

May 27, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Charles E. Schumer
Minority Leader
U.S. Senate
Washington, D.C. 20510

Dear Speaker Pelosi, Minority Leader McCarthy, Majority Leader McConnell, and Minority Leader Schumer:

We write on behalf of the undersigned organizations to urge you to include conditions in the next COVID-19 response legislation that require all organizations that receive federal financial support to retain workers, preserve workers' rights, and institute policies and procedures to protect workers from exposure to the virus. These conditions must ensure that government money does not enrich corporate insiders and Wall Street speculators, while exacerbating inequality and leaving human suffering unaddressed. Setting clear parameters will better position those tasked with overseeing the distribution of Federal financial assistance to focus their work on ensuring the money is used to fulfill Congressional intent and to limit waste, fraud and abuse.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), signed into law on March 27, provided \$2 trillion in government spending to mitigate the economic fallout of the pandemic. The Department of Treasury and the Federal Reserve received \$450 billion under the CARES Act to capitalize lending facilities that will support up to \$5 trillion in loans to American businesses and government entities. According to the Department of Treasury, “[t]he CARES Act provides fast and direct economic assistance for American workers, families, and small businesses, and preserve jobs for our American industries.”¹

Despite the fact that job preservation is a critical goal of the CARES Act, the Act does not require the Treasury and the Federal Reserve to ensure that the money they distribute will be used to support jobs. Allowing this gap to persist threatens to undermine the central purposes of the Act, and to increase the economic peril facing families, communities, and our nation as a whole. More than 20 million American workers lost their jobs in April alone², and the numbers have only continued to grow.

Congress clearly intended to encourage businesses that receive financial support under the CARES Act programs to preserve jobs. Title IV, which allocates \$450 billion for the Treasury and the Federal Reserve to provide financial support for businesses, includes conditions related to job preservation and protection of workers' rights for many of the programs it creates. But, for every condition in Title IV aimed at protecting workers, there is a loophole that allows for those conditions to be ignored.

¹ <https://home.treasury.gov/policy-issues/cares>

² <https://www.bls.gov/news.release/pdf/empsit.pdf>

The CARES Act, for example, provides for the establishment by the Treasury of a lending facility for mid-size companies that would make eligibility contingent on a commitment from those companies to adhere to conditions related to worker retention and respect for workers' rights. Then, however, the Act also grants the Federal Reserve authority to develop a facility that serves these same businesses but does not require the application of the conditions that would have been required if that facility were established by the Treasury.

The Federal Reserve has now published term sheets for multiple lending facilities that will provide financial support for business during the crisis but none of them require that businesses do their part to preserve jobs, safeguard worker health, and prevent the spread of COVID-19. If the trillions of dollars being distributed by the Federal Reserve under the CARES Act is to accomplish Congress's goals in passing the Act, future legislation must require businesses that receive that money from the Treasury or the Federal Reserve as part of the pandemic response to adhere to strict conditions including:

- Job preservation and/or rehiring;
- Prohibition on dividends, stock buybacks and excessive executive compensation;
- No outsourcing or offshoring of jobs;
- No abrogation of collective bargaining agreements;
- Neutrality in union organizing efforts;
- Implementation of policies and procedures to ensure compliance with Centers for Disease Control and Prevention-approved safety and protective measures for all employees and provide paid sick and family leave days; and
- Companies not currently doing so must file ongoing financial disclosures with the Securities and Exchange Commission, beginning immediately.

In addition, if private equity-owned companies receive this financial support, they should be required to:

- Agree not to charge dividends, monitoring fees, or other forms of extraction from its portfolio companies, as this will transfer federal funds to the private equity owner instead of workers and customers of portfolio firms; and
- Accept joint liability with the portfolio company for obligations of the portfolio company, including the obligation to pay back federal assistance.

In the absence of such conditions, private equity funds may claim that any proceeds transferred from the borrowing firm up to the private equity owner through fees or dividends are not available to repay the loan, just as they now claim that private equity owners are not liable for any claims involving bankruptcy of their portfolio firms. This would in effect allow private equity firms to loot public funds

These conditions are essential to ensure that the money distributed under the CARES Act achieves Congress's intent. Their application will also mitigate the economic and public health impact of the virus and help American business to be in a position to return quickly to productivity after the virus is under control. Businesses that retain workers through the crisis will avoid the expense and delay associated with hiring and training workers when they're ready, once again, to open for business.

Finally, the CARES Act has put American government agencies in the unprecedented position of having to quickly distribute trillions of dollars to the private sector. This process, even where it is most in the public interest, also creates opportunities for waste, fraud and abuse. Multiple oversight bodies have been established to oversee implementation of the CARES Act. Establishing clear principles across the board

that define how Congress expects the businesses that receive support under the Act to behave will help to guide the work of the overseers.

The COVID-19 pandemic is unprecedented. We commend Congress for acting quickly to support the economy during this crisis. In order to ensure that the trillions of dollars the government is distributing in response to the virus work to mitigate unemployment, protect workers, and limit the spread of the disease, recipients of Federal financial support must be required to act to achieve these objectives. In the next COVID response legislation, Congress must include clear conditions for all companies that receive Federal financial support that require worker retention and protection as well as limitations that ensure that government money will not be used to profit corporate insiders and Wall Street speculators.

Sincerely,

350 Silicon Valley

350NH

AFL-CIO

The Alliance for Appalachia

American Family Voices

American Federation of State, County and Municipal Employees (AFSCME)

American Federation of Teachers (AFT)

American Postal Workers Union, AFL-CIO

Americans for Financial Reform

Center for Popular Democracy

Communications Workers of America (CWA)

Concerned Citizens

Consumer Action

Consumer Federation of America

Democratic Treasurers Association

Earth Action, Inc.

Earthworks

Good Jobs First

Institute for Agriculture and Trade Policy

Institute for Policy Studies, Global Economy Project

Interfaith Center on Corporate Responsibility

International Brotherhood of Teamsters

International Federation of Professional & Technical Engineers (IFPTE)

Livelihoods Knowledge Exchange Network (LiKEN)

Main Street Alliance

MomsRising

National Employment Law Project

Oil Change International

Omidyar Network

The One Less Foundation

Oxfam America

Partnership for Working Families

Patriotic Millionaires

People's Action

Private Equity Stakeholder Project

Public Citizen

Revolving Door Project

SEIU

Society of Professional Engineering Employees in Aerospace, IFPTE Local 2001

Strong Economy For All Coalition

Take on Wall Street

UNITE-HERE

United for Respect

Way to Win Donor Network

Women's Earth and Climate Action Network (WECAN)

Working Families Party