



April 1, 2020

The Honorable Steven T. Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Ave NW
Washington, DC 20220

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

Dear Secretary Mnuchin, Administrator Carranza:

On behalf of the organizations representing this nation's 30 million small businesses we write to you today with an urgent request for clarity around the *Paycheck Protection Program*, as detailed by your guidance released yesterday. We ask for consideration or clarification of the following points (listed in no particular order):

These Funds May Not Prove Enough

While the amount provided to the Small Business Administration is limited by statute, we are immediately concerned that this may not be enough funding to support American small businesses during this time. We have seen in some states an extension well into June of conditions that effectively prevent business operation. In the guidance, the Department alludes to this challenge, indeed, suggesting a new limitation on the program (more below).

Chairman Rubio has already acknowledged that additional funds may be necessary, but that this will likely remain the structure to do so. We will take these concerns to Congress in hopes that additional resources may be made available.

Arbitrary Loan Terms May Harm Businesses by Limiting Bank Participation

While the legislation set broad caps on loan terms (4% interest rate and 10 year loan maturity), we are seeking clarity on the Department's decision to set the rate at 0.5% (50 basis points) and a loan term of two (2) years.

The Role of Minority and Community Lenders

We are asking for additional clarity on the eligibility for minority-owned and community banks. Are these banks deemed eligible for the program, but must receive delegated authority from SBA? Is additional guidance from SBA expected prior to the program launch date of April 3, 2020? Are existing 7(a) Community Advantage, 504 and microlenders deemed eligible or should they also pursue delegated authority? Can CDFI be included in this section as they are a major link to other lenders in LMI communities? Does the SBA need minority asset managers to help lenders in deploying these funds? We believe minority asset managers need to be included.

The Speedy Approval of Non-SBA Lenders

The guidance provided limited details on the inclusion of non-SBA and non-bank lenders. We urge additional guidance for the swift inclusion of these entities to maximize the opportunities for small business borrowers.

The Prioritization of Disadvantaged Communities

The legislation (p.30) requires the prioritization of certain communities as detailed in the below text. Many of these communities are underbanked and face pre-existing capital challenges. With Treasury's notes that funding will potentially expire quickly, how is the program intending to fulfill this requirement?

SENSE OF THE SENATE.—It is the sense of the Senate that the Administrator should issue guidance to lenders and agents to ensure that the processing and disbursement of covered loans prioritizes small business concerns and entities in underserved and rural markets, including veterans and members of the military community, small business concerns owned and controlled by socially and economically disadvantaged individuals (as defined in section 8(d)(3)(C)), women, and businesses in operation for less than 2 years.

Clarity for Equity-Backed Businesses

As many in the small business community have noted, there is concern around the affiliation rules for companies that have received venture capital or private equity funding. Does Treasury or SBA have guidance on if these businesses can apply for the funding?

Clarity on Non-Profit Entities

The legislation limits non-profit participation, generally speaking, to 501(c)(3) organizations (as well as veteran and tribal organizations). It did not include (c)4 or (c)6 organizations. The guidance, however, does not have any limitation or details on non-profits. We are concerned ineligible organizations may be confused by the Treasury guidance—or if Treasury has deemed these organizations now eligible additional clarification is needed.

Representations of Borrowers

Could the Treasury provide additional explanation on the representations of the borrower found in the application? In particular, the requirement to purchase American-made equipment and products.

New 25% Limitation on non-payroll costs

In the guidance, Treasury has noted a new 25% maximum for non-payroll costs that would be eligible for loan forgiveness. We are concerned that without additional guidance for independent contractors, this could limit the utility of the program for certain businesses. If self-employed individuals have not been able to pay themselves because of a lack of revenue, this suggests they also cannot be forgiven their rent or utility expenses. This also harms retail businesses and restaurants that may have significantly larger expenses – such as rent and utilities – that will be precluded from forgiveness under the arbitrary 25% maximum.

Limitation to \$100,000 maximum per employee

In guidance payroll costs are capped per employee at \$100,000. But does that include health insurance and other benefits? The law as passed includes salary only in this calculation, but the

Treasury guidance says in a few places “payroll costs capped at \$100,000” per employee, suggesting the \$100,000 may be inclusive of non-salary benefits.

Allowable loan costs after February 15th, 2020

The legislation allows the loan for mortgage interest, rent, and utilities incurred after February 15th, though these would not be eligible for forgiveness. The guidance suggests that these are not allowed costs. Could the Treasury please clarify?

Possible Safe Harbor for Benefits Election

To expedite the loan application and simplify calculations, would Treasury consider creating a safe harbor election for total benefits to employees? This could be a percentage of payroll that businesses could select instead of calculating (and possibly pro-rating) benefits from 2019. We would defer to Treasury and SBA on an appropriate percentage but believe this could simplify the loan for many business owners.

Additional Guidance Needed on 1099s and the Self-Employed

Can a business count independent contractors in payroll costs as envisioned on page 12 and 22 of the legislation? It is our understanding that small businesses may include the 1099-MISC payments toward 2019 payroll costs and loan forgiveness.

Actions Businesses Have Already Taken

What about reductions to salary that employers have already put in place? The bill seemed to say that if the employees were re-hired by June 30 that was okay (but for what pay cycle?).

Impact of other lending programs, specifically EIDL

The legislation allows for the refinancing of EIDL loans into the PPP loan. This also requires an increase in loan size. The guidance was silent on the role of EIDL. Can you provide additional clarification on that process? Particularly if the loan for the EIDL (or part of it) was taken to cover payroll costs and other expenses, and if these will be forgiven once rolled into a PPP loan.

How to apply, when and where?

The loan application states that on April 3, 2020 "small businesses and sole proprietorships" may apply. You then show April 10 for "independent contractors and self-employed". Generally speaking, independent contractors and self-employed are sole proprietors. When should they file? Most independent contractors and self-employed file a schedule C as a sole proprietor.

Most critically, changes to the current SBA website have created challenges to identifying local lenders. Can SBA please provide a location or update on Lender Match portal in order for businesses to easily find banks.

We urge you to reach out directly with any questions, given the timely nature of these policies. We are available at your convenience and can be speedily convened by contacting John Stanford at john@smallbusinessroundtable.org.

Sincerely,

Chiling Tong, President & CEO, Asian/Pacific Islander Chamber of Commerce and Entrepreneurship

Jill Houghton, President & CEO, Disability:IN

Keith Hall, President & CEO, National Association for the Self Employed

Jen Earle, CEO, National Association of Women Business Owners

Todd McCracken, President & CEO, National Small Business Association

Karen Kerrigan, Chair, Small Business Roundtable, CEO, Small Business & Entrepreneurship Council

Ron Busby, President & CEO, U.S. Black Chambers, Inc.

Ramiro Cavazos, President & CEO, U.S. Hispanic Chamber of Commerce

John Stanford, Co-Executive Director, Small Business Roundtable

Rhett Buttle, Co-Executive Director, Small Business Roundtable

cc:

The Honorable Mike Pence, Vice President of the United States

The Honorable Steve Mnuchin, Secretary, Department of Treasury

Larry Kudlow, Director, National Economic Council, White House

The Honorable Jovita Carranza, Administrator, Small Business Administration

The Honorable Jerome Powell, Chairman of the Board of Governors of the Federal Reserve System

The Honorable Marco Rubio, Chairman, Senate Committee on Small Business and Entrepreneurship

The Honorable Ben Cardin, Ranking Member, Senate Committee on Small Business and Entrepreneurship

The Honorable Nydia Velazquez, Chair, House Committee on Small Business

The Honorable Steve Chabot, Ranking Member, House Committee on Small Business

Members, United States Senate

Members, United States House of Representatives