

Congress of the United States
Washington, DC 20515

April 16, 2020

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

Dear Secretary Mnuchin:

Thank you for the work of you and your team during this time of crisis. Our country is facing an extraordinary economic threat. Businesses across the country have been involuntarily closed by state and local governments in response to the public health threat of COVID-19. The federal government has rightly responded to replace the capital that this government action has cost them.

The Small Business Administration's Paycheck Protection Program (PPP) is a critical channel for these businesses to obtain capital to survive. But, businesses in my district continue to report that the implementation of the program by SBA and Treasury is unnecessarily restrictive. I write to ask that you issue updated guidance to address the following issues administratively:

Allow more flexibility in permissible uses of PPP funds. In order to receive loan forgiveness, Treasury has mandated that 75% of PPP loan funds must be spent on payroll. This one-size-fits-all rule simply does not work for the cost structure of many industries and is not required by the text of the CARES Act. Businesses should be permitted to spend at least 50% of PPP funds on other expenses like lease or mortgage payments and still be subject to forgiveness.

Allow flexibility on the term of loan repayment. The CARES Act allowed for loans to be repaid in terms up to ten years. However, Treasury and SBA implemented the PPP program with a maximum loan term of only two years. This approach does not work for all businesses. Treasury and SBA should issue new guidance that allows banks and borrowers to decide on terms that fit the borrower's needs so that they aren't stuck with a loan payment that they cannot afford.

Clear and broad lender safe harbor guidance to ensure fast processing. Concerns about legal liability are causing lenders to place additional, and sometimes onerous, documentation requirements on borrowers. This is leading to longer processing times, delaying access to capital. Banks should not be required to verify the borrowers' certifications. Treasury and SBA should issue guidance that clearly states that lenders are protected from liability by a robust safe harbor.

In addition to these issues that can be fixed at the agency level, there are other problems that may require legislative action. I encourage you to work with Congress to address the following:

Allow PPP funds to be spent outside of the eight-week “covered period.”

Even if lockdowns and stay-at-home orders are fully lifted in this timeframe, many businesses will not be at full operating capacity in eight weeks. Businesses should be allowed to retain PPP funds and spend them as facts on the ground dictate, but at the very least until they can fully reopen. An eight-week limitation is too restrictive and should be eliminated.

Reform Unemployment Insurance that creates a disincentive to work. The increase in Unemployment Insurance provided in the CARES Act will lead to the unintended consequence that many workers will be able to make significantly more money by staying at home. This disincentive is already making it harder for small businesses in my district to rehire employees, as required by the PPP. No one should make more money on Unemployment than they made while working. Please work with Congress to fix this provision so that small businesses don't face government-created obstacles to rehiring employees.

I commend the speed at which the Administration got this program up and running. But any agency guidance, not clearly required by statute, that slows or limits access to capital should be eliminated. The Administration and Congress should work together to make the changes needed to give businesses the flexibility they require so that they can weather this economic storm. I urge you to take swift action on the above items with these goals in mind.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chip Roy', with a stylized flourish at the end.

CHIP ROY
Member of Congress