

Mr. Russell Vought
Acting Director
Office of Management and Budget
725 17th Street, NW Washington, DC 20503

June 18, 2020

Dear Mr. Vought:

The mounting public health and economic costs of the Coronavirus pandemic require swift and substantial government response to meet the scale of the crisis. Already, more than 110,000 people in the United States have died, nearly 2 million have been infected, and job losses reached more than 38 million workers. The Congress has already passed essential legislation that provides trillions of dollars of economic relief and public health investments to confront the Coronavirus crisis, and additional legislative efforts are underway.

But enacting legislation is only the beginning; effective implementation is equally critical. Both the public and Congress need to know that federal agencies are effectively deploying the new resources to reinforce public health infrastructure and deliver direly needed economic assistance to families, businesses, and communities. Vigorous independent oversight, both from Congress and Inspectors General, is essential to monitor not only the effectiveness of the federal expenditures but also that the taxpayer monies dedicated to Coronavirus relief are not lost to waste, fraud, abuse, mismanagement, self-dealing, or diverted to benefit special interests and corporate profits instead of the people, employers, and communities in need.

As Supreme Court Justice Louis Brandeis observed, “sunlight is said to be the best of disinfectants.” Sunlight is needed not only to reassure the public, but also to enable Congress, Inspectors General (IGs), and others to conduct effective oversight of the federal Coronavirus response. Public confidence requires that the data be made public quickly and at no cost. The data must specify which entities receive assistance, the amounts provided, the intended purpose of the assistance, and how the monies are actually spent. The Office of Management and Budget (OMB) should be playing a leading role in ensuring the collection and dissemination of that data, but at a minimum OMB must not impede the collection and dissemination of the accessible data necessary to monitor and assess the effectiveness of the federal Coronavirus response.

In addition, more information is needed than merely which companies and entities receive what level of financial support. The public, Congress, IGs and others also need to know whether the companies that receive federal relief are maintaining their workforce, providing health care coverage, paid sick days and paid family leave, and are not siphoning off funds to reward executives or shareholders through stock buybacks or dividend payments. Other data is also necessary to help evaluate whether taxpayer money is being spent effectively and equitably.

To foster public confidence and facilitate congressional and IG oversight, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, Pub. L. 116-136) includes important disclosure and transparency requirements and mechanisms, especially the provisions establishing the Pandemic Response Accountability Committee (PRAC, §15010 and §15011). The PRAC's core mission is appropriately to “ensure coordinated, efficient, and effective comprehensive oversight;” to monitor and assess “all aspects” of Coronavirus-related federal funding and the federal government's Coronavirus response; and to report what it learns to Congress, the IG community, and the public.

Congress tasked the PRAC with posting key information and data related to federal Coronavirus expenditures and response efforts. The statute provides sufficient flexibility for the PRAC to lay out the scale, scope, and complexity of the federal measures being taken to provide economic and public health relief from the Coronavirus crisis. The OMB must allow — and should facilitate — efforts by the PRAC to collect and disclose all data necessary to provide the transparency needed to oversee the federal Coronavirus expenditures and response.

For example, much of the economic stimulus will be provided by the Federal Reserve through highly complex credit facilities, including through a contract with the private firm BlackRock to provide primary and secondary market corporate credit to purchase corporate bonds. The dispersal of federal financial support through those mechanisms may benefit multiple companies (not only the firms whose bonds or corporate debt are purchased, but also the firms that held or sold those instruments and the financial companies that issued those instruments). These credit facilities clearly fall under the PRAC's purview, and the PRAC must be allowed to collect and publicly disclose granular data not only on all the Federal Reserve's credit facility programs, but also information related to the direct and indirect benefits accruing to BlackRock's other clients as a result of its management of these facilities. OMB should direct the Federal Reserve to fully cooperate with the PRAC by providing requested information on a comprehensive and timely basis.

Similarly, the PRAC must be allowed to collect and publicly disclose detailed data on the Small Business Administration's loans and the federal support of large health insurance coverage groups or plans may impact which businesses, health care facilities, or provider groups survive the crisis. OMB should direct SBA, HHS, and other federal agencies to fully cooperate with the PRAC by providing requested information on a comprehensive and timely basis.

In addition, effective oversight requires enhanced disclosure from the recipients of federal financial assistance and other benefits, including information on the controlling or parent owners of those recipients, the amounts and types of federal support provided, and the specific terms and documents related to that support. Moreover, the PRAC must be empowered to collect more information from the large recipients of Coronavirus-related expenditures to fulfill the statutory directive of providing “a detailed list of all projects or activities.” The PRAC must collect not just an estimate of jobs created or maintained by companies that receive more than \$150,000 in Coronavirus assistance, but also information about whether those recipients are, for example, complying with Centers for

Disease Control and Prevention (CDC) and Occupational Safety and Health Administration (OSHA) recommended Coronavirus-related safety protocols and personal protective equipment; providing executive compensation, stock buybacks or dividends; providing employee health benefits; and more. OMB should direct all large recipients of federal Coronavirus funds to fully cooperate with the PRAC by providing requested information on a comprehensive and timely basis.

Additionally, the PRAC is mandated to provide publicly-available biannual reports to Congress and the President to “identify and quantify the impact” of Coronavirus expenditures to evaluate the effectiveness of the federal response. The PRAC must publicly disclose and provide the data it used to make those assessments. OMB should work with the PRAC to facilitate issuance of accurate and thoughtful biannual reports.

Many CARES Act provisions provide potential economic protections for financially vulnerable families during this crisis (such as unemployment assistance, mortgage forbearance, student loan relief, eviction prohibitions, and more), but determining whether those measures have been effective requires assessing entirely different types of information that should also be made available to the public, Congress, and the IG community. For example, consumer complaints about mortgage servicers have skyrocketed over the past few months as homeowners struggle to actually secure sensible mortgage forbearance (either despite the CARES Act provisions or because of legislative limitations that many groups have identified). The PRAC must provide additional data to determine whether landlords, debt servicers, and others are complying with the CARES Act, whether the CARES Act provisions are effective, whether people of color are disproportionately impacted, and whether changes are needed to the law.

Despite the clear necessity for this data, the Office of Management and Budget has recently released regulatory guidance on CARES Act reporting that defies the law by ignoring a number of direct statutory reporting requirements. For example, despite explicit legal requirements for new recipient-reported information on the use of funds and employment levels, OMB has announced that no new data will be collected and that the PRAC must rely on existing but insufficient agency data fields instead. Additionally, OMB’s guidance recommends delaying the implementation of codes to identify Coronavirus expenditures until July, meaning that statutorily mandated monthly award data disclosure would not be available until August — four full months after Congress passed the CARES Act.

The OMB guidance all but ensures that the trillions of dollars in Coronavirus expenditures and policy mandates will receive less oversight, transparency, and accountability than Congress intended. OMB must not sideline or delay the release of critical data on the federal Coronavirus relief efforts and must significantly improve the disclosure of publicly-accessible data and information covering federal Coronavirus-related expenditures and responses. Accordingly, it is respectfully recommended that OMB immediately rescind its Coronavirus guidance and work with the PRAC to set an

independent course to identify, collect, and disseminate the data mandated by law and necessary to track and evaluate the federal Coronavirus response.

That detailed information is critical to enable effective oversight by Congress, Inspectors General, and the specialized bodies set up to monitor Coronavirus relief efforts and ensure accountability and transparency of federal efforts to confront the current public health and economic crisis. In an effort to help identify the types of information that merit collection to facilitate this oversight, we have provided a representative list in the attached appendix.

It is only with more detailed and timely data disclosures that Congress, Inspectors General, and the specialized Coronavirus oversight bodies created by the CARES Act can ensure Coronavirus expenditures and benefits are being delivered to the public as Congress intended; can assess the effectiveness of these efforts and make needed adjustments; and can stop taxpayer funds from being lost to waste, fraud, abuse, mismanagement, or improperly diverted to reward shareholders, investors, or executives.

Sincerely,

Accountable.US
Action Center on Race and the Economy
AFL-CIO
Americans for Financial Reform
Center for Digital Democracy
Center for Responsive Politics
Citizens for Responsibility and Ethics in
Washington (CREW)
Communications Workers of America (CWA)
Consumer Action
Empire Justice Center
Good Jobs First
Institute for Agriculture and Trade Policy
Main Street Alliance

NAACP
National Association of Consumer Advocates
National Community Stabilization Trust
National Consumer Law Center (on behalf of
its low income clients)
National Employment Law Project
National Fair Housing Alliance
People's Action
Philadelphia Unemployment Project
Project On Government Oversight (POGO)
Public Citizen
Take on Wall Street
U.S. PIRG
Woodstock Institute

Appendix: Strengthening and Clarifying Coronavirus-Related Data Disclosures

PRAC should collect and disclose all federal Coronavirus awards by every federal agency or entity: The federal government is providing Coronavirus financial support through a wide variety of mechanisms. However, the breadth of this effort must not result in fragmentation or inconsistency within the spending data. The PRAC should collect and disclose a consistent scope of data elements for all loans, loan guarantees, grants, contract awards, tax benefits, credit facilities, secondary market support and any other federal expenditures or benefits. These disclosures must include the Federal Reserve credit facilities, the Small Business Administration’s Paycheck Protection Program, the Department of Health and Human Services’ Provider Relief Fund, and all other pandemic-related federal programs and support efforts.

PRAC should provide enhanced disclosure detail for all agency expenditures to large covered recipients: The CARES Act states that the PRAC “shall provide detailed data on any federal government awards [...] and for any covered funds over \$150,000, a detailed explanation of any agreement where applicable.” The PRAC should collect and release detailed data including the dollar amount, the name of the large recipient, and any parent company or controlling entity of the large recipient.

PRAC should provide detailed disclosures of all Federal Reserve expenditures through credit extension, primary or secondary market support, or other facilities or support programs: The Federal Reserve is providing trillions of dollars to combat the economic impacts of the Coronavirus through a variety of credit facilities and primary and secondary market support programs, including by conferring unprecedented market authority via contract to the private firm BlackRock. The Federal Reserve’s activities clearly fall within the PRAC’s definition of covered funds, which includes “any funds, including loans, that are made available in any form.” The complexity of the Federal Reserve’s activities requires more detailed transaction disclosures to enable effective congressional and IG oversight. The PRAC should work with the Federal Reserve to develop detailed disclosure formats for each of its Coronavirus facilities and programs, including detailing all conflict of interest safeguards for programs managed by a private contractor.

Specifically, the PRAC should ensure the Federal Reserve disclosures include the following data elements;

- the date, nature, and size of each transaction;
- the terms of the transaction (including price, use of any credit or debt instrument, repayment provisions, any interest rate, any collateral, covenants, warrants or stock transfers or pledges, any penalties, and any time limits);
- the stated purpose of the transaction by the Federal Reserve and intended use of any proceeds by the counterparty (to the extent known);
- the identity of the transaction participants, including the legal entity and beneficial owner;
- the credit rating or other measure of creditworthiness of the transaction participants;

- the processes used to identify the instruments being purchased;
- the identity of any non-governmental entity providing services (e.g., investment advisory, brokerage, valuation agent, or custodial services) in connection with the transaction; and
- all conflict of interest safeguards;

For bond and secondary market instruments the data should include:

- the identity of the issuer,
- the CUSIP identification number of any bonds purchased,
- the pricing and valuation methodology,
- the portfolio composition and holdings of any exchange traded fund (ETF) involved in the transaction,
- the identity of each non-governmental entity providing services (including investment advisory or custody services) in relation to the transaction,
- the beneficial owner or authorized seller of any bonds or ETFs purchased, and
- whether, at the time of the transaction, the instruments were owned by any entity affiliated with any non-governmental entity providing services with respect to that transaction.

PRAC should ensure that agencies collect and disclose detailed disclosures on all sub-awards (grants, contracts, loans, direct assistance) made by recipients of federal

Coronavirus funds: Some of the Coronavirus awards will be made to large health coverage groups, health insurers, state agencies, private lending institutions or other entities that in turn use the funds to pay, award, or loan funds to other recipients. The prime recipients of Coronavirus funds also receive enormous responsibility to act as an intermediary for the federal government and choose which firms receive funding and which do not. For example, large health insurance or health coverage groups may direct the majority of their federal support to affiliated or preferred hospitals. This process deserves clear and accurate reporting to ensure the public fully understands where the Coronavirus funds wound up going. Under the Federal Funding Accountability and Transparency Act as well as the Digital Accountability and Transparency Act, agencies are required to collect information on all subawards resulting from federal awards and report that data into USASpending.gov. However, the subaward data on USASpending.gov remains problematic with high percentage of incomplete and incorrect data. The PRAC should require agencies to work with all prime and sub recipients of Coronavirus awards to properly and fully report the data associated with these transactions.

PRAC should require large recipients to provide considerably more detailed disclosures on the activities and expenditures made with Coronavirus support funds: The CARES Act requires large recipients to provide “a detailed list of all projects or activities for which large covered funds were expended or obligated.” The PRAC should require these large recipients to explain how the funds are being used to fulfill the statutory goals of providing public health and economic relief not just to companies but also to their patients, workers, customers, and communities. The PRAC

should also collect data to determine whether the infusion of Coronavirus funds is being used by the large recipient to divert other funds to benefit executives or shareholders instead of combatting the public health and financial crisis. The PRAC should clarify that large recipients must detail how they are spending Coronavirus funds to assist their patients, workers, customers or communities and certify that they are not directly or indirectly rewarding executives or shareholders by adding the following sections:

- ***PRAC should disclose more information on the large recipients:*** Those disclosures should include the ownership status of the large recipient (public or private corporation, partnership, or non-profit); the name of any parent company, owner, or controlling party; whether the company is minority- or women-owned; the industry sector North American Industrial Classification System code; the geographic location of the large recipient, including its headquarters and the address of every location receiving Coronavirus funds; whether the large recipient is owned by women or people of color; large recipients that are not already doing so should be required to file ongoing financial disclosures with the Securities and Exchange Commission and submit identical financial disclosures with the PRAC, beginning immediately; and the number, nature, and monetary penalties of any federal settlements, judgments, or other arrangements involving violations or alleged violations of any civil or criminal federal statute or regulation.
- ***PRAC should disclose more information on the large recipients' workers:*** Those disclosures should include the number of U.S. employees (based on Treasury Department payroll counts) at the large recipient prior to January 27, 2020 and for every quarter it receives, expends, or obligates Coronavirus-related federal funding for each subsequent period the large recipient reports; the number of part-time and the number of full-time employees prior to January 27, 2020 and for every subsequent period; whether the large recipient has implemented CDC and OSHA recommended safety protocols; the percentage of workers receiving CDC or OSHA recommended personal protective equipment for their respective jobs; the median wage levels of U.S. employees in 2019 and for each subsequent reporting period; the average number of hours worked per week by U.S. employees in 2019 and in each subsequent reporting period; the number of layoffs and call-backs for every quarter the large recipient reports; the average number of hours worked per week by independent contractors for the large recipients in 2019 and for each subsequent reporting period; the percentage of U.S. employees that receive employer sponsored or covered health insurance; the percentage of U.S. employees that are eligible for or receive paid sick leave; the percentage of U.S. employees that are eligible for or receive paid family leave; and labor relations conditions including the percentage of U.S. employees covered by Collective Bargaining Agreements immediately prior to January 27, 2020 and the percentage covered at the end of each subsequent reporting period; and the disclosure of any labor disputes.

- ***PRAC should disclose more information on large recipient-funded executive compensation, shareholder rewards, federal lobbying expenditures, and campaign and issue-based contributions:*** Those disclosures should include, during each year in which the large recipient receives any Coronavirus-related federal benefit, the annual compensation of its five most highly remunerated officers or executives; any expenditures on share buybacks; any expenditures on dividend payments to shareholders; any expenditures on federal lobbying activities; and any expenditures on campaign donations to candidates for federal or state elected office, any funds paid to groups or organizations that make such contributions, or any funds paid on issue-related advertisements, irrespective of whether the large recipient used Coronavirus-related federal financial support to make those expenditures.

PRAC should require that all federal Coronavirus fund awards adhere to data disclosure elements required for USASpending.gov and provide as much detail as possible within the format: All federal spending under the 2009 American Recovery and Reinvestment Act was specially coded on the federal expenditure website USASpending.gov. Similarly, the PRAC should require all Coronavirus-related spending, including grants, loans, loan guarantees, contract awards, credit facilities, secondary market support, tax benefits, and any other Federal support to be reported in the USASpending.gov data format and specially coded to identify it as federal Coronavirus-related spending.

- ***Award descriptions should include details about the use of the funds.*** Currently the awards descriptions posted on USASpending.gov are frustratingly vague and brief. Award descriptions for contracts often only name the product or service or offer a short single sentence. Grants and loans usually provide no specific information about the individual awards and instead only name the program under which the assistance is provided. Agencies should ensure that all coronavirus awards include a detailed award description that conveys the intended use of the individual award. The award descriptions should offer greater detail on the spending, including specifics on what the money is being spent on, how much or how many goods and services were purchased, how many individuals are being helped, and why the money is being spent. Even if such specifics can only be estimated, the information would help users better understand what the award is covering.
- ***Aggregated reporting of direct assistance to individuals should be reported in the smallest geographic increments possible.*** Direct assistance and loans to individuals are not individually reported in USASpending.gov in order to protect personal privacy. Instead agencies aggregate these awards and report on the collective amounts awarded for a particular month in a particular geographic area. However, too often the data is reported in larger geographic areas such as states or whole counties, which make it difficult to fully understand how much each community received. The reporting of Coronavirus assistance and loans to individuals should be aggregated at the zip code or census block level.

PRAC should collect, assemble, and monitor potential conflict-of-interest information related to Coronavirus-related expenditures and benefits, and refer potential conflict-of-interest violations to appropriate authorities:

The CARES Act prohibits Coronavirus expenditures under Title IV to go to entities where the President, Vice President, Cabinet Secretaries, or Members of Congress or their immediate families hold more than a 20 percent interest (§4019). The PRAC should immediately collect and assemble information from the Office of Government Ethics, Designated Agency Ethics Officials, Office of the Clerk of the U.S. House of Representatives, U.S. Senate Select Committee on Ethics, including Congressional Personal Transaction Reports, and, if necessary, from the covered individuals, to create a list of all entities prohibited from receiving federal Coronavirus-related funds. Each month, the PRAC should cross-reference the list of prohibited entities with a list of large recipients of Coronavirus funds (including grants, contracts, or Federal Reserve credit facilities) to identify any prohibited transactions. The PRAC should refer potential conflict-of-interest violations under the CARES Act or any subsequently enacted act to the appropriate authorities, including the Office of Government Ethics, Designated Agency Ethics Officials, the relevant House or Senate Ethics Committee, and the Attorney General.

PRAC should require the disclosure of data necessary to evaluate the effectiveness of other key federal Coronavirus response policies and safeguards:

Many provisions in the CARES Act and other federal statutes provide federal protections or policies that do not involve the direct award of taxpayer funds but nonetheless provide critical Coronavirus-related benefits and protections, such as mortgage forbearance, eviction prohibitions, and student loan borrower protections. Others, such as enhanced unemployment benefits or stimulus payments involve direct payments to individuals. Those benefits and protections should be evaluated to assess their effectiveness as part of the overall federal Coronavirus response. The PRAC is required to “conduct audits and reviews of programs, operations, and expenditures relating to covered funds and the Coronavirus response” (§15010(e)(1)). Further, the PRAC biannual reports must “identify and quantify the impact of any tax expenditures or credits” (§15010(d)(2)(B)(ii)) and the PRAC website is already required to “provide materials and information explaining the Coronavirus response and how covered funds are being used” (§15010(g)(3)(A)). The PRAC should disclose all information and data necessary to enable the PRAC and Congress to evaluate the related Coronavirus protections including:

- ***Single family mortgage forbearance*** data including number of households receiving forbearance, demographics of the households receiving forbearance, number of households denied forbearance, number and volume of loans in forbearance disaggregated by loan type, length of forbearance, whether forbearance was extended and for how long, number and volume of loans current after forbearance, number and volume of loans modified after forbearance, terms of loan modifications after forbearance, number and volume of loans in foreclosure after forbearance, impact on residential mortgage backed securities, number of

Consumer Financial Protection Bureau complaints, and number of federal and state enforcement cases filed against mortgage lenders or servicers;

- ***Multifamily residential mortgage forbearance*** data including the number of buildings and occupied units receiving forbearance, number of multifamily borrowers denied forbearance, the number and volume of mortgage loans in forbearance disaggregated by loan type, the length of forbearance, whether forbearance was extended and the length of any extension, number and volume of loans current after forbearance, modified after forbearance, and in foreclosure after forbearance, the impact on commercial mortgage backed securities, complaints by commercial multifamily building owners, and the number of federal and state enforcement cases filed against mortgage lenders or servicers;
- ***Tenant eviction protection*** data including number of households that would have faced eviction, demographic data for households at risk of eviction, the number of attempted evictions during the Coronavirus crisis, the number of CFPB complaints, the number of federal and state complaints, the number of federal and state cases filed, the number of eviction judgments, number of evictions enforced by sheriffs, whether the landlord pursuing eviction received a mortgage forbearance or other monetary assistance, landlord compliance with local tenant protection laws on rent increases, and other measures related to landlord compliance with state and local eviction moratoria during the Coronavirus crisis;
- ***Mortgage foreclosure protection*** data including the number of households that would have faced foreclosure, the number of delinquent borrowers and length of delinquency, the number of attempted foreclosures during the Coronavirus, demographic data for the households that were delinquent borrowers or faced foreclosure, the number of CFPB complaints, the number of federal and state complaints, the number of federal and state cases filed, number of foreclosure judgments, number of foreclosure sales or auctions, and other measures related to compliance with federal and state foreclosure moratoria timelines during the Coronavirus crisis;
- ***Student loan forbearance*** and relief data including the number of borrowers receiving forbearance or relief, the volume of student loans in forbearance, demographic data on the borrowers applying for and receiving forbearance or relief, the number of Education Department and CFPB complaints, and the number of federal and state cases filed;
- ***Enhanced unemployment benefit*** data including the number of people applying for benefits, the number of people receiving benefits, the average delay between application and benefit receipt, the state backlogs in applications, the number of complaints about unemployment benefits internet application portals, and the total value of federal and state expenditures for unemployment benefits;

- ***Coronavirus IRS stimulus payments*** data including the number of people receiving benefits, breakdown of delivery methods for benefits (direct deposit, paper checks, prepaid cards) and any differences in use by delivery method, the total value of stimulus payments, the number of CFPB complaints related to garnishments, and the number and estimated dollar value of improper payments;
- ***Coronavirus testing*** data including the number of people receiving tests, the number of tests performed per day, per capita testing coverage by state and county, the average waiting time for testing results by state, the accuracy rate, and the total value of federal expenditures on testing equipment, supplies, and services; and
- ***Comparable data on any other Coronavirus response policies and safeguards or subsequent federal measures.***