans (issued January 26, 2021), (2) SBA Procedural Notice 5000-20092, Revised SBA Paycheck Protection Platform Procedures for Addressing Hold Codes on First Draw PPP Loans and Compliance Check Error Messages on First Draw PPP Loans and Second Draw PPP Loans (issued February 10, 2021), and (3) SBA Procedural Notice 5000-808216, Second Notice of Revised Procedures for Addressing Hold Codes and Compliance Check Error Messages on PPP Loans (issued March 29, 2021).

<sup>10</sup> See, 86 FR 3712 at 3722 (January 14, 2021).

<sup>11</sup> 86 FR 8283 at 8295 (February 5, 2021).



of your shareholders, members, or partners uses PPP funds for unauthorized purposes, SBA will have recourse against the shareholder, member, or partner for the unauthorized use.”<sup>12</sup>

SBA will pursue all appropriate penalties for any unlawful participation in the program. Applicants certify when they execute the Paycheck Protection Program Borrower Application Form that the information provided in their application and the information provided in all supporting documents and forms is true and accurate in all material respects. Any applicant that knowingly makes a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 U.S.C. 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 U.S.C. 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if an application is submitted to a federally insured institution, under 18 U.S.C. 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.<sup>13</sup>

In addition to SBA, third parties are required to report fraud in PPP. “Lenders, CDCs, Borrowers, and others must notify the SBA Office of Inspector General of any information which indicates that fraud may have occurred in connection with a 7(a) or 504 loan.” Notifications can be sent directly to the Assistant Inspector General for Investigations, Office of Inspector General, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.”<sup>14</sup> Third parties also can notify OIG through the Hotline [800-767-0385] and website [[Office of Inspector General \(sba.gov\)](https://oig.sba.gov)]. Lenders have also notified SBA directly, including the Office of Capital Access and the Office of the General Counsel, as well as local District Offices, who then report fraud referrals to the Office of the Inspector General.

SBA will not hesitate to take any of the remedies afforded to prevent incidences of and assist in the prosecution of fraud in the PPP program.

Last, with regards to the PPP letters inquiries concerning any entities that may have a relationship with Planned Parenthood Federation of America, SBA does not comment on any application to, applicant for, or borrower under its programs.

Thank you for the opportunity to provide you with additional information regarding PPP.

Sincerely,



Isabella Casillas Guzman  
Administrator

<sup>12</sup> 86 FR 3692 at 3705 (January 14, 2021).

<sup>13</sup> Paycheck Protection Program Borrower Application Forms (SBA Forms 2483, 2483-C, 2483-SD, and 2483-SD-C).

<sup>14</sup> 13 CFR § 120.197.

Chairman CARDIN. Senator Duckworth.

Senator DUCKWORTH. Thank you, Mr. Chairman. Thank you for having this hearing. Administrator Guzman, as has been discussed today, millions of small businesses are struggling and they have survived the most trying times of the deadly COVID-19 pandemic, and they are starting to see light on the other side. Moving forward, programs established under the American Jobs Plan, including the Restaurant Revitalization Fund and the Shuttered Venue Operators Grant Programs, which we have already discussed here today, will be vital in achieving a sustained recovery in my home State of Illinois, and in communities across the country.

The high demand for participation in these small business recovery programs is evidence of the need for continued Federal support. However, I am troubled by the prospect of some businesses still being left out if funding runs dry before all eligible entities can apply for relief.

In addition, we know that certain sectors of our economy have been hit especially hard and comprise those businesses struggling the most trying to recover. For example, gym and fitness facilities are estimated to have lost roughly 1.4 million jobs, 44 percent of their industry, and tens of billions in revenue as a result of the pandemic. And despite aggressive COVID-19 relief programs, many gym-based businesses have failed to achieve the financial stability due to months of closures, high overhead costs, and weakened demand.

Administrator Guzman, during the worst depths of the pandemic, many in the fitness industry did their part in closing up shop to protect their employees and customers and communities. Would you agree with me that now is the time for Congress to do our part in making sure that this industry receives the helping hand that will enable these small businesses to stabilize and recover?

Ms. GUZMAN. We definitely agree, and in California I saw the same thing, and I have heard it across the Nation. I mean, many industries are hardest hit, including the gyms, and so we would welcome the opportunity to partner with you to provide you whatever information and support that you need to do that analysis.

Senator DUCKWORTH. Thank you, and I do concur that we must support these businesses, and that I was proud to introduce the bipartisan Gyms Act with Senator Moran.

Based on SBA's experience witnessing how much demand exists for targeted assistance among small businesses that were not well-suited for PPP relief, Administrator Guzman, please address how providing \$30 billion for the particularly hard-hit fitness and gym industry would support small business owners and their employees while also driving local economic activity.

Ms. GUZMAN. I would not be able to speak to the specifics but we know that many small businesses are still hard hit. You know, obviously we are focused on trying to get the targeted EIDL Advance program out as well, that would provide grants to small businesses and leverage all of our programs to support these smaller entities or these businesses that have seen massive revenue loss over the past year-plus.

Senator DUCKWORTH. Thank you. So I would like to just have my final question be on minority-owned businesses. While we are addressing hard-hit businesses, I want to express my strong support for enhancing efforts to provide relief to minority-owned small businesses. You know, despite efforts to prioritize disadvantaged small businesses in these Federal relief programs, the reality is that we have a long way to go in delivering required support to Black, Latinx, and AANHPI small businesses. I commended the Biden administration for improving SBA programs to better support minority-owned small businesses and the communities that they serve, but I firmly believe that Congress can do so much more to accelerate these economic justice efforts.

Administrator Guzman, in your view what is the most important action that Congress could take to supercharge SBA's efforts to achieve economic justice for historically disadvantaged small business interests?

Ms. GUZMAN. There are, of course, critical small business proposal included in the American Jobs Plan. We know that our businesses have a long road ahead of them to recover in the economy, and we want to make sure that they have access to capital, access to markets, including government contracting as well as access to networks, those resources, those connection points that will allow them to grow their businesses. And so we look forward to supporting and administering any programs that are able to come out of that plan.

Senator DUCKWORTH. Thank you. I yield back, Mr. Chairman.

Chairman CARDIN. Thank you. Senator Markey by Webex.

Senator MARKEY. Thank you, Mr. Chairman, very much. We have a great opportunity here with President Biden's American Jobs Plan to really help small businesses in our country. If you just look over in the climate area for installation of solar panels, insulating homes, bringing them up to a higher standard of efficiency. There are millions of jobs that can be created.

So could you tell me what you are doing inside of the Administration to advocate for small businesses to be able to fully participate in the American Jobs Plan, especially because they have such incredible job creation potential?

Ms. GUZMAN. SBA has a wealth of resources, as you all know, that can support innovation as well as those businesses that would be engaging in any infrastructure proposals. We know that small businesses are held back by our aging transportation infrastructure, in particular, and see opportunities both for growth in terms of market access as well as growth in terms of contracting opportunities.

So we continue to provide information in terms of the type of impact we have seen with our contracting programs as well as our capital programs and our innovation programs, the SBIR/STTR programs that are so valuable to spur innovation across the country.

Senator MARKEY. Thank you so much. And for these small businesses, you know, broadband is going to be absolutely indispensable in terms of their ability to fully participate in hopefully an incredibly expanding economy over the next decade. So, you know,

it is absolutely imperative that every small business have access to high-speed broadband in the years ahead.

So talk a little bit about why you believe that small businesses have to be central in any national broadband rollout that we add to the statute books of our country over the next year.

Ms. GUZMAN. Especially with COVID, we have seen that small businesses have adopted technology at high rates. E-commerce continues to grow around the world, and the United States' ability to compete in those marketplaces is really dependent on our businesses having full access to broadband, just as a case on the revenue side, the market side access. So for that alone it is really imperative that small businesses are put at the forefront of broadband discussions.

Senator MARKEY. And SBIR programs, and STTR programs have been absolutely incredible in Massachusetts, but in every state in the union as being incubators that have led to massive job creation in our country. Tens of thousands, if not hundreds of thousands of jobs in Massachusetts have been created through that program.

Could you talk about what an increase in SBIR and STTR programs could mean for small businesses and job growth in our country?

Ms. GUZMAN. We know the SBA does play a large role in coordinating efforts of our R&D agencies around SBIR/STTR, and we know how valuable that is to furthering the R&D and innovation goals of the United States, the Federal Government, as well as ensuring startups, that commercialization happens, and that businesses benefit from that growth. We know that innovative startups, science-based or technology-based companies have a 5x job growth rate, and so we definitely want to encourage that type of innovation across the United States, and those programs are really critical in helping to ensure that.

Senator MARKEY. Thank you so much. Thanks for your great work. Thank you, Mr. Chairman.

Chairman CARDIN. Administrator Guzman, I would like to—Senator Hickenlooper is available through Webex. Now that I see that he is on the line we will recognize Senator Hickenlooper.

Senator HICKENLOOPER. Great. Thank you, Mr. Chair, and I appreciate the opportunity to get caught up on some of this. I have been, like many people, concerned about the slow response with the Shuttered Venues money going out, and I heard something about the IRS is somehow part of the reason that even now I do not think any grants have been made, even to those venues that suffered 90 percent losses. And I might have missed this because I was in another meeting—I apologize. What are some of the details here, and is there anything we can do to try and facilitate getting these venues back in business?

Ms. GUZMAN. Yes. I did share earlier that the Shuttered Venue Operators Grant Program, that we have started to make awards. It is a slow process, but we have been working closely with our colleagues at Treasury to make sure that any initial challenges with accessing tax information have been overcome. We feel strongly that that collaboration is going to yield strong results, and as we already have seen we have started to make awards. So we are feel-

ing good about the program and our ability to start disbursing awards soon.

Senator HICKENLOOPER. Great. Well, I think that is wonderful news. Do we think that once we spend a couple of weeks getting those worst-hit venues, that next tranche I think is those venues that suffered 70 percent losses in revenue. Can we get to them in fairly short order? In other words, once we have figured out one logjam and gotten that resolved that we can move and get that next batch out in, let's say, 14 days?

Ms. GUZMAN. There is definitely learnings and efficiencies that we hope to try to leverage. Of course, each of these applications is complex to review from our team, and we do follow a rule-of-two as well. So we will try to move as quickly as possible to get to those applicants in the pipeline.

Senator HICKENLOOPER. Good. I appreciate that. Those were my most pressing questions. I do want to say, I think that the SBA has done a remarkable job throughout the entire pandemic, transforming itself into an enterprise that was willing to evolve in very rapid transitions. You know, I applied for an SBA 504 loan back in, gosh, I guess it was 1991, and the process was somewhat onerous. And just to see how much more flexible and nimble the SBA had become really was gratifying. We proposed a package of four bills to try and help expand the SBA's capacity to give more access to a more diverse group of borrowers and recipients of support, and I hope that as we go forward we will be able to work in partnership on getting some of these, once we get the bills passed, making sure that they get implemented properly.

Ms. GUZMAN. Yes, thank you. I would welcome that opportunity.

Senator HICKENLOOPER. I yield the rest of my time, Mr. Chair.

Chairman CARDIN. Thank you, Senator Hickenlooper. I can tell you, I concur in your observations about the ability of the SBA to stand up these programs and to implement them. It was a herculean task and it made a huge difference in our economy for small businesses, no question.

Administrator Guzman, I want to, and maybe we will continue this through a more informal process, but to get an update as to how we are dealing with the EIDL grant program. I am really concerned. This is really the only program for low-income communities, and it is a challenge. So I hope either through the Navigator Program or through the other resources at SBA and your resource partners we will make an effort to reach this hard-to-serve, underserved community, because this is a lifeline, and we want to see these businesses survive, and we think these grants, particularly the two levels of grants, are important for the survival of disadvantaged small businesses.

So I would ask you to work with us as to how we can do a better outreach to get this program in a more used way. We have resources available, and we want to see them go to the intended purpose.

Ms. GUZMAN. Yes. Thank you for that. And we concur and we have been evaluating what we can do to improve the outreach and improve outcomes. Obviously, we have done the initial outreach to the priority groups first. Those were those who had already applied. And we sent over 10 million emails, sent another over

3 1/2 follow-up emails with a pretty good open rate. And so we continue to try to work with those constituents, and then in early June we will be opening up the platform so that those applicants, after December 27th, in the pipeline as well as just the general public of those eligible businesses can apply, so low income with those losses. We are continuing to look at how we can simplify for the process. Obviously providing tax documents and that revenue history is a challenge, so as much as we can help them walk through that process, we will.

Chairman CARDIN. And please keep us informed. We want to work with you together on that issue.

My last request is that I would be interested, as the PPP program is coming to an end, how well the administrative changes on returning citizens and those with student debt, how they were utilized. I would be interested in seeing the results from that administrative change.

And then the changes we made in December to your core programs, how effective that has been in making the core continuing programs of the SBA more useful to particularly vulnerable small businesses. If you could get us that information I would appreciate it.

Ms. GUZMAN. Yes, we would be happy to.

Chairman CARDIN. Senator, Hirono, anything else?

With that we thank you very much. The record will remain open for two weeks for questions, and we ask that you try to respond as quickly as possible. And with that the Committee will stand adjourned, thanking the Administrator for her accommodations today.

Ms. GUZMAN. Thank you. Thank you for your time.

[Whereupon, at 2:45 p.m., the Committee was adjourned.]

## **APPENDIX MATERIAL SUBMITTED**



3138 10th Street North  
Arlington, VA 22201-2149  
703.522.4770 | 800.336.4644  
t: 703.524.1082  
nafcu@nafcu.org | nafcu.org

**National Association of Federally-Insured Credit Unions**

May 26, 2021

The Honorable Ben Cardin  
Chairman  
Committee on Small Business &  
Entrepreneurship  
U.S. Senate  
Washington, DC 20510

The Honorable Rand Paul  
Ranking Member  
Committee on Small Business &  
Entrepreneurship  
U.S. Senate  
Washington, DC 20510

**Re: Today's Hearing, "The Pandemic Response and the Small Business Economy: An Update from the U.S. Small Business Administration"**

Dear Chairman Cardin and Ranking Member Paul:

I am writing on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with today's oversight hearing to examine the Small Business Administration's (SBA) COVID-19 relief programs. As you are aware, NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 124 million consumers with personal and small business financial service products. We thank you for providing credit unions with important tools, such as the Paycheck Protection Program (PPP), to help their small business members during this pandemic. We would like to take this opportunity to share how credit unions have been able to help their communities through the PPP, as well as our recommendations to ensure maximum efficacy of the program in what we hope is the homestretch of this pandemic.

As we have previously written, throughout the pandemic, credit unions have been able to extend desperately needed liquidity through the PPP to small businesses that were not able to get help, or were turned away, from other types of institutions. We would like to reiterate our thanks to the Committee for working to ensure that credit unions were able to participate in this program and receive dedicated windows to process loan applications to ensure that their small business members were not left out.

While we appreciate Congress acting at the end of last year to simplify the forgiveness process, we would also like to reiterate that the forgiveness process through SBA remains cumbersome and urge you to implore the SBA to continue to streamline this process. We have heard from many of our members that the loan forgiveness process is still in need of administrative simplification and there has been an inconsistency in the length of time SBA is taking to administer forgiveness and to review denials.

Additionally, with PPP funding nearing its end, we believe it is important for the SBA to be very transparent on the amount of remaining funds, so lenders and borrowers have realistic expectations. We also believe that Congress should consider other methods to continue to help small businesses post-PPP, such as legislation to exclude credit union member business loans made



The Honorable Ben Cardin, The Honorable Rand Paul

May 26, 2021

Page 2 of 2

in response to COVID-19 relief from the credit union member business lending (MBL) cap. We urge you to support H.R. 1471, the *Access to Credit for Small Businesses Impacted by the COVID-19 Crisis Act of 2021*, introduced earlier this year by Representatives Brad Sherman (D-CA) and Brian Fitzpatrick (R-PA). Similar legislation was also introduced in the Senate last session by Senator Ron Wyden as S. 3676. Additionally, National Credit Union Administration (NCUA) Board Chairman Todd Harper and Board Member Rodney Hood have voiced their support for MBL cap relief as a step to make it easier for credit unions to do more to help small businesses in light of the pandemic. We urge Congress to act on this commonsense proposal to extend longer term liquidity to small businesses without costing the taxpayer.

We thank you for the opportunity to reiterate our perspective on the important work the SBA has been doing in advance of this hearing. Should you have any questions or require any additional information, please contact me or Lewis Plush, NAFCU's Associate Director of Legislative Affairs, at [lplush@nafcu.org](mailto:lplush@nafcu.org).

Sincerely,



Brad Thaler  
Vice President of Legislative Affairs

cc: Members of the Senate Committee on Small Business & Entrepreneurship

BENJAMIN L. CARDIN, MARYLAND, CHAIRMAN  
RAND PAUL, KENTUCKY, RANKING MEMBER

MARIA CANTWELL, WASHINGTON  
JEANNE SHAHEEN, NEW HAMPSHIRE  
EDWARD J. MARKEY, MASSACHUSETTS  
CORY A. BOOKER, NEW JERSEY  
CHRISTOPHER A. COONS, DELAWARE  
MAZIE HIRONO, HAWAII  
TAMMY DUCKWORTH, ILLINOIS  
JACKY ROSEN, NEVADA  
JOHN HICKENLOOPER, COLORADO

MARCO RUBIO, FLORIDA  
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JAMES M. INHOFE, OKLAHOMA  
TODDY YOUNG, INDIANA  
JOHN KENNEDY, LOUISIANA  
JOSH HAWLEY, MISSOURI  
ROGER MARSHALL, KANSAS

**United States Senate**  
COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP  
WASHINGTON, DC 20510-6350  
TELEPHONE: (202) 224-5175 FAX: (202) 224-5619

June 10, 2021

The Honorable Isabella Casillas Guzman  
Administrator  
U.S. Small Business Administration  
409 3rd Street, SW  
Washington, D.C. 20416

Dear Administrator Guzman,

Thank you for appearing before the Committee on Small Business and Entrepreneurship on May 26, 2021, at the hearing titled "The Pandemic Response and the Small Business Economy: An Update from the U.S. Small Business Administration."

Enclosed are questions for you that have been submitted by Ranking Member Paul and Senators Duckworth, Rosen, Rubio, Scott, Ernst, Inhofe, Young and Senator Kennedy for the hearing record. Please submit your answers to these questions by Thursday, June 24<sup>th</sup> via electronic mail to [kathryn\\_edden@sbcsenate.gov](mailto:kathryn_edden@sbcsenate.gov). To facilitate the publication of the record, please reproduce the questions with your responses.

Again, thank you for your assistance. Please contact Sean Moore of the Majority Staff at [sean\\_moore@sbcsenate.gov](mailto:sean_moore@sbcsenate.gov) or Meredith West of the Minority Staff at [meredith\\_west@sbcsenate.gov](mailto:meredith_west@sbcsenate.gov) with any questions you may have. We look forward to reviewing your answers.

Sincerely,

*Benjamin L. Cardin*

Benjamin L. Cardin  
Chairman

**Senate Committee on Small Business and Entrepreneurship Hearing  
May 26, 2021  
Follow-Up Questions for the Record**

Questions for Administrator Guzman

Questions from:

Ranking Member Paul

Planned Parenthood

Since you were confirmed, the SBA has approved at least six additional loans to Planned Parenthood Affiliates for \$17.6 million, including a recent approval to Planned Parenthood of Greater New York for \$10 million, the maximum loan amount. To date, SBA has not provided this Committee with specific information about Planned Parenthood affiliates' PPP loans despite repeated requests.

**QUESTION 1:**

How many first draw PPP loans have been approved to Planned Parenthood affiliates?

In the responses to Associate Administrator Patrick Kelley's March 24, 2021, hearing, SBA stated to the Senate Committee on Small Business and Entrepreneurship on August 18, 2021, that Planned Parenthood loans would be viewed consistent with other PPP loans from an affiliation standpoint, and provided detailed information on the procedures surrounding PPP loan hold codes.

In response to the immediate question, SBA has guaranteed 49 first draw PPP loans to organizations with Planned Parenthood in their name. As stated in SBA's letter dated November 24, 2021, to the Senate Committee on Small Business and Entrepreneurship, guaranteed loans to Planned Parenthood that were reviewed consistent with SBA's published loan review process were determined to be eligible under SBA's longstanding affiliation policy; the same affiliation policy that applied to all loans guaranteed under PPP. Actions taken by the prior Administration in May 2020 were preliminary; no final determination of eligibility was made at that time.

**QUESTION 2:**

How many second draw PPP loans have been approved to Planned Parenthood affiliates?

SBA has guaranteed 7 second draw PPP loans to organizations with Planned Parenthood in their name.

**QUESTION 3:**

Have any Planned Parenthood affiliates received forgiveness for PPP first or second draw loans? If so, how many?

SBA has remitted forgiveness payments to lenders on 34 PPP loans to organizations with Planned Parenthood in their name, as of November 2021.

**QUESTION 4:**

How many Planned Parenthood affiliates have submitted forgiveness applications? Is the SBA currently reviewing their applications?

As of November 2021, 38 organizations with Planned Parenthood in their name have submitted forgiveness applications.

**QUESTION 5:**

You testified that the SBA has not changed the application of the longstanding affiliation rules. In light of this, why are Planned Parenthood affiliates continuing to access the PPP if the SBA previously determined them to be ineligible?

When conducting program oversight and loan reviews, SBA will apply the affiliation rules as set forth in the CARES Act, as amended by the Economic Aid Act and the American Rescue Plan Act, and in accordance with the interim final rules issued to implement the PPP.

**QUESTION 6:**

Will you commit to providing this Committee with all of the information the SBA has regarding the loans made to Planned Parenthood Affiliates?

SBA will work with the Committee on all informal and formal requests as appropriate. in accordance with applicable law.

**QUESTION 7:**

Will you commit to recovering funds from all of the Planned Parenthood Affiliates that incorrectly received taxpayer funds meant for small businesses and small nonprofits?

If a PPP borrower is determined to be ineligible, SBA will deny forgiveness and where appropriate also seek repayment of the outstanding PPP loan balance or pursue other available remedies. [Interim Final Rule, Loan Forgiveness Requirements and Loan Review Procedures as Amended by the Economic Aid Act, 86 FR 8283, page 8295 (February 5, 2021).]

**QUESTION 8:**

Will you commit to providing the Committee unredacted copies of any and all agency decisions, determinations, guidance, policies, and/or documents related to PPP loans to Planned Parenthood Federation of America affiliates?

SBA will work with the Committee on all informal and formal requests in accordance with applicable laws.

Data Requests

I have sent multiple letters requesting data and information regarding SBA's COVID-19 programs. A number of these requests remain outstanding.

**QUESTION 9:**

Will you commit to providing the Committee with the entire underlying dataset for grants issued under the Restaurant Revitalization Fund as of June 9, 2021? If so, can you provide an estimated timeframe for when the Committee can expect to receive this data?

SBA has posted a full set of RRF data on its public website at [Restaurant Revitalization Fund \(RRF\) FOIA - Dataset - U.S. Small Business Administration \(SBA\) | Open Data](#)

**QUESTION 10:**

Will you commit to providing the Committee the entire underlying dataset for grants issued under the Shuttered Venue and Operator Grant Fund as of June 9, 2021? If so, can you provide an estimated timeframe for when the Committee can expect to receive this data?

SBA has posted a full set of SVOG data on its public website at [Shuttered Venue Operators Grantees - Dataset - U.S. Small Business Administration \(SBA\) | Open Data](#)

**QUESTION 11:**

Will you commit to providing the Committee with a copy of all contracts and or agreements entered into by the SBA for the Restaurant Revitalization Fund? If so, can you provide an estimated timeframe for when the Committee can expect to receive these documents?

SBA is committed to transparency and requests that this inquiry be made through the agency's document request process. You may send a letter to [CLA@sba.gov](mailto:CLA@sba.gov).

**QUESTION 12:**

Will you commit to providing the Committee with a copy of all contracts and or agreements entered into by the SBA for the Shuttered Venue and Operator Grant Fund? If so, can you provide an estimated timeframe for when the Committee can expect to receive these documents?

SBA has provided those documents to the Committee on June 11, 2021.

**QUESTION 13:**

Will you commit to providing the Committee with a copy of all contracts and or agreements entered into by the SBA for the COVID-19 EIDL and EIDL Advance programs? If so, can you provide an estimated timeframe for when the Committee can expect to receive these documents?

SBA will provide the Committee with a copy of relevant contracts within 45 days of responding to these questions for the record.

**QUESTION 14:**

Will you commit to providing the Committee with a copy of all contracts and or agreements entered into by the SBA for the Community Navigators Program? If so, can you provide an estimated timeframe for when the Committee can expect to receive these documents?

SBA will provide the Committee with a copy of any relevant contracts within 45 days of responding to these questions for the record.

Paycheck Protection Program

**QUESTION 15:**

What is SBA's current assessment of the number of PPP that will become loans?

All PPP loans are loans made by SBA lenders and guaranteed by the SBA. If the question is regarding PPP loans that will not be forgiven, SBA does not have an estimate; however, it should be noted that SBA has fully forgiven more than 95% of PPP loans that have been submitted for forgiveness to SBA by lenders.

**QUESTION 16:**

What is SBA's current assessment of the number of PPP loans that are fraudulent and will not receive forgiveness?

SBA does not have an assessment of the number of PPP loans that are fraudulent because the fraud reviews are ongoing. In addition, there are other entities besides SBA, including the Office of Inspector General, GAO, the Pandemic Response Accountability Committee (PRAC), and Department of Justice, that are reviewing fraud.

To address the fraud risk, OCA contracted with Guidehouse, Global Investigations and Compliance (formerly Navigant Consulting, Inc.) to perform fraud detection and investigation for PPP loans originated in 2020 and 2021. OCA and Guidehouse developed an in-depth loan

review plan that consists of data analytics to identify loans for manual reviews by Guidehouse's trained fraud investigators.

In late 2020, Guidehouse reviewed the entire portfolio of PPP loans using an automated screening process that compared loan data with publicly available information and applied fraud detection rules to identify loans that indicated potential fraud. Guidehouse began manually reviewing loans for fraud or abuse that alerted during the automated screening.

Guidehouse developed a risk exception methodology which provides the approach through which the SBA and Contractor seek to identify loans that A) present a risk of ineligibility due to non-compliance with program requirements; and/or B) contain indicators of fraud or program requirement circumvention. This methodology provides an overview of the rules-based system used to verify borrower-provided information by deploying rules or "detection scenarios" that identify loans with specific eligibility concerns and fraud indicators for further review and investigation. The SBA and Contractor designed two types of rules that (1) rely on loan application data only, and (2) compare loan application data to public records (i.e., LexisNexis). The methodology also includes information on data exploration, data evaluation, data testing, and describes the design and implementation of the rules.

Additionally, Guidehouse is using data analytics to analyze relationships across loans, borrowers, and lenders to uncover patterns of suspicious relationships and activities to identify potentially fraudulent networks across a variety of relationships.

In March 2021, after performing more than 20,000 manual reviews, Guidehouse implemented a machine learning model to enhance the effectiveness of manual reviews. They developed a random forest machine learning model that utilized the result of manual reviews to identify alerted loans with a minimal risk of fraud that could be resolved without a manual review, which allowed OCA to deploy government resources more efficiently by focusing manual reviews on loans with a higher likelihood of fraud.

Also in 2021, OCA designed a risk control framework to address control weaknesses identified in the origination of PPP loans during 2020. To address these concerns, OCA implemented a risk management framework consisting of upfront application-level controls to prevent, respond, and detect fraud for origination of PPP loans during 2021. Based on risks identified in the framework, OCA designed an up-front tiered validation process to verify applicant identity and prevent approval of ineligible or potentially fraudulent applications. OCA validated all PPP applications against private and public data sources, including prior SBA loans to the applicant, Treasury's Do Not Pay list, and LexisNexis public data sources.

OCA leveraged and tailored Guidehouse's existing business rules and utilized a targeted subset of the original rules to assist in verifying the authenticity and accuracy of information received from PPP lenders and screened for potential indicia of eligibility and/or fraud risks ("Compliance Check"). The Compliance Check executed rules, prior to loan approval, that searched for criminal records, bankruptcy, appearance on the OFAC list, borrower/owner reported as deceased, and TIN mismatches among others. The Compliance Check also utilized the Department of Treasury's Do Not Pay lists.

If the Compliance Check identified a potential issue, lenders had to obtain documentation, including written borrower certification, to resolve the issue identified by the alert. If the Lender was unable or unwilling to resolve the alert, the application was not approved.

**QUESTION 17:**

What is the average time it takes SBA to approve loan forgiveness for loans under \$2 million and over \$2 million?

**Description of Forgiveness Process:**

To receive loan forgiveness, a borrower must complete and submit the Loan Forgiveness Application (SBA Form 3508, 3508EZ, 3508S, or lender's equivalent) to its lender, or for loans of \$150,000 or less if directed by its lender, through the Paycheck Protection Platform.

As a general matter, the lender will review the application and make a decision regarding loan forgiveness. The lender has 60 days from receipt of a complete application to issue a decision to SBA. If the lender determines that the borrower is entitled to forgiveness of some or all of the amount applied for under the statute and applicable regulations, the lender must request payment from SBA at the time the lender issues its decision to SBA. SBA will, subject to any SBA review of the borrower's loan(s), remit the appropriate forgiveness amount to the lender, plus any interest accrued through the date of payment, not later than 90 days after the lender issues its decision to SBA.

If SBA determines during its review that the borrower was ineligible for the PPP loan under the statute, the SBA rules or guidance available at the time of the borrower's loan application, or the terms of the borrower's PPP loan application, the loan will not be eligible for loan forgiveness. It should be noted that if fraud is indicated, the loan will be referred to OIG and not forgiven pending appropriate investigation. The lender must notify the borrower of the forgiveness amount. If only a portion of the loan is forgiven, or if the forgiveness request is denied, any remaining balance due on the loan must be repaid by the borrower on or before the maturity date of the loan. The lender must notify the borrower of remittance by SBA of (i) the loan forgiveness amount (or that SBA determined that no amount of the loan is eligible for forgiveness), and (ii) the date on which the borrower's first payment is due, if applicable. If SBA determines that the full amount of the loan is eligible for forgiveness and remits the full amount of the loan to the lender, the lender must mark the PPP loan note as "paid in full".

**Processing Times:**

SBA forgiveness processing times have significantly improved across all loan sizes, but especially for loans of \$2 million or more. For example, \$2 million loans submitted before June 1, 2021, took an average of 137 days for SBA to process. Since, June 1, 2021, SBA has been approving forgiveness requests for \$2 million loans in an average of 22 days.

SBA loan reviews for \$2 million loans were taking longer than 90 days for several reasons. First, SBA did not start conducting reviews of loans of \$2 million or less until early November 2020 and did not start conducting reviews of loans of more than \$2 million until January 2021, even though SBA began accepting forgiveness decisions from lenders in August 2020.



Second, SBA was conducting loan necessity reviews on every loan above \$2 million, including the review of the borrower's completed Loan Necessity Questionnaire (SBA Form 3509 or 3510). The loan necessity reviews were lengthy and caused delays beyond the 90-day statutory timeline for forgiveness.

SBA has discontinued the use of the loan necessity questionnaires, which has allowed SBA to conserve human capital resources and led to significantly improved processing times. See, SBA PPP FAQ #69.

Average SBA forgiveness processing times\* are:

All loans under \$2 million: 9 days

- Loans that were not manually\*\* reviewed: 9 Days
- Loans that were manually reviewed: 50 Days

All loans of \$2 million or more: 131 Days

- Submitted before June 1, 2021: 137 Days
- Submitted since June 1, 2021: 22 Days

*\*Average processing time between receipt of lender forgiveness decision and SBA approval date, including time spent waiting for lender/borrower to provide documentation requested by SBA.*

*\*\*Loans undergo a manual review either because they are part of a statistically valid sample of forgiveness applications or because there is an indication of potential noncompliance with eligibility requirements, fraud, or abuse.*

#### Restaurant Revitalization Fund

#### **QUESTION 18:**

Please describe in detail what an awardee will need to report about their RRF grant usage?

Recipients of Restaurant Revitalization funding were required to report on their use of RRF proceeds by December 31, 2021 and will be required to complete annual reporting submissions until they fully expend the award funding or the period of performance expired March 11, 2023. Recipients are directed to report on the SBA RRF webpage and also on the RRF award portal, where they list the use of award funds and provide supplemental documentation, if necessary. SBA webpage information can be located at [Restaurant Revitalization Fund Program Post Award Report \(sba.gov\)](#).

#### **QUESTION 19:**

What is the process SBA is using to review a grantees application for potential fraud?

The SBA RRF program developed a risk framework to help identify and mitigate fraud across all applications. This framework included both automated technology, as well as human reviews on applications that are identified as having indicators for fraud. Examples of the technology detection tools include:

- Duplicate / Fraud Document Detection.
- Systemic scanning and dashing of all submitted documents for duplicate documents; all cases are flagged and reviewed by agents.
- Grant Amount Analysis.
- Round number fraud (e.g., 30k) situations are flagged and reviewed by SBA staff.
- Duplicate Account Analysis: Same Bank Account and payment information utilized across various awards; these situations are flagged for review and detection.,
- High Risk Bank Account Analysis (Green Dot and related variants of pre-paid/reloadable cards)
- All cases of these are flagged and surface to reviewers.
- Fillable PDF Analysis: All cases where applicants have used a fillable PDF to support grant amount awards have been flagged and will be reviewed. While not fraud in all cases, many confirmed cases of fraud have emerged.
- In addition, the RRF program deployed bank account linkage technology (PLAID) that allowed applicants to automatically link their bank account and allowed the SBA to validate the identity of the bank account holder. If the automated bank account linkage fails, a human review is conducted before funding is allowed to occur.
- Application data checked against Do Not Pay and public records.
- Additionally, post-award reviews are being conducted on awards where a concern about fraud is raised.

**QUESTION 20:**

How much has the SBA spent on expenses to administer the Restaurant Revitalization Fund?

To date, SBA has obligated over \$49 million in support of the RRF system platform. In addition, the SBA dedicated 40 Federal temp staff and 250 contract staff to facilitate review and processing of RRF.

**QUESTION 21:**

When does the SBA expect to release the Restaurant Revitalization awardee data?

Shortly after the RRF award funds were exhausted, SBA released the RRF awardee data on its public website at [Restaurant Revitalization Fund \(RRF\) FOIA - Dataset - U.S. Small Business Administration \(SBA\) | Open Data](#).

**QUESTION 22:**

When does the SBA plan to release the RRF post award guidance?

Recipients are directed to report the use of award proceeds on the SBA RRF webpage and also on the RRF award portal, where they list the use of award funds and provide supplemental documentation, if necessary.

SVOG**QUESTION 23:**

The Shuttered Venues Operators Grant Program has distributed applications into 5 risk categories. To date, how many applications fall into each risk category? Will the SBA consider modifying its audit plan if a substantially higher number of applicants fall into one or more risk categories?

SBA adjusted the SVOG Audit and Oversight Plan and now has three risk categories for all applicants. The number of applicants that fall into each category are:

- 1) Low level of risk (awards between \$1 and \$500,000) – 12,791 applications
- 2) Moderate level of risk (awards over \$500,000 and up to \$5,000,000) – 4,192 applications
- 3) High level of risk, (awards over \$5,000,000) – 654 applications

Small Business Investment Company Program**QUESTION 24:**

What are the current staffing levels for the Office of Investment and Innovation?

There are currently 72 FTEs in the Office of Investment and Innovation with several hiring actions being processed and offers outstanding.

**QUESTION 25:**

How many dedicated operations analysts oversee each of the SBIC's portfolios?

Currently there are seven Operations Analysts overseeing a total of 298 SBICs. In the near term, OII expects this number to increase to 10. In addition, there are three Area Chiefs and one Director in the Office of SBIC Operations that provide oversight of SBICs.

**QUESTION 26:**

As Administrator, do you believe your staff is conducting effective oversight of the current \$13.5 billion SBA capital that is at risk?

Yes, SBA continuously reviews its allocation of resources in connection with Agency priorities to determine staffing needs for each Office. For the 7(a) Loan, 504 Loan, Microloan, and Paycheck Protection Programs, the SBA ensures comprehensive Credit Risk Management and Lender Oversight through its Loan and Lender Monitoring System (L/LMS), which facilitates calculation of historical and predictive risk measures, systematic reporting and analysis, and risk-based review and safety and soundness exams of SBA lending partners. Lender portfolio monitoring and analytical assessments allow the SBA to determine the potential risk of each lending partner and the appropriate level and scope of supervision. These tools and review processes promote cost-effective risk mitigation.

### Community Navigators Program

The notice of funding opportunity for the Community Navigator Program notes the evaluative metrics "include, but are not limited to" 12 categories.

#### **QUESTION 27:**

What, if any, additional metrics is SBA using to evaluate the success of the Community Navigator Program?

SBA will track a set of key, measurable outputs, and outcomes from each of the 51 projects in the program. The Agency will measure how many unique small businesses and entrepreneurs will be served, how many hours of service they received, the short-term results of that service (such as receiving financing or access to government programs), and the longer-term results of that service (e.g., increased revenues, new business starts, jobs created).

In addition to quantitative data, awardees will also submit quarterly narrative reports where they explain what they have done over the past months and put stories to the numbers. These individual stories of impact are also powerful indicators of success.

#### **QUESTION 28:**

If a Community Navigator Program grantee should fail to meet the standard laid out in SBA's evaluative metrics, does the agency have a mechanism to claw back distributed funds?

As with all grants, SBA will review the grantees' performance to ensure that the grantees are fulfilling the terms of the grant. If SBA finds they are not – the Agency under:

- 2 CFR § 200.339 can take actions to remedy a grantee's noncompliance;
- 2 CFR § 200.340 provides the methods for terminating grants that are not compliant (In general, SBA will first identify for the grantee the problem, and ask for it to be remedied. If the grantee does not fix or cure the problem, then the SBA would move forward with the formal termination proceedings);
- 2 CFR § 200.346 can recoup funds that were not used, or not used correctly pursuant to the terms of the agreement;
- 2 CFR § 200.340(c) must report the termination of a grantee for failure to comply with the Federal award terms and conditions to the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS).

Questions from:

Senator Duckworth

SVOG Program

**QUESTION 1:**

Please detail the application appeals process. What happens if the SBA denies an application? How is that decision appealed? And is it true that SBA does not allow an application to be updated unless there is a 4506-T or a Do Not Pay issue?

The SVOG program has awarded over \$13.6 billion to more than 12,800 performing arts entities across all states and territories. SBA implemented the program with as much flexibility as possible, including an opportunity for applicants to make technical corrections to their application during the application process, an appeals process for applicants who were declined, and a reconsideration process for applicants who felt SBA did not award the proper amount of funding. Across all phases of the program, SBA communicated proactively by emailing applicants, posting weekly public reports, and sharing information through the SBA website through FAQs and program guidance.

SBA's public information on the appeals process is available in the updated SVOG FAQ, [available online here](#). All applicants who have been declined are eligible to submit an appeal. The appeals process works as follows:

- All applicants who have been declined receive an email notification that they are eligible to submit an appeal through the SVOG portal. From the date that the invitation to appeal is distributed, applicants will have two weeks to submit an appeal. During the initial two-week appeals window, funding for appeals will be preserved. Although applicants may appeal after the two-week window, there is no guarantee that funding will remain available.
- If an applicant chooses to appeal, the applicant works in the SVOG portal to select its entity type. The application will then display a list of documents that may be uploaded to support eligibility.
- The applicants will then review the [Eligibility Matrix](#) and upload a signed statement indicating their grounds for appeal, as well as any supporting documents from the Application Checklist, or any documents previously requested. Then the applicant submits the appeal.
- The SVOG team will then review the appeal with a fresh set of eyes (a different review team than reviewed the initial application) and come to a decision on the appeal. The applicant will be notified if their initial decline is upheld (application remains declined) or if their initial decline is overturned (application is awarded).

It is incorrect that the SBA does not allow an application to be updated unless there is a 4506-T or a Do Not Pay issue. SBA is actively supporting a number of ways for applicants to update

their application if the applicant appears to be eligible, non-fraudulent, and may have made a mistake on their application. This includes:

- Allowing applicants to update/adjust the 4506T, including conducting 1-on-1 calls with applicants who need to correct 4506Ts;
- Highlighting applications that require technical corrections (applicants who appear to be eligible, but are missing documentation to verify one or more eligibility criteria) and working with the applicants to provide it. For these applications, the SBA reaches out and provides specific examples of the types of documentation that can be used to demonstrate eligibility;
- Allowing applicants who did not register for SAM.gov prior to application to continue in the process and register for SAM.gov prior to receiving their distribution;
- Notifying applicants who are in the Treasury Department's Do Not Pay system and providing guidance on how to "cure" their Do Not Pay issue so their name can be removed from the Do Not Pay list;
- Supporting applicants who do not properly complete their Notice of Award; and
- Providing 10 hours of public office hours for applicants with questions, during which SBA accepted individualized questions and developed a special team of approximately 50 staff to work on each case to support the applicant, as permitted by federal regulations.

#### **QUESTION 2:**

Would SBA consider allowing appeals based on confusion with or inconsistencies within the published FAQs and the application checklist?

Yes, as noted above, the SBA is allowing for an appeals process for declined applicants, as well as a reconsideration process for applicants who received less money than they requested in their application and a reconsideration process for applicants who made mistakes on their applications that resulted in smaller awards.

#### **QUESTION 3:**

What is SBA doing to assure applicants that they will receive real-time and consistent update directly from SBA, rather than via news publications or social media?

SBA is using multiple channels to communicate with applicants, including:

- Partnering with industry leaders - For more than four months, SBA met daily with industry group leaders to provide updates on the SVOG program and answer questions and continues to meet with the group twice a week.
- Direct emails to active applicants –Beginning in mid-June and lasting through August, SBA emailed all active applicants weekly to provide SVOG information. Since that time, SBA continues to regularly email all active applicants to provide SVOG information and program updates.
- Office hours – SBA held 10 hours of public office hours for applicants with questions for the application process, during which SBA accepted individualized questions and developed a special team of approximately 50 staff to work on each case to support the

applicant, as permitted by federal regulations. SBA has also introduced office hours for active grantees to make sure they understand their obligations through the grantee phase of the program.

**QUESTION 4:**

Will you commit to working with Congress to seek to fulfill the full potential of this program and ensure it reaches all eligible applicants, including nonprofits and others within the third priority window?

The SVOG program received over 17,600 applications and, as of December 28, all but eleven have received a decision (award or decline) on their application. This includes applicants across all priority periods, including the third priority window. SBA is proud that the SVOG program has provided over \$13.6 billion to more than 12,800 performing arts entities across all states and territories. We are eager to continue working with Congress, industry leaders, and federal interagency partners to ensure the program's success.

Questions from:

Senator Rosen

**QUESTION 1:**

Given that the Paycheck Protection Program's general fund ran out of funds on May 4, 2021, how many PPP loan applications that SBA received on or before May 4th from Nevada still need to be funded? How much does the SBA need to provide loans to ALL small businesses that submitted a PPP application to SBA on or before May 4th?

SBA stopped accepting new loan guaranty applications on May 31<sup>st</sup> and PPP program authority ended on June 30<sup>th</sup>. Community Financial Institutions were submitting PPP loan guaranty applications until May 31<sup>st</sup>. All lenders were able to clear pending hold codes and compliance check error messages between May 31<sup>st</sup> and June 30<sup>th</sup>.

When the SBA announced it would raise the \$150,000 EIDL loan limit to \$500,000, my office received an outpouring of support from our local small businesses. Additionally, you wrote me a letter stating that the agency was working on a next phase that would raise the statutory loan limit to \$2 million for qualifying businesses, effectively eliminating all loan caps.

**QUESTION 2:**

Does the SBA have a timeline for the EIDL loan caps to be fully lifted to the statutory amount of \$2 million?

SBA has lifted the cap for EIDL loans up to \$2 million on September 8, 2021.

Even before the COVID-19 pandemic, millions of families already had difficulty finding affordable child care due to the shortage of child care options in the United States, especially in rural areas, and for low-income and minority communities. News reports have indicated that child care providers are at risk of permanently closing, which will only exacerbate the child care shortage. To address this problem, I reintroduced the Small Business Child Care Investment Act with Senators Ernst, Duckworth, and Rubio. This bicameral and bipartisan legislation would provide qualified non-profit small business child care providers access to the same SBA loans as those available to for-profit child care providers, allowing to expand the availability of affordable and high-quality child care.

**QUESTION 3:**

Will you commit to working with my office to help advance this legislation?

SBA would be glad to work with you on this legislation.

More than a year after the onset of the COVID-19 pandemic, we continue to see the devastating and potentially long-lasting impacts it has had on minority-owned small businesses. That is why



earlier this year, I introduced the bipartisan Minority Entrepreneurship Grant Program Act with Senator Tillis to help grow the pipeline for minority entrepreneurs. This legislation would establish a program through the SBA to award grants to Historically Black Colleges and Universities (HBCUs) and Minority Serving Institutions (MSIs) to promote and increase opportunities for minority student business ownership, including providing access to startup capital to help develop their business ideas.

**QUESTION 4:**

Would you commit to working with me on this legislation?

Yes, SBA would be glad to work with you on this legislation. SBA share your view that Minority Serving Institutions are poised to help aspiring entrepreneurs and merit investment to help them do so.

State-legal cannabis businesses are currently denied access to essential SBA resources such as loans, counseling, mentoring, and training that other small businesses can access.

**QUESTION 5:**

Could you commit to working with my office to consider providing legally-operating cannabis small businesses equal access to SBA resources?

SBA would be glad to work with you on this legislation.

Questions from:

Senator Rubio

One challenge we have seen in the implementation of the Paycheck Protection Program has been verifying the eligibility of applicants, especially applicants which claimed to be small, but were actually considered a part of larger businesses and organizations according to the SBA's affiliation rules. One such situation has involved affiliates of the organization Planned Parenthood, which has more than 10,000 employees nationwide. When Congress created the Paycheck Protection Program, it was clear that affiliates of Planned Parenthood were not eligible. Furthermore, Planned Parenthood even admitted it was not eligible for the PPP, and yet, it sought to receive PPP loans anyway.

The previous Administration took enforcement actions against this wrongful application for, and receipt of, PPP loans. However, Planned Parenthood affiliates have continued to apply for and receive PPP loans despite the fact that the affiliation rules have not changed. I reviewed your response to the Committee's questions and found them inadequate. This is an issue that is widespread and of fiscal consequence given the total amount of loans approved, and in any case is an appropriate subject for congressional inquiry. And I support further options to compel a response from the SBA on this matter.

**QUESTION 1:**

Has the SBA made any change to its prior determination that affiliates of Planned Parenthood were not eligible for PPP loans? If so, on what basis has the SBA changed its determination?

When conducting program oversight and loan reviews, SBA will apply the affiliation rules as set forth in the CARES Act, as amended by the Economic Aid Act and the American Rescue Plan Act, and in accordance with the interim final rules issued to implement the PPP.

SBA did not make any change. Letters written by SBA officials in May 2020 were not final determinations. Final determinations (also known as "SBA loan review decisions") regarding a borrower's eligibility are issued by SBA to a lender in the manner described and published in the Federal Register. [Interim Final Rule, Loan Forgiveness Requirements and Loan Review Procedures as Amended by the Economic Aid Act, 86 FR 8283, page 8295 (February 5, 2021).] In addition to not reflecting a final determination, the May 2020 Letters were incorrect in their analysis and an extraordinary departure from agency practice.

**QUESTION 2:**

If the SBA has not changed its determination, why has the SBA not enforced federal statute against unlawful receipt of PPP loans by affiliates of all ineligible businesses and organizations, including Planned Parenthood and its affiliates?

SBA applied the affiliation rules as set forth in the CARES Act, as amended by the Economic Aid Act and the American Rescue Plan Act, and in accordance with the interim final rules issued to implement the PPP.

Letters written by SBA officials in May 2020 were “preliminary conclusions” and not final determinations representing final Agency action. Such letters were incorrect in their analysis and did not provide a basis to enforce federal statutes.

**QUESTION 3:**

Will you request that all ineligible entities that have unlawfully received PPP loans return the funds?

If a PPP borrower is determined to be ineligible, SBA will deny forgiveness and where appropriate also seek repayment of the outstanding PPP loan balance or pursue other available remedies. [Interim Final Rule, Loan Forgiveness Requirements and Loan Review Procedures as Amended by the Economic Aid Act, 86 FR 8283, page 8295 (February 5, 2021).]

**QUESTION 4:**

In addition, what enforcement actions will the SBA take if these entities refuse to return unlawfully received funds?

If a PPP borrower is determined to be ineligible, SBA will deny forgiveness and where appropriate also seek repayment of the outstanding PPP loan balance or pursue other available remedies. [Interim Final Rule, Loan Forgiveness Requirements and Loan Review Procedures as Amended by the Economic Aid Act, 86 FR 8283, page 8295 (February 5, 2021).]

**QUESTION 5:**

As the approval of new PPP loans winds down, significant work remains to process the loan forgiveness applications of millions of businesses and nonprofits. How many lender forgiveness applications have been submitted to the SBA, but not yet processed?

As of 10/14/21, SBA has received 7,866,560 lender forgiveness decisions and 169,911 remain to be processed. Of the 169,911 that remain to be processed, 147,292 were submitted to SBA less than 15 days ago.

**QUESTION 6:**

What is the SBA’s plan for processing lender forgiveness applications once the loan approval process has been completed?

On August 4, 2021, SBA implemented a direct forgiveness process for borrowers with loans of \$150,000 or less. SBA is providing an optional technology solution to PPP lenders, leveraging SBA’s existing and proven Paycheck Protection Platform (Platform), that seamlessly integrates

the forgiveness process for borrowers, lenders, and SBA. Direct forgiveness allows borrowers to apply for forgiveness directly with SBA and allows lenders to review the borrower's forgiveness application and issue a forgiveness decision to SBA inside the Platform. Lenders that opt-in to using the direct borrower forgiveness process benefit with reduced costs, increased efficiency, and more timely remittance of forgiveness payments from SBA, while borrowers benefit from the ability to submit loan forgiveness applications directly through the Platform and reduce the wait time and anxiety associated with submission through their lender.

**QUESTION 7:**

Do you expect that the loan forgiveness process will occur more rapidly?

Yes, SBA expects the SBA forgiveness process will occur more rapidly and remain within the statutory timeframe of 90 days after a lender forgiveness decision.

I have spoken with a number of businesses who received large PPP loans, and who have received very little guidance about their loan forgiveness. These are not large or public businesses like Shake Shack or the L.A. Lakers. These are the small to medium-sized and regional businesses that Congress intended to help in creating the PPP. Though I understand that all loans over \$2 million will be audited, some businesses have complied with all of the SBA's requests and yet, have no timetable for when their loan forgiveness application will be processed.

**QUESTION 8:**

By what date does the SBA plan to have completed the audit of all first-round loans of over \$2 million?

SBA is focusing resources on forgiveness reviews. The timing is largely dependent on when borrowers apply for forgiveness and when SBA receives a forgiveness decision from the lender. SBA's regulations governing PPP allow borrowers to apply for forgiveness until their loans mature, which can be up to 5 years from loan disbursement.

**QUESTION 9:**

Will the SBA provide a timetable to borrowers who have already submitted loan forgiveness applications and have been waiting for a sufficient period?

SBA is committed to processing all forgiveness requests within 30 days of receipt from the lender, subject to any review of the loan.

The Restaurant Revitalization Fund (RRF) provides emergency assistance for eligible restaurants and other qualifying businesses disproportionately impacted by the COVID-19 pandemic. Restaurants throughout the state of Florida faced significant financial shortfalls due to the pandemic. Under the American Rescue Plan, the Restaurant Revitalization Fund was directed to prioritize applications from small businesses owned by women, veterans, and social and economically disadvantaged individuals for the first 21 days of the program. Because of this

priority, the SBA did not process applications from small businesses that were not prioritized until the last day that the portal was open, meaning that many applications from eligible struggling small businesses were not be processed.

**QUESTION 10:**

Was it fair to exclude struggling small businesses from the first priority for grants in this way?

SBA implemented the RRF program as legislated, and demand was substantially higher than the \$28.6 billion authorized.

**QUESTION 11:**

Will you commit to ensuring that all applications from eligible small businesses will be processed under the Restaurant Revitalization Fund?

SBA cannot process all applications because the demand for funding exceeded the \$28.6 billion authorized by statute.

**QUESTION 12:**

On January 15, 2021, Senators Romney, Risch and I sent a letter to the SBA arguing that live minor league sports stadiums and venues were eligible for grants under the shuttered venues facility. To date, my office has not received a response. However, the SBA has issued guidance stating it is “not likely” that such stadiums and venues are eligible for shuttered venues grants because live sports are not “performing arts.” As we argued in our letter, the statute Congress enacted provides material terms that defines who is eligible, such as the maintenance of performance and event spaces, and source of revenue from ticket and concession sales. There is no definition of “performing art” outside of this statutory definition.

In developing an understanding of what constitutes a performing art, which is critical to the SVOG program eligibility requirements in the statute and SBA’s effort to prioritize Congressional intent, SBA consulted guidance published by the U.S. Copyright Office, as well as with the National Endowment for the Arts and other industry groups. SBA drew upon these stakeholders’ collective wealth of experience in this area and the expert advice they provided when determining eligibility for various entities.

Per the Economic Aid Act, eligible entities may be live venue operators or promoters, theatrical producers, live performing arts organization operators, museum operators, motion picture theatre operators or owners, and talent representatives. In Frequently Asked Question #48, we state sports stadiums are not likely eligible, “[but] if the operator of a sports stadium or similar athletic arena can meet the statutory definition of an eligible entity under the Economic Aid Act, including the requirement that its principal business activity must be the organization, promotion, management, or hosting of live concerts, comedy shows, theatrical productions or other events by performing artists, it may be eligible to apply for an SVOG.”

**QUESTION 13:**

On what basis did the SBA conclude that live sports stadiums would not likely be eligible for the shuttered venue grant facility?

Eligible entities may be live venue operators or promoters, theatrical producers, live performing arts organization operators, museum operators, motion picture theatre operators or owners, and talent representatives, per the Economic Aid Act. Additionally, entities of these types owned by state or local governments (for example, museums or historic homes) are eligible to apply if the government-owned entity acts solely as a venue operator, museum, etc. and does not engage in other types of activities. The SBA considers performing arts as related to the SVOG program means events such as musical concerts, comedy shows, theatrical productions, dance performances, or other live renderings of similarly artistic works. This is based on review of the Economic Aid Act text, review of the U.S. Copyright Office, SBA's consultation with the National Endowment for the Arts and other Federal agencies with area expertise and examination of definitions of what constitutes the performing arts.

Based on SBA's review of the Economic Aid Act text, sports are not considered a performing art and, therefore, sports stadium operators would not be eligible unless they meet the principal business activity test in the Economic Aid Act.

**QUESTION 14:**

In the SBA's view, are there any sports events that constitute performing arts? If so, which?

SBA has not conducted a comprehensive review of all sports events to determine if they meet the SVOG definition of performing arts. However, for applications that SBA has reviewed from stadiums and other host sporting events, to date, SBA has not identified any that could constitute being performing arts events.

Questions from:

Senator Scott

Administrator Guzman, Last time you appeared before this committee we spoke a lot about the minimum wage. My colleagues on the other side of the aisle have been adamant about increasing it to \$15 per hour—more than double its current level—and many of them were willing to break any rules necessary to pass the mandate hike through their partisan reconciliation legislation.

I'm grateful the Parliamentarian ruled it out of order, but as we spoke about earlier, I don't think this is a battle that is going away any time soon.

Last time you were here, I asked if you would commit to being the “voice of reason” on small business matters to the Administration. So many things affect our nation's small businesses, and many of them, while not in your jurisdiction, should still be top of mind for you, in my opinion. Just a few weeks ago on May 12th, we all saw inflation increase at its fastest pace in over 12 years. The Fed aims for around 2%, expectations were around 3.6%, but in reality inflation increased at a rate of 4.2%. Let me repeat that, 4.2%.

This is what happens when the Administration spends nearly \$2 trillion on what they call COVID relief, when in actuality, only a fraction of the money went to address the pandemic and its effects.

The Biden administration and the Democrats have decided that for over a year, it makes sense for the Government to pay you more to stay home than to go to work. That's even as vaccines are flooding the market, states are opening up, and Americans can return to normal life. Similarly to the inflation numbers, we also saw an increase of just 266,000 jobs, with the unemployment rate ticking up to 6.1%. We have all heard the stories of businesses not being able to find employees. An April NFIB survey announced that 42% of small business owners have at least one job opening that can't be filled.

It is obvious that Bidenomics is not working. So again, I want to ask you to be the voice of reason to this Administration on what our small businesses are going through.

Please answer the following with specificity:

#### **QUESTION 1:**

What steps have you already taken, and what further steps do you plan to take to address the labor shortage small businesses are currently facing?

Helping small businesses hire and retain workers is a critical element of our economic recovery. Small businesses looking for assistance in filling job openings should consult with SBA resource partners, including their local area Small Business Development Centers, which can provide tailored advice that reflects the labor market conditions in their local area. The President's

legislative agenda includes a major emphasis on helping working-age individuals join or rejoin the workforce, including by helping them access affordable child care and paid family and medical leave, so that parents no longer have to choose between raising a family and sustaining a career.

**QUESTION 2:**

Have you spoken to President Biden to express your concern about the difficulty small businesses are having trying to hire employees? If so, did he understand the concern, if not why not?

The Biden Administration has seen the most jobs added in the first 11 months of a year. Since President Biden took office in January of 2021, employment grew by an average of 588,000 jobs per month through November. He is proud of that record but recognizes there is more work to be done.

**QUESTION 3:**

Let's talk about access to credit also. This recovery is going to be built on the ability of our small businesses not only to find good employees, but also to access responsible and affordable credit. During the last Administration and Congress I made it a point to encourage the use of fintechs in small business lending. They did some phenomenal work in PPP and it's time to modernize the SBA and the 7(a) program by opening it up to fintechs as well.

The SBA already has the SBLC program which provides access to the 7(a) program to alternative lenders. Unfortunately it has been capped at 14 lenders for several decades now. As someone who believes that we should increase this cap and allow more responsible lenders into the 7(a) program, I have found it extraordinarily difficult to find out any information about the SBLC program.

Please answer the following with specificity:

**QUESTION 4:**

Can you please walk me through the oversight you provide for those 14 lenders, the way they function within the 7(a) program, and how many small businesses they have served?

Most 7(a) lenders are banks that have a federal financial institution regulator (such as FDIC or OCC). Small Business Lending Companies (SBLCs) are non-depository lenders that are authorized by SBA to make 7(a) loans and loans to intermediaries in SBA's Microloan Program. SBA is the primary federal regulator of SBLCs. SBLCs typically utilize warehouse lines of credit with banks to fund their 7(a) loan originations. SBLCs are normally required to pledge their 7(a) loans as collateral for the warehouse line. SBA requires that lenders obtain SBA's prior written consent prior to pledging of 7(a) loans for such warehouse facilities. SBA reviews the warehouse line agreement to ensure its compliance with SBA Loan Program Requirements. SBA also requires the SBLC and its warehouse lender to execute a Multi-Party Agreement prior to



closing on any approved warehouse facility. The SBLC must also obtain SBA's prior written approval for any amendments to these warehouse facilities.

Most SBLCs are reliant on the sale of the guaranteed portion of their 7(a) loans in the Secondary Market for liquidity. SBA regulates the Secondary Market as the federal government provides its unconditional guaranty to investors who purchase loans from the Secondary Market.

Many SBLCs also securitize the unguaranteed portion of their 7(a) loans. SBA reviews all securitization requests and must provide its prior written approval for any 7(a) loan securitization.

Most SBLCs seek and are approved for delegated lending authority via the Preferred Lenders Program (PLP). SBA awards PLP authority to experienced 7(a) lenders for a term of up to 2 years. Prior to expiration of the PLP authority, SBA will conduct a PLP renewal review to assess the lender's condition and its compliance with SBA Loan Program Requirements.

All SBLCs are required to provide SBA with quarterly and annual reports. SBLCs must provide SBA with a quarterly condition report within 45 days after each quarter end which includes the lender's financial statements and certification of compliance with SBA's capital requirements. The SBLCs must provide SBA with an annual report within 90 days of their fiscal year end which include audited financial statements. SBA reviews the quarterly and annual reports to monitor each SBLC's financial condition and its compliance with SBA capital requirements.

SBA conducts risk-based reviews of each SBLC at least once every two years. These risk-based reviews are typically comprehensive safety and soundness exams which include a review of the SBLC's management and operations and its 7(a) loan portfolio. Depending on the size of the SBLC, we will review from 20 to 80 loan files during such a review.

As of 4/30/2021, the 14 SBLCs have an aggregated 7(a) portfolio of 6,937 loans for greater than \$5 billion. In addition, they generated PPP approvals of nearly 790,000 loans for approximately \$20 billion.

Questions from:

Senator Ernst

Shuttered Venue Operators Grant (SVOG) Program

**QUESTION 1:**

As you know, the Small Business Administration (SBA) made the decision to disallow Shuttered Venue Operators Grant (SVOG) program appeals. I am concerned that given the changing guidance and remaining technical issues (for example, SBA's reissuance of guidance on 4506-T forms), some eligible entities will get inadvertently excluded from the program. Is the SBA reconsidering this decision on SVOG appeals?

The SVOG program has awarded over \$13.6 billion to more than 12,800 performing arts entities across all states and territories. SBA implemented the program with as much flexibility as possible, including an opportunity for applicants to make technical corrections to their application during the application process, an appeals process for all applicants who were declined, and a reconsideration process for applicants who felt SBA did not award the proper amount of funding.

**QUESTION 2:**

Under the SVOG program, has the SBA started a process for calculating supplemental grants? If yes, can you please describe it? If SBA has not, can you provide a timeline for when that will begin?

The supplemental award process began the week of August 23 and as of December, SBA has disbursed over \$3 billion in supplemental funding. Eligible applicants will receive an email notifying them that they are eligible to apply for a supplemental award—the invitation will also be in the SVOG portal. Interested applicants may apply for a supplemental award by responding to this invitation through the portal. Supplemental award amounts, as defined in statute, will be fifty percent of an applicant's initial award, not to exceed a combined total of \$10 million in initial award and supplemental award for a single entity. Groups of affiliated museums may not exceed \$10 million in total funding as a group. Should not enough funding be available to grant a supplemental award to all eligible applicants who apply within the initial two-week window, SBA will give priority to applicants with the greatest revenue loss in Q1 2021 relative to Q1 2019 (or their first quarter of earned revenue for those businesses not in operation in Q1 2019).

SBA's public information on the supplemental awards process is available in the updated SVOG FAQ, [available online here](#).

**QUESTION 3:**

Can you please provide the number of the total amount of SVOG funds requested, including both initial and supplemental grants? Can supplemental grants be automatically calculated and processed based on information already collected from applicants? If not, why not?

Applicants submitted 17,644 initial SVOG applications prior to the application closing in August. This data is available weekly through the SVOG public report posted [here](#).

Grantees who are eligible applicants will receive an email notifying them that they are eligible to apply for a supplemental award—the invitation will also be in the SVOG portal. Interested applicants may apply for a supplemental award by responding to this invitation through the portal. The supplemental award will not require a second application, it will be a streamlined process to indicate interest and optionally update some information provided during the initial application.

**QUESTION 4:**

If supplemental grants cannot be processed using information from initial applications, will there be a separate supplemental application? If so, has this application already been drafted and, if necessary, sent to Office of Management and Budget for review?

The supplemental award does not require a second application, it is a streamlined process to indicate interest and optionally update some information provided during the initial application.

**QUESTION 5:**

When will supplemental grants be processed and distributed? When will the applications for these grants open?

The supplemental award process began the week of August 23 and as of December, SBA has disbursed over \$3 billion in supplemental funding. SBA did not require a second application for a supplemental award, only an “opt-in” for applicants who are eligible for supplemental.

**PPP Loan Forgiveness**

The SBA regularly discloses much of its latest data on PPP loan forgiveness, including the number and aggregate dollar amount of the PPP loans that it has forgiven, that it has not forgiven and that it is still reviewing, in are response to an application for forgiveness, and it regularly discloses that data for the loans in each of five categories: “less than \$100K,” “\$100K-\$250K,” “\$250K - \$1Million,” and “greater than \$1Million.” However, the SBA does not distinguish between loans over and under \$2 million. As you know, the SBA announced last year that loans over \$2 million would be subjected to a higher level of scrutiny, and applicants for the forgiveness of loans over \$2 million, and only those applicants, would have to fill out a “loan necessity questionnaire” (forms 3509 and 3510). I have heard from some small businesses that SBA’s processing of applications for the forgiveness process of these loans (over \$2 million) is

taking many months. Some small businesses report that they are still waiting for SBA to act on applications they filed in in August 2020.

**QUESTION 6:**

While I understand that SBA needs to be a good steward of taxpayer dollars, the agency cannot leave Congress in the dark about how long the agency is taking to process applications for forgiveness. In the interest of transparency and protecting taxpayer dollars, would you commit also to disclosing, on a regular basis, your data on loan forgiveness for loans over and under \$2 million, including, for each category, the average and median number of days that the agency required to grant or deny forgiveness, and for pending applications, the average and median number of days that those applications have been pending?

SBA has and will continue to provide forgiveness data to Congress periodically. SBA also has released data on website at [PPP FOIA - Dataset - U.S. Small Business Administration \(SBA\) | Open Data](#).

According to SBA data as of May 10, 2021, the agency is currently reviewing 182,000 applications for PPP loan forgiveness amounting to \$84.3 billion dollars. It has already approved 3.1 million applications amounting to \$257.5 billion. However, it has come to my attention that the SBA has not yet disclosed the factors for or how it weighs the factors for determining whether a loan for \$2M or more will be considered for forgiveness. The SBA has clarified that it will base its decisions on a “multi-factor analysis” of the “totality of [each] borrower’s circumstances.”

**QUESTION 7:**

In the interest of transparency and protecting taxpayer dollars, would you commit to publicly releasing both the factors and the weight given to the factors your agency uses to evaluate these loans for forgiveness?

SBA has publicly disclosed the requirements for loan forgiveness on its website at [Paycheck Protection Program \(sba.gov\)](#). Each lender forgiveness decision will be reviewed in accordance with those requirements.

**QUESTION 8:**

There are some functions of government that are inherently governmental in nature that may not be appropriate for private vendors to perform, such as loan forgiveness decisions. It has come to my attention that the SBA is currently using a private vendor to help with processing applications for PPP loan forgiveness. Is that true? Would you please inform members of this committee the role, if any, this vendor is playing in evaluating loan forgiveness applications? If so, who is the vendor?

SBA is utilizing a government contractor in analyzing loan forgiveness applications for indicia of fraud. The contractor reviews the loan for issues that necessitated the manual review, and then

provide SBA with a recommendation for further action, or no further action, as appropriate. However, SBA is utilizing its own government staff to perform the inherently governmental function of making all decisions related to forgiveness, including actions in response to the contractor's recommendations.

Questions from:

Senator Inhofe

SBA's Debt Relief Program

The December 2020 omnibus extended a CARES Act program allowing the SBA to provide debt relief payments for regular SBA loans. Unfortunately, funding restraints have required SBA to reduce the number of available monthly payments. As the program comes to an end, businesses in Oklahoma are concerned that they will be unable to resume regular loan payments, impacting their current operations and their credit quality.

**QUESTION 1:**

Will you commit to providing regulatory flexibility for banks to help mitigate these concerns?

**SBA encourages loan deferments and loan modifications to help businesses weather difficult times. SBA is limited on what regulatory flexibility it can offer as most of its participants are subject to federal and state regulatory authorities. SBA COVID EIDL loans are long term, low interest rate loans that can provide working capital to assist small businesses support operations as the economy stabilizes and operations return to normal.**

Planned Parenthood's PPP Loans

In your testimony, you highlighted SBA's focus on reaching underserved populations. Nevertheless, SBA has continued to approve loans for Planned Parenthood—an organization with approximately 16,000 employees nationwide. This runs contrary to the intent of the program and violates the conscience of countless pro-life taxpayers—not to mention that SBA's response to committee Republicans' requests for additional information on these loans has been wholly insufficient.

**QUESTION 2:**

Can you explain SBA's hesitancy to provide information on these loans? Further, now that the PPP program is closed, how will SBA ensure that Planned Parenthood affiliates that illegally received PPP return these loans?

In the responses to Associate Administrator Patrick Kelley's March 24, 2021 hearing, SBA stated to the Senate Committee on Small Business and Entrepreneurship on August 18, 2021, that Planned Parenthood loans would be viewed consistent with other PPP loans from an affiliation standpoint, and provided detailed information on the procedures surrounding PPP loan hold codes.

**In response to the immediate question, if a PPP borrower is determined to be ineligible, SBA will deny forgiveness and where appropriate also seek repayment of the outstanding PPP loan balance or pursue other available remedies. [Interim Final Rule, Loan Forgiveness Requirements**

and Loan Review Procedures as Amended by the Economic Aid Act, 86 FR 8283, page 8295 (February 5, 2021).]

#### Federal Benefits and Hiring Challenges

Before COVID hit, the economy was the best I had seen in my lifetime. As the pandemic subsides, we're continuing to see the numbers improve. In April 2021, the unemployment rate was 6.1% nationwide and 4.3% in my home state of Oklahoma. Yet as the economy reopens, businesses in Oklahoma and across the U.S. are having a hard time hiring or retaining staff—they simply cannot compete with the massive federal benefits Congress has passed. Boosted unemployment benefits and stimulus checks—which are supposed to help people get back on their feet—have actually served as a disincentive for people to work.

#### **QUESTION 3:**

What is SBA doing to help small businesses hire and retain staff in light of these challenges?

SBA COVID relief programs such as PPP, EIDL, and RRF provided funding businesses need to hire and retain employees. The COVID EIDL program continues to fuel the economic recovery and provide eligible small businesses the ability to maintain steady employment with the necessary funds to hire former and new employees.

SBA has retooled COVID relief programs to help small businesses recover for the long run. As an example, with the expansion of the COVID EIDL loan cap to \$2 million and expansion of allowable uses of funds, more businesses can access a larger long-term working capital loan at affordable rates to enable them to fully recover from the pandemic. The President's Build Back Better agenda also includes robust investment in SBA resources, across entrepreneurial development, capital access, investment, and government contracting.

Questions from:

Senator Young

When the SBA closed the application portal for the Restaurant Revitalization Fund (RRF), it received more than 300,000 applications, requesting a total of nearly \$70 billion. That's more than twice the \$28.6 billion allocated by Congress.

The American Rescue Plan Act mandated that certain preferred businesses receive priority review for the first 21 days of the program, which opened May 3. As a result, the vast majority – if not all – of the funding appeared predestined only for those eligible businesses owned by women, veterans, and socially and economically disadvantaged individuals.

However, on May 28, the U.S. Court of Appeals for the Sixth Circuit ruled that the prioritization on the basis of race and sex was unconstitutional. While I support disadvantaged groups getting the relief funds they need, I have concerns about allowing 21 days of front-of-the-line access when the grant program should be first-come, first-serve for everyone.

Discriminating against certain restaurants just because of the gender or ethnicity of the restaurant's owner seems contrary to our nation's principles – especially when it comes to COVID relief.

#### **QUESTION 1:**

Administrator Guzman, so far it's unclear how much of an impact the ruling will have on the SBA's ability to issue RRF grants or future programs, but do you believe this practice of special treatment – which is different than a standard “set-aside” – discriminates against fellow restaurant owners who fall outside of the “priority” groups?

SBA implemented the RRF Program as mandated by Congress. The Sixth Circuit's opinion dovetailed with the end of the Congressionally-mandated priority review period, so at that point, SBA began processing and disbursing awards to non-priority RRF applicants and continued to do so until the funds were exhausted.

#### **QUESTION 2:**

Do you think that is an equitable outcome?

In accordance with the authorizing legislation, RRF Program awards were made to as many applicants as possible in both the priority and non-priority groups.

According to an April 19, 2021 SBA press release, “Ahead of the application launch and over the next two weeks, the SBA will establish a seven-day pilot period for the RRF application portal and conduct extensive outreach and training. The pilot period will be used to address technical issues ahead of the public launch. Participants in this pilot will be randomly selected from



existing PPP borrowers in priority groups for RRF and will not receive funds until the application portal is open to the public.”

**QUESTION 3:**

Was this pilot program implemented?

Yes, the pilot period was implemented.

**QUESTION 4:**

How were the participants selected for the pilot program?

SBA identified PPP applicants identified as restaurants that indicated on their PPP application that they were women, veterans or socially or economically disadvantaged. The program then utilized this population to invite applications to (optionally) join the pilot program.

**QUESTION 5:**

What data was collected from the pilot program and how was it used to improve the application portal?

During the pilot program, the software and Office of Capital Access team identified numerous adjustments and enhancements to the overall process to streamline the RRF application process. In addition, RRF developed a comprehensive public knowledge base. This knowledge base included over 100 helpful articles and was expanded during the pilot with frequently asked questions and guidance on corner case situations and other clarifications.

**QUESTION 6:**

What percentage of restaurants selected for the pilot program ultimately received Restaurant Revitalization Fund grants? How does this percentage compare with those applicants who did not participate in the pilot program?

As of June 26, 761 (92%) out of 827 applicants that submitted during the pilot window were approved for the RRF award and 105,244 (28%) out of 370,726 awards have been approved overall for the program.

**QUESTION 7:**

I have received constituent correspondence expressing concerns that due to a “glitch” in the portal, some general public (i.e., non-pilot program) applicants were able to access the portal prior to the noon EDT official opening on May 3, 2021. At what time was the portal first open to the general public? Did the portal experience any “glitches” that day that allowed some applicants to access the portal before noon EDT?

The portal did not experience a “glitch.” The portal was fully available to the public at 12:00pm EST; due to the technology utilized and the 68 global datacenters that host the RRF platform, it would have been possible that some applicants would have seen the portal refresh and open a few minutes before the 12pm as the replication occurred throughout the US. This was a requirement in order to distribute the load across these diverse datacenters and to ensure that all US datacenters were open by exactly 12:00pm EST. This was designed and fully supported by the program team.

Throughout the COVID pandemic, the Paycheck Protection Program (PPP) has been vital for businesses to stay afloat. However, things on the ground are clearly much different than what the economy was like during the summer of last year.

**QUESTION 8:**

With economic recovery finally in motion, can you please elaborate on the SBA’s role in helping businesses continue to reopen without relying on additional emergency relief?

SBA continues to encourage lenders to work with borrowers in need of additional payment deferments, and to disburse new 7(a) and 504 regular program loans through September 30, 2021 (or when funds are exhausted) with 3 months of payment relief. Lenders may also use an introductory interest only period for new loans and set terms commensurate with the small business borrowers’ ability to repay from operations.

With respect to the PPP program, I’m pleased to see that as of May 23, 95 percent of loans totaling over \$273 billion have gone toward Main Street businesses with fewer than 20 employees. However, I remain troubled by reports of individuals and businesses continuing to inappropriately receive PPP funds.

For instance, at least 120 defendants have been charged with PPP fraud for using PPP funds to purchase alpaca farms to luxury vehicles and other extravagant goods for personal use.

**QUESTION 9:**

The OIG reported that limited controls on the program made PPP susceptible to fraud. What commitments can the SBA make to ensure we don’t repeat the same oversight mistakes moving forward, which plagued the program throughout 2020? Specifically, what internal controls does the SBA intend to introduce to crack down on this issue?

SBA implemented the new risk management framework controls in the 2021 PPP loan application process, due in part to concerns raised by OIG, GAO, and Congress over the 2020 PPP loans. Included in these controls were: checking public records databases prior to issuance of a loan number, checking the existing SBA portfolio for flagged loans or business owners, validating payment files against the Treasury Do Not Pay databases, and leveraging Dunn & Bradstreet data for supplemental assistance.

**QUESTION 10:**

I understand that fraud risk assessments are currently being performed, covering PPP, EIDL, and EIDL Advance programs. How does the SBA plan on leveraging its results to introduce concrete oversight and minimize fraud?

SBA will use the results of the fraud risk assessment for all three programs to inform its policies, systems, processes, and in the case of PPP, its lender oversight and credit risk management framework. Where gaps or areas of improvement are identified, we will make modifications to fill gaps or strengthen controls.

**QUESTION 11:**

Although it's been over five months since the Shuttered Venue Operators Grant program was approved by Congress, reports are stating that only 50 applicants has received relief funding. With the SBA's immediate focus on Priority 1 applicants, or those with 90% revenue loss, this raises some concerns for me. Hoosier venues across the board have been hanging by a thread for over a year now, and I fear unnecessary delays in distributing funds might just be the fatal blow they've been dreading.

The SVOG program has awarded over \$13.6 billion to more than 12,800 performing arts entities across all states and territories. Over 17,600 entities submitted applications for SVOG and SBA has issued an award or decline decision on all but eleven of them, as of December 28, 2021.

**QUESTION 12:**

Administrator Guzman, what should Priority 2 ( $\geq 70\%$  revenue loss) and Priority 3 ( $\geq 25\%$ ) applicants expect in terms of timeline for receiving funds?

The SVOG program has awarded over \$13.6 billion to more than 12,800 performing arts entities across all states and territories. Over 17,600 entities submitted applications for SVOG across all priority categories, and SBA has issued an award or decline decision on all but eleven of them, as of December 28, 2021.

**QUESTION 13:**

Additionally, do you expect the issues plaguing the rollout of Priority 1 funds to continue? What steps are you taking to ensure the prompt disbursement of these grants with the deadline on June 9 and only 50 applications have been approved?

Administrator Guzman surged staff and support to the SVOG program to strengthen the review and increase the pace of awards. The SVOG program has awarded over \$13.6 billion to more than 12,800 performing arts entities across all states and territories. Over 17,600 entities submitted applications for SVOG and SBA has issued an award or decline decision on all but eleven of them, as of December 28, 2021. SBA publicly posts SVOG program information each Monday [online here](#).

In April, the House passed two pieces of legislation: the 504 Modernization and Small Manufacturer Enhancement Act – which streamlines and improves the 504 Loan Program for small manufacturers – and the 504 Credit Risk Management Improvement Act – which strengthens the program’s oversight. Currently, I’m working with Senator Klobuchar on introducing bipartisan, companion legislation.

Overall, the 504 Loan Program was designed to serve as an economic development tool to encourage job creation and retention through financing fixed assets such as land, equipment, or buildings.

In Fiscal Year 2020, the program experienced substantial year-over-year improvements – fueling over \$5.8 billion in new capital investments for more than 7,000 businesses. Because the terms are unlike other SBA programs, businesses are utilizing its resources for pandemic recovery.

**QUESTION 14:**

Administrator Guzman, can you please speak to the importance of the 504 Loan Program as it relates to the transition to a period of recovery – especially since it will be at zero cost to taxpayers?

The 504 program provides long-term, fixed-asset financing with low fixed interest rates and permits the use of equity in real estate to fund certain additional expenses putting the debt on very favorable repayment terms for the small business.

**QUESTION 15:**

Can you also speak to the importance of expanding the 504 Program for small manufacturers – such as streamlining the loan process and increasing the maximum loan amount for manufacturing loans from \$5.5 million to \$6.5 million?

As part of the Administration’s plan to build back better, SBA is looking for new ways to support and expand small business manufacturing and their place in the supply chain. The increase in maximum loan size will allow more small companies to grow to the next level with SBA support.

**QUESTION 16:**

I have received constituent correspondence expressing concerns that the SBA has not provided a timeline after submitting individual PPP forgiveness applications.

SBA has set a goal of processing all forgiveness requests within 30 days of receipt of the forgiveness decision from the lender, subject to any review of the loan.

**QUESTION 17:**

Could you please elaborate as to how the SBA is evaluating and processing PPP forgiveness applications?

SBA's process for evaluating and processing PPP forgiveness decisions is designed to maximize program integrity and optimize use of SBA's loan review resources, considering the challenges posed by the volume of PPP loans and the statutory timeframe for reviews.

The process starts with automated screenings and machine learning to identify individual loans with indicia of noncompliance with eligibility requirements, fraud, or abuse, as well as to identify and analyze relationships across loans, borrowers, and lenders to identify potentially suspicious relationships and activities. Loans identified through these processes and other loans with Hold Codes are manually reviewed by a contractor experienced in detection and investigation of fraud. The contractor then issues a report to SBA regarding the review, and SBA reviews the report and issues a final SBA loan review decision.

Additionally, SBA is conducting reviews of a statistically valid sample of loans to test for compliance with program requirements and evaluate the accuracy of PPP borrowers' self-certifications and material representations.

**QUESTION 18:**

Can you also speak to the average timeline of processing forgiveness applications when undergoing review?

SBA forgiveness processing times have significantly improved across all loan sizes, but especially for loans of \$2 million or more. For example, \$2 million loans submitted before June 1, 2021, took an average of 137 days for SBA to process. Since June 1, SBA has been approving forgiveness requests for \$2 million loans in an average of 22 days.

SBA loan reviews for \$2 million loans were taking longer than 90 days for several reasons. First, SBA did not start conducting reviews of loans of \$2 million or less until early November 2020 and did not start conducting reviews of loans of more than \$2 million until January 2021, even though SBA began accepting forgiveness decisions from lenders in August 2020. Second, SBA was conducting loan necessity reviews on every loan above \$2 million, including the review of the borrower's completed Loan Necessity Questionnaire (SBA Form 3509 or 3510). The loan necessity reviews were lengthy and caused delays beyond the 90-day statutory timeline for forgiveness.

SBA has discontinued the use of the loan necessity questionnaires, which has allowed SBA to conserve human capital resources and led to significantly improved processing times. *See*, SBA PPP FAQ #69.

Average SBA forgiveness processing times\* are:  
All loans under \$2 million: 9 days

- Loans that were not manually\*\* reviewed: 9 Days
  - Loans that were manually reviewed: 50 Days
- All loans of \$2 million or more: 131 Days
- Submitted before June 1, 2021: 137 Days
  - Submitted since June 1, 2021: 22 Days

*\*Average processing time between receipt of lender forgiveness decision and SBA approval date, including time spent waiting for lender/borrower to provide documentation requested by SBA.*

*\*\*Loans undergo a manual review either because they are part of a statistically valid sample of forgiveness applications or because there is an indication of potential noncompliance with eligibility requirements, fraud, or abuse.*

Questions from:

Senator Kennedy

PPP Loans: Administrator Guzman

I've heard from folks in my state that they are seeing delayed response times to their Paycheck Protection Program (PPP) forgiveness application for loans over \$2 million.

**QUESTION 1:**

How many PPP loans have been forgiven above \$2 million in 2020? How many PPP loans have been forgiven above \$2 million in 2021?

SBA remitted forgiveness payments on 3 loans above \$2 million during 2020. As of January 4, 2022, SBA has remitted forgiveness payments on 28,223 loans above \$2 million.

SBA forgiveness processing times have significantly improved across all loan sizes, but especially for loans of \$2 million or more. For example, \$2 million loans submitted before June 1, 2021, took an average of 137 days for SBA to process. Since June 1, SBA has been approving forgiveness requests for \$2 million loans in an average of 22 days.

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SBA has discontinued the use of the loan necessity questionnaires, which has allowed SBA to conserve human capital resources and led to significantly improved processing times. See, SBA PPP FAQ #69.

**QUESTION 2:**

What is SBA's average turnaround time for forgiving PPP loans above \$2 million?

SBA forgiveness processing times have significantly improved across all loan sizes, but especially for loans of \$2 million or more. For example, \$2 million loans submitted before June 1, 2021, took an average of 137 days for SBA to process. Since June 1, SBA has been approving forgiveness requests for \$2 million loans in an average of 22 days.

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 \*\*Loans undergo a manual review either because they are part of a statistically valid sample of forgiveness applications or because there is an indication of potential noncompliance with eligibility requirements, fraud, or abuse.*

On October 26, 2020, the Small Business Administration and the Treasury Department published a notice of Reporting and Recordkeeping Requirements under OMB Review (85 FR 67809), including the Loan Necessity Questionnaire. Borrowers who received loans of \$2 million or more must fill out the Loan Necessity Questionnaire, which determines if the borrower's certification of need was justified.

As you know, the CARES Act did not include a revenue threshold requirement to receive a PPP loan.

### QUESTION 3:

Are you still requiring small businesses to submit the Loan Necessity Questionnaire?

SBA has discontinued use of the loan necessity questionnaires. Therefore, PPP borrowers will no longer be required to complete the forms. *See*, SBA PPP FAQ #69.

On October 26, 2020, SBA published a 30-day notice soliciting comments on the information collection that included the Loan Necessity Questionnaires (85 FR 67809). Additionally, on January 4, 2021, SBA published a 60-day notice soliciting comments on the information collection that included the Loan Necessity Questionnaires (86 FR 172). SBA received 61



comments from members of the public regarding the Loan Necessity Questionnaires, and the majority of the comments raised objections to the questionnaires.

Based on the results of completed loan reviews, SBA believed audit resources would be more efficiently deployed across all loans if the loan necessity questionnaire was discontinued. The loan necessity reviews, including the review of the borrower's completed loan necessity questionnaire, were lengthy and caused delays beyond the 90-day statutory timeline for forgiveness, thus negatively impacting those borrowers that made their loan necessity certification in good faith.

#### **QUESTION 4:**

How does SBA use this questionnaire in determining forgiveness?

SBA has discontinued use of the loan necessity questionnaires. Therefore, PPP borrowers will no longer be required to complete the forms. *See, SBA PPP FAQ #69.*

#### **Shuttered Venue Operators Grants:**

165 days (5 ½ months) after enactment of the law and 45 days (1 ½ months) after the Shuttered Venue Operators Grant (SVOG) application portal opened (the second time, after the failed launch on April 8) fewer than 100 grant applications have been approved.

June 9, 2021, is the last day of the 14-day Priority 1 period in which SBA was supposed to process all applications for applicants experiencing greater than 90 percent revenue loss. There are nearly 5,000 such applications, and SBA has only communicated that 50 applications have been processed.

The SVOG program has awarded over \$13.6 billion to more than 12,800 performing arts entities across all states and territories. Over 17,600 entities submitted applications for SVOG and SBA has issued an award or decline decision on all but eleven of them, as of December 28, 2021

#### **QUESTION 5:**

Live performing arts and entertainment venues are a huge part of Louisiana's culture and economy. What is the reason for the delay in getting this critical resource into the hands of small business owners?

The SVOG program is extremely complex requiring manual and painstaking processing of the now more than 17,600 Shuttered Venue Operators Grant applications due to the statute's particular requirements. The agency has worked closely with other federal partners to process the Shuttered Venue Operators Grant applications as quickly as possible while ensuring the prevention of fraud, waste, and abuse.

In early June, the SBA reinforced its commitment to improve Shuttered Venue Operators Grant funding speed and made several program changes. On June 9, 2021, 90 Shuttered Venue

Operators Grants had been awarded. The SBA has made significant progress since then to process, approve and disburse funds as quickly as possible to get the nation's venues back on track. While it is just a moment in time and numbers continue to grow, the latest Shuttered Venue Operators Grant [report](#) as December 28, SBA has issued decisions on all but 11 applications, including over 12,800 awards. SBA publicly posts SVOG program information each Monday [online here](#).