

Congress of the United States
Washington, DC 20510

April 30, 2020

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
United States Capitol
Washington, DC 20004

The Honorable Mitch McConnell
Majority Leader
United States Senate
United States Capitol
Washington, DC 20004

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
United States Capitol
Washington, DC 20004

The Honorable Charles E. Schumer
Minority Leader
United States Senate
United States Capitol
Washington, DC 20004

Dear Speaker Pelosi, Minority Leader McCarthy, Majority Leader McConnell, and Minority Leader Schumer:

As you consider additional legislation to respond to the public health and economic emergency caused by the coronavirus disease 2019 (COVID-19), we write to urge you to include strong oversight, accountability, and anti-corruption provisions in any upcoming legislation to provide economic aid, relief, recovery, or stimulus in response to COVID-19 in order to safeguard taxpayer funds and to bolster Americans' faith in government to respond to this crisis.

Last month, Congress passed the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act or "the Act"), which provides critical aid to hospitals, small businesses, families, unemployed Americans, and other parts of our economy and society hit hard by this pandemic.¹ We are grateful that Congress, due largely to the efforts of Senate Democrats, enacted multiple accountability provisions in the CARES Act to establish basic oversight and to provide some transparency over the federal government's COVID-19 response, but recent actions by the Trump Administration demonstrate the urgent need for additional, stronger guardrails.

The CARES Act establishes a \$500 billion bailout fund for giant corporations, which—without stronger oversight, transparency, and anti-corruption provisions—could be wasted and misused by the Trump Administration to enrich giant corporations and senior executives, make monopolies worse at the expense of workers and taxpayers, and reward political allies and punish foes. Other provisions in the Act, including support for small businesses, also lack critical oversight and conflicts of interest protections and are alarmingly vulnerable to exploitation for personal, financial, and political gain.

¹ Public Law No: 116-136

The CARES Act imposes some oversight of these programs, but President Trump immediately began undermining these provisions the moment the bill became law. In the bill's signing statement, President Trump signaled to Congress and to the American people that he would simply ignore parts of the law and prevent the Act's new Special Inspector General for Pandemic Recovery (SIGPR) from freely communicating with Congress.² President Trump also fired the Inspector General independently designated to chair the Pandemic Response Accountability Committee (PRAC), which Congress established to conduct and coordinate oversight and provide transparency over the federal government's COVID-19 response and management of pandemic response spending.³

The President's actions send a clear signal to Congress that stronger oversight and anti-corruption provisions are urgently needed to ensure that taxpayer relief is not used to serve President Trump's—or any government official's—personal, political, or financial interests; to prevent waste, fraud, and abuse of pandemic response spending; to bring transparency to the government's actions; and, to ensure taxpayer relief goes to those most in need of federal assistance, including hospitals, small businesses, working families, essential workers, and states and municipalities facing reduced revenues and increased costs from the pandemic.

In order to achieve these critical objectives, we recommend several oversight and anti-corruption provisions for you to include in any upcoming COVID-19 response legislation:

- **Prohibit Conflicts of Interest:** Strong rules are necessary to prohibit conflicts of interest that may arise in connection with the administration of the CARES Act and any future COVID-19 relief packages. Such rules must address conflicts arising in the selection or hiring of contractors or advisors; the distribution of grants and loans; and revolving door restrictions on government employees and officials involved in the administration of relief funds and programs. All government officials (including members of any White House task force) who advise or work on the pandemic response must file public reports detailing their financial interests. And while the CARES Act already prohibits assistance from the \$500 billion bailout fund from going to certain companies affiliated with senior government officials,⁴ the scope of those restrictions should be expanded to include all CARES Act funds, additional senior staff and their family members to ensure that relief funds are not funneled to well-connected businesses.
- **Empower Inspectors General:** Inspectors general (IGs) should be fired only for good cause. The President should be required to inform Congress when any IG, including an acting IG, is removed from their post. When an IG position becomes vacant, it should be filled automatically by the first assistant to the last IG. Acting IGs must be selected from officials who enjoy civil service protections,⁵ ensuring that they have some recourse if they face retaliation. Any member of the staff of an unlawfully fired IG should be

² President Donald J. Trump. *Statement by the President*. The White House. March 27, 2020. Online at: <https://www.whitehouse.gov/briefings-statements/statement-by-the-president-38/>

³ Savage, Charlie and Baker, Peter. *The New York Times*. "Trump Ousts Pandemic Spending Watchdog Known for Independence." April 7, 2020. Online at: <https://www.nytimes.com/2020/04/07/us/politics/trump-coronavirus-watchdog-glenn-fine.html>

⁴ Sec. 4019 of the CARES Act, Public Law No: 116-136

⁵ 5 U.S.C. §§ 1101 et seq.

allowed to file suit to challenge the firing, as should any member of the public who has been harmed as the result of such action. The President's decision to fire or otherwise discipline an IG or acting IG should trigger an automatic review by the Council of the Inspectors General on Integrity and Efficiency Integrity, and the findings of that review should be made public.

- **Strengthen the Congressional Oversight Commission:** The Congressional Oversight Commission (“the Commission”), which sits beyond the President’s reach,⁶ must be granted subpoena authority for testimony and documents, and Congress should expand its jurisdiction to include all COVID-19 relief funding, including the Small Business Administration’s Paycheck Protection Program.
- **Strengthen CARES Act Executive Branch Accountability & Oversight Entities:** Congress should require the Treasury Secretary to submit a weekly list of any instances in which the SIGPR or the PRAC believe they have been unreasonably denied information from the executive branch. If the Treasury Secretary omits or misrepresents instances of wrongdoing to Congress, he will be liable for perjury and should be prosecuted by the Department of Justice. If the Treasury Secretary fails to provide a required filing, Congress should use its power of the purse to ensure that neither he nor any other senior political appointee in the Department of Treasury be paid.
- **Protect Whistleblowers:** Strong whistleblower protections must apply to government employees, government contractors, and private sector workers (including essential workers) who may witness waste, fraud, or abuse or be victims of misconduct. These provisions must protect all Americans who call out wrongdoing and protect against all retaliation (including criminal or civil prosecution and workplace harassment). These protections must also include contractors, companies, and nonprofits facing improper political pressure or retaliation, and protect such entities when they challenge demands to cover up wrongdoing. Congress should establish a direct channel for whistleblowers to submit complaints directly to the SIGPR, PRAC, and the Commission.
- **Restrict and Disclose Lobbying & Political Spending:** Congress should require the Department of Treasury to make monthly disclosures on all lobbying related to COVID-19 relief spending or lending. These disclosures must include meetings between companies receiving federal funding and Treasury officials or White House staff, as well as any documents provided by those companies to government officials. Additionally, any company that receives bailout money should not be permitted to engage in political spending or lobbying expenditures for a least a year after any loan is fully repaid.
- **Improve Transparency and Disclosure around Bailout Funds:** Congress should require more transparency about where bailout funds are going. Any recipient of emergency funding or support, including contractors and grantees, must provide regular, public reporting about how that money is being used. While the Federal Reserve Board recently took an important step in announcing they will disclose the names and amounts

⁶ Sec. 4020 of the CARES Act, Public Law No: 116-136

borrowed for each participant in their lending facilities backstopped with CARES Act money,⁷ this does not go far enough. Congress should require these disclosures by law and require recipients to provide a detailed description of how the assistance was used. If we want companies to use bailout funds to maintain their payrolls and pay their workers well, we should require relevant data: recipients should be required to disclose compensation and workforce data, including the mean, median, and minimum wages of all non-executive employees; the number of workers before and after the receipt of assistance; and the salaries of executives, including bonuses and capital distributions. Congress should also require giant corporations that receive a bailout to disclose whether they have been charged with violations of federal law and the nature of those alleged violations. Finally, Congress must ensure the Paycheck Protection Program truly helps small businesses rather than giant or well-connected companies by requiring the Small Business Administration to publicly disclose on its website, on a weekly basis, basic information about lenders and recipients, including loan amounts.

- **Strengthen Enforcement:** Anyone harmed by misuse of bailout funds should be allowed to seek recourse through the courts. This will ensure that harmed parties, like workers fired after a company committed not to fire anyone, have the ability to bring private lawsuits against bailout recipients who do not adhere to bailout terms. Senior executives of companies that violate bailout terms should be held personally liable, including by having their executive compensation seized, if necessary.

Oversight is vital. Strong oversight is only a threat to those who have something to hide. Congress has a Constitutional responsibility to ensure that taxpayer funds are used for their intended purposes and to protect the American people from corruption. These priorities are not auxiliary to Congress’s functions during emergency response to a pandemic; they are central to the response. The American people deserve to have confidence that their government’s response to this pandemic serves them and their interests, not the interests of the wealthy or well-connected. We look forward to working with you to ensure pandemic response spending meets the needs of the American people.

Sincerely,



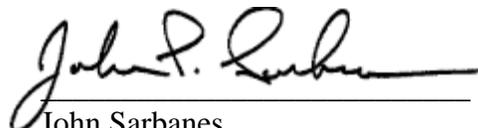
Elizabeth Warren
United States Senator



Richard Blumenthal
United States Senator



Pramila Jayapal
Member of Congress



John Sarbanes
Member of Congress

⁷ Guida, Victoria. *POLITICO*. “Fed, facing pressure, commits to disclose monthly who's getting bailouts.” April 23, 2020. Online at: <https://www.politico.com/news/2020/04/23/fed-to-disclose-bailouts-monthly-204953>