

Government Controversies and Public Policy Litigation

Strings Attached: COVID-19 Funds and the New House Select Committee



By: [Emily M. Loeb](#) and [Philip B. Sailer](#)

Update – On April 23, 2020, the House of Representatives officially voted to establish its new investigative select committee tasked with monitoring the distribution of almost \$3 trillion in COVID-19 relief funds. In announcing the new committee, Speaker Pelosi said it would be “laser-focused on ensuring that taxpayer money goes to workers’ paychecks and benefits and it will ensure that the federal response is based on the best possible science and guided by health experts.” The committee has now been formally charged with issuing a final report based on its investigation into the use of taxpayer funds and any reports of waste, fraud, or abuse. The measure passed on a party line vote.

The select committee will operate under the House Oversight Committee, have 12 members, and be one of the many entities overseeing the federal government’s response to the pandemic. Speaker Pelosi plans to select House Majority Whip Jim Clyburn (D-SC) as chair of the committee. The Speaker will name seven members in total, with the House Minority Leader, Kevin McCarthy (R-CA), selecting the other five members. The chair of the committee will have subpoena power and the ability to take depositions, and the committee will have a \$2 million budget at its disposal for just 2020 calendar year alone. At this time, the only confirmed Member of the committee is Rep. Clyburn.

Now that Congress has passed, and the President has signed, historic stimulus bills in response to the COVID-19 pandemic, the practical realities of dispersing trillions of dollars in federal funding and overseeing that distribution have taken center stage. Between the three bills that have been enacted to address this unprecedented crisis so far, various agencies across the federal government will provide over \$2.2 trillion to companies across a number of industries that have been hit hardest by the pandemic, in addition to the general public.

On April 2, 2020, Speaker Pelosi announced the creation of a new House select committee that will conduct oversight of this massive outlay in federal funds. Due to the nature of some of the programs, commentators noted these programs will be “extraordinarily easy... to defraud.”^[1] And, as the Speaker noted: “Where there’s money, there’s also frequently mischief.”^[2] Indeed, in the days after the passage of the third COVID-19 response bill, many have pointed to the fraud that took place as the Troubled Asset Relief Program’s (TARP) funds were disbursed during the financial crisis. Ultimately, inspectors general found unlawful conduct by no fewer than 130 entities that received federal TARP money.^[3]

Speaker Pelosi’s new select committee will hardly have exclusive oversight jurisdiction relating to these funds. Indeed, House Minority Leader Kevin McCarthy (R-CA) called the Speaker’s select committee “redundant.”^[4] The new committee will be in addition to the House committees that already had jurisdiction over elements of the bill, including the powerful Oversight and Government Reform Committee. Indeed, after Republicans took control of the House in 2011, Rep. Darrell Issa (R-CA), then-chairman of the Oversight and Government Reform Committee, created a subcommittee focused specifically on oversight of the 2009 stimulus package.

Separate from the Speaker's move last week, the bill itself created the Pandemic Response Accountability Committee, comprised of existing inspectors general from various government agencies, which will be in charge of monitoring the entire disbursement program. A panel of inspectors general had selected Glenn Fine, then the Acting Inspector General of the Department of Defense, to lead the committee. But, yesterday, President Trump removed Mr. Fine from his post as acting inspector general, which also made him ineligible to serve on the Pandemic Response Accountability Committee.^[5]

Additionally, the package also created a separate congressional commission and a new special inspector general to oversee the Treasury-directed \$500 billion fund that will provide loans to large businesses. The new commission will be a five-member panel appointed by the four congressional leaders from both parties; Senate Majority Leader McConnell and Speaker Pelosi will jointly pick a fifth member.^[6] On Monday, Senate Minority Leader Chuck Schumer announced that he would appoint Bharat Ramamurti, a former economic adviser to Senator Elizabeth Warren.^[7] President Trump has announced his intention to nominate Brian Miller, a lawyer in the White House Counsel's office, as the special inspector general for the government's COVID-19 response. Miller, a former inspector general for the General Services Administration (GSA), will have to be confirmed by the Senate.^[8]

But many, if not all, of these oversight bodies will monitor and investigate the payments once they have left Washington. Speaker Pelosi's select committee, on the other hand, is intended to provide a "real-time check" on how the funds are spent as the national crisis continues. She explained: "The committee will be empowered to examine all aspects of the federal response to the coronavirus, and to assure that the taxpayer dollars are being wisely and efficiently spent to save lives, deliver relief and benefit our economy."^[9] While specifics are sparse, she also announced that Rep. Jim Clyburn (D-SC), the third-highest ranking House Democrat, will head the committee and that it will be given subpoena power; in other words, it will "ensure Pelosi has a tight grip on oversight decisions related to coronavirus."^[10]

Based on the government's experience in the aftermath of the 2008 financial crisis and the highly partisan nature of Washington's landscape, entities that receive bailout money should be prepared for robust oversight from a diverse—and overlapping—set of congressional committees and government bodies. Business leaders receiving federal funds should be prepared to engage and cooperate with these oversight bodies. Ensuring a strong corporate compliance program at the outset will help facilitate future responses to congressional inquiries.

Thus, understanding the responsibilities that come with these bailout funds will be critical to weathering the current crisis and its future oversight implications. Lawyers at Jenner & Block, including the former Special Inspector General for TARP, have broad oversight and compliance [experience](#) and have been closely following the various [lending programs](#) the Administration is creating pursuant Congress' historic [stimulus package](#).

Previously, we have written on what general counsels can expect when congressional committees come calling, which can be found [here](#). Notably, and contrary to how it is portrayed in the media, subpoenas are rarely the first step in the process when a House committee begins to investigate.

Additional information from the Jenner & Block team breaking down the legislative package can be found [here](#).

Conscious of the human, operational and financial strain that coronavirus is placing on businesses and organizations worldwide, Jenner & Block has assembled a multi-disciplinary Task Force to support clients as they navigate the legal and strategic challenges of the COVID-19 / Coronavirus situation.

For additional information and materials, please visit our COVID-19 / Coronavirus Resource Center.

[1] Benjamin Siegel, “Experts warn about big dollar fraud in \$2.2 trillion coronavirus relief package,” *ABC News* (Apr. 4, 2020) <https://abcnews.go.com/Politics/experts-warn-big-dollar-fraud-22-trillion-coronavirus/story?id=69966232>.

[2] Heather Caygle et al., “Pelosi forms new select committee to oversee \$2 trillion coronavirus relief package,” *POLITICO* (Apr. 2, 2020) <https://www.politico.com/news/2020/04/02/pelosi-forms-new-select-committee-to-oversee-2-trillion-coronavirus-relief-package-161436>.

[3] <https://www.sigtar.gov/Pages/investigations.aspx>.

[4] Kyle Cheney, “Trump taps longtime GSA watchdog as coronavirus relief inspector general,” *POLITICO* (Apr. 4, 2020) <https://www.politico.com/news/2020/04/03/brian-miller-gsa-watchdog-coronavirus-164273>.

[5] Kyle Cheney and Connor O’Brien, “Trump removes independent watchdog for coronavirus funds, upending oversight panel,” *POLITICO* (Apr. 7, 2020) <https://www.politico.com/news/2020/04/07/trump-removes-independent-watchdog-for-coronavirus-funds-upending-oversight-panel-171943>.

[6] Marianne Levine and Kyle Cheney, “Schumer taps Warren aide for new coronavirus oversight commission,” *POLITICO* (April 6, 2020) <https://www.politico.com/news/2020/04/06/schumer-warren-aide-coronavirus-commission-168655>.

[7] Marianne Levine and Kyle Cheney, “Schumer taps Warren aide for new coronavirus oversight commission,” *POLITICO* (April 6, 2020) <https://www.politico.com/news/2020/04/06/schumer-warren-aide-coronavirus-commission-168655>.

[8] Kyle Cheney, “Trump taps longtime GSA watchdog as coronavirus relief inspector general,” *POLITICO* (Apr. 4, 2020) <https://www.politico.com/news/2020/04/03/brian-miller-gsa-watchdog-coronavirus-164273>.

[9] Rebecca Shabad, “Pelosi forming House committee to investigate the coronavirus outbreak,” *NBC News* (Apr. 2, 2020) <https://www.nbcnews.com/politics/congress/pelosi-forming-house-committee-investigate-coronavirus-outbreak-n1175026>.

[10] Heather Caygle et al., “Pelosi forms new select committee to oversee \$2 trillion coronavirus relief package,” *POLITICO* (April 2, 2020) <https://www.politico.com/news/2020/04/02/pelosi-forms-new-select-committee-to-oversee-2-trillion-coronavirus-relief-package-161436>.



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