
Weekly COVID-19 Oversight & Enforcement Report

March 25, 2021

A. Congress

1. As part of an ongoing investigation into a “failed” \$35 million contract to provide six million N95 masks to the Department of Veterans Affairs (VA), House Select Subcommittee on the Coronavirus Crisis Chair James Clyburn (D-SC) sent a [letter](#) to counsel for the CEO of Federal Government Experts (FGE) on March 17. FGE’s contract with the VA was cancelled after the company failed to deliver N95 masks. In February, the CEO pleaded guilty to “making false statements, wire fraud, and theft of government funds” in procurement of the VA contract and other interactions with the federal government. Chair Clyburn wrote, “These actions raise serious concerns about why FGE received these contracts and whether contracts for critical medical supplies awarded to inexperienced and unreliable suppliers like FGE hampered the federal government’s coronavirus response.”
2. The House Select Subcommittee on the Coronavirus Crisis will hold a [hearing](#) on March 25 on “Rooting Out Fraud in Small Business Relief Programs.” This hearing is part of the Select Subcommittee’s ongoing investigation into the administration of the PPP loan program. The hearing will “examine how the Trump Administration’s mismanagement of small business relief programs led to an unprecedented \$85 billion in potentially fraudulent loans.” The Select Subcommittee will also discuss parallel investigations by the Subcommittee and the SBA Office of Inspector General into \$692 million in duplicate PPP loans. SBA Inspector General Mike Ware, Pandemic Response Accountability Committee Chair (and DOJ Inspector General) Michael Horowitz, and GAO Director of Financial Markets and Community Investments William Shear will testify before the Subcommittee.
3. On a similar topic, the Senate Committee on Small Business and Entrepreneurship held a [hearing](#) entitled “Oversight of SBA’s COVID-19 Relief Programs” on March 24.
4. Sen. Elizabeth Warren (D-MA) sent a [letter](#) to Genesis Healthcare, Inc., a for-profit nursing home company, on March 16 following up on an inquiry into executive compensation. In January 2021, Sen. Warren asked Genesis for “an explanation for the unseemly decision by the company and its Board to approve lavish bonuses for its top executive in the midst of an economic crisis and public health tragedy that killed over 2,800 residents at Genesis nursing home facilities.” Genesis revealed that its former CEO, George Hager, had received over \$8 million in compensation since January 2020.
5. On March 17, Senators Bob Casey (D-PA) and Pat Toomey (R-PA) introduced the [Nursing Home Reform Modernization Act of 2021](#). The legislation would increase oversight, inspections, and educational resources for the “more than 500 facilities nationwide that consistently fail to meet

federal safety and care requirements.” It would also establish an Advisory Council to guide HHS in creating performance rankings for nursing homes.

B. Executive Agencies

1. Last week, DOJ’s Fraud Section posted a [position](#) for a two-year detail for a full-time prosecutor within the Major Frauds and Market Integrity Unit dedicated to CARES Act Fraud (“CAF”). The new hire is expected to carry out the typical duties of a Fraud Section Trial Attorney as well as to develop “expertise in detecting and prosecuting fraud in SBA loan programs, and in SBA loan program rules and regulations; and in bank fraud, wire fraud, wire fraud affecting a financial institution, money laundering, false statements, obstruction, and conspiracy offenses.”
2. A New Jersey man has been [charged](#) with bank fraud, false representation of a social security number, and money laundering stemming from allegations that he submitted 10 fraudulent PPP loan applications to several lenders on behalf of 10 different businesses. Based on these representations, the defendant received approximately \$1.9 million in PPP funding.
3. [OSHA was directed](#) under an [executive order](#) to promulgate an Emergency Temporary Standard (ETS) to address COVID-19 no later than March 15, 2021. (WilmerHale’s alert on that order is available [here](#).) It has yet to do so, and the reasons for the delay are unclear. DOL representatives have indicated that OSHA has provided the White House Office of Information and Regulatory Affairs a draft ETS for review. Such a review normally could be completed, and the standard published, within two weeks; the standard would then become effective immediately. OSHA has not published the text of the ETS, but there are clues to its possible contents. For example, the agency published a 12-page [Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace](#) on January 29, 2021, which expands on earlier guidance related to COVID-19 preventive measures and addresses some new topics, such as workplace testing programs, employee vaccinations, and sick leave policies. (See WilmerHale’s earlier client alert on that guidance [here](#).)

C. State Attorneys General

No updates this week.

D. Special Inspector General for Pandemic Recovery (SIGPR)

No updates this week.

E. Pandemic Recovery Accountability Committee (PRAC)

No updates this week.