
Weekly COVID-19 Oversight & Enforcement Report

May 6, 2021

A. Congress

1. The Congressional Oversight Commission released its 12th [report](#) on April 30. The report focuses on a \$700 million loan to trucking company Yellow Corporation (formerly known as YRC Worldwide) under the CARES Act loan program “for businesses critical to maintaining national security.” According to the report, the Commission had “concerns regarding the Treasury’s process for certifying Yellow as ‘critical to maintaining national security’ and questioned whether Yellow’s precarious financial position at the time of the loan exposed taxpayers to a significant risk of loss.” After conducting an in-depth review, which is summarized in the report, “the Commission continues to believe that Treasury and DOD made missteps in deeming Yellow as critical to national security and executing the loan.”
2. On April 28, Representatives Robert C. Scott (D-VA), Joe Courtney (D-CT), and Alma Adams (D-NC) [introduced](#) the Protecting America’s Workers Act. The bill would “strengthen and modernize” OSHA by: increasing penalties for OSHA violations, expanding OSHA coverage to more workers, requiring employers to take timely action to correct workplace hazards, enhancing whistleblower protections, and expanding illness and injury record-keeping requirements for employers. In introducing the bill, the members said “new challenges and crises like the COVID-19 pandemic have permanently changed the workplace, making an update all the more necessary.”

B. Executive Agencies

1. A Massachusetts man was criminally [charged](#) on Tuesday for filing a fraudulent PPP loan application on behalf of his restaurant, Rasta Pasta Pizzeria. The application allegedly contained false employee and payroll information, as well as a falsified official tax form. After receiving a loan of over \$660,000, the man sold the restaurant and used the funds to purchase an alpaca farm in Vermont, two vehicles, and weekly airtime for a cryptocurrency-themed radio show.
2. OSHA has [demonstrated](#) a new focus on the restaurant industry by including both full-service and limited-service restaurants on OSHA’s target list of COVID-related inspections. This means OSHA can show up unannounced and declare it will be conducting a COVID-19 inspection of a restaurant if that establishment is on the target list generated by the agency.
3. On April 29, UPS [urged](#) a California federal judge to toss a former employee’s proposed class action accusing it of systematically endangering workers’ health and safety by leaving them vulnerable to exposure to COVID-19, arguing that the ex-employee’s claims belong before Cal/OSHA, not a judge. But Judge Alsup expressed concern that referring the case to Cal/OSHA

might mean that the employee wouldn't be able to recover damages for the emotional distress she allegedly suffered as a result of UPS's purportedly lax safety protections. "You're saying, 'Go see OSHA,' but OSHA's not in a position to give money out," Judge Alsup said.

4. On May 4, Oregon OSHA [issued](#) an updated COVID-19 worker protection standard, replacing a temporary measure the state adopted six months ago.

C. State Attorneys General

1. Louisiana AG Jeff Landry, Mississippi AG Lynn Fitch, and Texas AG Ken Paxton [sued](#) the Treasury Department, alleging that the American Rescue Plan violates the Constitution's Spending Clause and Tenth Amendment by prohibiting states from using federal pandemic recovery funds to cut taxes. In addition to a finding that this requirement is unconstitutional, the states seek an injunction preventing the Treasury Secretary from exercising her power under the Act to recoup any federal funds that a state uses to directly or indirectly offset revenue loss from a tax reduction.
2. Massachusetts AG Maura Healey sent a [letter](#) to major pharmacy chains and other retailers regarding their data collection and use practices related to consumers who sign up to receive COVID-19 vaccines they administer. The letter asks the companies for information about a variety of issues, including whether consumers are required to create accounts in order to schedule a vaccine appointment and whether consumers can opt out of data collection.

D. Special Inspector General for Pandemic Recovery (SIGPR)

1. On April 29, the Department of Justice's Office of Legal Counsel released a [legal opinion](#) stripping SIGPR of its PPP oversight authority.
2. On April 30, SIGPR released its [quarterly report](#), responding to the prior day's legal opinion. The report notes that, a year after the creation of the position, "SIGPR's jurisdiction has come to be viewed narrowly, not expansively, and [Brian Miller's] only conclusion is that 'things are not working well.' One of SIGPR's core values is fidelity to law, and SIGPR will faithfully execute its mission as it is now defined by OLC. The result, however, is reduced oversight over the Payroll Support Program and the Coronavirus Relief Fund, which continue in expanded form under new legislation." Miller calls on Congress to decide whether to intervene to provide SIGPR more robust oversight power. Despite these turf battles, the report cites "35 new investigative leads for referral to law enforcement partners relating to suspected fraud under various CARES Act programs."

E. Pandemic Recovery Accountability Committee (PRAC)

1. On April 29, PRAC released its [second Semiannual Report to Congress](#), covering the period between October 1, 2020, and March 31, 2021. The report recaps PRAC's goals, accomplishments, ongoing projects, and insights from reports. PRAC's highlights during that period include publishing reports on gaps in pandemic spending and top pandemic challenges for federal agencies, and a testing report for six federal health care programs.
2. In response to the OLC opinion stripping SIGPR of its PPP oversight authority (*see* SIGPR update), PRAC Chair Michael Horowitz on May 1 issued a [statement](#) stating that the OLC opinion does not affect or limit the Treasury OIG's continuing oversight of Treasury programs or affect or limit PRAC's authority to conduct oversight of pandemic-related spending. Horowitz's statement also noted that member IGs of the committee have published almost 200 oversight reports on the pandemic, and their investigations have led to criminal charges being filed in over 300 pandemic-related cases with over 84 convictions.

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