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United States Senate
COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP
WASHINGTON, DC 20510-6350
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July 7, 2020

The Honorable William Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Dear Attorney General Barr:

I write to request your immediate attention to the Planned Parenthood Federation of America's facially unlawful participation in the Paycheck Protection Program ("the program").

In general, the program limits eligibility for small business assistance to entities with 500 or fewer employees. Rules enacted by the *Coronavirus Aid, Relief, and Economic Security* ("CARES") Act (P.L. 116-36) and prior SBA regulation establish that an entity is considered with its affiliates for a determination of eligibility. SBA affiliation rules generally consider entities to be affiliated "when one controls or has the power to control the other, or a third party or parties controls or has *the* power to control both."¹ The program requires applicants to attest their affiliation and establishes that borrowers bear liability for wrongful attestation.

Planned Parenthood's aggregate employee size is about 16,000 employees nationwide.² Planned Parenthood refers to its affiliates as "local offices" despite being separately incorporated.³ Planned Parenthood's bylaws describe an affiliate structure in which its management can uniformly and unilaterally impose policies and practices on its affiliates.⁴

¹ 13 C.F.R. 121.103(f)

² Data obtained on March 25, 2020 by Congressional Research Service from the subscription business database, Mergent Intellect, by using the search term "Planned Parenthood" and summing the columns "Employees this site" (16,389) or "Employees All Sites" (15,911). PPFA reported employing 676 individuals on its 2017 tax return: https://www.plannedparenthood.org/uploads/filer_public/3b/75/3b757e47-db59-4cd7-b9a9-e17bc6c75280/ppfa_fy18_990_public_disclosure.pdf.

³ <https://www.plannedparenthood.org/about-us/contact-us>

⁴ PPFA's Bylaws, as amended and restated on March 29, 2008, attached to PPFA's 2007 tax return: https://projects.propublica.org/nonprofits/display_990/131644147/2009_05_EO%2F13-1644147_990_200806
Included on PPFA's registration with the California Registry of Charitable Trusts:
http://rct.doj.ca.gov/Verification/Web/Download.aspx?saveas=Founding+Documents.pdf&document_id=09027b8f80004bd8

Despite this structure and prior admission by a political arm of Planned Parenthood that its affiliates were not eligible for assistance,⁵ it was reported that 37 affiliates of Planned Parenthood applied for, and received a total of \$80 million in program loans.

On May 19, 2020 the Small Business Administration wrote to Planned Parenthood affiliates receiving program loans to request the return of those loans based on the SBA's preliminary conclusion that Planned Parenthood affiliates were ineligible under applicable affiliation rules and size standards. The SBA wrote further that, based upon the circumstances, it may refer Planned Parenthood for "appropriate civil or criminal penalties."

However, loan data disclosed to the public yesterday by the Small Business Administration confirm that a number of Planned Parenthood Federation of America affiliates received program loans. This latest disclosure once again raises concerns that these affiliates are unlawfully participating in the program.

I urge you to immediately review these loans to ensure the law is being followed and enforced. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Rubio", is centered on the page.

Marco Rubio
Chairman

⁵ <https://www.plannedparenthoodaction.org/pressroom/senate-covid-19-response-package-leaves-much-to-be-done-for-our-families-and-public-health-response>