



CONGRESS OF THE UNITED STATES  
HOUSE OF REPRESENTATIVES  
WASHINGTON, D.C. 20515

April 21, 2020

The Honorable Steven Mnuchin  
Secretary  
Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

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

Dear Secretary Mnuchin and Administrator Carranza:

Thank you for your ongoing efforts to implement the small business relief programs funded by the Congress in the Families First Coronavirus Relief Act and the CARES Act, especially the Economic Injury Disaster Loan (EIDL) program and the Paycheck Protection Program (PPP). With demand for these programs outpacing available resources, I am hopeful Congress will approve additional funds without delay and that resources will soon be flowing to those small businesses who desperately need them.

At the same time, I wish to raise some serious concerns that have been brought to my attention through countless conversations with small business owners – including sole proprietors and self-employed individuals – as well as local Chambers of Commerce. Their concerns stem primarily from the way in which the rules governing these programs were written, rather than the stipulations in the law passed nearly-unanimously by Congress. That is why I am hopeful that you and your agencies will be uniquely positioned to address them in the next round of funding. The top concerns are as follows:

- Independent restaurants and retailers have in many cases been forced to close through stay-at-home orders across the country. While appropriate to protect public health, these orders mean that they are not able to meet the conditions of the PPP loan, which requires them to maintain payrolls over the next eight weeks, with a deadline of June 30<sup>th</sup>. Independent restaurants alone contribute \$1 trillion to the economy and employ 11 million Americans. We cannot afford to see half of them go out of business due to overly restrictive loan terms in the PPP program. **I urge you to consider allowing businesses that are unable to operate within the eight-week window to have their loan origination date coincide with the date businesses are able to re-open in accordance with their jurisdiction's stay at home orders. Additionally, I urge you to consider extending the maximum loan amounts period to 3 months after businesses are allowed to reopen.**
- On a similar note, as mentioned in a previous letter organized by my colleague Rep. Abigail Spanberger, which I signed, **I respectfully request that your agencies rescind the 75/25 percent ratio stipulation.** The terms of loan forgiveness in the PPP program were clearly and intentionally stipulated in the CARES Act, allowing for forgiveness on a covered loan to

be equal to the payroll costs plus any payment of interest on any covered mortgage obligation plus any payment on any covered rent obligation plus any covered utility payment. As this loan and the corresponding loan forgiveness was meant to ensure the continued employment of individuals throughout the country, the loan forgiveness stipulations of the PPP state that the amount of the loan forgiven would be reduced proportionally by any reduction in employees retained compared to the prior year and reduced by the reduction in pay of any employee beyond 25 percent of their prior year compensation. No other stipulations were named, in order to provide small businesses the flexibility necessary to best weather these trying times. As a result, I was disappointed to learn that, contrary to Congressional intent, your agencies have added stipulations to this loan forgiveness. According to this guidance, not more than 25% of the forgiven amount may be for non-payroll costs and compensation levels of employees must be maintained—rather than the Congressional stipulation of not reducing compensation beyond 25%.

- I have also heard from numerous sole proprietors and self-employed individuals who are frustrated by the decision to change the “up to \$10,000” EIDL cash advance option to a “\$1,000 per employee” limit. For someone running a business as a sole proprietor – especially someone whose income has taken a precipitous hit and has so far been unable to access financial assistance through either EIDL or PPP - \$1,000 will not be nearly enough to cover expenses in the short-term, which was the point of that provision. Once more funds are added to the EIDL program, **I urge you to revert to the “up to \$10,000” limit for the EIDL cash advance and make it apply retroactively to sole proprietors and self-employed individuals who have received funds.**
- There has also been a significant problem stemming from SBA’s definition of “small business” with regard to how early stage businesses, or “startups” qualify for the PPP. Due to how many startups are financed—through equity investment provided by venture capital firms that make investments in a portfolio of young businesses—they are required to aggregate the employees of all the unrelated companies in which their investors have equity positions, pushing many beyond the 500-employee threshold of the “small business” definition. Without clear guidance enabling startups and other small businesses supported by equity investment to access the 7(a) loan facility, many of these companies will be rendered ineligible causing them to fail. With 2.3 million jobs across the country created by startups in 2019, I am sure you understand what is at stake if these businesses do not receive the cashflow needed for their survival. With these concerns in mind, **I urge the SBA to issue guidance providing a bright line test that allows companies with 40 percent or less venture-backing to be eligible for assistance under the PPP.**
- Lastly, many small businesses who have histories banking with large financial institutions like Wells Fargo have found it difficult to access PPP funds, given those institutions’ unfortunate choice to give priority to larger, more lucrative loan seekers. In fact, many lost out on funding altogether as a result. Going forward, I believe Wells Fargo – and the other major U.S. financial institutions – have a responsibility to prioritize true small businesses and those businesses that are in most desperate need of aid. Future funding should clarify rules around distribution of funds to ensure that big banks are working with us to fill the priorities of the country, rather than the priorities of their own bottom line.

I am sure this is not the first time you are hearing about the concerns I’ve laid out above, but I am hopeful that by adding the voices of the thousands of my constituents represented here to the millions crying out around the country, we will be better able to come together to make the EIDL and PPP programs work

better for more small businesses and self-employed individuals. Together, they are the backbone of our economy, and when it is safe to do so, we will need them to be ready and open for businesses. In the meantime, I ask you to do whatever is in your power to help those who need it.

Thank you for your consideration, and for your continued service to our country.

Sincerely,

A handwritten signature in black ink, appearing to be 'D. Phillips', with a long horizontal stroke extending to the right.

Dean Phillips  
Member of Congress

CC: The Honorable Nancy Pelosi, Speaker of the United States House of Representatives  
The Honorable Nydia Velazquez, Chair, House Committee on Small Business