

Congress of the United States
Washington, DC 20515

July 29, 2020

Mr. David Cotton
Chief Executive Officer
Flying Food Fare Inc.
212 North Sangamon Street
Suite 1A
Chicago, IL 60607

Dear Mr. Cotton:

We are writing regarding our concern that Flying Food Fare is receiving \$85 million of taxpayer dollars from the Treasury Department through the Payroll Support Program despite the fact that the company recently laid off hundreds of workers. Congress created this program to “preserve aviation jobs” by providing wage assistance to companies in exchange for keeping workers on the payroll.¹ Giving payroll support to companies that engaged in mass layoffs is not only contrary to congressional intent, but also wastes taxpayer dollars by covering the cost of payroll for employees that have already been laid off. We urge Flying Food Fare to rehire the workers it laid off or return the taxpayer funds that correspond to payroll support for jobs that no longer exist.

The Coronavirus Aid, Relief, and Emergency Security (CARES) Act authorized Treasury to provide up to \$32 billion to “preserve aviation jobs and compensate air carrier industry workers,” including contractors providing services to the aviation industry. Under the Act, Payroll Support Program funds must be used exclusively to pay employee wages, salaries, and benefits.² To receive these funds, recipients must “refrain from conducting involuntary furloughs or reducing pay rates and benefits until September 30, 2020.”³ The maximum amount of assistance available under the Program is calculated based on the compensation the contractor paid to employees from April through September 2019.⁴

Flying Food Fare is expected to receive more than \$85 million in payroll support—placing it among the top aviation contractor recipients.⁵ Since the CARES Act was signed into

¹ Coronavirus Aid, Relief, and Emergency Security Act, Pub. L. No. 116-136, § 4112(a) (2020).

² *Id.*

³ *Id.* § 4114(a)(1).

⁴ *Id.* § 4113(a)(3).

⁵ Department of the Treasury, *Payroll Support Program Payments* (online at <https://home.treasury.gov/policy-issues/cares/preserving-jobs-for-american-industry/payroll-support-program-payments>).

law, however, Flying Food Fare has laid off more than 800 employees in Arizona, California, and Hawaii alone.⁶

Flying Food Fare's receipt of payroll assistance for jobs that no longer exist is contrary to Congress's intent in creating the Payroll Support Program. Please respond by August 5, 2020, to inform us whether your company will rehire the workers you laid off during the pandemic or return the portion of Payroll Support Program funding you received to cover the payroll costs for terminated workers.

If your company does not plan to rehire its workers or return the taxpayer dollars corresponding to the payroll costs for laid-off workers, please produce by August 12, 2020, the following documents and information from March 1, 2020, to the present, to assist us in examining why your company received these funds and how these funds will be used:

1. All notices provided to any government agency related to layoffs or furloughs since March 1, 2020;
2. All communications and documents related to the company's Payroll Support Program application, enrollment, or funding award, including but not limited to:
 - a. the company's Payroll Support Program application, including any addendums, modifications, or subsequent revisions, as well as any other document containing the company's assurances required by Section 4114(a) of the CARES Act;
 - b. the company's payroll support agreement with Treasury, including drafts;
 - c. all communications with the Treasury Department related to the Payroll Support Program;
 - d. any internal and external communications regarding the company's eligibility for the Payroll Support Program or the amount of assistance awardable to the company under the Program, including but not limited to communications regarding whether layoffs or furloughs would impact the company's eligibility or award amount; and
 - e. all communications with the Treasury Department regarding the company's layoffs or furloughs.

⁶ *Airline Catering Company Lays Off Kauai, Hawaii Island Employees Due to COVID*, Pacific Business News (May 20, 2020) (online at www.bizjournals.com/pacific/news/2020/05/20/airline-catering-company-hawaii-layoffs.html); State of Hawaii, Workforce Development Council, *2020 Real-time WARN Updates* (online at <http://labor.hawaii.gov/wdc/real-time-warn-updates/>) (584 workers permanently laid-off in Honolulu, Kailua-Kona, and Lihue on April 17); State of California, Employment Development Department, *WARN Report (07/01/2019 – 06/30/2020)* (online at https://edd.ca.gov/Jobs_and_Training/warn/WARN-Report-for-7-1-2019-to-6-30-2020.pdf); (214 workers permanently laid-off in Los Angeles and Burlingame on April 24); State of Arizona, *WARN Listing Properties* (online at www.azjobconnection.gov/ada/mn_warn_dsp.cfm?id=481&callingfile=mn_warn_dsp.cfm7hash=7abd59a2575fb7b416a502f05dcb0b11) (96 workers laid-off on April 10).

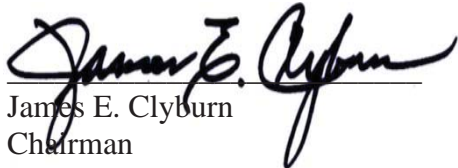
In addition, please provide written responses to the following questions by August 12, 2020:

1. How many workers has your company laid off or furloughed (both voluntarily and involuntarily) since March 1, 2020? Please describe these layoffs and furloughs, including the effective dates, the locations of the workers affected, the number of workers affected, the dates on which the layoffs or furloughs were noticed, and whether the layoffs or furloughs were related to the coronavirus.
2. Has your company reduced pay rates or benefits for any employees since March 1, 2020, including for senior executives? If so, please describe the amount of the reductions, the dates they occurred, the reasons therefor, and the number of employees affected.
3. Has your company increased any pay rates or benefits for any employees since March 1, 2020, including for senior executives? If so, please describe the amount of the increases, the dates they occurred, the reasons therefor, and the number of employees affected.
4. Please break down by month the number of employees your company employed at the end of every month from April 1, 2019, through July 31, 2020.
5. Please break down by month the amount of wages, salaries, benefits, and other compensation that your company paid its employees for the period from April 1, 2019, through July 31, 2020.
6. Please describe all guidance, if any, your company received from the Treasury Department about whether layoffs and furloughs affected your company's eligibility for the Payroll Support Program and/or the amount of payroll assistance that your company would receive.
7. Please describe the circumstances of any delay between your company's application for Payroll Support Program assistance and the date that your company executed its payroll support agreement with the Treasury Department.
8. Did your company inform the Treasury Department of any layoffs and furloughs that occurred between the date of its application and the date of its executed agreement with the Treasury Department? If so, how and under what circumstances?
9. To date, how much payroll support has your company received from the Treasury Department?

We also request a staff briefing on these issues by August 12, 2020.

An attachment to this letter provides additional instructions for responding to these requests. If you have any questions regarding these requests, please contact Select Subcommittee staff at (202) 225-4400.

Sincerely,



James E. Clyburn
Chairman
Select Subcommittee on the Coronavirus Crisis



Peter A. DeFazio
Chairman
Committee on Transportation and
Infrastructure



Maxine Waters
Chairwoman
Committee on Financial Services

Enclosure

cc: The Honorable Steve Scalise, Ranking Member,
Select Subcommittee on the Coronavirus Crisis

The Honorable Sam Graves, Ranking Member,
Committee on Transportation and Infrastructure

The Honorable Patrick McHenry, Ranking Member,
Committee on Financial Services

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.