



November 23, 2020

Small Business Administration
ATTN: Curtis Rich
409 3rd Street SW, 5th Floor
Washington, DC 20416

Office of Information and Regulatory Affairs
Office of Management and Budget
ATTN: SBA Desk Officer
New Executive Office Building
Washington, DC 20503

Via electronic submission

Subject: Comment in Response to Proposed Collection of Information on the Paycheck Protection Program Loan Necessity Questionnaire; OMB Control No: 3245-0407; Document No: 2020-23594

Dear Mr. Rich and the Office of Information and Regulatory Affairs:

The Project On Government Oversight (POGO) submits the following comment in support of the notice titled “Reporting and Recordkeeping Requirements Under OMB Review,” submitted by the Small Business Administration and published in the Federal Register on October 26, 2020.¹ POGO urges the Office of Management and Budget to approve the Small Business Administration’s proposed Paycheck Protection Program Loan Necessity questionnaire. The questionnaire will allow the agency to gather valuable information about the Paycheck Protection Program loans issued in the amount of \$2 million or greater.

POGO is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. We champion reforms to achieve a more effective, ethical, and accountable federal government that safeguards constitutional principles.

The Paycheck Protection Program, established by Section 1102 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) has undoubtedly been a valuable lifeline to millions of small businesses and employees during the coronavirus pandemic. When the program expired in early August, it had funded more than 5.2 million loans totaling more than \$525 billion.² A key component of the program is that these loans could turn into grants if employers meet the criteria laid out in the law, such as maintaining or rehiring workers.³ The administration has a duty to

¹ Reporting and Recordkeeping Requirements Under OMB Review, 85 Fed. Reg. 67,809 (proposed October 26, 2020). <https://www.govinfo.gov/content/pkg/FR-2020-10-26/pdf/2020-23594.pdf>

² Small Business Administration, *Paycheck Protection Program (PPP) Report: Approvals through 08/08/2020*. https://www.sba.gov/sites/default/files/2020-08/PPP_Report%20-%202020-08-10-508.pdf (accessed on November 20, 2020)

³ “Paycheck Protection Program,” Small Business Administration. <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program#section-header-5> (accessed on November 20, 2020)

ensure this money has gone toward its intended uses, especially when doing so does not pose an overwhelming or unexpected burden on the businesses that benefited from this taxpayer-funded program, as is the case here.

The proposed questionnaire would help the Small Business Administration conduct oversight of the loans it has already indicated will automatically be audited.⁴ The breadth of information the agency plans to request is a favorable departure from its general lack of transparency with regard to this program. POGO is troubled that the Small Business Administration has not released the recipients or loan amount information for more than 87% of the loans issued.⁵ In fact, by not releasing this information, the agency is failing to comply with three separate laws mandating disclosure, as well as the agency's own existing practice of disclosure for loan programs. Additionally, the last page of the loan application for the program tells borrowers that the information will be made public.

The Paycheck Protection Program loan information that has been disclosed to date makes clear that individuals and entities have fraudulently exploited the program. A recent POGO analysis of 56 cases of alleged Paycheck Protection Program fraud announced by the Justice Department found that individuals accused of fraud had sought a total of \$250 million in loans from the program and successfully obtained \$113 million.⁶ In some of the cases, fraudsters allegedly used the loan funds to purchase Lamborghinis and yachts, go to strip clubs, and make risky stock market bets. Many of the alleged fraudsters obtained more than one loan for identically named companies, sometimes using the same address—both of which are red flags for fraud. We are likely to see more such cases in the coming months given the record number of suspicious activity reports recently filed with the Treasury Department's Financial Crimes Enforcement Network.⁷

Increased transparency, to which this questionnaire would contribute, will help the agency, Congress, and the public better understand how the program has worked thus far. It is only because of the hard-fought—but still inadequate—disclosure of the larger Paycheck Protection Program loans that we know about institutions with billion-dollar endowments or access to significant capital having received loans intended for struggling small businesses. For example, through these limited disclosures, POGO, along with the Anti-Corruption Data Collective, found that millions of dollars' worth of these taxpayer-backed loans went to Chinese state-owned

⁴ Department of the Treasury and Small Business Administration, "Paycheck Protection Program Loans: Frequently Asked Questions (FAQs)," October 7, 2020, 13. <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>

⁵ Tim Stretton, "Reforms Must Accompany PPP Reauthorization," Project On Government Oversight, October 20, 2020. <https://www.pogo.org/analysis/2020/10/reforms-must-accompany-ppp-reauthorization/>

⁶ Ryan Summers and Nick Schwellenbach, "Lamborghinis, Strip Clubs, Bogus Companies, and Lies," Project On Government Oversight, October 8, 2020. <https://www.pogo.org/investigation/2020/10/lamborghinis-strip-clubs-bogus-companies-and-lies/>

⁷ Nick Schwellenbach, "Spike in Suspected Business Loan Fraud Reports Coincided with Paycheck Protection Program," Project On Government Oversight, September 10, 2020. <https://www.pogo.org/investigation/2020/09/spike-in-suspected-business-loan-fraud-reports-coincided-with-paycheck-protection-program/>

companies.⁸ This is why POGO is pleased that the questionnaire asks borrowers to declare direct and indirect foreign ownership.⁹

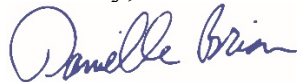
POGO encourages the Small Business Administration to ask for information about whether borrowers are members of traditionally underserved communities, which Congress intended the program to prioritize. The agency's inspector general found that, "because SBA did not provide guidance to lenders about prioritizing borrowers in underserved and rural markets, these borrowers, including rural, minority, and women-owned businesses may not have received the loans as intended."¹⁰ The agency should try to assess how many of the loans have already gone to these communities. This information could be helpful in assessing the need to prioritize these borrowers in future relief packages.

Conclusion

The Office of Management and Budget should approve the Small Business Administration's Paycheck Protection Program questionnaire. POGO disagrees with arguments that the questionnaire includes questions that are unrelated to what borrowers were asked to consider when applying for the loan. The fact is, Congress imposed conditions when it provided the \$525 billion of essentially free money to businesses. The administration has a duty to ensure the money has gone toward its intended purpose, and that the borrowers used it for what they said they would. Suggestions that such questions are "inappropriate" are without merit.¹¹ The businesses that would be subject to this questionnaire received loans worth \$2 million or more; answering a few additional questions is hardly too much for the government to ask in return, to ensure that taxpayer dollars are not lost to fraud.

Thank you for your consideration of this comment. Should you have any questions, please contact Tim Stretton at (202) 347-1122 or at tstretton@pogo.org.

Sincerely,



Danielle Brian
Executive Director

⁸ Nick Schwellenbach and David Szakonyi, "Millions in PPP Loans Went to Chinese State-Owned Companies," Project On Government Oversight, July 23, 2020. <https://www.pogo.org/investigation/2020/07/millions-in-ppp-loans-went-to-chinese-state-owned-companies/>

⁹ Small Business Administration, "Paycheck Protection Program Loan Necessity Questionnaire (For-Profit Borrowers)." <https://www.crowell.com/files/SBA-Form-3509.pdf> (accessed November 20, 2020)

¹⁰ Small Business Administration Office of Inspector General, *Small Business Administration's Implementation of the Paycheck Protection Program Requirements*, Report No. 20-14 (May 8, 2020), 4. https://www.sba.gov/sites/default/files/2020-05/SBA_OIG_Report_20-14_508.pdf

¹¹ Letter from the American Bakers Association et al. to Treasury Secretary Steven Mnuchin and Small Business Administrator Jovita Carranza concerning SBA's proposed questionnaire, November 17, 2020. https://www.aba.com/-/media/documents/notices/loan-necessity-questionnaires-borrower-lender-coalition-letter-to-sba-treasury.pdf#_ga=2.218412249.1532317842.1605729593-1570299981.1605729593