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COMMITTEES:
APPROPRIATIONS
BANKING, HOUSING,
AND URBAN AFFAIRS
BUDGET
ENVIRONMENT AND
PUBLIC WORKS

United States Senate

WASHINGTON, DC 20510

April 8, 2020

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Charles E. Schumer
Minority Leader
United States Senate
Washington, D.C. 20510

Dear Majority Leader McConnell and Minority Leader Schumer,

Like many of my colleagues, I have been hearing from small business owners across the state who have been hurt and frustrated by the problems surrounding the implementation of the Paycheck Protection Program (PPP) of the CARES Act.

While I agree that we must continue to support this program through an increase of additional funds, we cannot do so in good conscience without addressing many of the issues that we've seen thus far. As we move forward with the PPP, we must address the following issues:

(1) Banks have been prioritizing bigger, more lucrative customers for priority access to the program, which was not the intent of this program. A portion of the funding should be set aside for Community Development Financial Institutions (CDFI); for businesses with fewer than 10 employees; for businesses with fewer than 50 employees; and for sole proprietors and independent contractors to ensure that smaller organizations are not being overlooked by banks.

(2) The Small Business Administration (SBA) must clarify that small, community hospitals with 501(c)(3) status are eligible for PPP loans. As non-profit district hospitals they adhere to federal and state requirements for all not-for-profit hospitals, including providing community benefit and charity care.

(3) The SBA has deemed ineligible any applicant if "[a]n owner of 20 percent or more of the equity of the applicant is incarcerated, on probation, on parole; presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction; or has been convicted of a felony within the last five years[.]"[1] The breadth of this provision is unconscionable, as it punishes individuals who should be innocent until proven guilty and those who have already served their time and, due to the well-known racial disparities in our justice system, disproportionately disqualifies minority-owned businesses.

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[1] 13 CFR Part 120, Business Loan Program Temporary Changes; Paycheck Protection Program, https://content.sba.gov/sites/default/files/2020-04/PPP--IFRN%20FINAL.pdf

(4) Because many are organized as 501(c)(6)s, some local Chambers of Commerce that support small businesses have been left out of this financial support. Local chambers that are focused on assisting small businesses should be made eligible for PPP. To be eligible, these community chambers must be able to document declining membership fees or other revenues due to the coronavirus outbreak.

(5) The SBA should clarify that business cooperatives under 500 employees are eligible for PPP loans.

(6) Small businesses that employ independent contractors should be allowed to apply those contracts to their monthly payroll totals, providing them support to keep these contracts active. In that correction, the SBA must clarify that these independent contractors, should they hold multiple contracts, would not be eligible to then apply for PPP for that contract, but could apply to compensate for the loss of other contracts.

(7) The SBA and Department of Treasury must provide support for lenders as well, providing authorization details, details for note, and details on the secondary market, so banks engaged in lending understand expectations from regulators.

(8) Lastly, the SBA must clarify that all applicants can benefit from these funds retroactively, even if their loan processing takes longer than the eight weeks designated by the SBA.

The shortcomings in the current implementation of PPP are all too evident. We have an opportunity to correct these shortcomings, and we must seize that opportunity.

Sincerely,

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Jeffrey A. Merkley
United States Senator