



PANDEMIC RESPONSE

ACCOUNTABILITY COMMITTEE

June 11, 2020

The Honorable Carolyn B. Maloney
Chairwoman
The Honorable Jim Jordan
Ranking Member
House Committee on Oversight and Reform
Washington DC 20515

The Honorable Ron Johnson
Chairman
The Honorable Gary C. Peters
Ranking Member
Senate Homeland Security and
Governmental Affairs Committee
Washington DC 20510

The Honorable Nita M. Lowey
Chairwoman
The Honorable Kay Granger
Ranking Member
House Committee on Appropriations
Washington DC 20515

The Honorable Richard Shelby
Chairman
The Honorable Patrick Leahy
Vice-Chairman
Senate Committee on Appropriations
Washington DC 20510

Dear Chairs, Vice-Chair, and Ranking Members,

We are writing to bring to your attention an issue that could impact the ability of the Pandemic Response Accountability Committee (PRAC) and federal Inspectors General to provide effective oversight of over \$1 trillion in pandemic-related funds, as well as transparency to the public about how those monies are being spent. This potential problem was recently highlighted in an Interim Audit issued by the Department of the Treasury (Treasury) Office of Inspector General (OIG), a member of the PRAC, on May 27, 2020.¹

The PRAC was established pursuant to Section 15010 of the CARES Act in order “to promote transparency and conduct and support oversight of covered funds and the Coronavirus response.”² Under the CARES Act, the PRAC is required to establish a user-friendly website to foster greater accountability and transparency in the use of “covered funds” and the Coronavirus response. In late April, the PRAC launched pandemic.oversight.gov to meet this mandate. Additionally, the PRAC has been working to obtain data from agencies, consistent with Sections 15010 and 15011 of the CARES Act, that will enable the website to provide dynamic information to the public about how these emergency pandemic funds are being spent.

However, as a result of the recent Interim Audit by Treasury OIG, we learned that the Treasury Department’s Office of General Counsel (OGC) issued a legal opinion (concurring in by the Office of Management and Budget (OMB)) that concluded that the recipient reporting obligations detailed in Division B of the CARES Act, which is the portion of the CARES Act that created the PRAC, do not extend to Division A of the Act. In the opinion and a follow-up

¹ The report can be found at <https://www.oversight.gov/sites/default/files/oig-reports/OIG-20-036.pdf>.

² CARES Act, § 15010(b).

communication, Treasury OGC points to, among other things, alternative reporting requirements in Division A for certain pandemic response appropriations. In our view, however, these alternatives do not address the full range of programs for which the PRAC is responsible, nor do they provide the breadth and depth of reporting needed for the PRAC to fully carry out the responsibilities required by Section 15010.

More broadly, if this interpretation of the CARES Act were correct, it would raise questions about the PRAC's authority to conduct oversight of Division A funds. This would present potentially significant transparency and oversight issues because Division A of the CARES Act includes over \$1 trillion in funding for, among other things, the Paycheck Protection Program (\$670 billion), the Emergency Economic Stabilization Fund (\$454 billion), the Coronavirus Relief Fund for payments to States, Tribal governments, and units of local government (\$150 billion), the Relief for Aviation Workers (\$32 billion), and Emergency Economic Injury Disaster Loans (\$20 billion).

Notwithstanding the opinion, Treasury and OMB leadership have expressed to the PRAC their commitment to ensuring transparency, accountability, and adherence to all statutory requirements in connection with the CARES Act and signaled strong support of Treasury OIG's ability to request necessary recipient information to perform its critical Title V responsibilities. Nevertheless, we raise this possible ambiguity in the CARES Act to your attention for any legislative action you deem appropriate.

The PRAC intends to continue promoting transparency and conducting oversight over all emergency pandemic-related funding as provided in Section 15010 of the CARES Act and we look forward to working with you to meet this critical oversight mission.

Sincerely,

Michael E. Horowitz
Acting Chair, PRAC
Inspector General
U.S. Department of Justice



Robert A. Westbrook
Executive Director, PRAC