



STEPHEN E. SANDHERR, Chief Executive Officer

April 29, 2020

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

Re: Latest Guidance on the Paycheck Protection Program

Dear Mr. Secretary:

On behalf of the 27,000 members and 88 chapters of the Associated General Contractors of America (AGC), I wish to thank you for quickly implementing the Paycheck Protection Program. **Our members report that the program has greatly helped them manage the great and steadily increasing uncertainty that surrounds the demand for their services.** The latest of our weekly surveys reveals that 29% of the responding members of the association saw owners cancel projects that had been scheduled to begin in March or April, and 32% have seen owners cancel projects scheduled to begin later in the year. Under these circumstances, 59% of the respondents reported that they had applied and been approved for program loans and 56% reported that they had managed to retain all of their employees. Another 16% reported that they managed to add employees.

Their now loud concern is that **the latest guidance¹ on the program is increasing their uncertainty and threatens to undo much of the good work that the program has already done.** For readily understandable reasons, your department's latest guidance on the program reminds all borrowers of their certification that "[c]urrent economic uncertainty" made their loan request "necessary to support the ongoing operations," and it required them to "tak[e] into account their current business activity and their ability to access other sources of liquidity." While AGC borrowers want and intend to ensure that they are in full compliance with this guidance, they find themselves at a complete loss to determine whether they are. **Just how does the federal government want or intend them to assess "their ability to access other sources of liquidity"?**

While many of these borrowers exceed the Small Business Administration's size standard for the construction industry (based on their average annual volume of business), they do have fewer than 500 employees and none are anywhere near the size of the companies that have attracted so much public attention. They are small to mid-sized companies that include very few if any publicly traded firms, for only a tiny fraction of all construction companies fall into that category. But many of them do have lines of credit that they have long used to help them manage their cash flow and their economic uncertainty extends well beyond the next few weeks. While equally severe, the pandemic's greatest impacts on the construction industry could well come later in the year, lagging behind the impacts on restaurants, hotels and the like.

¹ Treasury PPP FAQ Document Question #31 available at: <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>

If the latest guidance disqualifies AGC borrowers for program loans, they will have to pay the loans back and exhaust their cash and lines of credit, and the pandemic's ultimate impact on their operations will be that much more severe. Furloughs and layoffs will be that much more likely to prove necessary. And the confusion surrounding your department's latest guidance will only make the problem worse. Out of an abundance of caution, they are likely to repay loans that your department would be pleased for them to retain.

The problem is both severe and urgent, for your department's latest guidance also sets an extremely short May 7 deadline for borrowers to repay any loans they may have mistakenly accepted well before your department made them aware of its position on the certification. **AGC therefore urges your department to immediately provide additional guidance on the required certification and to extend the May 7 deadline.** AGC is well prepared to meet with the department at any time to provide any additional information or other assistance that it may require.

Thank you for your continued efforts to mitigate the economic challenges presented by Covid-19.

Sincerely,

A handwritten signature in black ink, appearing to read "Spt E SL", likely a stylized representation of the sender's name.

Stephen E. Sandherr