Lessons Learned in Oversight of Pandemic Relief Funds

as of August 31, 2021

CONTENTS

What we've learned so far overseeing $5 trillion worth of pandemic relief funds

The Pandemic Response Accountability Committee (PRAC) supports independent oversight of **$5 trillion** worth of relief funds provided by Congress to respond to the coronavirus pandemic. This is an unprecedented amount of money—six times what was spent to recover from the financial crisis of 2008-2009—and most of the funds were disbursed quickly. These factors put the money at a higher risk for fraud, so the PRAC has worked with dozens of Inspectors General across the federal government to examine whether it was spent correctly and reached those it was intended to help. Together, we have issued more than **275 oversight reports** that reveal common challenges facing agencies across major relief programs like unemployment insurance and loans to small businesses.

Congress and leaders across federal agencies need to know what programs are highly susceptible to fraud during a crisis like the pandemic. In some cases, agencies implemented corrective actions. In other cases, Congress and agency leaders need to take action to reduce the possibility of fraud.

One of the PRAC's primary roles is to provide an objective, fact-based answer to this question:

Have the unprecedented levels of pandemic spending been effective? And if not, what needs to change?

We wrote this report to spark discussion to help answer that question, highlighting the major lessons we and our partners have found in our oversight of pandemic relief and recovery programs. We intend for this to be a living document and will update this report as the PRAC and our partners' findings lead to new lessons.

LESSON #1: SELF-CERTIFIED INFORMATION NEEDS TO BE VALIDATED BEFORE PAYMENTS ARE SENT

PANDEMIC RELIEF AREAS: SMALL BUSINESS LOANS AND UNEMPLOYMENT INSURANCE BENEFITS

The Small Business Administration (SBA) and the Department of Labor (DOL) both allowed applicants to self-certify that they were eligible for pandemic-related financial relief. The SBA and DOL Offices of Inspectors General (OIG) each issued reports that found fraud due to self-certification in their agency's management of the Economic Injury Disaster Loan (EIDL) and Unemployment Insurance (UI) programs, respectively. As a result, businesses and individuals improperly received pandemic relief funds, reducing the total amount of funds available for legitimate businesses and individuals adversely impacted by the pandemic.

SMALL BUSINESS LOANS

Small business owners and nonprofits could apply for EIDLs to help pay for normal operating expenses such as rent and utilities. To be eligible, an applicant had to be in business on or before January 31, 2020. To apply for the loan, the SBA only required applicants to self-certify their business establishment date by entering it on the application form. Using Employer Identification Number (EIN) registration dates, SBA OIG found the agency approved more than 22,700 EIDL applications with registration dates of February 1, 2020, or later. As a result, **potentially ineligible applicants received $918 million in loan funds**.

WHAT IS THE SBA DOING NOW?

The SBA normally collects tax returns and tax transcripts from disaster loan applicants to help determine repayment ability and to validate eligibility. However, the CARES Act streamlined the EIDL application and removed the requirement that applicants submit a tax return or tax transcript. As of April 2021, the agency resumed collecting tax return data from the Internal Revenue Service (IRS) – an OIG recommendation to improve eligibility determinations.

UNEMPLOYMENT INSURANCE BENEFITS

The UI program is ranked annually as one of the highest-risk federal benefit programs, with **an improper payment rate estimated higher than 10 percent in 14 of the last 17 years**. The structure of new pandemic UI programs intensified this risk. The CARES Act increased UI benefits and expanded eligibility to individuals who were not typically eligible for benefits (e.g., self-employed and gig economy workers). For these types of workers, no third party or employer can verify if the individual is actually unemployed. Eligible individuals were only required to self-certify that they could not work due to a COVID-19 related reason. Individuals who qualified for UI benefits could receive a weekly state payment plus an additional $600 federal weekly payment for up to 39 weeks. Payments were sent immediately after self-certification of eligibility.

The DOL OIG reported self-certification as a top fraud vulnerability for state workforce agencies administering pandemic-related unemployment benefits. The DOL OIG estimates that nearly **$87 billion in pandemic-related UI payments will be fraudulent or improper** by the time the program expires in September 2021.

Despite warnings by the DOL OIG and state workforce agencies that self-certification will increase fraud, DOL officials maintain that the CARES Act only required self-certification and does not require further proof of employment.

WHAT ARE DOL AND STATE WORKFORCE AGENCIES DOING NOW?

Several states are using additional tools to verify UI eligibility beyond just self-certification including documentation of wages earned or income verification and cross-matching data with the Social Security Administration, Department of Motor Vehicles, or other identity verification databases.

Additionally, the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 amended the CARES Act to require documentation for UI eligibility. Starting January 31, 2021, individuals who apply for UI benefits have 21 days to provide proof of employment, self-employment, or a qualifying job offer. Failure to do so will make an applicant ineligible for federal UI benefits.

LESSON #2: PRIORITIZE FUNDING FOR UNDERSERVED COMMUNITIES

PANDEMIC RELIEF AREA: SMALL BUSINESS LOANS

The Paycheck Protection Program (PPP) was a new $800 billion small business loan program established as part of the CARES Act. Like the EIDL program, the PPP is administered by the SBA and gives businesses low-interest loans to cover qualified payroll costs, rent, and utilities. Financial institutions and banks provide the loans (which are guaranteed by the SBA) to approved business. The loans are forgivable if a borrower uses at least 60% of the loan proceeds on qualified payroll costs.

The CARES Act directs the SBA to issue guidance to PPP lenders to ensure that loans prioritize underserved businesses, such as those owned by minorities, women, and veterans. However, in its inspection of the program, the SBA OIG could find **no evidence that small businesses in underserved and vulnerable communities received PPP loans**. For example, the SBA did not collect demographic data on PPP loan applications—even though the agency requests it on traditional loan applications—and did not issue guidance requiring lenders to prioritize applications from businesses in vulnerable communities. Moreover, in April 2020 the SBA issued guidance confirming that PPP loan applications would be processed on a first-come, first-served basis. This approach disproportionately affected minority-owned businesses who are less likely to have existing relationships with national lenders that processed most of the PPP applications.

WHAT IS THE SBA DOING NOW?

In June 2020, the SBA launched an online tool that connects community and minority organizations with PPP lenders. The agency also revised the PPP loan application to request optional demographic information and reversed its first-come, first-served approach to processing PPP applications. When additional rounds of PPP funding were made available in January 2021, the SBA initially made funds available exclusively to certain lenders (such as community development financial institutions) that focus on helping underserved communities that historically have had difficulty establishing relationships with banks.

A similar approach to lending was used when Congress passed financial relief for the restaurant industry. The American Rescue Plan Act created the Restaurant Revitalization Fund (RRF) to help food and beverage providers pay qualified expenses, such as payroll and rent. All eligible food and beverage providers can apply to the RRF, but for the first 21 days the SBA prioritized applications from small businesses owned by women, veterans, minorities. After this initial 3-week period, the SBA began funding eligible applications on a first-come, first-served basis.

The RRF application includes an optional request for demographic information. During the first two weeks of the program in May 2021, the SBA received more than 303,000 applications – **57 percent of which percent came from women, veterans, and socially and economically disadvantaged business owners.**

LESSON #3: USE EXISTING FEDERAL DATA SOURCES TO DETERMINE BENEFITS ELIGIBILITY

PANDEMIC RELIEF AREAS: SMALL BUSINESS LOANS AND INDIVIDUAL STIMULUS CHECKS

SMALL BUSINESS LOANS

In January 2021, the SBA OIG issued a memorandum warning about improper payments to lenders for potentially ineligible recipients of PPP loans. To be eligible to receive a PPP loan, a business cannot currently be prohibited from working with the government or have delinquent federal loans. The SBA and its lenders relied on applicants' self-certification that they met these conditions and were therefore eligible.

The Department of the Treasury's Do Not Pay (DNP) Business Center enables federal agencies to check multiple data sources to verify a recipient's eligibility to receive federal payments. The SBA OIG used the DNP service and found that **57,500 PPP loans worth $3.6 billion were issued to potentially ineligible recipients**.

WHAT IS THE SBA DOING NOW?

The SBA worked with Treasury to use their DNP system to screen every new PPP loan application against the DNP system to help screen for eligibility. This process was first implemented for the third round of PPP distributions that began in January 2021. Treasury also granted SBA expanded access to restricted DNP datasets in March 2021.

INDIVIDUAL STIMULUS CHECKS

As part of the CARES Act, Congress authorized the IRS to send Economic Impact Payments (EIPs), commonly known as stimulus checks, to reduce the financial burden of the pandemic on individuals and families. While the IRS correctly calculated the EIP amount for most of the payments, they sent **nearly 2.2 million EIPs totaling nearly $3.5 billion to deceased individuals** (as of July 16, 2020). The Treasury Inspector General for Tax Administration (TIGTA) and the Government Accountability Office (GAO) both reported that the IRS initially failed to use death records from the Social Security Administration to prevent this type of improper payment.

Treasury officials said the CARES Act did not exclude deceased individuals from getting an EIP and required payments be delivered as fast as possible. Therefore, IRS used similar programming rules developed for the 2008 stimulus payments, which did not match tax return data with death records as a fraud filter. However, based on a 2013 GAO recommendation the IRS started using death records to help identify and prevent improper payments. Neglecting to implement this control when issuing EIPs substantially increased the risk of making improper payments to deceased individuals.

WHAT IS THE IRS DOING NOW?

In June 2020, the IRS issued guidance with instructions to taxpayers for returning payments issued to individuals who had died before receipt of the payment. As of October 1, 2020, a total of 59,500 payments totaling more than $72 million have been voluntarily returned.

To prevent additional payments from being issued to deceased individuals, the IRS implemented programming changes on May 13, 2020, to discontinue calculating and sending the EIPs to deceased individuals. The IRS temporarily provided the Bureau of Fiscal Service—the Treasury office that sends EIPs—access to death records to prevent improper payments and a subsequent TIGTA review confirmed that the programming is working as intended.

LESSON #4: RECIPIENTS AND ADMINISTRATORS NEED TIMELY AND CLEAR GUIDANCE TO GET BENEFITS OUT EFFICIENTLY AND ACCURATELY

PANDEMIC RELIEF AREAS: STATE AND LOCAL GOVERNMENT RELIEF AND UNEMPLOYMENT INSURANCE BENEFITS

STATE AND LOCAL GOVERNMENT RELIEF

The CARES Act created the Coronavirus Relief Fund (CRF) to provide $150 billion in financial support to governments in states, territories, and tribal areas to cover expenses incurred due to the pandemic.

The Treasury Department was charged with providing guidance to eligible CRF recipients. At one point during the program's implementation, recipients could only use CRF payments to cover costs incurred between March 27, 2020, and December 30, 2020. Given this short window, recipients needed timely guidance to help identify eligible expenses. While the funds were quickly disbursed, guidance was constantly updated through October 2020 with Treasury issuing three versions of CRF guidance and eight versions of Frequently Asked Questions (FAQs) guidance. These frequent updates caused confusion and delayed the use of CRF money. In some cases, it caused ineligible uses of CRF payments.

WHAT IS THE TREASURY DEPARTMENT DOING NOW?

The short timeframe to spend CRF money created a sense of urgency among recipients for guidance from Treasury. In late December 2020, Congress extended the CRF spending deadline to December 30, 2021, giving recipients an extra year to spend the money.

In March 2021, Congress authorized an additional $350 billion dollars for the Coronavirus State and Local Fiscal Recovery Fund (a program similar to the CRF) through the American Rescue Plan Act. The Act also gave recipients significantly more time to use the funds. For example, state and local government recipients can use the funds any time before December 31, 2024, for authorized purposes. Consistent with a Treasury OIG recommendation, on May 10, 2021, the agency released an interim final rule, FAQs, and a fact sheet to provide guidance on eligible uses for the new round of funding.

UNEMPLOYMENT INSURANCE BENEFITS

The DOL's Employment and Training Administration (ETA) office establishes unemployment insurance guidance that each state uses to administer its own UI program. The CARES Act created three new UI programs to respond to the dramatic spike in unemployment claims caused by the pandemic. The DOL OIG surveyed several states and found that timelier and clearer guidance from ETA may have prevented significant overpayments. For example, states reported that ETA did not answer their questions quickly and that guidance failed to address the confusion surrounding eligibility. Guidance also never established clear timeframes for sending payments to claimants, so state officials said they felt obligated to send payments as quickly as possible given the unemployment crisis.

WHAT IS THE DOL DOING NOW?

The DOL ETA issued guidance in February 2021 that established expected timeframes for implementation of recent UI changes and benefit payments to claimants. That said, DOL management believes that when policymakers create new and complex benefit programs, they should include a defined and realistic implementation period for agencies. To that end, DOL ETA management plans to work with policymakers to build reasonable timelines for implementing future program changes.

LESSON #5: RECIPIENTS OF RELIEF FUNDS SHOULD BE FULLY DISCLOSED TO THE PUBLIC

PANDEMIC RELIEF AREA: SMALL BUSINESS LOANS

The SBA began issuing PPP loans in April 2020, but **data about who received the loans, how much they borrowed, and where they were located was not publicly available** at that time. In July 2020, the SBA issued an initial online dataset containing limited information on PPP recipients. For example, loans issued under $150,000 did not show recipient names or addresses. For loans exceeding $150,000, specific loan amounts were not shown. This lack of transparency occurred while SBA OIG reported that nearly 55,000 PPP loans worth $7 billion went to potentially ineligible businesses while businesses in underserved communities struggled to get loans.

SBA and Treasury officials responded that the lack of transparency stemmed from privacy concerns for borrowers. However, in December 2020 the SBA published the full names, addresses, and specific loan amounts for all PPP recipients after a court ruled in favor of a Freedom of Information Act request filed by multiple media organizations. By that time, more than 5.2 million PPP loans totaling $525 billion had been issued.

To promote transparency, the CARES Act required the PRAC's website to show detailed information on federal funds used for pandemic relief. This level of transparency helps ensure pandemic relief funds are used for their intended purposes. For a new and massive aid program like the PPP (nearly $800 billion issued as of June 2021), transparency in spending and public oversight are critical.

WHAT IS THE SBA DOING NOW?

Since December 2020, the SBA has consistently updated PPP loan data on its website that can be downloaded by the public and includes—among other data— borrower information, specific loan amounts, and recipient addresses. In addition, the PRAC's website includes a searchable dataset along with multiple data visualizations to further help the public understand how these funds are being used.

PRAC Point of Contact

Lisa Reijula
Associate Director of Outreach and Engagement
Lisa.Reijula@cigie.gov

Visit our website at:

https://PandemicOversight.gov

Follow us on social media:

@COVID_Oversight

Report fraud, waste, abuse, and misconduct:

To report allegations of fraud, waste, abuse, or misconduct regarding pandemic relief funds or programs please go to the PRAC website at PandemicOversight.gov.

PANDEMIC RESPONSE ACCOUNTABILITY COMMITTEE

A Committee of the Council of the Inspectors General on Integrity and Efficiency