

Congress of the United States
Washington, DC 20515

June 12, 2020

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

The Honorable Jovita Carranza
Administrator
U.S. Small Business Administration
409 3rd Street SW
Washington, DC 20416

Dear Secretary Mnuchin and Administrator Carranza,

We write to ask that you deliver to the American people the transparency that is consistent with the purposes of the Paycheck Protection Program (PPP). The assertion of Secretary Mnuchin on June 10, in sworn testimony before the Senate Committee on Small Business & Entrepreneurship, that information about PPP loans is “proprietary” or “confidential” is patently untrue. Shielding information about the PPP has no apparent purpose other than perhaps to protect you or the agencies from having to answer to the American people.

Numerous factors make a high level of transparency necessary and appropriate for PPP loans: 1) traditional loans offered by the Small Business Administration are already subject to extensive disclosures; 2) the expectation of public visibility established through the language of the Paycheck Protection Program (PPP) application; 3) the unprecedented size and nature of the PPP; 4) the numerous examples of fraud and abuse that have already surfaced within the PPP; and 5) the inequity that underscored the PPP’s implementation. Therefore, we request that the U.S. Department of the Treasury (the Treasury) and the U.S. Small Business Administration immediately fulfill all outstanding FOIA requests for information about PPP program recipients and award amounts.

Section 7(a) of the Small Business Act created the Small Business Administration’s main program for providing financial assistance to small businesses.¹ Detailed information about nearly every 7(a) loan that has been issued since 1991 is currently available on the Small Business Administration’s website.² Congress housed the PPP within Section 7(a) of the Small Business

¹ Small Business Act, H.R. 5141, 83rd Cong. (1953)

² “Learn how to submit a Freedom of Information Act or a Privacy Act request for information and records from the SBA,” U.S. Small Business Administration at: <https://www.sba.gov/about-sba/open-government/foia>

Act.³ Particularly after taking into account the nature of traditional 7 (a) loans, which *are not* forgivable, versus PPP loans, which *are* forgivable, it is clear that the level of public scrutiny that historically accompanies 7(a) loans should be viewed as the absolute floor, in the context of the PPP.

Secretary Mnuchin, in your testimony before the U.S. Senate Committee on Small Business & Entrepreneurship on Wednesday, June 10, you stated that the information provided on PPP forgivable loan applications is “confidential” and “proprietary information,” and that “the reason why we’re not disclosing the names and individual amounts, unlike in the 7(a) program, is because of that issue.” On the contrary: the application form for the PPP explicitly states that borrower information may be “subject to disclosure under the Freedom of Information Act.”⁴ It further states that “[i]nformation about approved loans that will be *automatically released* [emphasis added] includes...the names of the borrowers... the collateral pledged to secure the loan [and] the amount of the loan.”⁵

Moreover, the application form stipulates that “proprietary data on a borrower would not routinely be made available to third parties.”⁶ There are two intentional distinctions in that language: 1) proprietary data versus basic information like the names of PPP applicants and the sizes of these forgivable loans and 2) routine disclosure versus non-routine disclosure, the latter of which demonstrably includes Freedom of Information Act request purposes. These distinctions make clear to grant applicants that even the “proprietary data” that they provide on PPP grant applications is not fully protected from disclosure. While it is true that borrowers who transact with traditional lending sources enjoy some privacies, this is no ordinary lending arrangement, as PPP loans are presumptively forgivable.

The PPP is a key lifeline for millions of small businesses and their workers. Funded at up to \$650 billion, it is also an enormous expenditure of taxpayer dollars. Therefore, we must take every possible precaution to prevent fraud and abuse. Publicly providing basic identifying information about PPP grant recipients and the funding amounts that they received is the absolute minimum level of transparency that you should afford the American people.

As you know, there are significant, bipartisan concerns about documented instances of PPP forgivable loans being awarded to large firms instead of true mom-and-pop shops. Experts also estimate that 90 percent of businesses owned by people of color were shut out of the first round of PPP funding.⁷ This is in part due to the fact that lenders such as JPMorgan Chase, Citibank, and

³ Coronavirus Aid, Relief, and Economic Security (CARES) Act, H.R. 748, 116th Cong. (2020)

⁴ Paycheck Protection Program, “Borrower Application Form,” available at: <https://www.sba.gov/sites/default/files/2020-04/PPP%20Borrower%20Application%20Form.pdf>

⁵ Id.

⁶ Id.

⁷ Center for Responsible Lending, “The Paycheck Protection Program Continues to be Disadvantageous to Smaller Businesses, Especially Businesses Owned by People of Color and the Self-Employed,” at:

U.S. Bank prioritized issuing these forgivable loans to their wealthiest clients, when the PPP was established.⁸

These large business clients include: Ruth’s Chris Steakhouse, the burger chain Shake Shack, and Veritone, a technology company that paid its CEO \$18.7 million in 2018 alone. Fortunately and in demonstrably direct response to intense public pressure, all of these funds were returned. Until information about PPP recipients is made public, we will have no sense of the breadth of these problems in program administration, nor will any businesses owner that inappropriately received funding be incentivized to self-report and return the money to the program—to be redistributed as intended by Congress.

The current lack of transparency into PPP spending is unacceptable and calls for an immediate legislative fix. To address this issue, we will soon introduce an amended, Senate companion to H.R. 6874, the Paycheck Protection Program Transparency Act,⁹ to direct the Small Business Administration to make public basic information about PPP grants, including whether recipient businesses are minority-owned.

It is impossible to know the extent of the PPP’s problems—or its successes—without access to the data. We request that the U.S. Department of the Treasury and the U.S. Small Business Administration comply promptly with all outstanding FOIA requests about PPP program recipients and award amounts and reverse its stated policy of shielding information from Congress and the American people about the PPP.

Sincerely,



U.S. Congresswoman Katie Porter



U.S. Senator Kamala Harris

cc: Senator Marco Rubio, Chairman, Senate Small Business Committee
Senator Ben Cardin, Ranking Member, Senate Small Business Committee
Representative Nydia Velazquez, Chairwoman, House Small Business Committee
Representative Steve Chabot, Ranking Member, House Small Business Committee

https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-cares-act2-smallbusiness-apr2020.pdf?mod=article_inline

⁸ Emily Flitter and Stacy Cowley, “Banks Gave Richest Clients ‘Concierge Treatment’ for Pandemic Aid” *NYT* (April 2020) at: <https://www.nytimes.com/2020/04/22/business/sba-loans-ppp-coronavirus.html>

⁹ Paycheck Protection Program Act of 2020, H.R. 6874, 116th Cong. (2020).