July 31, 2020

The Honorable Marco Rubio
Chairman of the Senate Committee on Small Business & Entrepreneurship
United States Senate
284 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Ben Cardin
Ranking Member of the Senate Committee on Small Business & Entrepreneurship
United States Senate
509 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Jeanne Shaheen
United States Senate
506 Hart Senate Building
Washington, D.C. 20510

The Honorable Susan Collins
United States Senate
413 Dirksen Senate Building
Washington, D.C. 20510

RE: (S, 4321) Continuing Small Business Recovery and Paycheck Protection Program Act

Dear Senators Rubio, Cardin, Shaheen, and Collins:

As a representative of America's 30 million small businesses, Small Business Majority writes today regarding provisions in the Continuing Small Business Recovery and Paycheck Protection Program Act (S, 4321). Small Business Majority is a national small business advocacy organization, founded and run by small business owners to ensure America's entrepreneurs are a key part of a thriving and inclusive economy. With a network of more than 65,000 small businesses, we are actively engaging small business owners and policymakers in support of long- and short-term policies that will lead to a healthy recovery in the wake of COVID-19.

S, 4321 is a starting point in addressing the lack of flexibility that small business owners who participated in PPP are facing. An essential component of S, 4321 is forgiveness for loans under $150,000, which small businesses have repeatedly called for because the loan forgiveness process is so complex. However, the legislation does not provide enough comprehensive changes that entrepreneurs need to sustain their businesses.

Moreover, without other changes to the program, many businesses, primarily minority-owned businesses, will be left behind or discriminated against once again. For example, while the CARES Act waived credit as an underwriting requirement for eligibility for PPP, we have heard from many small businesses in our network, especially Black entrepreneurs, that they have been denied loans due to their credit score. Forbidding lenders from basing their decisions on credit is absolutely necessary to ensure minority-owned businesses that are already being disproportionately impacted by COVID-19 are not further left behind.

Yet another measure that would help reduce the debt of small businesses while avoiding some of these discriminatory practices is offering forgiveness for borrowers who received EIDL under $150,000, which has been a critical resource for underserved small businesses.

Without these and the following critical changes, the legislation will fail to provide solutions that small businesses have overwhelmingly called for from policymakers. The following outlines provisions in the bill that can be improved upon to better suit the needs of small businesses across the country:

Section 106. Paycheck Protection Program Second Draw Loans

- **Recommended Improvement:** Change the eligibility requirements under this section from 300 employees per location to 100 employees total.
  - **Justification:** Changing eligibility to 100 employees total would support the PPP's goal of prioritizing true small businesses since most small businesses, especially those owned by people of color, tend to employ fewer than 100 employees. Furthermore, the current eligibility cap of 300 employees at one location will continue to allow larger businesses and chains with multiple locations to dry up PPP funding. By making this improvement, we can avoid perpetuating the same challenges we saw during the first round of PPP funding.
- **Recommended Improvement:** Change the eligibility requirement under this section to demonstrate a 25% reduction in gross receipts, instead of 50%.
  - **Justification:** Demonstrating a 50% reduction in gross receipts will be too burdensome for the most vulnerable businesses, who may not have accountants and other experts to assist with this requirement. Furthermore, this provision picks winners and losers. Businesses that suffered 25% reduction in gross receipts are still substantially impacted. For a small business with high fixed costs, a 25% reduction of gross receipts could easily sink it.
  - Additionally, it's unclear how a business would demonstrate a decline in revenue. We recommend an attestation that the business suffered a revenue decline of at least 25%, rather than requiring demonstration.
- **Recommended Improvement:** Eliminate the 60/40 payroll/non-payroll threshold requirement.
  - **Justification:** The 60/40 threshold continues to be a major barrier for small businesses with rent and mortgage obligations. In a recent survey of our network, we found nearly 6 in 10 small businesses are struggling to make their commercial rent or mortgage payments. If this provision is eliminated for businesses under the second draw, it would provide the flexibility they were not originally granted to ensure they can pay their fixed costs that are essential to maintaining their business.
- **Recommended Improvement:** Forbid credit scoring.
  - **Justification:** To ensure the application process for second draws of the PPP is not shutting out small business owners, particularly minority-owned businesses, the text of the legislation must clearly state that credit scoring by banks is forbidden.
- **Recommended Improvement:** Change the fee paid for loans under $150,000 from 3% to a minimum lenders' fee of $2,500.
  - **Justification:** Many Community Development Financial Institutions and other banks that make smaller loans have been disincentivized from making PPP loans because the fees were not tenable. A minimum processing fee of $2,500 per loan ensures lenders do not lose money by processing small-dollar loans or cherry-picking larger loans.
- **Recommended Improvement:** Clearly outline what the Small Business Administrator must do to address barriers to access to capital for underserved communities.
  - **Justification:** Small business owners of color, especially Black-owned businesses, have been shut out of PPP, and with a lack of transparency among the Administration and Treasury, there must be more prescriptive language asserting what SBA must do to address these disparities. Small business owners of color have been more impacted by COVID-19 than their white, male counterparts, and the historic lack of access to capital, epitomized in distribution of PPP funding, must not just be addressed, but fixed.
  - Indeed, our surveying has found that minority-owned businesses are less likely to have received a PPP loan and more likely to report that they are struggling with their rent and mortgage payments than their white counterparts, and this is especially true for Black-

owned businesses. We must act now to ensure these businesses are not further disenfranchised before it's too late.

Section 112. Changes to the 7(a) Loan Guaranty Program for Recovery Sector Business Concerns

- Change the eligibility requirements under this section from 300 employees per location to 100 employees total.
    - (See above)
- Change the eligibility requirement under this section to demonstrate a 25% reduction in gross receipts instead of 50%.
    - (See above)
- Ensure the process of applying for the 7(a) program is not burdensome.
    - Traditionally, the 7(a) program is notoriously difficult to qualify and/or apply for. We must take steps to streamline the process so it's easier to apply for, and ensure that more businesses owned by people of color and women are eligible, such as by waiving or reducing the credit score and personal guarantee requirements.

Section 101. Additional Eligible Expenses

- **Recommended Improvement:** Eliminate the 60/40 payroll/non-payroll threshold requirement.
    - **Justification:** While the additional eligible expenses are a great improvement to the original inflexible definitions of non-payroll expenses, the 60/40 threshold continues to be a major barrier for small businesses. By not changing the 60/40 rule, these added allowable costs, such as personal protective equipment or property damage expenditures, will not make enough of a difference because rent/mortgage payments will continue to be the greatest non-payroll cost for businesses.

The provisions outlined in this legislation are an improvement upon key federal programs that have helped many small businesses during the pandemic. Making the changes outlined above will better reflect the needs of true small businesses.

We appreciate your consideration and leadership at this critical time for our nation's small businesses.

Sincerely,

John C. Arensmeyer

John Arensmeyer, Founder and CEO

cc:

Senate Majority Leader Mitch McConnell
Senate Minority Leader Chuck Schumer
House Speaker Nancy Pelosi
House Minority Leader Kevin McCarthy
House Small Business Committee Chair Nydia Velázquez
House Small Business Committee Ranking Member Steve Chabot