

Congress of the United States
House of Representatives
Washington, DC 20515

April 16, 2020

The Honorable Nancy Pelosi
Speaker
H-232, The Capitol
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
H-204, The Capitol
Washington, D.C. 20515

Dear Speaker Pelosi and Leader McCarthy:

As Congress continues our negotiations to craft another legislative package to respond to the impacts of the COVID-19 pandemic, we must include language clarifying the loan forgiveness provisions of the Paycheck Protection Program (PPP). Specifically, Congress must take action to ease burdensome requirements on loan forgiveness set by the Department of the Treasury and the Small Business Administration (SBA), particularly the requirement that 75 percent of the loan be spent on payroll costs. Additionally, we must address the negative implications for a borrower's loan forgiveness that arise if a small business tries but is unable to rehire employees due to the economic and public health uncertainty surrounding the current crisis.

The terms of PPP loan forgiveness were clearly and intentionally stipulated in Section 1106 of 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 were 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, we were disappointed to learn that, contrary to Congressional intent, the Department of the Treasury and the SBA have added stipulations to this loan forgiveness that reduce the flexibility businesses have to use and get forgiveness for the PPP loan. According to the administration's guidance, not more than 25% of the forgiven amount may be for non-payroll costs and compensation levels of employees must be maintained. By contrast, the *CARES Act* did not stipulate the fraction of the forgivable loan that would go to rent vs. payroll and said that businesses could not reduce compensation by more than 25%. We ask that any future legislation clarify PPP loan forgiveness rules by expressly disallowing this new stipulation that 75% of the loan be spent on payroll. This will allow small businesses the flexibility, within the parameters set forth by Congress, to use the PPP loans as necessary to keep their individual business afloat.

Additionally, Congress must ensure that any future COVID-19 relief legislation provides guidance for borrowers that try but are unable to rehire employees by June 30, 2020. Many small businesses are concerned that, due to the extenuating factors surrounding the pandemic –

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including ongoing state and local stay-at-home orders – they may not be able to meet the June 30 deadline. According to current PPP guidance, this would negatively affect a borrower’s loan forgiveness, even though this is a factor outside of the borrower’s control. These small businesses require direction on how to navigate this aspect of the PPP loans, without sacrificing their loan forgiveness.

As a resource for small businesses, sole proprietors, contractors, and the self-employed, PPP loans were meant to both keep workers employed and to address the different contexts and needs of these businesses. Additional stipulations or insufficient guidance for these businesses means they could be forced to choose between abandoning critical aspects of their business or taking on additional debt that they cannot afford. Forcing small business owners to make this choice could result in these businesses having to close their doors, further feeding into a loss of industry and higher unemployment at a time when Americans are struggling most.

Thank you for your ongoing work to address the economic impacts of this pandemic. Our swift action on this issue will help alleviate the concerns of our nation’s small businesses, which are vital to our country and our communities.

Sincerely,



Abigail D. Spanberger
MEMBER OF CONGRESS



Brian Fitzpatrick
MEMBER OF CONGRESS



Josh Gottheimer
MEMBER OF CONGRESS

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