

April 2020

FACTSHEET

Anti-Corruption Measures in Emergency Spending Can Save Lives

In times of a natural disaster or shared tragedy, including today's coronavirus pandemic, relief efforts need to move quickly. Lives and livelihoods hang in the balance. However, funds are only effective if they go to the intended people and purposes. Absent strong accountability and oversight measures, U.S. taxpayers may foot the bill for medical supplies that never arrive, and funds meant to serve as lifelines to struggling small businesses may be diverted.

Numerous organizations and entities that have examined emergency relief efforts confirm that fraud and corruption pose substantial threats to the efficacy of emergency aid, and **we are already seeing alarming reports of possible fraud and corruption related to CARES Act**

funding. For example, according to recent reports,¹ a \$55 million contract for N95 masks went to a company in bankruptcy with no current employees and no history of manufacturing or supplying masks. The company may have engaged in price-gouging to boot, charging the U.S. government nearly eight times as much as other, more established suppliers such as 3M and Honeywell.

...a \$55 million contract for N95 masks went to a company in bankruptcy with no current employees and no history of manufacturing or supplying masks. The company may have engaged in price-gouging to boot...

This factsheet summarizes recent examples of similar threats, and proposes anti-corruption measures that, if included in future coronavirus response packages, could reduce or eliminate them.

Fraud & Corruption in Hurricane Relief: Hurricanes Katrina and Rita vs. Hurricane Sandy

- In 2006, a Government Accountability Office (GAO) study exposed gaps in the anti-fraud measures employed by the Federal Emergency Management Agency (FEMA) during the Hurricanes Katrina and Rita relief efforts. As a result, corruption and fraud, such as payments to ineligible recipients or duplications of assistance, made up an estimated 10-22 percent of total payments—resulting in losses as high as \$1.4 billion out of the \$6.3 billion spent.²
- Contrast this with the response to Hurricane Sandy, where several anti-corruption safeguards were incorporated into relief efforts. As a result, the same GAO review put potential losses to fraud and corruption after Hurricane Sandy at a much lower rate of 2.7 percent of total spending.
- Writ large, the relationship between relief funding and corruption has been affirmed in recent academic literature. In their 2008 report *Weathering Corruption*, researchers at George Mason University and the Citadel examined the effect of FEMA-provided disaster relief on public

¹ See, e.g., The Washington Post, "In coronavirus scramble for N95 masks, Trump administration pays premium to third-party vendors," April 15, 2020, available at https://www.washingtonpost.com/national/coronavirus-trump-masks-contracts-prices/2020/04/15/9c186276-7f20-11ea-8de7-9fdff6d5d83e_story.html.

² See Government Accountability Office, "FEMA Has Improved Disaster Aid Verification but Could Act to Further Limit Improper Assistance" (December 2014), available at <https://www.gao.gov/assets/670/667469.pdf>.

corruption, concluding that “Each additional \$100 per capita in FEMA relief increases the average state's corruption nearly 102 percent.”³

- If similar to the losses experienced after Hurricane Katrina, CARES Act losses could amount to hundreds of billions of dollars meant for protecting public health and assisting small businesses.

Progress & Recommendations

Fortunately, the CARES Act included several important anti-corruption measures.⁴ A Special Inspector General for Pandemic Recovery, a bipartisan congressional oversight commission, and a Pandemic Response Accountability Committee comprised of inspectors general have all been authorized to oversee various aspects of the response packages, including oversight of contracts, grants, awards, tax waivers, loans, and loan guarantees. In addition, the Act included provisions that guard against conflicts of interest in government decision-making and establish reporting requirements for fund recipients. While Congress must ensure through subsequent legislation that the Special Inspector General is protected from removal without cause and subject to a term limit, these measures have collectively established a framework for meaningful oversight.

⇒ Recommendation: Know who's receiving the money.

- With so much at stake, Congress should require beneficial ownership information for every company, and their subcontractors, with whom the U.S. government enters into a contract.
- To do this, Congress can easily adapt language included in the National Defense Authorization Act for FY2018.⁵

⇒ Recommendation: Know more about how that money is being used.

- The American public should have access to more information relating to how their money is being spent. Under the Freedom of Information Act (FOIA), many records relating to the federal government's response to the pandemic can be requested by the public. This access stops, however, if the government contracts with a private company to provide good or services in its place.
- Future relief packages should mandate that records held by companies that have received large contracts (those valued above \$150,000) that are related to those contracts be subject to FOIA. The texts of these contracts should also be made available to the public automatically. To help limit the administrative burden of these new requirements, the Pandemic Response Accountability Committee could add to its congressionally mandated public website a database of these contracts and of completed and pending FOIA requests. Congress could also provide impacted companies with additional resources to help facilitate such disclosures.

⇒ Recommendation: Know when corrupt actors are exploiting the crisis.

- Essential workers—including those who are on the front lines of the coronavirus crisis or who have been directly impacted by it—are uniquely positioned to learn of and report corruption. But the U.S.'s current patchwork of whistleblower protection laws leaves too many of these workers exposed to retaliation if they blow the whistle on wrongdoing.
- Congress should extend model whistleblower protections to all essential workers: If an essential worker encounters evidence of waste, fraud, abuse, or similar wrongdoing related to the coronavirus response in the course of their professional activities, and blows the whistle on that wrongdoing, federal law should protect them from retaliation, provide them with adequate due process, and guarantee their right to remain anonymous. To encourage quality reporting, Congress should provide funds for free or reduced legal assistance for whistleblowers, and should ensure that if a whistleblower's report leads to a successful recovery action, they receive a financial award that's proportionate to the amount recovered.

For more information, please contact Scott Greytak, Advocacy Director for Transparency International's U.S. Office, at sgreytak@transparency.org.

³ Peter T. Leeson & Russell S. Sobel, “Weathering Corruption,” *Journal of Law and Economics*, Vol. 51 (2008), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1009909.

⁴ See generally, Project on Government Oversight, “Oversight Provisions in the CARES Act” (April 3, 2020), available at https://docs.pogo.org/resource/2019/Oversight-Provisions-in-the-CARES-Act_2020-04-03.pdf?mtime=20200403114643.

⁵ See H.R. 2810; NDAA 2018, Pub. L. 115–91.