

May 15, 2020

Administrator Jovita Carranza
U.S. Small Business Administration
409 Third Street, SW
Washington, DC 20416

Secretary Steven T. Mnuchin
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

RE: Interim Final Rule—Business Loan Program Temporary Changes; Paycheck Protection Program [85 FR 20811]

Dear Secretary Mnuchin and Administrator Carranza:

Thank you for the opportunity to comment on the Interim Final Rule entitled “Business Loan Program Temporary Changes; Paycheck Protection Program,” which was published in the Federal Register on April 15, 2020 by the Small Business Administration. This is a critical rulemaking, and NeighborWorks has serious concerns about several provisions that could exclude or discourage full participation by nonprofit organizations in the NeighborWorks network in the Paycheck Protection Program.

Please note that these comments have not been submitted to or approved by NeighborWorks America’s board and do not necessarily represent the views of its board members, either collectively or as individuals. These comments have been formed based on the ongoing work of NeighborWorks America with our network of nearly 250 NeighborWorks-chartered local and regional nonprofits.

For over 40 years, the Neighborhood Reinvestment Corp. (doing business as NeighborWorks America), a Congressionally-chartered, national, nonpartisan nonprofit, has created opportunities for people to improve their lives and strengthen their communities by providing access to homeownership and safe, affordable rental housing, increasing financial capability, and promoting community and economic development. NeighborWorks network organizations, like so many other nonprofit organizations around the country, are deeply impacted by the ongoing public health and economic crises sparked by COVID-19. In many cases, these organizations are facing the tandem challenges of large, unexpected costs and decreased revenues. At the same time, these

organizations are more important than ever to the communities they serve, providing critical services and outreach, particularly to some of the country's most vulnerable populations.

NeighborWorks is concerned that the Interim Final Rule draws a much narrower path for participation by nonprofits than the statutory requirements of the CARES Act. In explicitly providing for eligibility for nonprofits in the Paycheck Protection Program (PPP), Congress signaled its intention to extend these resources to organizations like those in the NeighborWorks network that are not typically eligible for participation in the SBA's 7(a) loan program. While we appreciate the expediency of using the established 7(a) system for delivery of these resources as quickly as possible, we encourage Treasury and SBA to reconsider the extent to which the strictures of the 7(a) program should apply to nonprofit organizations. In particular, it is important to remember that the design of the 7(a) program guidelines was not intended to accommodate nonprofits, making it all the more logical that additional modifications would be needed in order to meaningfully provide for their participation.

We are sympathetic to the situation in which policymakers at SBA and Treasury find themselves: attempting to build the proverbial plane while in mid-flight. That said, we encourage both agencies to work quickly to issue and amend regulations and offer additional guidance where it is needed to create the clarity and certainty that nonprofit organizations need in order to accept and deploy PPP loans. NeighborWorks is troubled by what feels like an ever-shifting landscape of guidance in the form of Q&As, which do not always address all the underlying questions, and hopes that revisions to these regulations can create the firm foundation needed to support PPP's success.

Real Estate Owners

While passive owners of real estate are traditionally ineligible for loans under the 7(a) program, NeighborWorks is concerned that the Interim Final Rule does not adequately address the unique circumstances of mission-based organizations such as those that make up the NeighborWorks network. For these and other nonprofit organizations, development and management of affordable housing and other real estate assets are critical elements of their community development programs. In many cases, these properties serve as a platform for providing wrap-around services including health, financial capability, education, job-training, and other essential supports. They are often part of larger neighborhood revitalization strategies, intended to serve the broader community by creating community assets and rejuvenating private markets in places experiencing disinvestment. Owning and managing the real estate assets at the core of these strategies is a necessary function that these nonprofits have, but it is hardly a passive role. NeighborWorks encourages Treasury and SBA to clarify the eligibility of these organizations and provide assurances that PPP loans made to these types of organizations will qualify for loan forgiveness.

Lending Institutions

Another major area of uncertainty deals with organizations who also serve as lenders. In particular, NeighborWorks is concerned that the regulations may exclude Community Development Financial Institutions (CDFIs) from participating as borrowers in PPP. In making statutory changes to the second round of PPP to ensure that CDFIs could participate as PPP lenders, Congress reinforced the reality that CDFIs and other community financial institutions play a unique role in ensuring that capital flows to underserved communities. While NeighborWorks is pleased that the second round of PPP made it clear that these entities were eligible to serve as lenders in the program, more needs to be done to clarify their roles as borrowers. Like other organizations, many CDFIs are in need of resources to support their ongoing operations during the pandemic, and eligibility for participation in PPP would provide many with this much-needed capital. While not excluded from participation by statute, the narrower 7(a) rules restrict these organizations' eligibility. NeighborWorks urges SBA to exempt CDFIs and other nonprofits from the 7(a) limitations that prohibit borrowing by lending organizations.

Economic Necessity

NeighborWorks is concerned that the continually changing guidance regarding certifications of economic necessity are having a severe chilling effect on participation by nonprofit organizations. While we appreciate the May 13th addition to the FAQ of Question 46 addressing the certifications of organizations receiving loans under \$2 million, the necessity of this guidance further underscores the degree of uncertainty around this issue and the importance of additional clarification. For example, the unclear additional restrictions that call into question eligibility for those who receive government grants are counterproductive. For nonprofits, layering various sources of revenue and subsidy in order to fund programmatic work is a continual necessity. The uncertainty of many of these funding streams alone makes a PPP loan an economic necessity for many organizations in the NeighborWorks network.

Furthermore, many NeighborWorks network organizations are highly reliant on revenues generated by their affordable rental housing properties. As the national economic situation worsens, with unemployment nearing 15% at the end of April and continuing to climb, it is likely that many of these organizations will struggle to collect rents. Other lines of business, including homeownership promotion and residential mortgage lending, are also facing severe headwinds as consumer credit becomes tighter and households face the possibilities of a deep economic recession. These challenges represent only a small sample of the economic realities that our network's nonprofits will face in the coming weeks and months, but it is clear that for many organizations a PPP loan is an economic necessity. NeighborWorks encourages SBA and Treasury to clarify their guidance and ensure that the "good faith" certifications that organizations are making, even for loans exceeding \$2 million, will not face a heightened standard of scrutiny after the fact.

Loan Forgiveness

Additional guidance on loan forgiveness should be fast tracked. This guidance should emphasize the role of good faith efforts, furthering the main underlying public policy goal of supporting small businesses and nonprofits during challenging times. To hold these organizations accountable for rules or guidance that was issued retroactively or to narrowly interpret the statute runs counter to the purpose of the program and could actually cause serious harm to the borrowers that the PPP was intended to benefit.

To borrow language from SBA's May 8, 2020, Interim Proposed Rule, uncertainty around issues of eligibility risks frustrating the purpose of the CARES Act, which was to afford swift stopgap relief to Americans who might otherwise lose their jobs or businesses because of the economic hardships wrought by the response to the COVID-19 public health emergency. To provide certainty to nonprofit applicants and recipients of loans and loan forgiveness under the PPP, NeighborWorks urges SBA and Treasury to move expeditiously to revise the regulations governing the program to remove unnecessary and counterproductive barriers to participation.

Sincerely,

A handwritten signature in cursive script that reads "Marietta Rodriguez".

Marietta Rodriguez
President & CEO, NeighborWorks America