

Congress of the United States
Washington, DC 20515

April 15, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, DC 20510

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Republican Leader
H-204, The Capitol
Washington, D.C. 20515

The Honorable Chuck Schumer
Minority Leader
United States Senate
Washington, DC 20510

Dear Speaker Pelosi, Leader McCarthy, Leader McConnell, and Leader Schumer,

The COVID-19 pandemic has put small businesses across the country under tremendous strain. Congress passed critical relief to help small business owners navigate this unprecedented crisis through the CARES Act. We write to bring your attention to an issue in which certain small businesses are ineligible from obtaining assistance from the Small Business Administration (SBA) due to collateral consequences for their previous encounters with the criminal justice system. As you prepare a phase four legislative package, we respectfully request you address these barriers to relief for these small businesses and their employees who need to access the important programs created by the CARES Act, as well as for any programs created in the future.

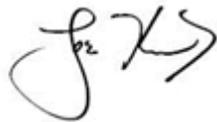
With the majority of the country under unfortunate but necessary shelter-in-place orders to reduce the spread of the COVID-19 virus, small businesses have been forced to close their operations. With businesses shuttered, small business owners are confronting lost revenue, mounting rent payments, struggling to make payroll, and enduring all the other challenges associated with operating a small business. Fortunately, the CARES Act offers critical sources of funding through several programs, specifically the Paycheck Protection Program (PPP) and the Economic Injury Disaster Loan Program. These lifelines will keep small businesses afloat and help lower- and middle-class Americans retain their jobs during this difficult time.

Unfortunately, the SBA has created broad criminal history standards that will disqualify small business owners who have worked hard to reintegrate into society from accessing critical PPP funds. Specifically, small business owners are automatically deemed ineligible for a loan if they, within the past five years, have: been convicted, pleaded guilty, pleaded nolo contendere, been placed on pretrial diversion, or been placed on any form of parole or probation. SBA also disqualifies businesses in which an owner or partial owner with twenty percent or more equity is “subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction, or presently incarcerated, or on probation or parole,” potentially penalizing businesses before any crime has even been adjudicated.

These guidelines are overly broad and promise to disqualify small business owners in many jurisdictions for offenses as minor as possession of marijuana. Inevitably, this policy will disproportionately hurt communities of color who, due to structural inequities, are most affected by the criminal justice system. As evidence increasingly makes clear, these communities also are disproportionately affected by COVID-19 and are contracting the virus and dying at far higher rates. Ample data indicate Black and Hispanic entrepreneurs already face more scrutiny and worse treatment from lenders than less qualified white entrepreneurs seeking access to capital to build their businesses. To impose rules that will disproportionately preclude the very communities most impacted by the virus from acquiring the relief necessary to now sustain those businesses are counterintuitive and unjust. As Congress considers future legislation, we urge you to ease these restrictions as well as for any additional programs created in the future.

We recognize the difficult challenges that lie ahead. As we help Americans confront the difficulty of the times, it is imperative we do not leave behind any small business or their employees.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Kennedy" with a stylized flourish at the end.

Joseph P. Kennedy, III
Member of Congress

A handwritten signature in blue ink, clearly legible as "Joyce Beatty".

Joyce Beatty
Member of Congress