

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
JAMES E. RISCH, IDAHO
TIM SCOTT, SOUTH CAROLINA
JONI ERNST, IOWA
JAMES M. INHOFE, OKLAHOMA
TODD YOUNG, INDIANA
JOHN KENNEDY, LOUISIANA
JOHN HAWLEY, MISSOURI
ROGER MARSHALL, KANSAS

SEAN MOORE, DEMOCRATIC STAFF DIRECTOR
WILLIAM HENDERSON, REPUBLICAN STAFF DIRECTOR

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.”¹ 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

¹ 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,



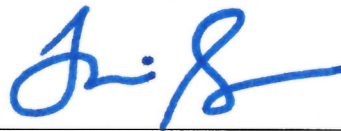
Rand Paul, M.D.
Ranking Member



Marco Rubio
Member



James Risch
Member



Tim Scott
Member




Joni K. Ernst
Member



James M. Inhofe
Member



Todd Young
Member



John Kennedy
Member



Josh Hawley
Member



Roger Marshall, M.D.
Member