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POLITICS

Evidence of PPP Fraud Mounts, Officials Say

Reports of waste and abuse in the Paycheck Protection Program inundate government watchdogs and federal prosecutors

By *Ryan Tracy*

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Treasury Secretary Steven Mnuchin has said the PPP helped retain up to 50 million jobs. Some researchers say many loans went to employers that would have maintained similar headcounts without funding. PHOTO: EVAN VUCCI/ASSOCIATED PRESS

WASHINGTON—The federal government is swamped with reports of potential fraud in the Paycheck Protection Program, according to government officials and public data, casting a shadow on one of Washington's signature responses to the coronavirus pandemic.

Congress and the Trump administration designed the PPP to give small businesses fast and easy access to taxpayer funds, and it worked: About \$525 billion in loans were distributed to 5.2 million companies between April 3 and Aug. 8. Many business owners say it was a lifeline in turbulent times.

But evidence is growing that many others took advantage of the program's open-door design. Banks and the government allowed companies to self-certify that they needed the funds, with little vetting.

The Small Business Administration's inspector general, an arm of the agency that administers the PPP, said last month there were "strong indicators of widespread potential abuse and fraud in the PPP."

The watchdog counted tens of thousands of companies that received PPP loans for which they appear to have been ineligible, such as corporations created after the pandemic began, businesses that exceeded workforce size limits (generally 500 employees or fewer) or those listed in a federal “Do Not Pay” database because they already owe money to taxpayers.

Tens of thousands of organizations also appear to have received more money than they should have based on their headcounts and compensation rates, it said.

The Treasury Department in September received 2,495 suspicious-activity reports involving business loans from banks and other depository institutions, more than the total for any year dating back to 2014, according to public data.

One type of suspicious activity banks reported were multiple government payments from coronavirus-relief programs to a single account, suggesting potential abuse, according to Kenneth Blanco, director of the Treasury Department’s Financial Crimes Enforcement Network.

The fraud is sometimes abetted by online vendors that sell a kind of how-to guide for ginning up a fraudulent application for the program, offering “data, instruction, and complete packages of PII,” or personally identifiable information, Mr. Blanco told a group of anti-money-laundering experts this fall.

Several hundred PPP-related investigations have been opened, involving nearly 500 suspects and hundreds of millions of dollars of loans, according to the Federal Bureau of Investigation.

The Justice Department has charged 73 defendants in PPP-related fraud cases, a spokesman said late last month. Many involve allegations of made-up companies or forged documents. The spokesman declined to comment further.

Many other PPP loans are falling into a gray area in which businesses received one despite seeing revenue increase during the pandemic. Prosecutors are probing some of those cases but finding it difficult to bring charges, in part because Congress set a low bar for obtaining the funds, according to law-enforcement officials familiar with the matter.

Prosecutors face hurdles in proving business owners lied when they said they needed money in the pandemic's chaotic early days—even if profits kept coming in later, officials said.

The CARES Act, the March law that established the PPP, effectively used the honor system. If a company had fewer than 500 employees and certified “current economic uncertainty makes this loan request necessary to support the ongoing operations,” it was generally approved.

“The scandal is what’s legal, not what’s illegal.”

— Former Justice Department prosecutor Tarek Helou on the hurdles to bringing PPP fraud cases

At the PPP's peak, the SBA approved about 514,000 loans on a single day, May 3.

“They don’t charge mistakes. They charge intentional lies,” said Tarek Helou, a former Justice Department prosecutor who is now a partner at Wilson Sonsini Goodrich & Rosati. Given the limited criteria Congress set for the program, he said, “The scandal is what’s legal, not what’s illegal.”

The Justice Department has said it anticipated fraud in the program, creating a PPP-focused team the day it was established and using data analysis to bring cases within weeks.

A spokesman for the SBA said that both it and the Treasury Department “are committed to working with federal partners to ensure PPP funds are used in accordance with the program’s intent.”

Some Democratic lawmakers and others have voiced concerns that the SBA’s refusal to release the names of all borrowers would make detecting fraud more difficult.

That issue might have been resolved last week, however, when a federal judge sided with news organizations including Dow Jones & Co., publisher of The Wall Street Journal, that argued the SBA was legally required to disclose the borrowers.

The SBA, which had previously identified only the companies taking out loans of \$150,000 or more, was ordered to comply by Nov. 19.

The Trump administration has said the program helped businesses retain tens of millions of jobs. After some organizations received PPP funds even though they had other sources of cash, the agency promised to audit larger loans and tightened eligibility criteria.

The government's ability to follow up on allegations of PPP misdeeds will affect how much the program costs taxpayers. The SBA is now accepting loan-forgiveness applications, which are largely expected to be approved if companies can show the money was spent mostly on payroll. The business' revenue isn't a factor.

The SBA and the Treasury Department, which has helped run the program, say they intend to focus their audit on loans exceeding \$2 million. There are about 29,000 loans of that size, representing less than 1% of total loans and about 20% of the total amount lent, according to SBA data.

The administration hasn't detailed its plans to conduct the audit and mitigate fraud, the Government Accountability Office, a federal auditor, has said.

"With the passage of time it becomes much more troubling when the fraud framework is not in place," said William Shear, director in the GAO's financial market and community investment team, at an Oct. 1 hearing before the House Small Business Committee. "There are too many questions that go unanswered."

The PPP stopped accepting new applications Aug. 8, but Congress is considering approving another round of funding, and fraud reports could be a factor.

Treasury Secretary Steven Mnuchin and others have said the PPP helped retain as many as 50 million jobs, citing loan applications from businesses that received funding.

Researchers at the Massachusetts Institute of Technology in July compared payroll data at PPP-eligible companies to ineligible ones and estimated the program had boosted employment by about 2.3 million jobs. At that rate, the PPP would have cost about \$224,000 per job supported.

"It seems that a lot of that cash went to businesses that would have otherwise maintained relatively similar employment levels," said David Autor, an MIT economics professor and one of the study's authors.

One proposal offered by Senate Republicans would allow many businesses to apply for a second PPP loan, with a catch: Their gross receipts must have dropped at least 35% between one of the first three quarters of 2020 and the same quarter last year. A majority of the Senate voted against moving forward with a bill containing those provisions on Oct. 20, but the proposal could resurface as negotiations continue.

—Patrick McGroarty and Chad Day contributed to this article.

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