

Federal Housing Finance Agency
Office of Inspector General



**Management Advisory:
FHFA-OIG's Investigation of
Allegations of Fraud Affecting
Paycheck Protection Program Loans
Obtained or Sought from Federal
Home Loan Bank Member Institutions**



OFFICE OF INSPECTOR GENERAL

Federal Housing Finance Agency

400 7th Street SW, Washington, DC 20219

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TO: Andre D. Galeano, Deputy Director, Division of Bank Regulation

FROM: Richard Parker, Acting Deputy Inspector General for Investigations /s/

SUBJECT: Management Advisory: FHFA-OIG's Investigation of Fraud Affecting Paycheck Protection Program Loans Obtained or Sought from Federal Home Loan Bank Member Institutions

Summary

The Coronavirus Aid, Relief, and Economic Security (CARES) Act establishes the Paycheck Protection Program (PPP) which authorizes up to \$659 billion for small businesses to pay up to 8 weeks of payroll costs, including benefits, and to pay interest on mortgages, rent, and utilities. The PPP is implemented by the Small Business Administration (SBA) with support from the Department of the Treasury.¹ Since April 2020, at the invitation of the Fraud Section (Fraud Section) of the Criminal Division of the U.S. Department of Justice (DOJ), we have participated in coordinated multiagency investigations into allegations of PPP fraud perpetrated at financial institutions that are members of the Federal Home Loan Bank (FHLBank) system.

The purpose of this memorandum is to provide FHFA with a status report on these investigations. To date, as a result of our efforts and those of our partner law enforcement agencies, eight individuals have been charged by indictment or complaint with stealing or attempting to steal \$60.5 million in PPP funds. One of these individuals has pled guilty to the charges brought against him and is awaiting sentencing. These investigations have disclosed that PPP loan funds were used to purchase luxury automobiles, real estate, and a Rolex watch. Additionally, they have led to the recovery of over \$300,000 in cash, and disrupted the funding of several fraudulent loans. We continue to work with the Fraud Section of DOJ's Criminal Division and our partner federal law enforcement agencies to investigate allegations of PPP fraud with a nexus to our statutory mission.

¹ P.L. 116-136 (Mar. 27, 2020).

Background

The CARES Act, which became law on March 27, 2020,² provides emergency financial assistance through a variety of programs to millions of Americans who suffered the economic effects caused by the Coronavirus pandemic. One of these programs is the PPP.

The Paycheck Protection Program

Section 1102 of the CARES Act created the PPP.³ It authorizes \$659 billion in fully guaranteed Small Business Administration (SBA) loans, and was designed to provide small businesses⁴ with funds in the form of forgivable loans to pay up to 8 weeks of payroll costs, interest on mortgages, rent, and utilities. According to the SBA website, neither the government nor lenders will charge small businesses any fees.

To obtain a PPP loan, the authorized representative of a qualifying small business must provide a number of certifications, including that the small business:

- Was in operation on February 15, 2020;
- Had employees for whom it paid salaries and payroll taxes or paid independent contractors;
- Needs the loan to support its ongoing operations due to current economic uncertainty;
- Will use the funds to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments;
- Will provide the lender with documentation verifying the number of full-time equivalent employees on its payroll, as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the 24-week period following the loan; and
- Will not receive another loan under the PPP during the period beginning on February 15, 2020, and ending on December 31, 2020.

The SBA launched the PPP in early April 2020. By April 16, 2020, lenders had approved 1,661,000 loans totaling nearly \$342.3 billion. As of August 8, 2020, the last date on which the

² Id.

³ 15 U.S.C. Ch. 14A.

⁴ Small businesses with 500 or fewer employees—including nonprofits, veterans organizations, tribal concerns, self-employed individuals, sole proprietorships, and independent contractors—are eligible. Businesses with more than 500 employees are eligible in certain industries. 13 CFR Part 120 at p. 20812 (Apr. 20, 2020).

SBA accepted PPP applications from participating lenders, lenders had approved 5,212,128 PPP loans totaling more than \$525 billion.

OIG's Participation in a Multiagency Effort to Investigate CARES Act-Related Fraud

In April 2020, the Chief of the Fraud Section of DOJ's Criminal Division invited us to join a multiagency effort to investigate allegations of CARES Act-related fraud. It was proposed that Fraud Section attorneys would lead criminal investigations conducted by multiagency teams and, when charges were brought, work with the Office of the U.S. Attorney in the appropriate judicial district to prosecute the offenders. The goal of these investigations would be to move quickly to preserve PPP assets and deter future criminal conduct through the publication of such enforcement efforts. The Chief of the Fraud Section invited us to join this effort because of our expertise in conducting complex fraud investigations and our close working relationship with Trial Attorneys in the Fraud Section.

As you know, we undertake investigations that fit within our statutory mission. That mission includes protection of FHFA and the entities it regulates, including the FHLBank system, against fraud, waste, and abuse, contributing to the liquidity and stability of the nation's housing finance system. Your April 23, 2020, memorandum to FHLBank Presidents and Chief Executive Officers explains that PPP loans under the CARES Act may be acceptable as "collateral for advances under the 'Agency Securities' provision of the regulation..."⁵ In our view, your determination that FHLBanks would be authorized to accept PPP loans as collateral for advances⁶ provides the necessary nexus to our mission: investigating a potentially fraudulent PPP loan which is acceptable collateral, thereby protecting that FHLBank from criminal fraud.

We began work with the Fraud Section and our partner law enforcement agencies in late April 2020. We have focused our investigative efforts on alleged PPP loan fraud committed through FHLBank member institutions and which meets criteria we established to ensure a nexus between such investigations and our statutory mission. We expected our participation in these investigations would serve both specific and general deterrence purposes: the individuals arrested and prosecuted should be deterred from engaging in future similar behavior; others who may contemplate engaging in such behavior should recognize the significant likelihood of being caught; and swift investigations could disrupt the funding of PPP loans procured through fraud, or freeze fraudulently obtained PPP loan proceeds before they could be dissipated.

⁵ 12 CFR § 1266.7(a)(2)(ii) (defining "collateral" in the context of FHLBank advances).

⁶ FHFA established a series of conditions under which the FHLBanks may accept PPP loans as collateral. The conditions are focused principally on the financial condition of the member banks, and secondarily on discounts, caps, and dollar limits. Letter to FHLBank Presidents and Chief Executive Officers, at p.2 (Apr. 23, 2020) (online at: www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/PPP-Loans-as-Collateral-for-FHLBank-Advances.pdf).

Status of Investigations

We opened our first investigation into alleged PPP fraud on April 30, 2020. Twelve days later, on May 12, 2020, a criminal complaint charging an individual in Texas with making two fraudulent PPP loan applications totaling \$13 million was unsealed. In the application submitted to the first lender, the individual allegedly sought \$10 million in PPP loan proceeds by fraudulently claiming to have 250 employees and an average monthly payroll of \$4 million. In the second application, the individual allegedly sought approximately \$3 million in PPP loan proceeds by fraudulently claiming to have 264 employees and an average monthly payroll of approximately \$1.2 million. In the days preceding the individual's arrest, one of our Special Agents recovered handwritten notes from the trash outside the individual's home that appeared to reflect a strategy for investing \$3 million—the amount the individual allegedly sought from the second lender. These notes, along with bank statements also collected from the trash, formed part of the basis for the criminal complaint.

Conducting PPP Loan Fraud Investigations

We conduct our PPP loan fraud investigations using a variety of open source research tools and government databases, cross-referencing and indexing information contained within them to develop investigatory leads. We also contact victim/lenders to obtain relevant records, such as copies of the loan applications and supporting documents, the veracity of which our Special Agents attempt to verify through various means. We work to determine the legitimacy of the business for which the loan was sought and its connection to the employees identified to the lending institution. In this regard, we coordinate with federal agencies such as the Social Security Administration and the Internal Revenue Service. We also coordinate with state commissions, secretaries of state, and comptrollers offices which collect revenues and maintain employment records for businesses and their employees.

We conduct surveillance of suspected individuals and their residences and commercial buildings in anticipation of executing search and arrest warrants. When appropriate, we track suspected individuals' cyber activities and other communications, as well as the movement of funds, pursuant to subpoenas and warrants. We work closely with prosecutors from the Fraud Section, Assistant United States Attorneys, our partner law enforcement agencies, and local law enforcement personnel.

Our Special Agents develop PPP loan fraud investigations from a variety of sources. For example, employees of financial institutions have reported directly to our Special Agents potential "irregularities" in PPP loan applications before the institutions file required regulatory reports. Our Special Agents use both public and private databases to identify loans that may have been procured through fraudulent means. For example, in April 2020, an individual filed a PPP loan application certifying that he needed nearly \$1 million to pay the salaries of 51 employees who earned, on average, approximately \$90,000 annually. Through the use of the public and private databases discussed above, our Special Agents determined that the individual's purported business (a restaurant) had no employees and it reported no annual

revenue for calendar years 2016, 2017, and 2018. Upon investigating further, the Special Agents determined that address of the restaurant listed in the application was actually a P.O. Box under the control of the purported restaurant owner. That investigation resulted in the filing of a criminal complaint against the individual on July 9, 2020.⁷

In one of the investigations cited above, we learned from our review of the public and private databases we use that the PPP loan applicant certified that the funds were needed to pay the salaries of its 264 employees, and the applicant provided only one address for his business. That address turned out to be the loan applicant’s home, and no business with the applicant’s name had ever reported employing the 264 employees to relevant state agencies. That investigation resulted in the filing of a criminal complaint against the applicant on May 12, 2020.⁸

Results of OIG’s Investigative Efforts to Date

Since we began this effort with the Fraud Section in April 2020, we have opened more than a dozen PPP loan fraud investigations. As shown in Figure 1, below, these investigations have led to the filing of federal criminal charges against eight individuals for PPP loan fraud-related offenses, as of the date of this report.

Figure 1: Overview of FHFA-OIG PPP Investigations Resulting in Criminal Charges Since April 2020

Location	Date Investigation Started	Date Suspect Charged	Days From Start to Charge	Conduct Alleged in Initial Charging Document	Loan Amount Charged
Texas	4/30/20	5/12/20	12	Two attempts totaling over \$13M.	\$13,006,200
Oklahoma	4/30/20	6/2/2020	33	Two attempts totaling over \$8.9M.	\$8,944,938
Texas	5/22/20	6/22/20	31	Multiple attempts totaling over \$13.2M, of which over \$1.7M was funded.	\$13,269,598
Washington	6/4/20	7/21/20	47	Multiple attempts totaling over \$5.5M, of which nearly \$1.8M was funded.	\$5,533,182
Texas	5/25/20	6/18/20	24	One attempt totaling over \$1.7M, and one funded loan for nearly \$1.6M.	\$3,346,532

⁷ U.S. Department of Justice Press Release, Texas Man Charged with COVID Relief Fraud (July 14, 2020) (online at: www.fhfa.ig.gov/sites/default/files/Press%20Release%20Texas%20Man%20Charged%20with%20COVID%20Relief%20Fraud.pdf).

⁸ U.S. Department of Justice Press Release, Engineer Charged in Texas with COVID-Relief Fraud (May 23, 2020) (online at: www.fhfa.ig.gov/sites/default/files/Press%20Release%20Engineer%20Charged%20in%20Texas%20with%20COVID-Relief%20Fraud.pdf).

Location	Date Investigation Started	Date Suspect Charged	Days From Start to Charge	Conduct Alleged in Initial Charging Document	Loan Amount Charged
Texas	6/15/20	7/9/20	24	Two attempts, the first, totaling over \$956K was funded, while the second loan totaling over \$481K was partially funded (\$160K).	\$1,438,125
California	7/8/20	7/15/20	7	Multiple attempts totaling nearly \$10.4M, of which over \$8.5M was funded.	\$10,394,483
Texas	7/7/20	8/3/20	27	Multiple attempts totaling over \$4.6M, of which nearly \$1.7M was funded.	\$4,618,110

Source: Charging documents filed in U.S. District Courts and FHFA-OIG calculations.

On average, criminal charges have been filed against those allegedly engaged in PPP loan fraud within 26 days after the start of an OIG investigation. See Figure 1, above.

Of the eight individuals arrested and charged, one has pled guilty and is awaiting sentencing. These investigations have disclosed that PPP loan funds were used to purchase luxury automobiles, real estate, and a Rolex watch. They have also disrupted the funding of several fraudulent loans. While searching the residence of an individual who is alleged to have fraudulently obtained almost \$9 million in PPP loan funds, over \$300,000 in cash was seized and a cache of illegal drugs was confiscated.

To date, these investigations have identified \$60.5 million in PPP funds allegedly sought or obtained through fraud in connection with the eight individuals against whom federal criminal charges have been filed. As U.S. Attorney Joseph D. Brown of the Eastern District of Texas observed, “[t]hose who submit these applications for loans or other assistance need to understand that there are people checking on the representations made, and those representations are made under oath and subject to the penalties of perjury. Federal agencies are watching for fraud, and people who lie and try to cheat the system are going to be caught and prosecuted.”

Conclusion

Under current law, the PPP authorized up to \$659 billion for small businesses to pay up to 8 weeks of payroll costs, including benefits, and to pay interest on mortgages, rent, and utilities. At the invitation of the Chief of the Fraud Section of DOJ’s Criminal Division, we are participating in a multiagency effort to investigate allegations of PPP-related loan fraud at financial institutions that are members of the FHLBank system. To date, our Special Agents, working with our law enforcement partners, have identified \$60.5 million in PPP funds allegedly sought or obtained through fraud in connection with eight individuals against whom federal criminal charges have been filed. We continue to open and pursue PPP loan fraud investigations with a nexus to our statutory mission.