

Congress of the United States
Washington, DC 20515

April 25, 2020

The Honorable Steven Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

The Honorable Jovita Carranza
Administrator
U.S. Small Business Administration
409 3rd Street SW
Washington, D.C. 20416

Dear Secretary Mnuchin and Administrator Carranza:

We write regarding implementation of the *Paycheck Protection Program and Health Care Enhancement Act (the "interim" COVID-19 act)* that was signed into law yesterday and builds on the small business rescue programs enacted as part of the *Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116-136)*. This act replenishes funding for key SBA COVID-19 response programs, including \$310 billion for the Paycheck Protection Program (PPP), \$50 billion to leverage more than \$350 billion for SBA's Economic Injury Disaster Loan (EIDL) program, and \$10 billion for SBA's Emergency EIDL Grant program. This act also includes important policy reforms to expand access to SBA assistance to more unbanked and underserved businesses, including minority-owned businesses, rural businesses, small mom-and-pop shops, and smaller nonprofits that too often have been pushed to the back of the line.

As you implement this new legislation, we urge you to consider the following:

Expand Access for Underserved and Main Street Businesses

We must ensure that federal recovery funding reaches businesses that have been underserved by mainstream lending institutions in the past. In the interim COVID-19 act, Congress set aside \$60 billion in PPP lending, including \$30 billion for small banks and credit unions with fewer than \$10 billion in assets and for community-based lenders that include Minority Depository Institutions (MDIs), Community Development Financial Institutions (CDFIs), as well as SBA microlenders and Certified Development Companies (CDCs). To ensure CDFIs and MDIs are able to access this set-aside, SBA and Treasury should use their administrative authority to create a special set-aside of at least \$10 billion of PPP funds solely dedicated for MDIs and CDFIs. These institutions' specific mission to serve low-income, rural, and minority small business owners and communities uniquely positions them to increase the amount of PPP loans that reach our underserved businesses. These businesses are the heartbeat of the diverse communities they serve and are particularly vulnerable during this crisis.

The SBA and Treasury must also use their administrative authority to proactively engage with MDIs and CDFIs, including Native and minority-led CDFIs, SBA microlenders and CDCs that wish to participate as PPP lenders. As part of this effort, SBA and Treasury must remove barriers to participation for these critical lenders, particularly for non-bank CDFIs. To swiftly achieve this goal, we request the following immediate actions be completed in the next 48 hours by SBA and Treasury:

- Set aside at least \$10 billion for MDIs and CDFIs to make PPP loans;
- Eliminate the lender eligibility requirement for non-depository CDFIs to have “originated, maintained, and serviced more than \$50 million in business loans or other commercial financial receivables during a consecutive 12 month period in the past 36 months;”¹
- Ensure that non-depository CDFIs do not have to re-verify information of existing customers, if they have an ongoing financial relationship with the customer that is well documented;
- Include all Bank Security Act-related questions in the initial application so that lenders do not have to collect this information via a follow-up request;
- Ensure the swift and smooth integration of CDFIs, MDIs, and other small non-bank lenders into the SBA’s E-TRAN system;
- Create, in coordination with the CDFI Fund and Treasury’s Office of Minority and Women Inclusion, webinars tailored to MDIs and CDFIs wishing to become PPP lenders; and
- Collaborate with the Minority Business Development Agency (MBDA), the Economic Development Administration (EDA), and the U.S. Department of Agriculture (USDA) in order to engage with minority, low- and moderate-income, and rural communities and ensure that small business owners and nonprofits in those communities have equal access to PPP information and funding.

To further expand access to this critical assistance, we also request that SBA and Treasury release new guidance to all lenders within the next 48 hours removing barriers for PPP loan applicants who are ex-offenders, including those who were charged but never convicted. Lenders should also be required to report on any applications rejected on this basis.

Award \$10,000 SBA Emergency EIDL Grants as Intended

Under the *CARES Act*, Emergency EIDL Grants were to be made in amounts of up to \$10,000 within three days of receiving an application. However, SBA has taken much longer to disburse funds to businesses. Furthermore, the Trump Administration used its discretionary authority to severely limit these awards, permitting businesses to claim just \$1,000 per employee. This means that, currently, a sole proprietor or a small family-run business with only two or three employees cannot receive the full \$10,000 allowed under the statute. When SBA chose to place arbitrary limitations on award amounts and ration available funding rather than request a new appropriation (as it was willing to do for PPP), it failed small businesses and small private, nonprofits that had counted on these funds.

With the new \$10 billion in funding for Emergency EIDL Grants that the interim COVID-19 act provides, the Administration should remove the limitations it imposed that prevents businesses from receiving a full \$10,000 grant. Businesses that have previously received reduced grants because they have fewer than ten employees should receive the full amount, and, going forward, new recipients should receive full awards as well, regardless of their size. Furthermore, to prevent the Administration from once again refusing to request additional appropriations when the program is fully subscribed, SBA should notify Congress as soon as funds begin to run low rather than cut the amount small businesses receive. In addition, it should dedicate the resources it has received for administrative expenses to ensure that loans go out within the statutorily mandated three-day time frame.

¹ SBA, “Business Loan Program Temporary Changes; Paycheck Protection Program,” *Federal Register* Vol. 85, No. 73 (Apr. 15, 2020), 20815, https://www.sba.gov/sites/default/files/2020-04/PPP%20Interim%20Final%20Rule_0.pdf.

With the goal of expanding access to this assistance, SBA should also conduct dedicated outreach and technical assistance to ensure all small businesses are aware of and able to access EIDL loans and grants. This includes concerted efforts to serve the truly small, unbanked, and underserved businesses, including minority-, woman-owned, and rural businesses.

Update Eligibility for SBA's EIDL Loans and Grants to Include Farmers and Other Agricultural Enterprises

There has been a wide demand from the agricultural community for SBA to change its rules so farms and other agricultural enterprises can be eligible for the SBA's EIDL program and the new Emergency EIDL Grant program. Unfortunately, SBA has not provided such a rule change.

The interim COVID-19 act includes this key fix to support the nation's farmers. Now, farms and agricultural enterprises under 500 employees have been made eligible recipients for the EIDLs and Emergency EIDL Grants. Given that so many of our small producers and agricultural small businesses need urgent assistance, SBA must immediately update its guidance and application form to clarify this new eligibility.

Implement Rigorous and Regular Reporting for Transparency and Oversight

Neither the public nor policymakers are getting information in a timely or complete manner, and the Administration's process for requesting funds and making changes is backwards. The first time Congress received a full data report on PPP was April 14, almost a week after the Administration announced PPP was running out of funding and requested an additional \$250 billion. Treasury and the Office of Management and Budget (OMB) do not seem to be coordinating with SBA, as the Administration's request did not include funding for the EIDL and Emergency EIDL Grant programs, which had hit their caps the previous week and had higher demand than PPP.

SBA is accustomed to tracking spending and breaking out weekly data on their largest loan programs by number of loans, dollar amounts, demographics, loan sizes, information on new participating PPP lenders, and other information that they make publicly available. It is imperative that SBA use that expertise to provide robust and regular reporting on the COVID-19 SBA assistance through PPP, EIDL loans and grants, as well as SBA's other programs. This reporting is essential to making sure these programs are reaching all small businesses we intend to assist. Congress provided SBA with \$675 million in the *CARES Act* and \$2.1 billion in the interim COVID-19 act to hire additional staff and upgrade its technology for capacity and privacy protection. The Administration should already be using these funds to support staff to implement these programs and upgrade the capacity of SBA's systems to handle the unprecedented volume and make the grant and loan information public.

This funding should also be used to implement lender guidance on PPP loans to underserved and Main Street borrowers along with the registration of PPP loans. The *CARES Act* explicitly includes incentives for lenders to make small-dollar loans that benefit underserved borrowers, and includes a Sense of the Senate that Administrator Carranza should issue guidance to lenders on prioritizing the processing and disbursement of PPP loans to underserved borrowers. The *CARES Act* was signed into law on March 27th and still this has not happened. The delay has left many underserved and Main Street borrowers with the impression that the first-come, first-served process caused them to miss out on the first \$350 billion in paycheck assistance. They fear the same will happen again when the

program reopens following this recent bill, especially since the Administration has said this is the last funding that will be provided for PPP. We urge the Administrator to issue this lender guidance before PPP is reopened with the additional funding, and to collect data on demographics along with job retention from borrowers when they apply and submit their documentation for forgiveness, similar to how it collects that data on other SBA loans.

The *CARES Act* also requires the Administrator to register PPP loans within 15 days using a TIN number to help to prevent borrowers from getting more than one loan. This is important to mitigate fraud in real time, as well as helpful information in future oversight audits. We expect SBA to treat PPP loans as it treats loans in its 7(a) and 504 programs by publicly publishing the company names and addresses of borrowers and lenders, along with the loan amounts.

We appreciate your immediate attention to these critical issues and thank you for your continued work to mitigate the impact that this public health crisis is having on our economy.

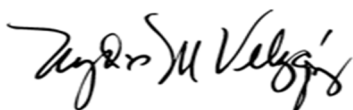
Sincerely,



Nancy Pelosi
Speaker
U.S. House of Representatives



Charles E. Schumer
Democratic Leader
U.S. Senate



Nydia M. Velázquez
Chairwoman
House Committee on Small Business



Benjamin L. Cardin
Ranking Member
Senate Committee on Small Business and
Entrepreneurship



Maxine Waters
Chairwoman
House Committee on Financial Services



Sherrod Brown
Ranking Member
Senate Committee on Banking, Housing and
Urban Affairs