

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

CASE NO. _____

WIDERMAN MALEK P.L.,
CELEBRATION LAW P.A.,
INN PARTNERS LLC,
CELEBRATION TITLE GROUP, LLC,
LAND AND SEA SURF, LLC,
CAPE MARINE SERVICES, INC.,
SAFARI TRADING LLC,
SELECT CRANE SALES, LLC,
DMS MOVING SYSTEMS OF ALABAMA, INC.,
DEARBORN MOVING AND STORAGE, INC.,
BRAZ BRO'S INC.,
JMR BUILDERS, INC.,
BEACHSIDE MARINE, INC.,
SCORPION MARINE SALES & SERVICE, INC.,
99 BOTTLES HOSPITALITY LLC,
KIRK W. KESSEL COMPANIES, INC.,
PAUL MEISSNER
THE SOUP SHOP, INC.,
RED GINGER CHINESE RESTAURANT INC.,
RED GINGER GROUP LLC,
SOUTHERN CLOUD SOLUTIONS CORPORATION,
THE BREVARD HEALTH ALLIANCE, INC.,
SHAPES GROUP LTD CO.,
CASCADE FINANCIAL LLC,
HOSKINS CONSTRUCTION INC.,
THE GATHERING TABLE INC.,
TROI SI INC.,
JIMMY'S CIGAR LOUNGE, LLC,
MR & MRS FREDDIE FIX IT, INC.,
CHILDREN'S DENTAL PLACE OF EAST BOCA, INC.,
CHILDREN'S DENTAL PLACE OF WELLINGTON, INC.,
JENKINS ARAH CORPORATION,
PARADISE AIR & HEAT LLC,
A PLACE LIKE HOME ALF, INC.,

DOWNTOWN DEBAUCHERY, INC.,
ROBERT T. SCHROTH P.A.,
TACTICAL AESTHETICS, PLLC,
CELEBRATION POINTE INSURANCE AGENCY, INC.,
ADVANTAGE CONCRETE OF FLORIDA, INC.,
INLET GRILL LLC,
FLEET MULTIPLIERS, INC.,
ENDLESS SUMMER TATTOO, LLC,
FIGUEROA TEAM LLC,
T-LIGO USA, LLC,
NOVAPRO, INC.,
UBIQUITOUS DESIGNS & RENOVATIONS, INC.,
ROCKIN' RELIX INTERNATIONAL, LLC,
CIBELLI'S LLC,
PAUL BLACKMORE,
SIDELINE SPORTS PHOTOGRAPHY, LLC,
INTERNATIONAL TITLE AND ESCROW COMPANY, LLC,
TITLE SOLUTIONS OF FLORIDA, LLC,
MURDOCK'S FINANCIAL SERVICES, INC.,
ROBERT ABRAHAM DAVIDOWITZ, LLC,

Petitioners,

vs.

JOVITA CARRANZA, Administrator of the
UNITED STATES SMALL BUSINESS ADMINISTRATION,

Respondent

VERIFIED PETITION FOR WRIT OF MANDAMUS

JAMES IPPOLITI, Esq.
FL Bar No. 102674
MARK WARZECHA, Esq.
FL Bar No. 095779
JEFF IPPOLITI, Esq.

FL Bar No. 095608
SCOTT WIDERMANN, Esq.
FL Bar No. 585823
jim@uslegalteam.com
mfw@uslegalteam.com
scott@uslegalteam.com
jeff@uslegalteam.com
WIDERMANN MALEK P.L.
Attorneys for Petitioners
1990 W. New Haven Ave., Second Floor
Melbourne, FL 32904
Phone: 321-255-2332

INTRODUCTION

1. On or about March 2020, the United States was struck by the worldwide COVID-19 pandemic.
2. Consequently, the United States and local governments began issuing “stay at home” orders and forced many businesses to close in order to slow the spread of the COVID-19 virus.
3. In response, to bolster the economy and assist the affected businesses, Congress presented the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act as H.R. 748.
4. The CARES Act was signed into law by President Trump on March 27, 2020.
5. One of the key components of the CARES Act was codified in the first section of the CARES Act, §11110 “Emergency EIDL Grants.” As a new component of the existing Economic Injury Disaster Loan (“EIDL”) program, this section provided for quick cash relief to be provided directly to small businesses by the Small Business Administration (SBA). Specifically, the SBA was required to provide a grant, in any amount requested by a small business applicant, up to \$10,000, within three days of the date of the application.

6. Administrator Carranza is without authority to change the express terms of the CARES Act which requires an initial \$10,000 grant to be disbursed within three days for any applicant who made such a request.
7. All of the named Petitioners have individually made a request for a \$10,000 initial grant within the EIDL application.
8. None of the named Petitioners have been provided a \$10,000 initial grant within three days of their application date.

PARTIES

9. WIDERMAN MALEK P.L., is a professional liability company organized and incorporated under the laws of Florida.
10. CELEBRATION LAW P.A., is a professional association organized and incorporated under the laws of Florida.
11. INN PARTNERS LLC, is a limited liability company organized and incorporated under the laws of Massachusetts.
12. CELEBRATION TITLE GROUP, LLC, is a limited liability company organized and incorporated under the laws of Florida.
13. LAND AND SEA SURF, LLC, is a limited liability company organized and incorporated under the laws of Florida.
14. CAPE MARINE SERVICES, INC., is a corporation organized and incorporated under the laws of Florida.

15. SAFARI TRADING LLC, is a limited liability company organized and incorporated under the laws of Florida.
16. SELECT CRANE SALES, LLC, is a limited liability company organized and incorporated under the laws of Florida.
17. DMS MOVING SYSTEMS OF ALABAMA, INC., is a corporation organized and incorporated under the laws of Michigan.
18. DEARBORN MOVING AND STORAGE, INC., is a corporation organized and incorporated under the laws of Michigan.
19. BRAZ BRO'S INC., is a corporation organized and incorporated under the laws of Florida.
20. JMR BUILDERS, INC., is a corporation organized and incorporated under the laws of Florida.
21. BEACHSIDE MARINE, INC., is a corporation organized and incorporated under the laws of Florida.
22. SCORPION MARINE SALES & SERVICE, INC., is a corporation organized and incorporated under the laws of Florida.
23. 99 BOTTLES HOSPITALITY LLC, is a limited liability company organized and incorporated under the laws of Florida.
24. KIRK W. KESSEL COMPANIES, INC., is a corporation organized and incorporated under the laws of Florida.

25. PAUL MEISSNER, is an individual residing in the State of New York doing business as CMJ CONTRACTING AND PROPERTY MAINTENANCE.
26. THE SOUP SHOP, INC., is a corporation organized and incorporated under the laws of Florida.
27. RED GINGER CHINESE RESTAURANT INC., is a corporation organized and incorporated under the laws of Florida.
28. RED GINGER GROUP LLC, is a limited liability company organized and incorporated under the laws of Florida.
29. SOUTHERN CLOUD SOLUTIONS CORPORATION, is a corporation organized and incorporated under the laws of Florida.
30. THE BREVARD HEALTH ALLIANCE, INC., is a not for profit corporation organized and incorporated under the laws of Florida.
31. SHAPES GROUP LTD CO., is a limited liability company organized and incorporated under the laws of Florida.
32. CASCADE FINANCIAL LLC, is a limited liability company organized and incorporated under the laws of Florida.
33. HOSKINS CONSTRUCTION INC., is a corporation organized and incorporated under the laws of Florida.

34. THE GATHERING TABLE INC., is a corporation organized and incorporated under the laws of Florida.
35. TROISI INC., is a corporation organized and incorporated under the laws of Florida.
36. JIMMY'S CIGAR LOUNGE, LLC, is a limited liability company organized and incorporated under the laws of Florida.
37. MR & MRS FREDDIE FIX IT, INC., is a corporation organized and incorporated under the laws of Florida.
38. CHILDREN'S DENTAL PLACE OF EAST BOCA, INC., is a corporation organized and incorporated under the laws of Florida.
39. CHILDREN'S DENTAL PLACE OF WELLINGTON, INC., is a corporation organized and incorporated under the laws of Florida.
40. JENKINS ARAH CORPORATION, is a corporation organized and incorporated under the laws of California.
41. PARADISE AIR & HEAT LLC, is a limited liability company organized and incorporated under the laws of Florida.
42. A PLACE LIKE HOME ALF, INC., is a corporation organized and incorporated under the laws of Florida.
43. DOWNTOWN DEBAUCHERY, INC., is a corporation organized and incorporated under the laws of Florida.

44. ROBERT T. SCHROTH P.A., is a professional association organized and incorporated under the laws of Florida.
45. TACTICAL AESTHETICS, PLLC, is a professional limited liability company organized and incorporated under the laws of Florida.
46. CELEBRATION POINTE INSURANCE AGENCY, INC., is a corporation organized and incorporated under the laws of Florida.
47. ADVANTAGE CONCRETE OF FLORIDA, INC., is a corporation organized and incorporated under the laws of Florida.
48. INLET GRILL LLC, is a limited liability company organized and incorporated under the laws of Florida.
49. FLEET MULTIPLIERS, INC., is a corporation organized and incorporated under the laws of Florida.
50. ENDLESS SUMMER TATTOO, LLC, is a limited liability company organized and incorporated under the laws of Florida.
51. FIGUEROA TEAM LLC, is a limited liability company organized and incorporated under the laws of Florida.
52. T-LIGO USA, LLC, is a limited liability company organized and incorporated under the laws of Florida.
53. NOVAPRO, INC., is a corporation organized and incorporated under the laws of Florida.

54. UBIQUITOUS DESIGNS & RENOVATIONS, INC., is a corporation organized and incorporated under the laws of Florida.
55. ROCKIN' RELIX INTERNATIONAL, LLC, is a limited liability company organized and incorporated under the laws of Florida.
56. CIBELLI'S LLC, is a limited liability company organized and incorporated under the laws of Florida.
57. PAUL BLACKMORE, is an individual residing in the State of Massachusetts.
58. SIDELINE SPORTS PHOTOGRAPHY, LLC, is a limited liability company organized and incorporated under the laws of Illinois.
59. INTERNATIONAL TITLE AND ESCROW COMPANY, LLC, is a limited liability company organized and incorporated under the laws of Florida.
60. TITLE SOLUTIONS OF FLORIDA, LLC, is a limited liability company organized and incorporated under the laws of Florida.
61. MURDOCK'S FINANCIAL SERVICES, INC., is a corporation organized and incorporated under the laws of Florida.
62. ROBERT ABRAHAM DAVIDOWITZ, LLC, is a limited liability company organized and incorporated under the laws of Florida.
63. JOVITA CARRANZA, is Administrator of the UNITED STATES SMALL BUSINESS ADMINISTRATION.

JURISDICTION AND VENUE

64. This Court has original jurisdiction over this action pursuant to 28 U.S.

Code § 1361.

65. Venue in the Middle District of Florida is proper because it is the District in which Respondent refused to perform the duty enjoined upon her by the Congress of the United States.

STATUTORY BACKGROUND

66. The Coronavirus Aid, Relief, and Economic Security Act (H.R. 748), commonly referred to as the CARES Act, is a law meant to address the economic fallout of the 2020 coronavirus pandemic in the United States (“CARES Act”).

67. In its original form, the CARES Act was introduced in the United States Congress as H.R. 748 (Middle Class Health Benefits Tax Repeal Act of 2019) by Joe Courtney (D–CT) on January 24, 2019.

68. The initial bill was amended before it was passed with overwhelming bipartisan support.

69. As a result of bipartisan negotiations, the bill grew to \$2 trillion in the version unanimously passed by the Senate on March 25, 2020.

70. On March 26, 2020, the bill was passed in the House of Representatives via voice vote.

71. On March 27, 2020, the bill was signed into law by President Donald Trump.

72. Section 1110(e) of the CARES Act, entitled *EMERGENCY GRANT*, expressly states:

(1) IN GENERAL.—During the covered period, an entity included for eligibility in subsection (b), including small business concerns, private nonprofit organizations, and small agricultural cooperatives, that applies for a loan under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) in response to COVID–19 may request that the Administrator provide an advance that is, subject to paragraph (3), **in the amount requested by such applicant to such applicant within 3 days after the Administrator receives an application from such applicant.** (emphasis added).

(2) VERIFICATION.—Before disbursing amounts under this subsection, the Administrator shall verify that the applicant is an eligible entity by accepting a self-certification from the applicant under penalty of perjury pursuant to section 1746 of title 28 United States Code.

(3) AMOUNT.—The amount of an advance provided under this subsection shall be not more than \$10,000.00.

STATEMENT OF FACTS

73. On or about March 2020, the United States was struck by the worldwide COVID-19 pandemic.

74. Consequently, the United States and local governments began issuing “stay at home” orders and forced many businesses to close, in order to slow the spread of the COVID-19 virus.

75. In response, to bolster the economy and assist the affected businesses, Congress presented the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act as H.R. 748.
76. The CARES Act was signed into law by President Trump on March 27, 2020.
77. The United States Treasury states on its website, “[t]he CARES Act provides *fast and direct* economic assistance for American workers, families, and small businesses, and preserves jobs for our American industries.”
78. The SBA boasted on its website that the Economic Injury Disaster Loan (“EIDL”) “provides the necessary working capital to help small businesses survive until normal operations resume after a disaster.”
79. Following the enactment of the CARES Act, Administrator Carranza issued the following statement: *“President Trump acted swiftly and in a bipartisan manner to support our nation’s 30 million small businesses, which employ nearly half of the nation’s workforce. Under the CARES Act, the President took historic action, making available hundreds of billions of dollars in an expedited manner to provide immediate financial relief for small business owners across the country. Our small businesses are the economic engines of their communities, and the SBA is ready to provide*

them with the support they need to remain open and keep their workers employed. With our whole-of-government approach led by the President, we are providing small businesses with the resources they need to get them through this unprecedented time.”

80. One of the key components of the CARES Act was codified in the first section, §1110 “Emergency EIDL Grants.” As a new component of the existing Economic Injury Disaster Loan (“EIDL”) program, this section provided for quick cash relief to be provided directly by the Small Business Administration (“SBA”) to small businesses. Specifically, the SBA was required to provide grants in any amount requested by a small business applicant, up to \$10,000, within three days of the applying.

81. On April 8, Congressman Deutch sent a letter to Administrator Carranza stating, *“As you are aware, the CARES Act permits small businesses that apply for an EIDL to request an immediate advancement of \$10,000 that is distributed to the business within three days of submitting an application. The three-day requirement is a provision - Section 1110(e)(1) - in the CARES Act that is now law.”* (Exhibit A, ¶ 4, Declaration of Mark F. Warzecha in Support of Petitioners’ Verified Petition for Writ of Mandamus (the “Warzecha Declaration”)).

82. The purpose of the EIDL grant program is to provide businesses with an almost immediate infusion of \$10,000 capital, to pay bills and keep the business afloat until the EIDL loan was funded. As stated in the letter from Congressman Deutch to Administrator Carranza, *“The intent of the three-day provision is to provide a critical source of funding to bridge the time between a small business submitting an EIDL application and the business receiving approval of their loan application...This \$10,000 is a critical funding bridge for small businesses in the present economic climate. Indeed, Congress has required in law that this funding be provided within three days of the request.”* [emphasis added] (Warzecha Declaration, ¶ 4).

83. Based on the express language of the CARES Act, Petitioners depended on receiving the \$10,000 grant within three days from the submission of their application in order for their businesses to survive.

84. The EIDL grant and loan was to be used specifically for expenses that were exclusive of the expenses that could be covered by the other business stimulus program provided for within the CARES Act, such as the Payroll Protection Plan (“PPP”).

85. The PPP provides 10 weeks of payroll support. For the Petitioners businesses, and many other businesses that have been forced to close due to COVID-19 and are required to remain closed by government order, the PPP

will not provide the support required for the business to survive. As stated by more than 100 members of Congress in an April 16 letter to Administrator Carranza, “[m]any of these businesses and other organizations need EIDL funds to supplement their Paycheck Protection Program (PPP) loan, are not good candidates for the PPP due to its requirements or are not eligible for that program at all.” (Warzecha Declaration, ¶ 5).

86. Following the enactment of the CARES Act, the SBA website stated that the EIDL grants would be paid within three days. Without the discretionary authority to do so, the SBA subsequently changed that language on its website to “within days of a successful application” and later changed it again to read “within days.”

87. Early initial applicants for the EIDL program were told via email that the applicant was required by the SBA to reapply online utilizing the new SBA “streamlined application” as of March 30, 2020. The email assured the businesses that applied prior to March 30, 2020 that “[a]pplying for the Advance will not impact the status or slow your existing application.” That statement is patently false. (Warzecha Declaration, ¶ 6).

88. On April 2, 2020, just six days after the CARES Act was signed into law, members of Congress wrote to SBA Administrator Carranza, already

expressing deep concern as to how Administrator Carranza was mishandling the mandates of Congress and her duties under the CARES Act. Specifically, the Congress members asked Administrator Carranza, “[t]he CARES Act included a requirement that a \$10,000 grant be awarded within 3 days of an application to the SBA’s Economic Injury Disaster Loan program to help cover operating expenses while waiting for the loan processing. Are SBA staff prepared to fulfill this requirement?” (Warzecha Declaration, ¶ 7).

89. In complete defiance of the law and the specific directive of Congress, and without discretionary authority to do so, Administrator Carranza did not provide the initial EIDL grants within three days of the applicants applying for relief as required under the CARES Act.

90. In complete defiance of the law and the specific directive of Congress, and without discretionary authority to do so, Administrator Carranza did not provide the \$10,000 initial grant to the applicants who expressly requested said grant within their applications.

91. On April 10, 2020, members of Congress sent another letter to SBA Administrator Carranza, again expressing concern and chastising Administrator Carranza’s failure to follow the law. The letter states, “[t]urning to the EIDL grants, which Congress intended to provide a quick

infusion of cash to help small businesses pay their rent and other bills, SBA has failed to issue final guidance and award grants in a manner consistent with Congressional intent. The SBA has metered the amount of the EIDL grant to \$1,000 per employee, even though Congress specifically stated that the applicant, not the agency, has the sole authority to determine how much grant money they receive up to \$10,000.” (Warzecha Declaration, ¶ 8).

92. Five days later, on April 15, again in defiance of Congress and the law, and without discretionary authority to do so, the SBA sent an email to all applicants expressly stating *“Dear Applicant, On March 29, 2020, following the passage of the CARES Act, the SBA provided small business owners and non-profits impacted by COVID-19 with the opportunity to obtain up to a \$10,000 Advance on their Economic Injury Disaster Loan (EIDL). The Advance is available as part of the full EIDL application and will be transferred into the account you provide shortly after your application is submitted. To ensure that the greatest number of applicants can receive assistance during this challenging time, the amount of your Advance will be determined by the number of your pre-disaster (i.e., as of January 31, 2020) employees. The Advance will provide \$1,000 per employee up to a maximum of \$10,000.”* (Warzecha Declaration, ¶ 9).

93. Further, some applicants received an email from SBA stating, “...*the SBA will make initial loan disbursements for two months of working capital up to a maximum of \$15,000 per applicant*” rather than the \$2 million loan amount advertised and promoted by the SBA and US Treasury. (Warzecha Declaration, ¶ 10).

94. The April 16, 2020 letter from more than 100 members of Congress to Administrator Carranza expressed concern over Administrator Carranza’s unauthorized and unilateral modification to the express language of the CARES Act. As stated in the letter, “...*many small businesses simply cannot weather the COVID-19 crisis if initial distributions are limited to as little as \$15,000 for loans and grants are rationed by number of employees.*” (Warzecha Declaration, ¶ 5).

95. On April 16, 2020 the SBA posted on the EIDL page of its website “*[a]pplicants who have already submitted their applications will continue to be processed on a first-come, first-served basis.*” This statement is a patently false. (Warzecha Declaration, ¶ 11).

96. Weeks after applying for the EIDL loan and the \$10,000.00 grant which was required to be paid within three days, small business owner applicants had zero correspondence from the SBA - not even a confirmation email.

97. The SBA boasted on its website, *“the SBA is strongly committed to providing the most effective and customer-focused response possible.”*

However, in stark contrast to that statement, small business owners who called the SBA “Help Line” were required to wait more than two hours on hold, only to be told that *“Your loan application has been received. There is no other information available.”*

98. The April 16, 2020 letter from Congress to Administrator Carranza again expressed concern over Administrator Carranza’s mishandling of the EIDL program, stating *“As you are aware, millions of small business owners are waiting for a response from the SBA regarding EIDL loans and applications for a CARES Act grant. Based upon the CARES Act’s requirement that these grants be distributed within three days, many small business owners have been confused and frustrated regarding the status of their loan and grant applications. [W]e have received reports of long wait times and unsatisfactory answers regarding loan status when inquiries are placed.”* (Warzecha Declaration, ¶ 5).

99. Without the \$10,000.00 EIDL grant, that Administrator Carranza was legally required to provide within three days of application, the Petitioner’s businesses, along with many other small businesses in the United States, are in jeopardy of closing permanently. As stated by Congress members in the

April 16, 2020 letter to Administrator Carranza, “...*we are concerned that many small businesses cannot wait much longer to receive EIDL funds from the federal government.*” (Warzecha Declaration, ¶ 5).

100. The failure of Administrator Carranza to comply with the express terms of the CARES Act and the specific directives of Congress could cost millions of American jobs, the exact jobs the CARES Act was enacted to protect. As stated in the letter from Congressman Deutch to Administrator Carranza, “*Small businesses that are applying for the EIDL and also requesting an immediate \$10,000 within three days of submitting their application are in dire financial need...Receiving the \$10,000 payment can keep a business from permanently closing.*” (Warzecha Declaration, ¶ 4).

101. Each of the named Petitioners have individually requested the \$10,000 initial grant as provided for within the EIDL application, as drafted by the SBA.

102. None of the named Petitioners have been provided a \$10,000.00 initial grant within three days of their application date.

103. The Petitioners have no alternative legal remedy other than this Writ of Mandamus.

104. The rights of the Petitioners and other small business owners in the United States to receive the \$10,000.00 EDIL grant within three days of application are clear and indisputable.

105. The required actions by Administrator Carranza are clear, nondiscretionary and plainly defined by the law and by directives of Congress.

CAUSES OF ACTION

COUNT I

RESPONDENT HAS VIOLATED THE EXPRESS TERMS OF CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT BY FAILING TO ISSUE INITIAL GRANTS WITHIN THREE DAYS OF THE APPLICATION DATE

106. Petitioners repeat and reallege paragraphs 1-105 hereof, as if fully set forth herein.

107. Respondent failed to perform a duty enjoined upon her by the CARES ACT that involves no exercise of discretion.

108. Petitioners possesses a clear legal right to the performance of this duty under the Cares Act.

109. By reason of the foregoing, Respondent should be compelled to issue the initial \$10,000.00 grant to each Petitioner within three days of said Petitioners' application date.

COUNT II

RESPONDENT HAS VIOLATED THE EXPRESS TERMS OF CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT BY FAILING TO PROVIDE INITIAL INDIVIDUAL GRANTS OF \$10,000 AS REQUESTED BY EACH INDIVIDUAL APPLICANT

110. Petitioners repeat and reallege paragraphs 1-105 hereof, as if fully set forth herein.

111. Respondent failed to perform a duty enjoined upon her by the CARES Act that involves no exercise of discretion.

112. Petitioners possesses a clear legal right to the performance of this duty under the Cares Act.

113. By reason of the foregoing, Respondent should be compelled to issue the initial \$10,000.00 grant to each Petitioner within three days of said Petitioners' application date.

CONCLUSION

For the reasons set forth above, Petitioners respectfully request that the United States District Court for the Middle District of Florida enter Judgment and compel the SBA Administrator to issue \$10,000.00 grants to each and every Petitioner within three days of said Petitioner's application date.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that a judgment be entered herein as follows:

- A. On Count One, compelling the Respondent to immediately issue initial grants to each and every Petitioner pursuant to the express terms of the CARES Act.
- B. On Count Two, compelling the Respondent to immediately issue initial grants in the full amount of \$10,000 to each and every Petitioner pursuant to the express terms of the CARES Act.
- C. Granting Petitioner its costs and expenses incurred in this action; and
- D. Granting such other and further relief as the Court deems just and proper.

VERIFICATION

STATE OF FLORIDA)
)
COUNTY OF OSCEOLA)

James Ippoliti, being duly sworn, deposes and says:

1. I am an equity partner in the law firm Widerman Malek P.L.
2. I have read the foregoing **petition** and its factual contents are true to my personal knowledge, except as to those matters alleged therein to be upon information and belief, and as to those matters, I believe them to be true.



Bianca Ramos
Comm. #GG969154
Expires: March 12, 2024
Bonded Thru Aaron Notary

James Ippoliti, Esq./ Partner

Sworn to before me this
17th day of April 2020

Bianca Lamora
Notary Public

Respectfully Submitted by:
/s/ James Ippoliti

JAMES IPPOLITI, Esq.
FL Bar No. 102674
MARK WARZECHA, Esq.
FL Bar No. 095779
JEFF IPPOLITI, ESQ.
FL Bar No. 095608
SCOTT WIDERMAN, Esq.
FL Bar No. 0585823
jim@uslegalteam.com
mfw@uslegalteam.com
scott@uslegalteam.com
jeff@uslegalteam.com

WIDERMAN MALEK P.L.
Attorneys for Petitioners
1990 W. New Haven Ave., Second Floor
Melbourne, FL 32904
321-255-2332

EXHIBIT “A”

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

WIDERMANN MALEK P.L.,
CELEBRATION LAW P.A.,
INN PARTNERS LLC,
CELEBRATION TITLE GROUP, LLC,
LAND AND SEA SURF, LLC,
CAPE MARINE SERVICES, INC.,
SAFARI TRADING LLC,
SELECT CRANE SALES, LLC,
DMS MOVING SYSTEMS OF ALABAMA, INC.,
DEARBORN MOVING AND STORAGE, INC.,
BRAZ BRO'S INC.,
JMR BUILDERS, INC.,
BEACHSIDE MARINE, INC.,
SCORPION MARINE SALES & SERVICE, INC.,
99 BOTTLES HOSPITALITY LLC,
KIRK W. KESSEL COMPANIES, INC.,
PAUL MEISSNER
THE SOUP SHOP, INC.,
RED GINGER CHINESE RESTAURANT INC.,
RED GINGER GROUP LLC,
SOUTHERN CLOUD SOLUTIONS
CORPORATION,
THE BREVARD HEALTH ALLIANCE, INC.,
SHAPES GROUP LTD CO.,
CASCADE FINANCIAL LLC,
HOSKINS CONSTRUCTION INC.,
THE GATHERING TABLE INC.,
TROISI INC.,
JIMMY'S CIGAR LOUNGE, LLC,
MR & MRS FREDDIE FIX IT, INC.,
CHILDREN'S DENTAL PLACE OF EAST
BOCA, INC.,
CHILDREN'S DENTAL PLACE OF
WELLINGTON, INC.,
JENKINS ARAH CORPORATION,
PARADISE AIR & HEAT LLC,

Case No.: _____

A PLACE LIKE HOME ALF, INC.,
DOWNTOWN DEBAUCHERY, INC.,
ROBERT T. SCHROTH P.A.,
TACTICAL AESTHETICS, PLLC,
CELEBRATION POINTE INSURANCE
AGENCY, INC.,
ADVANTAGE CONCRETE OF FLORIDA, INC.,
INLET GRILL LLC,
FLEET MULTIPLIERS, INC.,
ENDLESS SUMMER TATTOO, LLC,
FIGUEROA TEAM LLC,
T-LIGO USA, LLC,
NOVAPRO, INC.,
UBIQUITOUS DESIGNS & RENOVATIONS,
INC.,
ROCKIN' RELIX INTERNATIONAL, LLC,
CIBELLI'S LLC,
PAUL BLACKMORE,
SIDELINE SPORTS PHOTOGRAPHY, LLC,
INTERNATIONAL TITLE AND ESCROW
COMPANY, LLC,
TITLE SOLUTIONS OF FLORIDA, LLC,
MURDOCK'S FINANCIAL SERVICES, INC.,
ROBERT ABRAHAM DAVIDOWITZ, LLC,

Petitioners,

vs.

JOVITA CARRANZA, Administrator of the
UNITED STATES SMALL BUSINESS
ADMINISTRATION,

Respondent

**DECLARATION OF MARK F. WARZECHA IN SUPPORT OF
PETITIONERS' VERIFIED PETITION FOR WRIT OF MANDAMUS**

I, Mark F. Warzecha, hereby certify pursuant to 28 U.S.C. §1746 and state that:

1. I am over the age of eighteen (18) and competent to make this Declaration.

2. I am counsel of record appearing on behalf of the above-named Petitioners.

3. I submit this Declaration in support of Petitioners' Verified Petition For Writ Of Mandamus. (Doc. 1).

4. Attached hereto as EXHIBIT A-1 is a true and accurate copy of a letter sent by Congressman Deutch to Administrator Carranza dated April 8, 2020. Emphasis added.

5. Attached hereto as EXHIBIT A-2 is a true and accurate copy of a letter from more than 100 members of Congress to Administrator Carranza dated April 16, 2020. Emphasis added.

6. Attached hereto as EXHIBIT A-3 is a true and accurate copy of an email sent by the U.S. Small Business Administration, dated March 30, 2020.

7. Attached hereto as EXHIBIT A-4 is a true and accurate copy of a letter from members of Congress to SBA Administrator Carranza dated April 2, 2020. Emphasis added.

8. Attached hereto as EXHIBIT A-5 is a true and accurate copy of a letter

from members of Congress to SBA Administrator Carranza dated April 10, 2020. Emphasis added.

9. Attached hereto as EXHIBIT A-6 is a true and accurate copy of an email dated April 15, 2020 sent by the U.S. Small Business Administration to all EIDL applicants.

10. Attached hereto as EXHIBIT A-7, upon information and belief, is a true and accurate copy of an email dated April 9, 2020 sent by the U.S. Small Business Administration to several EIDL applicants.

11. Attached hereto as EXHIBIT A-8 is a true and accurate copy of the website <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/economic-injury-disaster-loan-emergency-advance>.

12. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 17, 2020.



Mark F. Warzecha

EXHIBIT A-1

THEODORE E. DEUTCH
22ND DISTRICT, FLORIDA
WWW.DEUTCH.HOUSE.GOV
FACEBOOK.COM/CONGRESSMANTEDDEUTCH
TWITTER: @REPTEDDEUTCH

COMMITTEE ON ETHICS
CHAIRMAN
COMMITTEE ON FOREIGN AFFAIRS
CHAIRMAN, SUBCOMMITTEE ON THE MIDDLE EAST,
NORTH AFRICA, AND INTERNATIONAL TERRORISM
SUBCOMMITTEE ON EUROPE, EURASIA, ENERGY,
AND THE ENVIRONMENT
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
SUBCOMMITTEE ON COURTS,
INTELLECTUAL PROPERTY, AND THE INTERNET



Congress of the United States
House of Representatives
Washington, DC 20515

WASHINGTON OFFICE:
2447 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3001

DISTRICT OFFICES:
7900 GLADES RD, SUITE 250
BOCA RATON, FL 33434

CORAL SPRINGS CITY HALL
9500 W. SAMPLE RD, SUITE 204
CORAL SPRINGS, FL 33065

MARGATE CITY HALL
5790 MARGATE BLVD.
MARGATE, FL 33063

(954) 255-8336
(561) 470-5440

April 8, 2020

The Honorable Jovita Carranza
Administrator
Small Business Administration
409 Third Street, SW, Suite 7900
Washington, DC 20416-2230

Dear Administrator Carranza,

I write to urge your Agency to ensure that every small business applying for the Economic Injury Disaster Loan (EIDL) program and requests the immediate assistance of \$10,000 be provided the assistance within the three days as required under the CARES Act.

As you are aware, the CARES Act permits small businesses that apply for an EIDL to request an immediate advancement of \$10,000 that is distributed to the business within three days of submitting an application. The three-day requirement is a provision – Section 1110(e)(1) - in the CARES Act that is now law.

The intent of the three-day provision is to provide a critical source of funding to bridge the time between a small business submitting an EIDL application and the business receiving approval of their loan application. Small businesses that are applying for the EIDL and also requesting an immediate \$10,000 within three days of submitting their application are in dire financial need. The economic impacts of the coronavirus pandemic are making it impossible for many small businesses to keep their employees on the payroll, to make rent and mortgage payments, and meet their basic business needs. Receiving the \$10,000 payment can keep a business from permanently closing.

I strongly urge your Agency to quickly provide small businesses requesting the \$10,000 with the funding they need as they wait for their EIDL applications to be resolved. This \$10,000 is a critical funding bridge for small businesses in the present economic climate. Indeed, Congress has required in law that this funding be provided within three days of the request. Thank you for your

The Honorable Jovita Carranza

April 8, 2020

Page 2

prompt attention to this matter. I look forward to continuing to work with you to assist our small businesses and their employees.

Sincerely,

A handwritten signature in blue ink, appearing to read "Theodore Deutch", with a stylized flourish at the end.

Theodore E. Deutch
Member of Congress

EXHIBIT A-2

Congress of the United States
Washington, DC 20515

April 16, 2020

Jovita Carranza
Administrator
Small Business Administration
409 Third Street, SW, Suite 7900
Washington, DC 20416-2230

Dear Administrator Carranza:

Thank you for your leadership in helping American small businesses weather the COVID-19 pandemic. The SBA has been tasked with some of the most important components of our economic recovery, and we appreciate your work in quickly facilitating billions of dollars in lending to our nation's small businesses.

We write to seek information and guidance from the SBA regarding Economic Injury Disaster Loans (EIDLs), how your agency is meeting the challenges facing this program, and how Congress can assist the SBA. As you are aware, millions of small business owners are waiting for a response from the SBA regarding EIDL loans and applications for a CARES Act grant. Based upon the CARES Act's requirement that these grants be distributed within three days, many small business owners have been confused and frustrated regarding the status of their loan and grant application.

The guidance from the SBA to our offices has been that we should direct constituents to contact the SBA for these inquiries; however, we have received reports of long wait times and unsatisfactory answers regarding loan status when inquiries are placed. Many of our constituents have struggled to even determine if their loan application has been received. At present, we lack a sufficient casework channel for our staff to assist these constituents, which has further exacerbated the problem.

We are also greatly concerned regarding reports of severe oversubscription of the EIDL program. Given the average request of a \$200,000 loan and a \$10,000 grant, many small businesses simply cannot weather the COVID-19 crisis if initial distributions are limited to as little as \$15,000 for loans and grants are rationed by number of employees. For that reason, we would strongly back an appropriations request by the Administration to allow the EIDL program to meet the average demand of requests received.

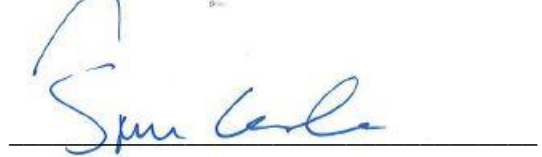
In sum, we recognize the EIDL system was never designed to process a disaster of this magnitude, and we commend your team for working around the clock to remedy this challenge. However, we are concerned that many small businesses cannot wait much longer to receive EIDL funds from the federal government. Many of these businesses and other organizations need EIDL funds to supplement their Paycheck Protection Program (PPP) loan, are not good candidates for the PPP due to its requirements or are not eligible for that program at all. For that reason, we hope you will provide a briefing to us as soon as possible to address issues facing the EIDL program and how Congress can help the SBA meet these challenges.

Thank you for your attention to this letter. We look forward to continuing to work with the SBA as you help our small businesses weather this unprecedented time.

Sincerely,



Bradley Byrne
MEMBER OF CONGRESS



Tom Cole
MEMBER OF CONGRESS




Rodney Davis
MEMBER OF CONGRESS

/s/

Michael T. McCaul
MEMBER OF CONGRESS



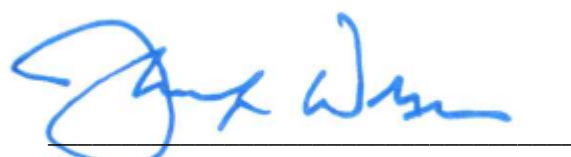
Greg Walden
MEMBER OF CONGRESS



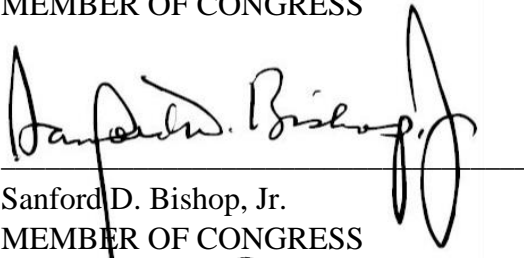
John Shimkus
MEMBER OF CONGRESS



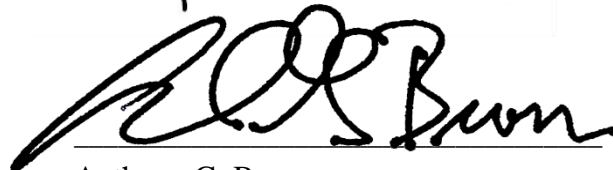
Jim Cooper
MEMBER OF CONGRESS



Jennifer Wexton
MEMBER OF CONGRESS



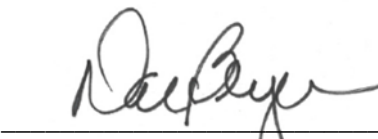
Sanford D. Bishop, Jr.
MEMBER OF CONGRESS



Anthony G. Brown
MEMBER OF CONGRESS



Ami Bera, M.D.
MEMBER OF CONGRESS



Donald S. Beyer Jr.
MEMBER OF CONGRESS



Dan Meuser
MEMBER OF CONGRESS



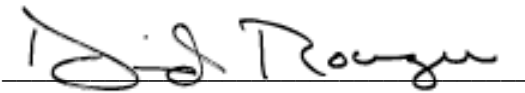
Bobby L. Rush
MEMBER OF CONGRESS



John Rutherford
MEMBER OF CONGRESS



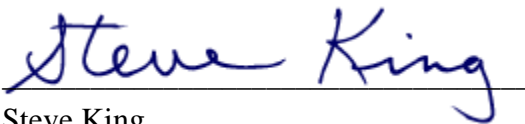
Mike Levin
MEMBER OF CONGRESS



David Rouzer
MEMBER OF CONGRESS



Tom O'Halleran
MEMBER OF CONGRESS



Steve King
MEMBER OF CONGRESS



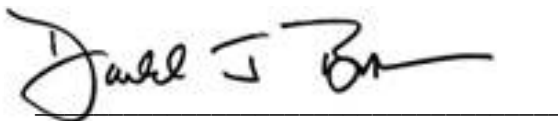
Joe Cunningham
MEMBER OF CONGRESS



Pete Stauber
MEMBER OF CONGRESS



Bradley S. Schneider
MEMBER OF CONGRESS



Donald J. Bacon
MEMBER OF CONGRESS



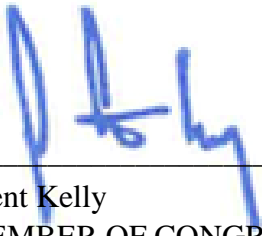
Antonio Delgado
MEMBER OF CONGRESS



Bob Gibbs
MEMBER OF CONGRESS



Bill Foster
MEMBER OF CONGRESS



Trent Kelly
MEMBER OF CONGRESS



Ed Case
MEMBER OF CONGRESS



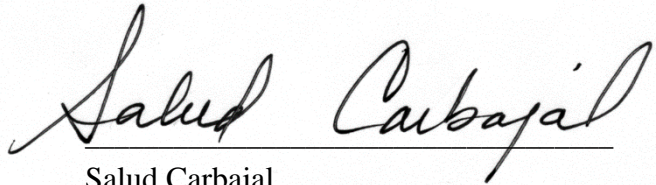
Adrian Smith
MEMBER OF CONGRESS



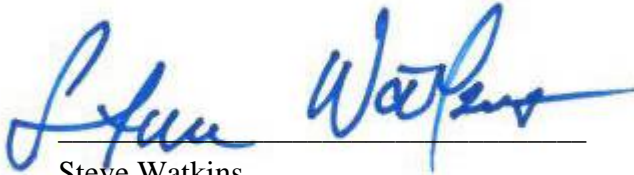
Anthony Gonzalez
MEMBER OF CONGRESS



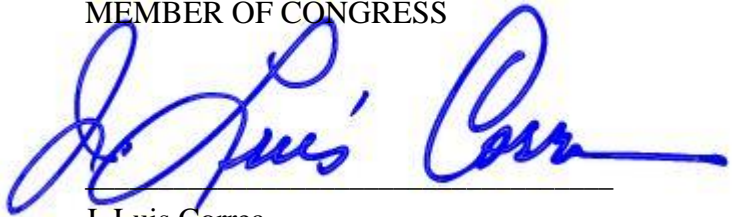
Jack Bergman
MEMBER OF CONGRESS



Salud Carbajal
MEMBER OF CONGRESS



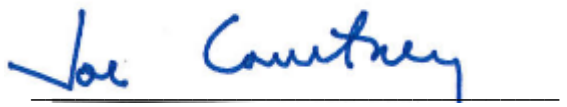
Steve Watkins
MEMBER OF CONGRESS



J. Luis Correa
MEMBER OF CONGRESS



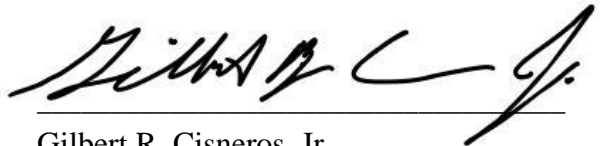
Michael Guest
MEMBER OF CONGRESS



Joe Courtney
MEMBER OF CONGRESS



Rick Crawford
MEMBER OF CONGRESS



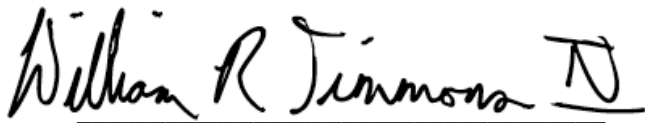
Gilbert R. Cisneros, Jr.
MEMBER OF CONGRESS



Carol D. Miller
MEMBER OF CONGRESS



Stephanie Murphy
MEMBER OF CONGRESS



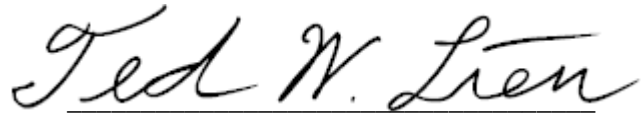
William Timmons
MEMBER OF CONGRESS



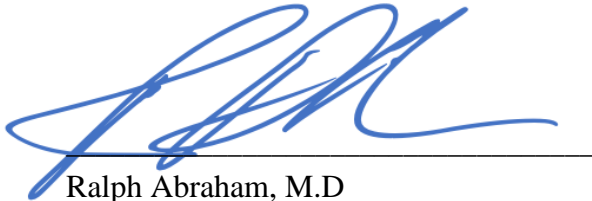
Haley Stevens
MEMBER OF CONGRESS



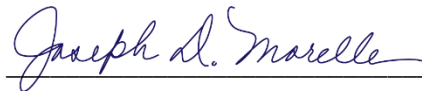
Jeff Fortenberry
MEMBER OF CONGRESS



Ted Lieu
MEMBER OF CONGRESS



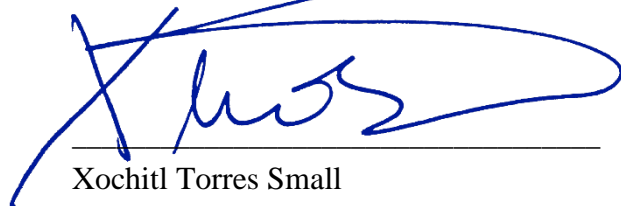
Ralph Abraham, M.D.
MEMBER OF CONGRESS



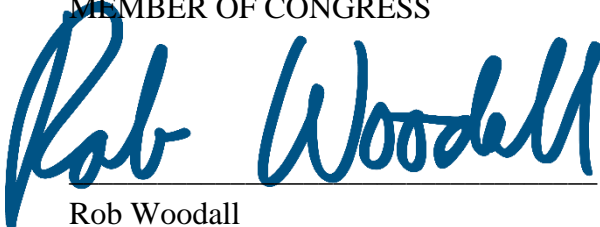
Joseph D. Morelle
MEMBER OF CONGRESS



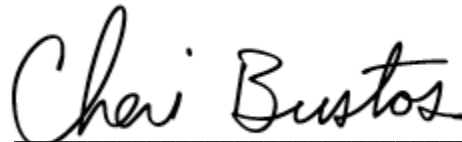
Ron Wright
MEMBER OF CONGRESS



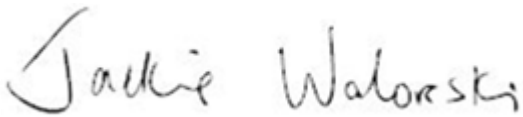
Xochitl Torres Small
MEMBER OF CONGRESS



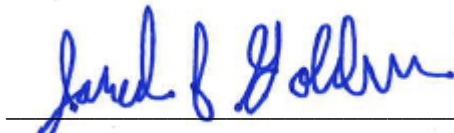
Rob Woodall
MEMBER OF CONGRESS



Cheri Bustos
MEMBER OF CONGRESS



Jackie Walorski
MEMBER OF CONGRESS



Jared Golden
MEMBER OF CONGRESS



Tim Burchett
MEMBER OF CONGRESS



Bonnie Watson Coleman
MEMBER OF CONGRESS



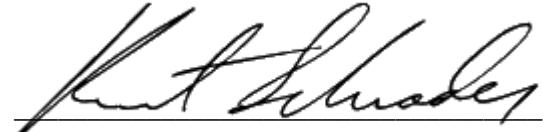
Darin LaHood
MEMBER OF CONGRESS



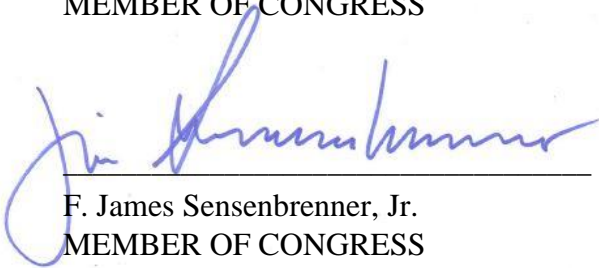
Colin Allred
MEMBER OF CONGRESS



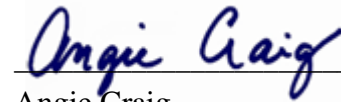
Neal P. Dunn, M.D.
MEMBER OF CONGRESS



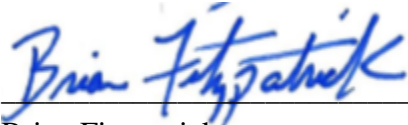
Kurt Schrader
MEMBER OF CONGRESS



F. James Sensenbrenner, Jr.
MEMBER OF CONGRESS



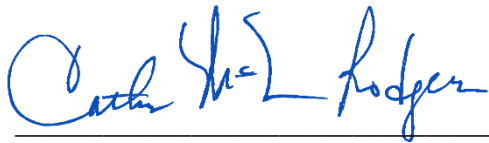
Angie Craig
MEMBER OF CONGRESS



Brian Fitzpatrick
MEMBER OF CONGRESS

/s/

Grace Napolitano
MEMBER OF CONGRESS



Cathy McMorris Rodgers
MEMBER OF CONGRESS



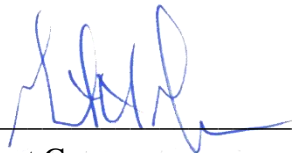
Tulsi Gabbard
MEMBER OF CONGRESS



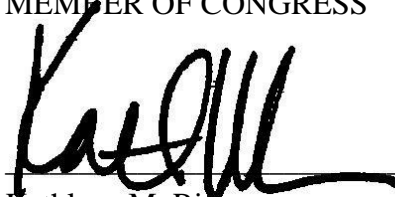
David P. Roe, M.D.
MEMBER OF CONGRESS

/s/

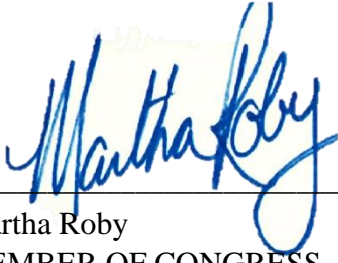
Sheila Jackson Lee
MEMBER OF CONGRESS



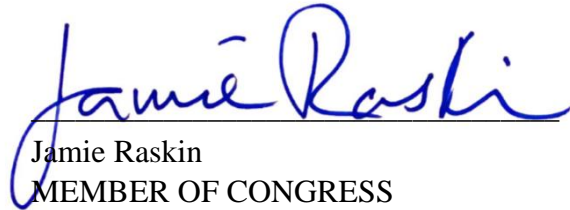
Garret Graves
MEMBER OF CONGRESS



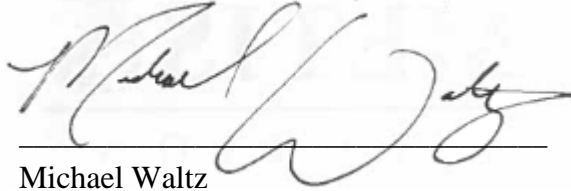
Kathleen M. Rice
MEMBER OF CONGRESS



Martha Roby
MEMBER OF CONGRESS



Jamie Raskin
MEMBER OF CONGRESS



Michael Waltz
MEMBER OF CONGRESS

/s/

Matthew Cartwright
MEMBER OF CONGRESS



Ben Cline
MEMBER OF CONGRESS



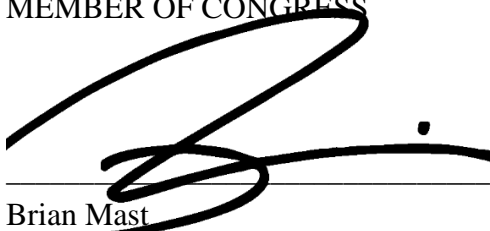
Peter Welch
MEMBER OF CONGRESS



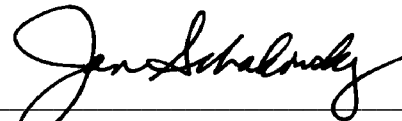
Adam Kinzinger
MEMBER OF CONGRESS

/s/

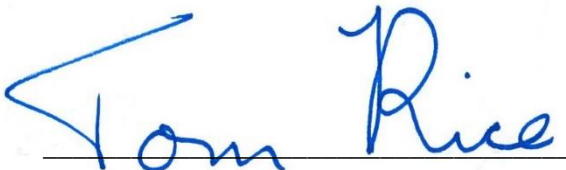
Rashida Tlaib
MEMBER OF CONGRESS



Brian Mast
MEMBER OF CONGRESS



Jan Schakowsky
MEMBER OF CONGRESS



Tom Rice
MEMBER OF CONGRESS



Ben McAdams
MEMBER OF CONGRESS

/s/

Steve Stivers
MEMBER OF CONGRESS

/s/

Mike Thompson
MEMBER OF CONGRESS

/s/

Scott Peters
MEMBER OF CONGRESS

/s/

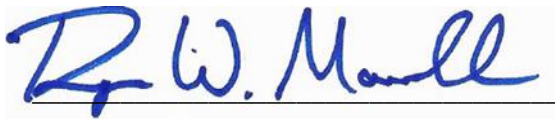
Troy Balderson
MEMBER OF CONGRESS

/s/

Jeff Duncan
MEMBER OF CONGRESS

/s/

André Carson
MEMBER OF CONGRESS



Roger Marshall, M.D.
MEMBER OF CONGRESS



Joyce Beatty
MEMBER OF CONGRESS

/s/

Scott Tipton
MEMBER OF CONGRESS

/s/

David McKinley
MEMBER OF CONGRESS



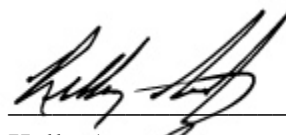
John Katko
MEMBER OF CONGRESS



Doug LaMalfa
MEMBER OF CONGRESS

/s/

Gus Bilirakis
MEMBER OF CONGRESS



Kelly Armstrong
MEMBER OF CONGRESS



Jody B. Hice
MEMBER OF CONGRESS



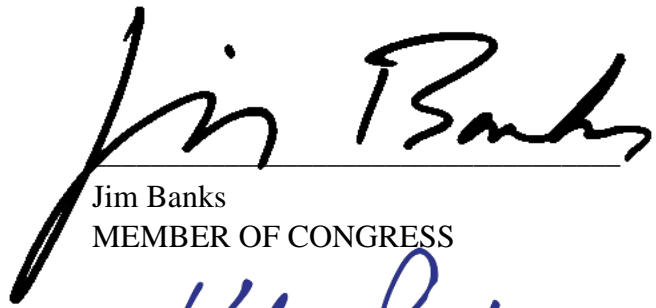
Mike Bost
MEMBER OF CONGRESS

/s/

Donna E. Shalala
MEMBER OF CONGRESS



Earl L. "Buddy" Carter
MEMBER OF CONGRESS



Jim Banks
MEMBER OF CONGRESS



Katie Porter
MEMBER OF CONGRESS

EXHIBIT A-3

Small Business Administration

Inbox - Chathaminn March 30, 2020 at 9:10 PM

SA

Update about your Economic Injury Disaster Loan application submitted to the U.S. Small Busin... [Details](#)

To: JEFF IPPOLITI,

Reply-To: news@updates.sba.govU.S. Small Business
Administration

We know you are facing challenging times in this current health crisis. The U.S. Small Business Administration is committed to help bring relief to small businesses and nonprofit organizations suffering because of the Coronavirus (COVID-19) pandemic.

On March 27, 2020, President Trump signed into law the CARES Act, which provided additional assistance for small business owners and non-profits, including the opportunity to get **up to a \$10,000 Advance on an Economic Injury Disaster Loan (EIDL)**. This **Advance** may be available even if your EIDL application was declined or is still pending, and **will be forgiven**.

If you wish to apply for the Advance on your EIDL, please visit www.SBA.gov/Disaster as soon as possible to fill out a new, streamlined application. In order to qualify for the Advance, you need to submit this new application even if you previously submitted an EIDL application. Applying for the Advance will not impact the status or slow your existing application.

Also, we encourage you to subscribe to our email updates via www.SBA.gov/Updates and follow us on Twitter at [@SBAgov](https://twitter.com/SBAgov) for the latest news on available SBA resources and services. If you need additional assistance, you can find your local SBA office and resource partners at www.SBA.gov/LocalAssistance. If you have questions, you may also call 1-800-659-2955.

U.S. Small Business Administration

409 3rd St, SW, Washington DC 20416

www.sba.gov

Subscriber Services

[Unsubscribe](#) | [Manage your account](#)

EXHIBIT A-4

United States Senate
WASHINGTON, DC 20510-3203

April 2, 2020

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

Dear Administrator Carranza,

We write to thank you for our recent phone call to discuss the implementation of the Small Business Administration's (SBA) critical programs to help the nation's small businesses and nonprofits stay afloat during this unprecedented crisis. COVID-19 has wreaked havoc on employers and their workers across every industry and in every corner of the nation. So many of our small businesses operate at close margins and have limited ability to absorb the kind of significant hit to revenues that this pandemic has caused. As we conveyed, and as we know you understand, a swift implementation is required of the small business assistance Congress included in the *Coronavirus Aid, Relief, and Economic Security Act* (the *CARES Act*).

In follow-up to our conversation, we wanted to further reiterate our urgent request for the release of guidance that both reflects Congress' intent in the *CARES Act* and that offers clarity and certainty to small businesses and nonprofits on how they can receive timely assistance from the SBA. Included below is a list of priority issues we discussed for consideration as SBA develops guidance.

Implementation Timeline

- So many small businesses and nonprofits have weeks, if not days, before they go under. We need swift implementation of the various SBA programs in the legislation. While we appreciate that the Administration has committed to the first Paycheck Protection Program (PPP) loans being processed this Friday, we want to stress the need for clarity on how businesses can access these programs and lenders can facilitate the loans. Can you confirm when detailed guidance will be finalized and how this information will be shared with small businesses and organizations so they are aware? Can you confirm that as of this Friday, any eligible small business or nonprofit will be able to work with a certified SBA-7(a) lender to begin a PPP loan application?

Treasury Expansion of 7(a) Lender Network

- As you know, this legislation authorized Treasury to designate many more financial institutions as new SBA eligible lenders. The PPP loan program's success rests on this expansion of SBA's lending network. Can you provide details on how SBA is coordinating with the Treasury Department to expedite the addition of new lenders to the certified SBA 7(a) lenders network? Related, what kind of steps are being taken to get information to our constituents on how these programs will work and where and when they can begin applying? How can a small business or nonprofit learn if their bank is eligible to process a loan and if not, where to locate an eligible financial institution to

Reporting on Loan Program Results

- We want to have a close understanding of how many loans are being made, who is receiving the loans, and how quickly funding is being drawn down in case Congress must act quickly in considering more funding for these programs. Can you commit to a weekly report on this information?

Nonprofit Eligibility

- We have heard many concerns from our nonprofits that the SBA's affiliation rules may prevent them from receiving assistance. How strictly will the SBA apply the affiliation rules to these programs during this crisis? Will the SBA address these concerns in the guidance for implementation? Can you provide clear direction to the nonprofit community on who may be eligible or not based on these affiliation rules? If so, when?
- It has also been brought to our attention that thousands of nonprofits in Puerto Rico may be ineligible under the 501(c)(3) eligibility standard included in the Paycheck Protection Program. The issue is that Puerto Rico's nonprofits register their status locally and not with the IRS, which technically means they are not 501(c)(3). This runs against Congress' intent for most charitable nonprofits, with up to 500 employees, to qualify for this program. Nonprofits in our territories cannot be left out of this program because of this technicality. The SBA should consider evidence in determining 501(c)(3) eligibility that considers nonprofit organizations or entities that are organized or doing business under State law. Will the SBA address this issue in guidance?
- We are concerned that the SBA may rule houses of worship as ineligible for SBA's Paycheck Protection Program. There are reasons that require a thoughtful application of the agency's rules for houses of worship, but we also want to stress, to the extent legally possible, the need to support these institutions as 501(c)(3) organizations the *CARES Act* made eligible. How will the SBA address this in its guidance?

Affiliation Rules

- In addition to how affiliation rules may negatively impact nonprofits, we are also concerned that some genuine small businesses that have a relationship with investors may be left out of PPP loans due to affiliation rules. We are also concerned that lenders and the SBA could be hindered by the lack of clarity in the rules as they stand because they are cumbersome, complex and in some cases subjective. Will the SBA issue swift guidance that has brighter lines and additional clarity to resolve confusion with regard to the eligibility of small businesses with minority investors in order to better inform applicants and avoid leaving out small businesses with a credible need?

Ensuring Small, Disadvantaged, and Underserved Businesses Receive Assistance

- We are very concerned about the limited funding provided to the SBA's PPP loans being drawn down quickly, especially given the provisions for franchises, big hotels and restaurants. What protocols are you putting in place to monitor the use of funds?
- Given these funds are first-come, first-serve, how are you ensuring that independent and community small businesses without the resources of larger companies are getting the assistance they need to access the program?

- How will you ensure disadvantaged and underserved businesses are receiving assistance from this program, not just bigger businesses taking advantage of provisions that waived rules for franchises, big hotels and restaurants?

Debt Relief for SBA Borrowers

- The *CARES Act* included a provision to provide debt relief for six months to existing and new SBA borrowers. We view this as a forceful but simple step to stabilize the existing portfolio and enabling SBA lenders to focus on making new loans. It is our view that borrowers need not complete any paperwork to receive this benefit. Do you agree? What are your plans for notifying lenders and borrowers about this provision and for implementing it quickly?

Emergency Economic Injury Grant

- The *CARES Act* included a requirement that a \$10,000 grant be awarded within 3 days of an application to the SBA's Economic Injury Disaster Loan program to help cover operating expenses while waiting for the loan processing. Are SBA staff prepared to fulfill this requirement?

By no means is this list comprehensive of the many issues that must be considered in implementation of the SBA's programs included in the *CARES Act*. We hope that you will closely consider each of these topics and others that we will engage with you on in the days, weeks, and months ahead to ensure SBA is implementing the programs according to Congressional intent and in such a way that can best serve the nation's small businesses and nonprofits.

We once again thank you for your tremendous efforts in response to this national emergency and look forward to continued partnership.

Sincerely,



Charles E. Schumer
United States Senator



Ben Cardin
United States Senator



Christopher A. Coons
United States Senator



Bernard Sanders
United States Senator

EXHIBIT A-5

Congress of the United States
Washington, DC 20515

April 10, 2020

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

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

Dear Secretary Mnuchin and Administrator Carranza,

The City of New York's small businesses and entrepreneurs are suffering immensely as a result of the Coronavirus (COVID-19). Since March 22, New York has been under a statewide stay-at-home order to slow the spread of the novel Coronavirus to help flatten the curve. This order effectively shuttered all non-essential small businesses throughout the city. In New York, 98 percent of all businesses are small, with fewer than 100 employees, and 89 percent are very small employing fewer than 20 individuals. The impact of the pandemic on our local economy is dire and can be seen in the 810,000 unemployment claims made by New Yorkers since March 9th.¹

To address the unprecedented challenges facing small businesses, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, a \$2.2 trillion stimulus bill, which contains funding for a wide range of programs designed to help respond to the economic downturn caused by the COVID-19 pandemic. Specific to the SBA and our small business owners, Congress created a new loan forgiveness program and grants to help keep small businesses afloat during this unprecedented crisis.

The Paycheck Protection Program (PPP) received \$349 billion in funding to inject into our nation's struggling small businesses. The program will provide forgivable, low-interest loans to small businesses to pay employees, keep them on the payroll, and keep the businesses viable. To that end, Congress created basic requirements, including eligibility, loan size, and forgiveness criteria, to reach small businesses as quickly as possible while also providing lenders with the tools they need to deliver this vital support.

The CARES Act also created a new, immediate disaster grant at the SBA. Using the current economic injury disaster loan (EIDL) program, these grants were designed and intended to deliver a quick infusion of capital, based simply on applicants self-certifying that they are eligible. Further, grant recipients are not precluded from applying for PPP loans or continuing to pursue disaster loans.

¹ Edwards, Jesse, "NY Launching New Unemployment Site That Won't Require Phone Call, 200K NYers Still in Limbo", NBC New York, accessed on April 9, 2020, <https://www.nbcnewyork.com/news/local/ny-to-launch-new-unemployment-site-that-doesnt-require-phone-call-more-than-200k-new-yorkers-still-waiting/2367386/>

We are concerned that these programs are not being implemented as Congress intended. Beginning on Tuesday, March 31st, the SBA and the Treasury Department posted guidance on their websites to implement the PPP.² Since then, due to the lack of formal Standard Operating Procedures, borrowers and lenders have been forced to rely on an incomplete and ever-changing list of questions and answers issued by your agencies. Unfortunately, this guidance continues to leave out vital information about eligibility of businesses and nonprofits, guidance for lenders on how to close loans, and adds new requirements that were not part of the law.

Of particular concern, the SBA adopted the “first-come, first serve rule,” which provides no assurances that the most vulnerable small businesses will have access to the forgivable loans. Coupled with reports that many lenders are currently only making PPP loans to their existing customers, we fear that without full guidance, traditionally underserved small businesses in urban areas hit hard by the pandemic, like New York City, will be left behind. The guidance also established a 75/25 percent rule that could conceivably limit the amount of loan forgiveness for small businesses, particularly those in New York City with steep rents. We need to ensure the program will be there and workable for New York’s microbusinesses - the shops and corner stores that are woven into the fabric of our communities.

Turning to the EIDL grants, which Congress intended to provide a quick infusion of cash to help small businesses pay their rent and other bills, SBA has failed to issue final guidance and award grants in a manner consistent with Congressional intent. The SBA has metered the amount of the EIDL grant to \$1,000 per employee, even though Congress specifically stated that the applicant, not the agency, has the sole authority to determine how much grant money they receive up to \$10,000. Moreover, the law requires SBA to issue advances within three days of receipt of applications, yet small business owners say they are still waiting weeks after applying.

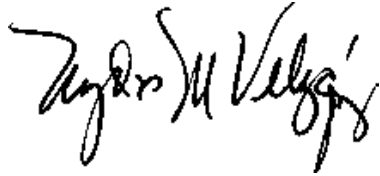
The SBA has also been plagued by IT system issues that have contributed to delays in making loans. We have heard numerous reports about the Etran system crashing which prevents lenders from processing loans. Constituents have also reported being kicked out of the EIDL system and having to restart the time-consuming process of applying for a disaster grant.

Finally, the SBA has lacked transparency in reporting results from these programs to Congress and the American people. At a time when swift execution is required to stem this economic crisis, it is imperative that we know details on program implementation. The SBA must establish a daily tracking of key data and information such as how many loans and grants are being processed by participating lenders and the agency, how much money is being allocated to small businesses, size of businesses served, demographics of business owners, and geographic distribution of awards across the country. This reporting is central to our Congressional oversight responsibilities to ensure program performance. Furthermore, we need to know the spend rates in these programs so action can be taken to appropriate the necessary funds to ensure all eligible small businesses have access to this critical assistance.

² Assistance for Small Businesses, U.S. Department of the Treasury, accessed on April 9, 2020 at <https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses> ; Coronavirus (COVID-19): Small Business Guidance & Loan Resources, U.S. Small Business Administration, accessed on April 9, 2020 at <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

These are just a few of the many issues that we are hearing from small business owners and lenders in our communities. In sum, we are deeply troubled by the lack of clear, coherent guidance for small businesses during this crisis, and we urge you to release formal comprehensive Standard Operating Procedures immediately to put all small businesses on an equal playing field and give lenders the clarity they need to process and disburse loans. We further request that you provide Congress with daily reporting on SBA's programs in response to the COVID-19 pandemic.

Sincerely,



Nydia M. Velázquez
Member of Congress



Charles Schumer
United States Senator



Kirsten Gillibrand
United States Senator



Jerrold Nadler
Member of Congress



Yvette Clarke
Member of Congress



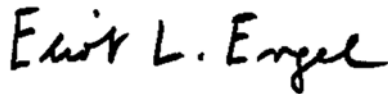
Hakeem Jeffries
Member of Congress



Alexandria Ocasio-Cortez
Member of Congress



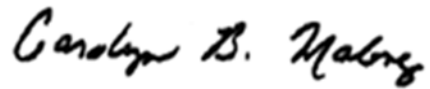
Thomas R. Suozzi
Member of Congress



Eliot L. Engel
Member of Congress



Grace Meng
Member of Congress



Carolyn B. Maloney
Member of Congress



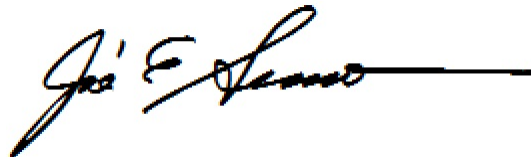
Kathleen M. Rice
Member of Congress



Gregory Meeks
Member of Congress



Adriano Espaillat
Member of Congress



José E. Serrano
Member of Congress

EXHIBIT A-6



U.S. Small Business
Administration

Dear Applicant,

On March 29, 2020, following the passage of the CARES Act, the SBA provided small business owners and non-profits impacted by COVID-19 with the opportunity to obtain up to a \$10,000 Advance on their Economic Injury Disaster Loan (EIDL). The Advance is available as part of the full EIDL application and will be transferred into the account you provide shortly after your application is submitted. **To ensure that the greatest number of applicants can receive assistance during this challenging time, the amount of your Advance will be determined by the number of your pre-disaster (i.e., as of January 31, 2020) employees. The Advance will provide \$1,000 per employee up to a maximum of \$10,000.**

You may be eligible for another loan program, the **Paycheck Protection Program**, which is available through participating lenders. Below is a comparison of the two loan programs:

Paycheck Protection Program

Full EIDL Loan

PURPOSE	Forgivable if used for payroll (minimum of 75% of the funds received) and the remaining for certain operating expenses (amount of any EIDL advance is not forgivable)	To meet financial obligations and operating expenses that could have been met had the disaster not occurred (amount of any EIDL advance is forgiven)
TERMS	Up to \$10 million 1% interest rate	Up to \$2 million 3.75% for businesses 2.75% for non-profits
FORGIVABLE	YES	NO – EIDL Loan YES – EIDL Advance
MATURITY	2 years	30 years
FIRST PAYMENT DUE	Deferred 6 months	Deferred 1 year

EXHIBIT A-7

From: **Disaster Customer Service** <DisasterCustomerService@sba.gov>
Date: Thu, Apr 9, 2020 at 8:05 AM
Subject: RE: confirmation SBA:0291042
To: CT Law <ctlaw2007@gmail.com>

Dear Ms. Elsie Webster,

Thank you for contacting the SBA Disaster Customer Service Center.

The status of your application will be communicated to you via email as soon as we finish processing your request. Due to the overwhelming volume related to this program, our normal processing times may be extended. We apologize for any delays regarding your loan request.

Our nation's small businesses and private, nonprofit organizations are facing an unprecedented economic disruption due to the COVID-19 outbreak. The SBA is experiencing a large volume of applications for the Economic Injury Disaster Loan. Due to current appropriations for this program, the SBA will make initial loan disbursements for two months of working capital up to a maximum of \$15,000 per applicant. This is in addition to the Advance of up to \$10,000 each small business and non-profit is eligible to receive. By doing this, the SBA will ensure it is supporting the greatest number of applicants during this difficult time.

Additional options available to help small businesses, include the recently launched Paycheck Protection Program for payroll costs. The Paycheck Protection Program offers loans of up to \$10 million at a 1% interest rate. These loans mature in two years, but the amount of the loan used for payroll and certain operating expenses in the first 8 weeks after loan disbursement may be forgiven if the business uses a minimum of 75% of the loan for payroll. Additional resources, such as information on debt relief and express bridge loans can be found at www.sba.gov/coronavirus.

If you have additional questions or require further assistance, please call our Disaster Customer Service Center at 1-800-659-2955 or, for the deaf and hard-of-hearing 1-800-877-8339 (Monday through Friday from 8:00 am to 8:00 pm, Saturday and Sunday from 8:00 am to 8:00 pm Eastern Time) or email us at: disastercustomerservice@sba.gov.

Sincerely,

Yolanda Dillard
Office of Disaster Assistance, Customer Service Center
U.S. Small Business Administration
(800)659-2955

EXHIBIT A-8

U.S. Small Business
Administration

Translate SBA en Español For Partners Newsroom Contact Us

[Business Guide](#) [Funding Programs](#) [Federal Contracting](#) [Learning Center](#) [Local Assistance](#) [About SBA](#)[Back to Coronavirus Relief Options](#)

Coronavirus Relief Options

[Paycheck Protection Program](#)[Economic Injury Disaster Loan Emergency Advance](#)[SBA Express Bridge Loans](#)[SBA Debt Relief](#)[Home](#) / [Funding Programs](#) / [Loans](#) / [Coronavirus Relief Options](#) / Economic Injury Disaster Loan Emergency Advance

Economic Injury Disaster Loan Emergency Advance

This loan advance will provide up to \$10,000 of economic relief to businesses that are currently experiencing temporary difficulties.

Content

[Notice: Lapse in Appropriations](#)[Overview](#)[Eligibility](#)

Notice: Lapse in Appropriations

SBA is unable to accept new applications at this time for the Economic Injury Disaster Loan (EIDL)-COVID-19 related assistance program (including EIDL Advances) based on available appropriations funding.

Applicants who have already submitted their applications will continue to be processed on a first-come, first-served basis.

Overview

In response to the Coronavirus (COVID-19) pandemic, small business owners in all U.S. states, Washington D.C., and territories are eligible to apply for an Economic Injury Disaster Loan advance of up to \$10,000. This advance will provide economic relief to businesses that are currently experiencing a

1:42 PM
4/17/2020

businesses with less than 500 employees that are currently experiencing a temporary loss of revenue. Funds will be made available following a successful application. This loan advance will not have to be repaid.

Eligibility

The SBA's Economic Injury Disaster Loan provides vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing as a result of the COVID-19 pandemic.

This program is for any small business with less than 500 employees (including sole proprietorships, independent contractors and self-employed persons), private non-profit organization or 501(c)(19) veterans organizations affected by COVID-19.

Businesses in certain industries may have more than 500 employees if they meet the [SBA's size standards](#) for those industries.

The Economic Injury Disaster Loan advance funds will be made available within days of a successful application, and this loan advance will not have to be repaid.

[Frequently Asked Questions for Faith-Based Organizations Participating in the Paycheck Protection Program and the Economic Injury Disaster Loan Program](#)

Get help after disaster strikes.

GET DISASTER ASSISTANCE

Previous

Next



Paycheck Protection Program

SBA Express Bridge Loans



Customer Service

About SBA
Contact SBA
SBA en Español

About SBA.gov

Site Map
Privacy Policy
Linking Policy

SBA Information

Freedom of Information Act
No Fear Act
Report Fraud, Waste, and

SBA Performance

Strategic Planning
Performance, Budget, and
Financing

Oversight

Inspector General
Advocacy
Hearings and Appeals

Tools and Features

Online Training
Find Events
Qualify for Government

SBA en Español
Media and Press Relations
SBA Locations
SBA Team

Linking Policy
Accessibility
Disclaimers
Social Media
Data Store
Blog

Report Fraud, Waste, and
Abuse
Initiatives
Plain Language
National Resource Guides
(English/Spanish)

Open Government
Policy and Regulations
Eliminating Fraud, Waste, and
Abuse

Hearings and Appeals
Ombudsman
WhiteHouse.gov
USA.gov
Regulations.gov

Qualify for Government
Contracts
SBA Videos



U.S. Small Business Administration | 409 3rd St, SW, Washington DC 20416

Sign up for SBA email updates

SUBSCRIBE

1:42 PM
4/17/2020