



May 15, 2020

The Honorable Nancy Pelosi
Speaker of the House of Representatives
U.S. House of Representatives
United States Capitol
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
United States Capitol
Washington, DC 20515

Dear Madam Speaker and Majority Leader McConnell:

On behalf of the organizations representing this nation's more than 30 million small businesses, we write to you today with a broad set of policy recommendations and concerns as Congress considers additional legislation as it relates to economic relief during the COVID-19 crisis.

The first three response bills passed by Congress have provided support for millions of small businesses across the nation in an unprecedented amount of time. We understand that additional guidelines are being provided and that further conversation is needed with the U.S. Small Business Administration (SBA) and the U.S. Department of Treasury to develop effective implementation of the Paycheck Protection Program (PPP), however, we urge Congress to ensure that *all* small businesses are supported during this time of crisis. We appreciate your attention to the small business and entrepreneurship sectors as they define the economic vibrancy of America and we ask for consideration of the following policy recommendations:

Directed Use of Existing and Future PPP Funding

We believe it is necessary for Congress to provide additional guidance and direction to further ensure that those small businesses who are most vulnerable (minority business owners, women business owners, small employers with less than 50 employees, and the self-employed) are provided more protections and pathways to access this program. We are disappointed to hear from many of our valued members that they have been essentially shut out of the program due to various challenges both from the implementation and the lack of direction given to lenders.

Loan Forgiveness

Small business owners believed that the intent and language of the guidance would align with the legislation, and were consequently disappointed to see changes to the non-payroll portion of

forgivable expenses and the limitation placed on EIDL loan advances. As additional guidance continues to be published, many small businesses are confused and paralyzed by the uncertainty in how to utilize these loans and what effects they will have on the future of their business.

Extension of the PPP Eight-Week Term Length

Given that the economic effects of COVID-19 will be both severe and unpredictable, the eight-week timeline and deadlines associated with the original legislation are no longer appropriate. The program should be amended to allow use of funds to continue throughout the rest of 2020 and additional flexibility that favors business owners responsibly deploying funds is needed. Congress should also convene leading small business organizations for an open, on-the-record dialogue about the effectiveness of PPP as it considers future funding. Not only are millions of businesses seeking their first PPP loan, but millions more who received them are now facing the same challenges from early March.

75/25 Payroll Cost Threshold

In their promulgation of guidance, the U.S. Department of Treasury and the U.S. Small Business Administration determined that no more than 25% of PPP loan dollars could go to non-payroll expenses. This decision was devastating to certain industries -- particularly restaurants and many small businesses located in high-cost/high-rent areas -- and should be immediately reversed in any forthcoming legislation. We must champion the ability of business owners to implement these loans as necessary to keep their operations running.

Compile Data on PPP Allocation

There is an absence of data on the types of businesses being served by the PPP. As further guidance comes out on loan forgiveness, Congress should utilize a loan forgiveness application as an opportunity to gather additional data on the types of businesses, including demographic information, that have received loans. This will help to document important information, including whether there are participation gaps, which will help drive future policy development. This data could increase Congress' understanding of which communities are falling through the cracks and need targeted assistance.

Better Communication & Expanded Set of Lenders

Given the magnitude of the crisis, we understand the diligence and speed of everyone working to stimulate the American economy. At the same time, guidance for lending institutions has been lacking, which has led to confusion, under-preparedness and challenges for implementation. Through legislation or direction of federal agencies, we specifically need guidance on:

Loan Eligibility Qualifications

Increased clarity on PPP loan eligibility for minority-owned, community banks and credit unions would help small businesses strategize accordingly. These lending entities are critical to the response, but they also have payroll and financial challenges. We urge Congress to clarify that CDFIs, MDIs, and other mission-based lenders be declared eligible for PPP loans.

Non-traditional Lending Institutions

Many small businesses have received little assistance from traditional banking institutions that have been approved to administer PPP loans and, instead, are receiving quicker loan approvals with alternate lending institutions. These lending institutions primarily operate and serve

low income, minority and rural communities who have some of the most vulnerable businesses or most established minority businesses in our country. An increase in certified lenders to administer PPP loans will increase the number of loans that can be processed, especially amongst microbusinesses and minority borrowers.

The guidance put out by the Administration provided limited details on the inclusion of non-SBA and non-bank lenders. We support the swift inclusion of these entities to maximize the opportunities for small business borrowers. We should also address the capital needs and lending abilities of minority depository institutions and credit unions. Legislative action is needed so that these lending institutions can serve their customer and get them necessary operational capital and immediate liquidity.

Finally, the delay in adding non-bank lenders to the program is unacceptable. We urge Congress to create a five day application response period for new entities seeking to support their communities as PPP lenders.

The Prioritization of Disadvantaged Communities

The CARES Act legislation requires the prioritization of many communities that are underbanked and face pre-existing capital challenges. Unfortunately, many of these disadvantaged groups, including women and minority-owned businesses, have not yet received PPP funding. Many businesses that did not need the funds have benefitted from PPP funding, yet many small business owners are facing unprecedented challenges and continue to struggle. We urge you to continue to work with the Administration to prioritize minority and rural communities.

Microbusinesses

The CARES legislation, though well intentioned, has also left microbusinesses vulnerable. Businesses with less than ten employees have not reaped the benefits of the CARES Act, many of which have still not received PPP or EIDL funding. The next funding package should support these small businesses and set aside funding for companies of 50 employees or less.

New Businesses

On average, it takes two to three years for a new business to become profitable. Newer and smaller businesses operate with increased uncertainty and fewer safeguards, especially during times of crisis. Congress must address these amplified needs of these newer businesses to help them survive and create American jobs to stimulate our economic prosperity.

Additional Guidance Needed for the Self-Employed and 1099 Independent Contractors

The delayed PPP application submission date for independent contractors and self-employed individuals left them at a disadvantage in receiving funding and provided ambiguous guidelines on the loan applicability. As it stands, there is still uncertainty around the loan forgiveness eligibility of independent contractors that file their taxes using 1099 forms, leaving room for speculation.

Keith Hall, President and CEO of the National Association for the Self-Employed stated, "For 1099s and independent contractors, your payroll is your net earnings from self-employment. It is

my expectation, from a practical standpoint, that these PPP loans for 1099 people will be forgiven." We agree with Mr. Hall's conclusion and urge Congress to relieve any uncertainty.

We must ensure that sole-proprietors and 1099 independent contractors can access funding to continue working, allow their clients to maintain them on payroll, and ease the restrictions of the Paycheck Protection Program so that employers can use 1099 employees as part of their payroll to access the PPP. We appreciate the additional stimulus funding allocated to allow for more businesses to apply, and we also encourage you to enact legislation that requires specific disaster business loans and streamlines the relief fund application process for the self-employed and independent contractors.

Leveraging Tax Policy to Support Small Businesses

The Employee Retention Tax Credit (ERTC) implemented under the CARES Act provides fully refundable tax credits for eligible employers equal to 50% of qualified wages up to \$10,000 paid to an employee (a maximum of \$5,000 credit per employee available to employers). We urge Congress to strengthen and expand the ERTC, to further aid businesses negatively affected by the economic downturn from COVID-19.

IRS Notice & 2019 Payroll Taxes

The Internal Revenue Service (IRS) released a notice last month stating that expenses paid by forgiven PPP loans will not be tax-deductible because the proceeds will not be taxable. While this is perhaps logical in normal circumstances, it hurts small businesses and has taken them by surprise. Congressional tax writers have informed the IRS that the intent of the CARES Act - through a specific provision written in the legislation - allows deductibility, but IRS guidance did not align with the intent and text of the legislation. Please support a special exception for the small businesses that need every break possible and make this clear to the IRS.

Additionally, sole proprietors and independent contractors would benefit if the IRS waves the income taxes for the first \$10,000 of self-employed or contracted dollars these Americans gain. We encourage Congress to allow the IRS to forgive the 2019 Payroll Taxes to keep additional capital within the economy and encourage a more swift economic recovery.

Increase Small Business Utilization on Government Contracts and Encourage Large Companies to Maintain their Supply Chain

We propose doubling small business set-aside goals for FY20 and FY21 and re-establishing the Quick Pay program to ensure small businesses receive earned pay as fast as possible. The government can be an effective economic tool when leveraging its \$500 billion spend, particularly with small businesses.

Similarly, small businesses rely on corporate America in their customer base. As we transition towards long-term economic recovery strategies, please consider introducing tax incentives for corporate America to keep small businesses in their supply chain through 2021.

Amendment to the Small Business Act to Ensure the Inclusion of Certain 501(c)(6) Organizations in Coronavirus Relief Packages

In the Cares Act, 501(c)(6) organizations were not included in the Paycheck Protection Program. However, a contingent of this group assists small businesses in navigating normal day-to-day operations and is especially critical in providing guidance during times of crisis. By including specific 501(c)(6) organizations while also prohibiting others, the spirit of the CARES Act remains intact.

Expand Broadband and Infrastructure

Many small businesses that are located in rural areas have been disadvantaged during the PPP and EIDL application submission processes due to a lack of broadband access. Congress should allocate funding to increase broadband and infrastructure in rural areas to ensure that all small businesses have equal opportunity to apply for loans, receive aid and have the tools to function in the digital economy.

More Transparent Reporting on SBA's PPP and Disaster Relief Programs

Require lenders of all types to ask the ethnicity of loan applicants to the SBA to enable reporting with more demographics that includes the total number and dollar amounts of loans or grants approved and disbursed through the PPP, Emergency EIDL Grants Program, and the EIDL Program as well as the amount of remaining funding in each program. Weekly reporting should include a breakdown by industry, ethnicity, and loan/grant size. Furthermore, the SBA should require the top 15 Financial Institutions who are managing the lending for these loans to provide a good faith effort and set aspirational goals for a certain percentage for Hispanic and Minority-owned small businesses and report these results.

Resources and Services in Languages other than English

We urge Congress to expand Section 1111 of the existing CARES Acts to provide minority communities with the necessary resources in their individual native languages. This section should not discriminate communities of diverse racial ethnicities and should be inclusive of all sub-minority groups in America. All resources should be adequately translated and distributed in all available channels to include the world wide web, printed materials, and in-person translation for any presentation conducted by a government entity when providing business assistance to affected businesses. This measure should also include service for the blind, legally blind, visually impaired, and deaf communities.

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 Executive Directors Rhett Buttle (rhett@smallbusinessroundtable.org) or John Stanford (john@smallbusinessroundtable.org).

Thank you for your service and dedication to the United States and the more than 30 million small business owners that drive and shape our economy.

Sincerely,

Chiling Tong, President & CEO, Asian and 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 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