

# United States Senate

WASHINGTON, DC 20510-0908

March 26, 2021

The Honorable Isabella Guzman  
Administrator  
U.S. Small Business Administration  
409 3<sup>rd</sup> Street SW  
Washington, D.C. 20416

Dear Administrator Guzman:

I write to request your attention to problems experienced by small businesses and nonprofits with multiple locations applying for assistance through COVID-19 relief programs administered by the U.S. Small Business Administration (SBA).

As you know, the *CARES Act* enacted historic small business relief through the Paycheck Protection Program (PPP), which provided critical funding to keep businesses open and workers employed during the COVID-19 pandemic. Furthermore, the *Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act* title of the *Consolidated Appropriations Act, 2021* enacted Second Draw PPP Loans to provide further financial assistance to small businesses experiencing significant reductions in revenue. Furthermore, it also created a new Shuttered Venues Operators Grant (SVOG) facility to provide financial assistance to shuttered live venue operators and promoters, motion picture operators, and other eligible small businesses also experiencing significant reductions in revenue.

Under the current program rules for these programs, small businesses and nonprofits with multiple locations—especially locations that they opened by necessity in response to COVID-19—have unique situations that may prevent otherwise eligible entities from receiving needed relief.

First, businesses and nonprofits that adapted to COVID-19 may be unjustly penalized by the current rules measuring revenue losses. During the pandemic, many small businesses and nonprofits have had to change their business models to adapt to the unique conditions forced upon them. For example, some of my constituents who operate movie theaters opened up temporary drive-in locations in order to keep their businesses alive. Though the operation of these locations, in some cases, helped to off-set businesses' gross revenue losses, they often caused even greater *net* revenue losses as businesses incurred significant expenses to keep their businesses alive under unique conditions.

Without a tailored rule for measuring revenue loss, however, some businesses that did the right thing by adapting to the pandemic will be excluded from receiving relief. A business that opened a temporary location by necessity during COVID-19 may have higher gross revenue, therefore making it ineligible under revenue loss requirements. I urge that the SBA craft a tailored rule measuring revenue loss for its relief programs that, in limited circumstances, takes into account locations opened by necessity related to COVID-19 restrictions.

Second, businesses and nonprofits that are otherwise eligible for Second Draw PPP loans may be unreasonably excluded from receiving such loans if a parent entity received First Draw loans. During the First Draw PPP loan process, many entities received assistance at the parent entity level, which allowed them to apply the same funds across locations, even if those locations were themselves independent

entities with independent tax identification numbers. In the Second Draw, however, some of these parent entities cannot demonstrate sufficient revenue loss to be eligible. Even though their subsidiaries, which are separate business entities, would otherwise be eligible independently, these entities believe they are ineligible because they did not themselves receive the First Draw PPP loans—their parent entity did.

Had the parent entities known that the Second Draw would require revenue losses, these organizations might have applied at the subsidiary level in order to preserve their eligibility for the Second Draw. Given the impossibility of this foresight, however, I urge that the SBA issue guidance permitting subsidiaries which are separate legal entities and otherwise eligible for PPP to receive PPP loans, provided that their parent entity received a First Draw loan and reasonably used the loan to support payroll at such subsidiaries.

Small businesses that made meaningful efforts to grow their business during the COVID-19 pandemic or find alternative sources of revenue to keep Americans employed should be provided the necessary flexibility by the SBA to receive the same access to federal financial assistance as other small businesses the faced the same economic impact caused by the pandemic.

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Rubio', written in a cursive style.

Marco Rubio  
U.S. Senator