

April 30, 2020

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

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

Dear Secretary Mnuchin and Administrator Carranza:

We write to request that the Small Business Administration (SBA) revise its Interim Final Rule for the Paycheck Protection Program (PPP) so that it properly reflects Congress and the Administration's support for second chances following a record of bipartisan criminal justice reforms in Congress dating back more than a decade. The rule should not deny assistance to people with criminal records who have turned their lives around, started a small business, created jobs and contribute to their communities.

During the month of April, we celebrate Second Chance Month, which exists to raise awareness of the collateral consequences of a criminal conviction, and unlock second-chance opportunities for people who have paid their debt to society to become contributing citizens. The President and Congress have worked together in the past to support individuals who have paid their debt to society and are re-entering their communities.

We believe that policies should support second chances. This was most recently evident in the enactment of the Fair Chance Act in 2019, which opened federal government work to people with criminal records, and the overwhelming bipartisan vote in 2018 for the First Step Act, which provided for important correctional and sentencing reforms. Importantly, this legislation reauthorized the Second Chance Act, which provides funding to state and local reentry programs.

We applaud the SBA's efforts to quickly provide small business owners across the country with relief so they can continue to pay their employees and combat the adverse economic effects of this pandemic. However, the new restrictions placed upon small businesses with partial owners who have been involved in the criminal justice system will only hurt the economy, and further diminish the workforce and the tax base they generate.

Specifically, we are concerned about the following restriction contained within 13 CFR Part 120 section III(2)(b)(iii):

“An 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.”

This rule departs from the SBA’s own pre-existing eligibility standards for loans, including its Economic Injury Disaster Loans (EIDLs), and deviates from the Administration’s support for second chances. It also deviates from Administrator Carranza’s prior expression of interest during her nomination process to widen SBA’s footprint in the returning citizen community. The language is overly broad, excluding millions of business owners and their employees from much-deserved and much-needed emergency relief. Due to longstanding inequalities in the justice system, the restrictions will also have a disparate impact on communities of color, just as those communities are among the hardest hit by this health and economic crisis.

Through the *CARES Act*, and specifically the PPP, Congress sought to ensure that emergency relief is made available to small businesses that have been negatively impacted by this pandemic. This relief was not intended to exclude business owner who have made mistakes, paid their debt, and turned their lives around. Rather, it was intended to provide a bridge to hard-working American small business owners who are keeping people employed and supporting the essential services that benefit all of us during this unprecedented crisis.

We ask that you revise this harmful, exclusionary Interim Final Rule so that more businesses are eligible for emergency relief, and ensure that SBA rules support second chances, a stronger economy, and safer communities across all of its programs, including EIDL.

Sincerely,



Senator Rob Portman



Senator Benjamin L. Cardin