

# EXHIBIT N

June 11, 2020

Chief, Freedom of Information/Privacy Acts Office  
U.S. Small Business Administration  
409 Third St. SW, Eighth floor  
Washington, DC 20416

Re: Freedom of Information Act Request

Dear FOIA Officer,

I am making this request under the Freedom Of Information Act ("FOIA"), 5 U.S.C. § 552. Please provide the following record maintained by your agency or for your agency by a government contractor:

- The individual award data for all loans or other financial awards made under the Payment Protection Program (CFDA 59.073) authorized under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The data should include the name of recipient, award amount, and all other data elements typically reported to USAspending.gov for federal awards.

The data should be provided to the Project On Government Oversight (POGO) in electronic database format (e.g. CSV, EXL, or other spreadsheets) via email or on a CD-ROM. If electronic form is not possible due to a specific reason, we request a hard copy format.

I request a waiver of all costs associated with fulfilling this submission pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure of the requested records will further the "public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest" of the requester, POGO. Specifically, POGO intends to use the requested records to increase public understanding of the operations of the agency and its role providing more than \$600 billion in taxpayer funded assistance to small businesses in response to the coronavirus crisis. If the request for a fee waiver is denied, please contact me about any incurred expenses prior to supplying the requested records.

I have included the FOIA Fee Waiver Supplements to provide a detailed account of POGO's planned use of the requested information and to fully respond to fee waiver criteria.

I request that the agency provide the information and documents on a rolling basis.

**The subject of the request:**

POGO is requesting records which will inform readers about the millions of individual awards made under the Payment Protection Program. The program was authorized to award more than \$600 billion in loans and loan guarantees under terms that would allow the loans to be forgiven if the recipient were to meet required conditions – essentially turning the loans into grants. Under the Federal Funding Accountability and Transparency Act of 2007, individual award data is required to be publicly disclosed within 30 days of the award action. This disclosure requirement includes loans, loan guarantees, grants, direct payments, and other financial award vehicles. The Small Business Administration has reported the recipients and award details for all awards made under the 7(a) Loan Program (CFDA 59.012) for years. This new loan program is an extension of the 7(a) Loan Program and the same level of disclosure should be maintained. The data allows the public to fully understand who received taxpayer funds under the program, where specifically these recipients are located, and other key details about the awards as well as better understanding the agency's actions in spending these funds.

**The informative value of the information to be disclosed:**

The information to be disclosed will likely contribute to an increased public understanding of government activities, as it relates to the process by which the Small Business Administration has distributed more than \$600 billion in taxpayer funds. This data will allow the public to review the spending in detail. Breakdowns of spending based on industry sector, location, loan size, and other factors will provide important insights into the program and its effectiveness.

**The contribution to an understanding of the subject by the public likely to result from disclosure:**

POGO investigates, exposes, and seeks to remedy systemic abuses of power and mismanagement in the federal government. Founded in 1981, POGO is a politically independent, nonprofit watchdog that promotes a government that is accountable to the citizenry. POGO disseminates information about its activities to the public, policymakers, and the media via email, direct mail, and its websites which receive nearly 70,000 unique visitors each month. The records provided by your agency will be used for the following activities, which are publicly available: publication by email and on POGO websites; publication in reports and newsletters issued by POGO; publication in the newsletters of affiliated nonprofit organizations; efforts to educate Congress, the Executive Branch, and other policymakers; or in conjunction with the news media.

**The significance of the contribution to public understanding:**

Disclosure of the records is likely to contribute significantly to the public's understanding of how the SBA has distributed more than \$600 billion in taxpayer funds and which companies have received such assistance. Public review of recipients will help ensure that no waste, fraud, abuse, or conflicts of interest occurred in the awarding of these funds. The data will also allow the public to track which companies pay back their loans and which meet their requirements to have the loans forgiven.

**The existence and magnitude of a commercial interest:**

POGO does not charge for access to its website, reports, newsletters, or other publications. In addition, we do not directly profit from increased viewership of our website, as it is advertisement-free.

**The primary interest in disclosure:**

POGO has no financial interest in the requested information as stated above. The primary interest in disclosure is that of the public interest.

Please note that the FOIA Improvement Act of 2016 codified the presumption of openness and requires agencies to only withhold information if "the agency reasonably foresees that disclosure would harm an interest protected by an exemption." However, there is no specific foreseeable harm associated with the requested records, given that the SBA has long disclosed on USAspending.gov the recipients and details of specific loans and loan guarantees under the related 7(a) Loans Program (CFDA 59.012). The accountability and oversight that will result from disclosure of the requested records is a benefit for both the agency and the public. Therefore, we do not believe that any of the records or portions should be withheld.

If this request is denied in full or in part, please cite each exemption pursuant to 5 U.S.C. § 552(b) that justifies each denial and an explanation of the foreseen harm. If an exemption applies, however, please exercise the agency's discretionary release powers to disclose the records. Any such action supports the presumption of "openness" on which FOIA is based upon. Additionally, please release all reasonably segregable portions of the records that do not meet an exemption. 5 U.S.C. § 552(b).

I look forward to your response, including an individualized tracking number, within 20 days of the receipt of this request, unless, in the case of "unusual circumstances," the time limitation is "extended by written notice." 5 U.S.C. § 552(a)(6)(B). I am aware that all fees will be waived if specified time limits are not met. 5 U.S.C. § 552(a)(4)(A)(viii). I have a right to appeal if this request is wholly or partially denied or if the agency fails to respond within 20 days, and that, if

successful, a federal district court may assess “reasonable attorney fees and other litigation costs.” 5 U.S.C. § 552(a)(4)(E).

Please contact me at [smoulton@pogo.org](mailto:smoulton@pogo.org) or 610-356-3215 if this request requires further clarification. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sean Moulton", with a long horizontal flourish extending to the right.

Sean Moulton  
Senior Policy Analyst