Sep 27, 2021

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Fraud – Continuing to Pull Back the Curtain on Federal Relief Abuses

On August 31, 2021, the Pandemic Response Accountability Committee (PRAC) released its report detailing various accounts of fraud and administrative oversight in the administration of federal COVID-19 relief funds. The report, entitled "Lessons Learned in Oversight of Pandemic Relief Funds," details an independent review of the $5 trillion in federal relief funds provided since the start of the COVID-19 pandemic. As has been detailed in our previous articles, many individuals and businesses both knowingly and unknowingly did not accurately receive and/or use federal relief funds such as loans from the Paycheck Protection Program (PPP). Though the government is continuing to retrospectively scrutinize who received federal aid and how that aid was used, there have been obvious abuses of the system.

PRAC was created as a committee of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) by the CARES Act, which provided the first wave of extensive federal aid to businesses and individuals during the pandemic. The purpose of PRAC is to "promote transparency and support independent oversight of the funds provided by the CARES Act and other related pandemic relief… [and to] provide oversight of those funds and coronavirus response." The CARES Act identified Inspectors General from nine (9) federal agencies to be members of PRAC. As the Act also allowed the CIGIE chair to name additional Inspectors General from other federal agencies affected by relief funding, PRAC is now comprised of 22 Inspectors General. Its recent publication highlights what PRAC has learned from overseeing the federal relief funds, and in particular, the abuses of same and how to prevent further fraud in the future.

In its report, PRAC identifies several lessons it has learned regarding how individuals and businesses have been able to abuse the system. The first, and most reoccurring issue, is self-certified information. When the CARES Act went into place, an applicant was only required to self-certify that it was eligible for Economic Injury

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Disaster Loans (EIDL) and Unemployment Insurance (UI) programs. One such requirement to be eligible for the relief funds was that the applicant had been in business on or before January 31, 2020. It has since been discovered that over 22,700 applicants that were approved for funds had registration dates on or after February 1, 2020, resulting in approximately $918 million in misappropriated relief funds. Now, the SBA is receiving tax return information with applications for EIDLs to improve eligibility determinations.

As for UI programs, even prior to the pandemic, the UI programs had a reoccurring 10% anticipated improper payment rate. Because the pandemic forced UI programs to expand their base and increase expediency, applicants were only required to self-certify that they could not work due to a COVID-19-related reason. The Department of Labor OIG estimates that this "honor system" of application questions resulted in $87 billion in fraudulent or improper UI funds given. As of January 31, 2021, applicants are required to show documentation of employment, self-employment, or a qualifying job offer within 21 days of application, as well as other means such as cross-referencing with the Social Security Administration and Department of Motor Vehicles to verify information.

PRAC also identified that programs such as the PPP loan program did not properly fund underserved communities. Although the CARES Act directed the SBA and lenders issuing the loans to prioritize minority, women, and veteran-owned business, the SBA OIG reported that *no* demographics were collected on applicants for PPP loans, no guidance was issued by the SBA as to prioritization, and applications were still instructed to be granted on a first-come, first-served basis, which some have argued disadvantages minority-owned businesses as it is reported they are less likely to have existing relationships with national lenders that are processing the loans. Now, the SBA has launched an online tool to connect lenders and community and minority organizations, there is an optional demographic portion of the application, and the American Rescue Plan Act's Restaurant Revitalization Fund prioritized applications of minority, women, and veteran-owned businesses for the first three weeks and is now first come, first served.

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PRAC is also encouraging utilizing existing federal data sources to help vet eligibility for funds. While at first the SBA relied on self-certification to ensure an applicant was not a business prohibited from working with the government nor a business with delinquent federal loans, which is prohibited to receive PPP loan funds, the agency is now utilizing the Treasury's existing database for Do Not Pay Business Centers. Once the SBA starting using this system which already tracks such offenders, it realized it issued approximately 57,500 PPP loans worth $3.6 billion to potentially ineligible recipients.

Another issue flagged was that the IRS improperly sent approximately 2.2 million stimulus checks totaling $3.5 billion in funds to deceased individuals. While the IRS requested taxpayers to return any funds that were issued to deceased individuals, it has only received $72 million via voluntary returns. The IRS is now utilizing the Social Security Administrations' death records database to cross-reference with its own records to prevent such incorrect issuances.

Lastly, PRAC is encouraging the publication of relief fund recipients' identification. While PPP loans started flowing in April 2020, not until July 2020 did the SBA issue some information as to what businesses received the funds (businesses that received under $150,000 were not identified, and some recipients that received over $150,000 were also left anonymous). PRAC suggests that continued transparency will reduce the number of ineligible applicants receiving funds.

Ultimately, at the start of the pandemic, getting funds to people that needed them as fast as possible outweighed any other policy consideration. Often there was a push to get money out the door and no guidance as to how to administer such an unprecedented flow of funds. While hindsight is 20/20, it is important for state and federal agencies to recognize the weak areas of fund disbursement that were overlooked to maintain expediency in Spring 2020 and that now, over a year and a half later, can be fixed to ensure the money is being received by the people and businesses that need it most. For more information about federal relief funds, visit Frost

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