

United States Senate

WASHINGTON, DC 20510-3203

April 2, 2020

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

Dear Administrator Carranza,

We write to thank you for our recent phone call to discuss the implementation of the Small Business Administration's (SBA) critical programs to help the nation's small businesses and nonprofits stay afloat during this unprecedented crisis. COVID-19 has wreaked havoc on employers and their workers across every industry and in every corner of the nation. So many of our small businesses operate at close margins and have limited ability to absorb the kind of significant hit to revenues that this pandemic has caused. As we conveyed, and as we know you understand, a swift implementation is required of the small business assistance Congress included in the *Coronavirus Aid, Relief, and Economic Security Act* (the *CARES Act*).

In follow-up to our conversation, we wanted to further reiterate our urgent request for the release of guidance that both reflects Congress' intent in the *CARES Act* and that offers clarity and certainty to small businesses and nonprofits on how they can receive timely assistance from the SBA. Included below is a list of priority issues we discussed for consideration as SBA develops guidance.

Implementation Timeline

- So many small businesses and nonprofits have weeks, if not days, before they go under. We need swift implementation of the various SBA programs in the legislation. While we appreciate that the Administration has committed to the first Paycheck Protection Program (PPP) loans being processed this Friday, we want to stress the need for clarity on how businesses can access these programs and lenders can facilitate the loans. Can you confirm when detailed guidance will be finalized and how this information will be shared with small businesses and organizations so they are aware? Can you confirm that as of this Friday, any eligible small business or nonprofit will be able to work with a certified SBA-7(a) lender to begin a PPP loan application?

Treasury Expansion of 7(a) Lender Network

- As you know, this legislation authorized Treasury to designate many more financial institutions as new SBA eligible lenders. The PPP loan program's success rests on this expansion of SBA's lending network. Can you provide details on how SBA is coordinating with the Treasury Department to expedite the addition of new lenders to the certified SBA 7(a) lenders network? Related, what kind of steps are being taken to get information to our constituents on how these programs will work and where and when they can begin applying? How can a small business or nonprofit learn if their bank is eligible to process a loan and if not, where to locate an eligible financial institution to

work with? We want to avoid a situation where small businesses do not know where to go to access these critical loans. In fact, we were encouraged by discussion of a hotline that small businesses and lenders can call if they encounter any complications or have additional questions. Will such a hotline be put in place? How will you ensure adequate staffing is available so wait times are minimal?

Reporting on Loan Program Results

- We want to have a close understanding of how many loans are being made, who is receiving the loans, and how quickly funding is being drawn down in case Congress must act quickly in considering more funding for these programs. Can you commit to a weekly report on this information?

Nonprofit Eligibility

- We have heard many concerns from our nonprofits that the SBA's affiliation rules may prevent them from receiving assistance. How strictly will the SBA apply the affiliation rules to these programs during this crisis? Will the SBA address these concerns in the guidance for implementation? Can you provide clear direction to the nonprofit community on who may be eligible or not based on these affiliation rules? If so, when?
- It has also been brought to our attention that thousands of nonprofits in Puerto Rico may be ineligible under the 501(c)(3) eligibility standard included in the Paycheck Protection Program. The issue is that Puerto Rico's nonprofits register their status locally and not with the IRS, which technically means they are not 501(c)(3). This runs against Congress' intent for most charitable nonprofits, with up to 500 employees, to qualify for this program. Nonprofits in our territories cannot be left out of this program because of this technicality. The SBA should consider evidence in determining 501(c)(3) eligibility that considers nonprofit organizations or entities that are organized or doing business under State law. Will the SBA address this issue in guidance?
- We are concerned that the SBA may rule houses of worship as ineligible for SBA's Paycheck Protection Program. There are reasons that require a thoughtful application of the agency's rules for houses of worship, but we also want to stress, to the extent legally possible, the need to support these institutions as 501(c)(3) organizations the *CARES Act* made eligible. How will the SBA address this in its guidance?

Affiliation Rules

- In addition to how affiliation rules may negatively impact nonprofits, we are also concerned that some genuine small businesses that have a relationship with investors may be left out of PPP loans due to affiliation rules. We are also concerned that lenders and the SBA could be hindered by the lack of clarity in the rules as they stand because they are cumbersome, complex and in some cases subjective. Will the SBA issue swift guidance that has brighter lines and additional clarity to resolve confusion with regard to the eligibility of small businesses with minority investors in order to better inform applicants and avoid leaving out small businesses with a credible need?

Ensuring Small, Disadvantaged, and Underserved Businesses Receive Assistance

- We are very concerned about the limited funding provided to the SBA's PPP loans being drawn down quickly, especially given the provisions for franchises, big hotels and restaurants. What protocols are you putting in place to monitor the use of funds?
- Given these funds are first-come, first-serve, how are you ensuring that independent and community small businesses without the resources of larger companies are getting the assistance they need to access the program?

- How will you ensure disadvantaged and underserved businesses are receiving assistance from this program, not just bigger businesses taking advantage of provisions that waived rules for franchises, big hotels and restaurants?

Debt Relief for SBA Borrowers

- The *CARES Act* included a provision to provide debt relief for six months to existing and new SBA borrowers. We view this as a forceful but simple step to stabilize the existing portfolio and enabling SBA lenders to focus on making new loans. It is our view that borrowers need not complete any paperwork to receive this benefit. Do you agree? What are your plans for notifying lenders and borrowers about this provision and for implementing it quickly?

Emergency Economic Injury Grant

- The *CARES Act* included a requirement that a \$10,000 grant be awarded within 3 days of an application to the SBA's Economic Injury Disaster Loan program to help cover operating expenses while waiting for the loan processing. Are SBA staff prepared to fulfill this requirement?

By no means is this list comprehensive of the many issues that must be considered in implementation of the SBA's programs included in the *CARES Act*. We hope that you will closely consider each of these topics and others that we will engage with you on in the days, weeks, and months ahead to ensure SBA is implementing the programs according to Congressional intent and in such a way that can best serve the nation's small businesses and nonprofits.

We once again thank you for your tremendous efforts in response to this national emergency and look forward to continued partnership.

Sincerely,



Charles E. Schumer
United States Senator



Ben Cardin
United States Senator



Christopher A. Coons
United States Senator



Bernard Sanders
United States Senator