May 15, 2020

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

Re: Interim Final Rule:

# 2 – Business Loan Program Temporary Changes: Paycheck Protection Program
(Affiliation/Faith-Based Organizations)
RIN: 3245-AH35 / Docket No. SBA-2020-0019

Dear Administrator Carranza:

The National Association of Government Guaranteed Lenders (NAGGL) appreciates the opportunity to provide comments relating to the above-referenced Interim Final Rule (IFR) which was the second piece of formal guidance to implement the Paycheck Protection Program (PPP) authorized by the CARES Act, P.L. 116-136. NAGGL also appreciates the tremendous effort that the Small Business Administration (SBA) and the Department of the Treasury (Treasury) (together, the Administration) have expended to implement this critically important program.

In providing these comments, NAGGL notes that, as of the date of this letter, the Administration has posted to the separate SBA and Treasury websites 11 documents identified as Interim Final Rules, with 8 of those documents having been formally published in the Federal Register as IFRs and 3 still pending such publication. These IFRs were posted on a sporadic basis beginning on April 2, 2020 with the most recent IFR posted on May 15, 2020, and virtually all of the documents have different dates on which their comment periods will close. In addition, the Administration has posted to the Treasury website a Frequently Asked Questions (FAQ) document with the first question in the document posted on April 3, 2020 and the most recent questions added on May 13, 2020.

The issuance of guidance in this piecemeal manner is unprecedented, at least as it relates to SBA’s implementation of other special programs created by legislation. Ordinarily, lenders would have expected to see virtually complete program guidance, including loan authorization
and loan note templates, prior to implementation of the program. But, to date, no lender has
the complete guidance that it needs to process a PPP loan transaction from start to finish.
While this has made it very difficult for lenders and borrowers to fully understand PPP, it has
not deterred lenders from fully supporting the program as evidenced by the fact that, to date,
lenders have received SBA approval for approximately 4.4 million PPP loans valued at more
than $536 billion.

But the problems created by this approach have made lenders’ participation in the program
and borrowers’ access to critically needed loan funds much more difficult than necessary and
have caused serious concerns about how program performance will be evaluated on a long-
term basis. This situation was anticipated by SBA’s Office of the Inspector General when, on
the very day that PPP loans first were made available, it issued a sobering white paper noting
how essential it is that the government provide clear guidance and training before loan funds
are disbursed under programs like PPP. It appears that the implementers of this program failed
to heed that warning.

The fact that program guidance has been issued on a rolling basis also makes it very difficult for
interested parties to offer comments on the IFRs on an individual basis since many of the
provisions in the individual documents have been superseded or supplemented by subsequent
guidance provided in the form of either additional IFRs or FAQ. Despite these limitations,
however, we are providing simultaneous comments on the first two IFRs.

- After carefully reviewing IFR # 2, NAGGL has no comments on its specific provisions. But
  we do want to reiterate our overarching comment as stated in our comment letter on
  IFR # 1. This comment is relevant to all the IFRs and other program guidance that has
  been issued to date by the Administration. On behalf of NAGGL’s members and the
  millions of small businesses that they have been attempting to assist with PPP loans,
  NAGGL urges the Administration to find a better, more cohesive way to communicate
  the PPP guidance that is so urgently needed – by both lenders and borrowers.

We do not believe that it is appropriate for either borrowers, or the lenders working with them,
to be continually buffeted by shifting requirements as they desperately try to understand
whether they qualify for the program, how the program will operate and what review they will
be subject to as the program proceeds. What would have been appropriate would have been a
single program guide like that which SBA has issued for other special programs. While it is too
late for that now as it relates to the loan application processes, we urge the Administration to
provide all of the additional pending guidance on the related topics of loan reporting, loan
cancelations, loan forgiveness, advance purchase, etc., in one cohesive document. To do this, it may be necessary for the Administration to temporarily suspend activities related to these issues, and to extend previously established, and in some cases already extended, deadlines. [Loan processing could and should continue through this period.] But that would be a small price to pay if the result would be that lenders and borrowers could have a full picture of the program requirements allowing them to make better informed decisions regarding their actions. Obviously, even with a more unified approach to providing program guidance, occasional updates might be necessary, but those updates should be limited to those required to clarify the broader policy guidance.

We also should note that one area not yet addressed in Administration guidance is the post-forgiveness servicing requirements for PPP loans. Because we would not want to further extend any pause that might be necessary while the Administration compiles the other guidance that we are requesting, we believe that this issue can be addressed separately. But, again, we would request that it be addressed in a single policy guidance document.

NAGGL and the lender community that we represent continue to strongly support PPP. We fully understand that the program offers an essential lifeline to small businesses that have been devastated by the economic conditions caused by the COVID-19 emergency and we pledge our continuing support for this essential undertaking. We remain concerned, however, by the lack of overall guidance for the program, and we respectfully request that you consider our recommendation regarding how this critical issue can be addressed.

As previously indicated, a second similar letter providing NAGGL’s comments on IFR # 1 is being submitted simultaneously.

Again, thank you for providing this opportunity for us to provide comments on the Administration’s implementation of PPP. Thank you, too, for your continuing support of America’s small businesses during these unprecedented times.

Sincerely,

Tony Wilkinson
President & Chief Executive Officer

cc: William Manger, Chief of Staff and Associate Administrator, Office of Capital Access