

WORKPLACE WARNINGS: The Need for a New and Improved Paycheck Protection Program

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DECEMBER 2020

Workplace Warnings: The Need for a New and Improved Paycheck Protection Program

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December 2020

Good Jobs First

202-232-1616

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EXECUTIVE SUMMARY

More than 190,000 American workers have been laid off since March across 1,900 companies that received loans through the Paycheck Protection Program (PPP). The companies intended to support 251,000 workers – instead, they laid off 76 percent of them. About one in eight of those workers lost their jobs permanently.

Among the affected workers in 41 states and the District of Columbia, virtually none got 60 days' advance notice of their layoffs and more than two-thirds got no advance warning at all. Indeed, four out of five of the PPP loans were approved after layoffs had already occurred. For transactions with sufficient disclosure, loans were approved an average of 32 days *after* WARN notices were issued.

These discoveries come from Good Jobs First's national analysis of Worker Adjustment and Retraining Notification (WARN) Act notices. The WARN Act requires certain employers to provide advance notice of layoffs to workers and the state. At the time of analysis, only PPP loans of \$150,000 or above had been disclosed, so our analysis matches only those loan recipients with WARN notices.

Although smaller firms are less likely to give WARN notices, we speculate that the additional 4.5 million loans (for less than \$150,000), which the

Small Business Administration (SBA) belatedly disclosed on December 1, 2020 would yield more PPP-WARN matches.

Furthermore, because the WARN Act does not cover all businesses and layoffs, the number of PPP loan recipients that laid off workers is certainly far more widespread than even the most comprehensive WARN analysis can estimate.

Through our investigation, we conservatively identified 1,892 businesses that both received a PPP loan of \$150,000 or more and filed a WARN Act notice since the beginning of the pandemic. In total, these layoffs affected 190,917 jobs across 41 states and the District of Columbia. The corresponding PPP loans for these businesses amount to more than \$3.6 billion – an estimated \$1.9 million per business.ⁱ

These job losses raise serious questions about the success of the PPP, which was specifically designed to keep workers on payroll despite substantial

ⁱ At the time of analysis, PPP loan amounts were disclosed in ranges. The midpoint of each range is used in our calculations.

declines in business revenue caused by the COVID-19 pandemic.

Of these employment losses, more than 72 percent (138,230) were classified as layoffs, 21 percent (40,275) were tied to business closures, and the remaining 8 percent, (14,541) were uncategorized. For notices that indicate whether the employment loss is temporary or permanent, 347 notices – which covered almost 31,000 jobs – were explicitly specified as a permanent.

The timing of WARN notice filings, layoff start dates, and PPP loan approval dates also raise concerns about how effective the PPP was in saving jobs. Although most WARN Act notices were filed in March and April, the overwhelming majority of layoffs took place in March alone, meaning that many employers laid off workers *before issuing any WARN Act notice*. Specifically, 129,466 workers – or 68 percent of the dislocated workers – received no advance warning of their dismissal. Further concerning is that of the loans with approval dates, 80 percent were approved after layoffs occurred.

Each PPP-WARN overlap identified in this report represents a case in which an employer may failed to meet its promise of job retention; however, our findings are not a blanket criticism of all the 1,900 companies, as the specific circumstances surrounding each layoff is unknown. Instead, our findings bring to light flaws in the PPP that allowed these layoffs to occur, namely: delayed loan approvals, insufficient loan amounts, and overly generous loan forgiveness provisions.

The recent spikes in COVID-19 cases and threat of more lockdowns has reignited stimulus talks and, more specifically, renewed interest in extending or even expanding the PPP. If the PPP is reauthorized, these major flaws will need to be addressed to guarantee high rates of compliance and job retention.

Based on our observations, we propose four modifications to correct these weaknesses in any extension of PPP by Congress:

- Businesses should be given more sizeable loans for longer-term payroll support.
- Loan forgiveness requirements should be tightened to encourage job retention.
- Companies with regulatory penalties for misconduct such as wage theft or defrauding the federal government should only be offered less-favorable loan terms.
- The SBA should implement layoff monitoring procedures to track job retention throughout the duration of the PPP.

Background: Federal Response to the COVID-19 Economic Crisis

On February 29, 2020, the United States recorded its first coronavirus-related death – a man in his 50s from Washington state.¹ That same day, the state declared a state of emergency, and within 20 days, every state had followed suit. By April 7, almost every state had imposed a stay-at-home order, placing unprecedented limits on travel and in-person gatherings and forcing non-essential businesses to close.^{2 3 4}

The economic effects of these lockdowns were widespread and severe. According to Yelp, approximately 180,000 businesses that were open on March 1 had been closed by April 15.⁵ From March to April, the unemployment rate increased by more than 10 percentage points – the largest one-month increase ever recorded – to 14.7 percent – the highest post-war unemployment rate ever recorded.⁶ The number of individuals on temporary layoff had increased ten-fold and the number of individuals who had permanently lost their jobs had quadrupled. Between March 14 and March 21, the number of individuals filing initial claims for unemployment benefits increased by over 1,000 percent and the last week of March would break the record for the greatest number of filings in a single week at over 6.6 initial claims.^{7 8}

With 23.1 million Americans out of work, an estimated 5.6 million suddenly without health insurance, and state unemployment insurance agencies buckling under the weight of the demand, the pressure was on the federal government to save the economy from total collapse.^{9 10}

The CARES Act

To respond to the growing health crisis and its impending economic fallout, Congress passed four pieces of legislation, allocating more than \$1.4 trillion to government agencies, health care providers, small businesses, workers, and entire industries.

On March 27, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act),¹¹ the largest and most notable of Congress' coronavirus stimulus packages, was signed into law. Among the many allocations in the CARES Act was \$342 billion for the Paycheck Protection Program (PPP), which was intended to support small businesses impacted by the pandemic.

The PPP reflected Congress' desire to reduce the strain on unemployment insurance programs and allow as many workers as possible to retain employer-sponsored benefits – especially health insurance coverage.

Congress hoped that the PPP would, through forgivable payroll loans, encourage businesses to retain or rehire workers despite significant lockdown-induced revenue losses.

The Paycheck Protection Program

The PPP was designed to support small businesses impacted by the COVID-19 pandemic through low-interest loans which carry generous loan forgiveness provisions if funds are mainly used to maintain payrolls. The Program opened to applicants on April 3 and offered loans amounting to up to 2.5 months' worth of payroll costs, including benefits, with a ceiling of \$10 million. The loans are funded by the Small Business Administration (SBA) and processed by private banks and non-profit lending institutions.

To qualify for loan forgiveness at maturation, at least 60 percent of the loan must have been spent on payroll. The remaining 40 percent may be used to cover rent, utilities, and interest on debt obligations, such as mortgages. If a business knowingly uses funds for unauthorized purposes (i.e. expenses not related to payroll or business operations), it will be subject to fraud charges.¹²

Generally, only businesses with fewer than 500 workers or businesses that qualified as a small business under the SBA's industry-specific size standards were eligible for PPP loans.

The Program was also open to non-profit corporations, Tribal businesses and organizations, independent contractors, and self-employed individuals. Businesses could only receive one loan from the Program.

By April 16, the SBA had issued over 1.6 million loans and depleted its entire \$342 billion allocation.¹³ On April 24th, Congress appropriated to the Program an additional \$310 million.

By the end, the SBA approved 5.2 million loans amounting to \$525 billion. The average loan size was approximately \$101,000 and more than 87 percent of the loans were under \$150,000.¹⁴ Loans of \$150,000 and above account for 12 percent of all approved transactions but over 70 percent of all loan amounts.¹⁵

Endless Rule Changes

It did not take long for the public to learn that not all approved loans were going to businesses that fit SBA size criteria for small businesses. SEC filings revealed that a substantial number of publicly traded companies, often through subsidiaries, received PPP loans.¹⁶ After these early controversies emerged, the SBA began issuing eligibility rule changes to prevent other large corporations from accessing PPP funds.

The first major rule clarifications came with "safe harbor" provisions that allowed businesses to return PPP loans in excess of \$2 million without penalties if the clarifications indicated they were not, in fact, eligible for a loan.¹⁷

Case Study: How Corporate Structuring Frustrates Program Goals

Despite its relative anonymity and veiled relationships with cosmetics distributors, Spatz Labs has been leading the cosmetics industry in R &D and manufacturing since it opened in the 1950s.

Spatz Labs has a complicated ownership structure. Under its corporate umbrella, it houses SEED Beauty, Beta Beauty, and ColourPop. The latter has annual sales estimated in excess of \$70 million and product rollouts that often sell out within hours of release. On paper, they are all distinct legal entities but functionally are all owned by Spatz Labs and run by the same management team. The Spatz Labs' incubator, SEED Beauty, also has significant research, design, and manufacturing relationships with Kylie Cosmetics and Kim Kardashian-West's line KKW, each of which is valued at \$1 billion. In 2017 alone, Spatz Labs' contract with Kylie Cosmetics brought in an estimated \$180 million in revenue.[i] Spatz Labs also has manufacturing relationships with an undisclosed number of major cosmetics brands. Notably, in 2015 Spatz reportedly produced \$28 million in product for L'Oreal.

In early April 2020, Spatz Labs, ColourPop, and Beta Beauty received three separate PPP loans of \$1.2 million, \$4.6 million, and \$860,000, respectively, for a total of \$6.4 million in loans given to Spatz companies. Meanwhile, Spatz, ColourPop, and Beta Beauty laid off a combined 900 workers – twice as many workers as they said they intended to retain with their PPP funds. Of these 900 layoffs, 100 were permanent.

PPP rules state that borrowers are only entitled to one loan, however, company franchisees and subsidiaries can also receive their own PPP loan. The only requirement is that franchisees and subsidiaries include employees at all affiliate companies in their headcount to determine eligibility, but numerous companies have been documented breaking these rules.[i]

This fragmented approach to granting PPP loans may allow companies to artificially make themselves look smaller to potentially skirt eligibility rules and receive multiple PPP loans. Because of the sheer number of PPP loans, it may never be possible to identify all the businesses that have found creative methods for obtaining multiple PPP loans.

This fragmented approach to obtaining loans also inflates the overall number of businesses that were apparently assisted by the Program: each loan might not be supporting a unique business, further complicating evaluations of the PPP's results. Moreover, that a company with millions in sales between its high-profile brands and affiliates could receive PPP loans raises questions about the effectiveness of PPP eligibility requirements and the criteria used to classify small businesses.

For loans under \$2 million affected by the rule changes, the SBA deemed that the businesses applied in “good faith” and would not need to repay their loan or be subject to an audit.¹⁹ As the public uncovered more cases of businesses exploiting eligibility loopholes, the SBA continued to issue additional eligibility rule changes in response.

To date, the SBA had issued two dozen rule changes. However, subsequent rule changes did not offer opportunities to return loans penalty-free. Instead, the SBA carved out exceptions for these businesses that allowed them to keep their loans or maintain eligibility for loan forgiveness.

Despite widespread allegations of misuse, the SBA has only committed to reviewing loans more than \$2 million.^{20 21 22}

Loan Forgiveness

Loans from the PPP program carry an interest rate of one percent; however, if a business complies with certain job retention requirements, its PPP loan principal and interest can be forgiven in whole or in part. Initial loan forgiveness provisions required at least 75 percent of the loan be spent on payroll costs, but that threshold was later reduced to 60 percent.²³ The remaining 40 percent could be used to cover nonpayroll expenses, such as rent and utilities. To be eligible for forgiveness, employers must have also maintained pre-pandemic staffing levels and paid workers at least 75 percent of their pre-pandemic salary or wage for the loan coverage period.

For a worker earning \$19.33 an hour – the median non-supervisory wage in 2019 – that would allow an hourly decrease of almost \$5.²⁴

It is worth noting that there are also safe harbor provisions and exceptions to these staffing requirements. Borrowers would not be penalized if staffing levels were reduced under one of the following four conditions: (1) the business was not able to resume full operations because of health guidelines; (2) employees that were laid off prior to the loan disbursement declined rehire offers; (3) an employee was fired for cause; or (4) an employee voluntarily resigned or requested a reduction in hours, and the business was unable to hire similarly qualified individuals.²⁵

Businesses that decreased staffing levels for other reasons would have the share of their loan forgiveness reduced to reflect these staff reductions and would need to repay the remaining balance and interest.

Although the Program was intended to support jobs with exceptionally generous loan forgiveness provisions, businesses also have the right to spend PPP funds on non-forgivable businesses expenses and then not seek loan forgiveness. In comparison to the 1 percent interest rate on a PPP loan, the median interest rate for a fixed-rate small business loan in the second quarter of 2019 was 5.68 percent.²⁶ For a five-year \$150,000 loan, this is almost a \$19,000 difference in interest; for a \$2 million loan that difference is more than \$250,000. In other words, a business could treat the Program as a deeply discounted source of working capital even while laying workers off.

Measuring Success of the PPP

PPP was an unprecedented program intended to address an unprecedented economic disaster. As such, there is no standard through which the results of the Program can be benchmarked. Nevertheless, the ultimate goal of the PPP was to keep workers employed amidst extraordinary declines in economic activity.

Preliminary reports released by the SBA on June 30 claimed that the Program supported 51.1 million jobs.²⁷ However, these figures were taken from PPP loan applications in which businesses themselves reported how many jobs they intended to support with their loan. As detailed, the acceptable uses of PPP loans extended beyond just payroll costs, and the only penalty for businesses that did not maintain reported staffing levels is a reduction in loan forgiveness on loans that were extremely cheap. Therefore, these estimates may not accurately reflect the number of jobs actually retained.

Several independent research groups have issued far smaller impact estimates. Opportunity Insights, a non-profit, non-partisan policy research group based at Harvard University, estimates that, at a cost of \$377,000 per job, the Program saved 1.29 million jobs from April through August 15.²⁸ Additionally, economists at MIT estimated that the Program boosted employment by between 1.36 million and 3.20 million at a cost of between \$162,000 and \$381,000 per job.²⁹

Despite the rigor of these estimates, more concrete job retention numbers remain elusive. SBA job retention data will only be available after all loan forgiveness applications have been processed, but these numbers will also be self-reported and only loans of \$2 million and above will be audited. Because the deadline for some loan forgiveness applications is set at five years after loan approval, it is also unclear when such firm data will be available.

The companies we found with PPP loans and WARN Act notices may or may not represent cases where an employer reneged on its promise of job retention by laying off workers – exactly what the Program sought to prevent. In other cases, companies may have laid workers off after their PPP job-retention period expired. Other companies may have lowered their job-retention obligations by laying workers off before or as they were obtaining PPP loans. We leave the question of possible PPP violations to the SBA and other authorities.

Tracking Layoffs – The WARN Act

The Worker Adjustment and Retraining Notification (WARN) Act requires businesses with 100 or more full-time employees to provide workers, the locality, the state, and the workplace union(s) if it has any, with 60 days’ notice of employment losses.³⁰

The WARN Act specifically applies to plant closings affecting more than 50 workers, layoffs affecting more than 50 percent of workers where these workers also account for 33 percent or more of total staff, and layoffs affecting 500 or more workers. The Act defines employment loss as involuntary separations, layoffs in excess of six months, and reductions in working hours of 50 percent or more. Short-term layoffs that extend beyond six months or several layoffs in a 90-day period may also trigger the WARN Act reporting requirements.

When businesses are found to be in violation of the WARN Act, they can be sued for back pay – including benefits – for those days workers received less than 60 days’ notice and fined \$500 for each day their notice was below the 60-day threshold.

There are exceptions to these reporting requirements if an employer could not reasonably anticipate the employment loss.

For example, unforeseeable businesses circumstances such as the loss of a large contract, a deep economic downturn, or a natural disaster are all grounds for exemption.³¹

In addition to the WARN Act, which covers all states, eight states have so-called “mini-WARN Acts” with enhanced layoff notice requirements.³²

The highest level at which WARN Act notices have ever been collected is at the state level; there has never been a national or centralized database of WARN Act data. State disclosure of WARN Act notices is entirely voluntary: 47 seven states and the District of Columbia publish compilations of their notices online.ⁱⁱ

Since it took effect in 1989, there have been many critical studies of the WARN Act’s limitations, loopholes and lack of enforcement by sources ranging from the Government Accountability Office³³, academic studies, non-profit organizations, and legal assistance centers such as the Sugar Law Center.³⁴ There have also been recurring proposals to reform the law. The WARN Act is a flawed law, but it remains the best publicly-available sources of up-to-date, firm-level job loss data. This makes the data useful for this analysis and allows us to highlight potential shortcomings in the PPP.

ii Three states which do not post their WARN notices online and from which we were not able to receive data upon request are Arkansas, New Hampshire, and Wyoming.

WARN Reporting Requirements During the COVID-19 Economic Crisis

As businesses shuttered en masse due to the COVID-19 pandemic, employers were unsure whether the WARN Act applied to these closings and layoffs. At the beginning of the pandemic, many did not anticipate layoffs would exceed six months – after all, the PPP covered eight weeks’ worth of payroll expenses. However, the U.S. Department of Labor (DOL) quickly released guidance indicating that the WARN Act would apply in full force throughout the pandemic.³⁵

While the DOL held the line with federal WARN requirements, some states relaxed their own layoff reporting standards. In the face of the pandemic, California suspended the state-level 60-day notice requirement.³⁶

In New Jersey, state-level notice requirements were suspended, as were pending adjustments to the state WARN Act that would have required severance payments, increased the required notice period, and lowered the threshold for what is considered a mass layoff.³⁷ Other states, including Hawaii and Vermont, instituted similar suspensions of state-level WARN requirements.^{38 39}

Because mini-WARN Acts often expand the scope of businesses that are required to report closings and layoffs beyond the federal requirements, the relaxing of state requirements likely resulted in fewer reports than would have been the case under normal circumstances. Conversely, many businesses that are not technically subject to the WARN Act have voluntarily reported layoffs as a precautionary or goodwill measure during the pandemic.

Layoffs Among PPP Recipients – Key Findings

Our analysis of PPP loan data and state and federal WARN notices identifies, conservatively, 1,892 businesses that both received a PPP loan of \$150,000 or more and also filed a WARN Act layoff or closing notice between the beginning of March and early October 2020. These notices cover approximately 194,136 jobs in 41 states and the District of Columbia.ⁱⁱⁱ The corresponding PPP loans for these businesses amount to over \$3.6 billion.^{iv} The average layoff or closing affected 103 workers and the average loan amount was just over \$1.9 million.

Of the notices, more than 72 percent (138,230) were classified as layoffs, 21 percent (40,275) were classified as closures, and the remaining 8 percent, (14,541) were uncategorized. For notices that indicate whether the employment loss is temporary or permanent, 347 notices – which covered almost 31,000 jobs – were explicitly specified as permanent. This actual number of permanent layoffs is likely larger, as only a handful of states disclose whether employment losses are temporary or permanent.

Timing

Data from WARN notice submissions indicate that over 75 percent of notices were submitted in March and April, with 46.9 percent (889) submitted in March and 26.6 percent (503) submitted in April.

The day on which notices were submitted most frequently was March 20, three days after emergency stay-at-home orders had been issued in all states.⁴⁰

A close comparison of the effective layoff dates with the notice-filing dates reveals that the vast majority of layoff events (67 percent) occurred in March, and that many employers laid off workers before notifying local or state governments. Specifically, there are over 920 notices that indicate layoffs started before WARN notices were filed and 395 notices with the same reporting and start dates.

For these notices, layoffs occurred, on average, 23 days before the WARN notices were filed. This means that 129,466 workers, or 68 percent of all workers identified in this report, apparently received no advance warning of their dismissal.

ⁱⁱⁱ Three states which do not post their WARN notices online and from which we were not able to receive data upon request are Arkansas, New Hampshire, and Wyoming. There were no matches for the remaining six states.

^{iv} PPP loan amounts were disclosed in ranges. The midpoint of each range is used in our calculations.

There are only 317 notices in which the scheduled layoff date comes *after* the date the WARN Act notice was issued. And instead of 60 days' notice, the average lead time was only 17 days.

Further concerning is that of the loans with approval dates, more than 75 percent were approved after the loan recipient had issued a WARN Act notice and 80 percent were approved after the layoff actually occurred. Only 17 percent of the loans have an approval date earlier than the corresponding WARN Act notice-issue date. For all loans with loan approval information, loans were approved an average of 32 days after WARN notices were issued.

There are several possible explanations for this pattern of layoffs occurring before loan approvals. The most obvious is that federal support was not available to some businesses quickly enough to prevent layoffs. Although the PPP distributed an unprecedented number of loans in record time, research from the House Select Subcommittee on the Coronavirus Crisis indicates that wealthier borrowers and large corporate clients had their loans approved faster. The PPP's biggest lender, J.P. Morgan Chase had a wait time of 3.7 days for loans over \$5 million compared to 14.5 days for loans of \$100,000 and below.⁴¹

Case Study: Giti Tire – A Foreign Company Recklessly Exploiting the PPP

In April 2020, Giti Tire Pte. Ltd, a Singaporean-based company with over \$3.04 billion in annual sales and 35,000 employees in 130 countries across 40 subsidiaries, managed to secure two PPP loans through its two American subsidiaries. Despite receiving these two loans, it still laid off all 589 South Carolina workers that it said it intended to support, plus an additional 47 workers. That a company of this size received loans specifically meant for small businesses and may have reneged on its promise of job retention raises serious concerns.

In the most technical sense, Giti could claim PPP eligibility. At the time of its application, limited SBA guidance and a team of skilled lawyers helped Giti get approved. Under final SBA rulings now in place, Giti would have been unambiguously ineligible.

Unfortunately, these same SBA clarifications also grandfathered eligibility for the companies they weren't able to disqualify earlier, like Giti. These "safe harbor" provisions generally exempt businesses that would no longer be eligible under the new rules if they applied for and received their loans "in good faith." From April to November, the SBA issued 24 of these rulings – almost one per week – suggesting many businesses were slipping through the cracks.

Giti's exploitation of the looser early SBA rules diverted funds from more-deserving small businesses in need of federal aid. It is regrettable that a large foreign corporation with billions in annual sales and an almost \$700 million market capitalization was able to receive over \$9.8 million in American taxpayer dollars intended for small businesses. More dismaying is the fact that Giti might qualify for forgiveness despite laying off the majority of its workforce. If Giti rehires workers before the end of the year and pays them at least 75 percent of their wages, it can apparently still have portions of its loan forgiven.

We also recognize that that some businesses may have rehired workers after receiving loans, but this does not remedy the significant disruptions in income that workers experienced while unemployed.

Additionally, while expanded unemployment benefits provided by the CARES Act alleviated many individuals' financial woes, expanded benefits were only retroactive to March 29 – nine days after the most frequent submission date among the identified matches.⁴²

Location

Although businesses in California and New York only account for 45 percent of all the WARN notices collected for this study, they represent 64 percent of all WARN-PPP matches. (This could reflect the two states' mini-WARN Acts covering more employers.) The top five states by number of workers affected – California, New York, Florida, Wisconsin, and Pennsylvania – represent 141,860 workers or 74 percent of all employment losses.

In only ten states did workers, on average, receive their WARN notices before their layoff date. Excluding New Mexico, which only had one WARN-PPP match, North Carolina had the most time, on average, between the WARN filing and layoff start at 15 days.

Seventeen states and the District of Columbia had a negative lead time, meaning that, on average, notices were filed after layoffs took place.

Louisiana had the worst (i.e., most negative days) average lead time, with WARN notices filed 71 days after a layoff started. The remaining 14 states included in this study did not have information on both layoff start dates and WARN filing dates.^v

Industry

Industry information taken from North American Industry Classification System (NAICS) codes submitted on PPP loans show that “Full-service Restaurants” (722511) account for the greatest number of WARN/PPP matches at 25 percent. The second most common industry is “New Car Dealers” (441110) at 9 percent. The overarching NAICS categories WARN/PPP align with the retail sales trend; the “Accommodation and Food Services” NAICS category (72) accounts for over 37 percent of all WARN-PPP matches and “Retail Trade” (44-45) at 13 percent.

When categorized by share of job losses, subsets of “Accommodation and Food Services” represent four out of the top five industries, with 76,241 jobs impacted. “New Car Dealers” round out the top five industries with 10,942 jobs affected.

Jobs to Be Retained

When categorized by share of job losses, subsets of “Accommodation and Food Services” represent four out of the top five industries, with 76,241 jobs impacted. “New Car Dealers” round out the top five industries with 10,942 jobs affected.

^v Six states had no PPP-WARN notice matches and three states don't disclose their WARN notices.

Redesigning the Paycheck Protection Program

In order to more closely align program outcomes with program goals and ensure high rates of job retention, major flaws in the program design must be addressed if PPP is extended. We propose the following four modifications to correct these weaknesses:

- First, businesses should be given more sizeable loans for longer-term payroll support.
- Second, loan forgiveness requirements must be tightened to encourage job retention and salary level maintenance
- Third, the SBA should implement layoff monitoring procedures to track job retention throughout the duration of the PPP.
- Fourth, Companies with regulatory penalties for misconduct such as wage theft or defrauding the federal government should only be offered less-favorable loan terms.

Expanded Support

Until the virus is contained, and until confidence in public safety is restored, expanded support for payroll costs for the duration of the pandemic will be essential to ensuring that small businesses stay afloat. Analysis from McKinsey suggests that the pandemic will functionally endure through 2021, which will prolong the need to support small businesses strained by the pandemic for at least an additional six to eight months.⁴³

Instead of 2.5 months of payroll coverage, borrowers should be allowed to receive loans that cover payroll costs for at least six months.

Stricter Loan Forgiveness Provisions

Current loan forgiveness standards allow employers to reduce worker salaries by up to 25 percent without penalty. For low-wage workers, these reductions are especially detrimental. Borrowers should be required to maintain worker salaries at 100 percent of pre-pandemic levels in order to qualify for loan forgiveness.

Additionally, PPP loans should carry interest rates comparable to other CARES Act loan programs, like the Economic Injury Disaster Loan Program (EIDL)

and Main Street Lending Program (MSLP), to more strongly encourage job retention (i.e., by raising the price of non-compliance with job retention).

Seeking loan forgiveness is also entirely optional, making the PPP an extremely attractive offer for companies seeking discounted working capital. The EIDL and MSLP also offer low-interest business loans with rates ranging from 2.75 percent to 3.75 percent. If PPP loans had comparable interest rates, these borrowers would be directed toward these other programs that have more favorable repayment terms.

Increased Layoff Monitoring

We recommend two job-retention monitoring enhancements: audits of a random sample of loan recipients (of all loan sizes) and use of unemployment insurance (UI) premium records, again on a random testing basis. The UI records, filed by employers on Form ES202, are a recognized best practice by state economic development agencies to verify job creation or retention by employers that have received incentives.

Stricter Eligibility

A September 2020 report by Good Jobs First found that over 38,000 PPP and EIDL loan recipients have paid over \$3.3 billion in fines for serious regulatory violations, including wage and hour claims (i.e., wage theft), Occupational Safety and Health Administration violations, and False Claims Act violations (such as defrauding Medicare).⁴⁴

Similar to our recommendation for raising interest rates on PPP loan balances to align with other CARES Act programs, future iterations of the PPP could levy higher interest rates for businesses with a history of serious regulatory violations, like False Claims Act convictions or substantial wage theft settlements or fines.

Appendix A: Methodology

PPP loan data was obtained through [Covid Stimulus Watch](#), Good Jobs First's CARES Act-monitoring website.⁴⁵ Forty-seven states and the District of Columbia post compilations of WARN notices online. Arkansas, New Hampshire, and Wyoming do not disclose WARN notices. For states that do report, WARN data was either downloaded or scraped from each state's respective employment agency website.

Two methods of record linking were used to match PPP loan recipients to companies that filed WARN notices.

The first regularizes company names and then returns potential matches based on the first five characters in a company name, and matching city and state fields. These suggested matches were then manually checked for verification.

The second match relies on probability matching, also known as fuzzy matching, to determine the likelihood of a match. Company name, city, and state fields are all used in this match. These suggested matches are also verified manually.

When both sets of matches were complete, the two lists were then reconciled to create a final list of matches.

Appendix B: Results by State

State	Matches	Workers Affected	Days Between Filing and Layoff Start
AK	2	698	8
AZ	6	1,135	N/A
CA	839	77,282	-4
CO	6	463	-1
CT	11	2,125	12
DC	3	808	-24
DE	3	1,173	N/A
FL	56	8,509	-4
GA	25	1,706	N/A
HI	19	3,098	N/A
ID	2	77	10
IL	50	3,885	N/A
IN	11	964	15
KS	2	-	N/A
KY	7	473	5
LA	5	942	-72
MA	14	2,604	-25
MD	13	720	-28
MI	16	1,065	-36
MN	13	1,422	N/A
MO	6	906	15

State	Matches	Workers Affected	Days Between Filing and Layoff Start
MI	9	778	-12
MT	1	10	-28
NC	11	1,493	15
NE	1	99	N/A
NJ	17	1,833	N/A
NM	1	64	51
NV	9	1,180	N/A
NY	502	45,321	-19
OH	32	3,566	-21
OK	2	203	N/A
OR	12	1,890	4
PA	38	4,757	N/A
RI	2	358	9
SC	6	1,472	N/A
TN	23	2,698	-12
TX	23	2,436	-10
VA	12	1,313	-7
VT	1	-	N/A
WA	33	4,438	-10
WI	47	6,863	-6
WV	1	90	-11

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