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BULLETIN

To: Membership of Allied Building Metal Industries, Inc.

From: Steven N. Davi

Date: April 3, 2020

Re: Financial Assistance for Small- to Mid-Size Businesses due to COVID-19 Impacts

This Bulletin is intended to aggregate most if not all of the new financial assistance now available to small- to mid-size business owners to combat the effects of the COVID-19 pandemic. You will see plenty of granular detail below with regard to certain programs, however, this Bulletin is intended as a high-level synopsis you can use in navigating the various options now available. We will continue to update this Bulletin as developments warrant. In the meantime, please do not hesitate to reach out to Allied directly if you have any questions or wish to discuss.

I. CARES Act

The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") approved by Congress and signed by the President on March 27, 2020, will provide approximately \$2 trillion in financial assistance to businesses and individuals to combat the effects of the COVID-19 pandemic. This Bulletin focuses on key provisions of Title I of the CARES Act (Keeping American Workers Paid and Employed Act) that we believe are particularly relevant for businesses able to meet the small business eligibility requirements for the Small Business Administration ("SBA") loan programs that have been expanded under the CARES Act.

These programs are:

- (i) the Paycheck Protection Program ("PPP"), which is an expansion of the SBA's 7(a) loan program; and
- (ii) the Economic Injury Disaster Loan program ("EIDL") of the SBA.

A. Paycheck Protection Program

The U.S. Treasury Department ("Treasury") and the SBA have released an [information sheet](#) ("Information Sheet") and [sample application form](#), which seems to have been modified and updated in the past few hours into an [official application form](#). The SBA also issued an [Interim Final Rule](#) last night providing additional technical guidance regarding the mechanics of PPP.

The Information Sheet provides excellent guidance, including a user-friendly Q&A format. The key upcoming dates when applicants can begin to apply for PPP loans through participating SBA lenders are as follows:

- business and sole proprietorships as soon as April 3, 2020; and
- independent contractors and self-employed individuals as soon as April 10, 2020.

Notable Differences Between the Information Sheet and the CARES Act Itself

The Information Sheet includes some significant deviations from the CARES Act itself, which are worth noting.

Maximum Loan Amount. The CARES Act provides that the maximum PPP loan a borrower can receive is equal to the lesser of (i) 2.5x trailing twelve month (TTM) average monthly payroll costs (plus any outstanding amount under a pre-existing emergency economic injury disaster loan made on or after January 31, 2020, and before PPP loans are available) and (ii) \$10 million. However, the sample application indicates (non-seasonal) applicant businesses will use 2019 average monthly payroll rather than the TTM average monthly payroll costs.

Loan Forgiveness. Under the CARES Act, a PPP loan will be eligible for forgiveness in an amount not to exceed the sum of permitted payroll costs, interest payments on mortgages existing before February 15, 2020, rent with respect to leases in place before February 15, 2020, and payments for utilities for which service began before February 15, 2020, in each case incurred or paid within 8 weeks from the origination of the PPP loan. However, the Information Sheet indicates that "due to likely high subscription, it is anticipated not more than 25% of the forgiven amount may be for non-payroll costs."

Interest Rate. The CARES Act provides for a maximum interest rate on PPP loans of 4.0% per year. However, the Information Sheet specifies the interest rate on PPP loans will be only 1.0%.

Maturity Date. The CARES Act provides the maximum maturity would be 10 years from the date on which a borrower applies for loan forgiveness. However, the Information Sheet indicates the maturity will be two years from the date on which a borrower applies for loan forgiveness.

Foreign Ownership. The sample application form states if any 20% or greater owner of the business is not a U.S. citizen or someone with "lawful permanent resident status," the PPP loan will not be approved. There is no such restriction on foreign ownership in the CARES Act.

Additional Insights

Ineligible Industries. Existing SBA regulations provide that businesses in certain industries (including gambling, investment or lending activities) are not eligible for loans under 7(a) of the Small Business Act (see [13 C.F.R. § 120.110](#) for a list of ineligible businesses). The sample application does not indicate whether such regulations are applicable to PPP loans and there is nothing in the CARES Act or any other documents issued by the SBA that affirmatively states that this provision would not apply.

Application by Owners. The sample application also makes clear that for businesses seeking PPP loans, in addition to the applicant business, an application must also be completed by each owner of 20% or greater of the applicant. The applicant business and each such owner must

make certain certifications, including: (i) that current economic uncertainty makes the loan request necessary to support the ongoing operations of the applicant business; and (ii) that the loan proceeds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments.

Employee Retention Credit. The CARES Act includes an Employee Retention Credit feature; the United States Chamber of Commerce has published a [guide](#) for understanding and applying for this grant. The Employee Retention Credit is a fully refundable tax credit for employers equal to 50% of qualified wages (including allocable qualified health plan expenses) that Eligible Employers pay their employees. This Employee Retention Credit applies to qualified wages paid after March 12, 2020, and before January 1, 2021. An eligible employer may not receive the Employee Retention Credit if the eligible employer receives a Small Business Interruption Loan under PPP. An eligible employer that receives a paycheck protection loan should not claim Employee Retention Credits. An eligible employer may, however, receive both the tax credits for the qualified leave wages under the Families First Coronavirus Response Act (FFCRA) and the Employee Retention Credit under the CARES Act, subject to certain exceptions.

Additional Guidance. You can learn more about PPP by clicking [here](#).

B. Emergency Economic Injury Disaster Loans (“EIDLs”) and Advances

The CARES Act also expands the SBA's Disaster Loan Program through December 31, 2020, by, among other things, permitting eligible businesses to apply for an EIDL to receive a \$10,000 advance from the SBA within three days of submitting their application. There is no obligation to repay the advance, even if the EIDL is subsequently denied (though it will offset permitted loan forgiveness for applicants that receive PPP loans). The advance can be used for any purpose permitted for EIDLs, including payroll expenses to retain employees during business interruptions, meeting increased costs due to supply chain interruptions, making rent, or mortgage payments.

Your business may now be eligible for an EIDL loan.

- Click [here](#) for SBA guidance on who is eligible for these loans and how to apply; please also see the SBA's streamlined online [COVID-19 Economic Injury Disaster Loan Application](#) released March 29, 2020.
- The United States Chamber of Commerce has also created a [guide](#) to understanding and applying for these loans.

Under the SBA's existing Disaster Loan Program, EIDLs can provide up to \$2 million of financial assistance, with actual loan amounts based on the amount of economic injury. The CARES Act waives several SBA requirements for obtaining EIDLs, including personal guaranty requirements for loans of \$200,000 or less and the prior "1 year in business prior to the disaster" requirement. As long as the business was in operation as of January 31, 2020, it will be eligible. The CARES Act does not, however, waive collateral requirements the SBA may impose on EIDLs of greater than \$25,000.

Obtaining an EIDL does not preclude a business from also applying for a PPP loan (or vice versa). However, a business may not apply for a PPP loan or EIDL to cover duplicative expenditures already applied for or received under the other covered loan. A business with an outstanding EIDL extended after January 31, 2020, and before the date the PPP loans become available may

refinance its existing EIDL with the proceeds of a PPP loan under the CARES Act, but EIDLs obtained *after* PPP loans become available will not to be eligible for such a refinancing.

II. Other Available Loans and Grants

A. New York City Employee Retention Grant Program

To help small businesses deal with the impact of COVID-19, the city launched the [Employee Retention Grant Program](#) to help retain employees as businesses face decreased revenue. This program is available to New York City businesses with one to four employees that can demonstrate at least a 25% decrease in revenue as a result of COVID-19. Eligible businesses will receive a grant covering up to 40% of their payroll for two months. Businesses can access up to \$27,000. The deadline for applications is Friday, April 3, 2020.

B. Small Business Continuity Fund

The [NYC Small Business Continuity Loan Program](#) is now accepting applications. Mayor Bill de Blasio, NYC Department of Small Business Services Commissioner Gregg Bishop, and NYC Economic Development Corporation President James Patchett announced loans are available for small businesses affected by COVID-19. The Small Business Continuity Fund offers financial assistance to small businesses in New York City as they deal with various challenges in response to the novel coronavirus.

C. NYC COVID-19 Response & Impact Fund

The [NYC COVID-19 Response & Impact Fund](#) was created by The New York Community Trust to aid nonprofit service providers struggling with the health and economic effects of COVID-19. It offers grants and loans to NYC-based nonprofits that are trying to meet the new and urgent needs as a result of the disruptions associated with COVID-19.

D. Local Initiatives Support Corporation

A \$2.5 million investment from Verizon is allowing the [Local Initiatives Support Corporation](#) to offer grants through its Verizon Small Business Recovery Fund to assist small businesses to fill urgent financial gaps until they can resume normal operations or until other more permanent financing becomes available.

E. Facebook

Facebook, through its [Small Business Grants Program](#), is offering up to \$100 million in cash grants and ad credits to help small business during this challenging time.

F. Google

Google has made an \$800+ million [commitment](#) to support small- and medium-sized businesses (“SMBs”), health organizations and governments, and health workers on the frontline of this global pandemic and to support small businesses and crisis response in the wake of the pandemic. As part of this commitment, Google is providing \$340 million in Google Ads credits available to all SMBs with active accounts over the past year.

III. Additional Resources

- Grassi Advisors and Accountants, the accounting firm with which Allied has had a relationship for many years, is rolling out its Crisis Response & Recovery services team to provide loan consulting services to clients, including assisting clients in identifying and applying for the appropriate assistance during this crisis. See the attached tear sheet regarding Grassi's Emergency Loan Consulting services. Grassi has formulated a fee structure in connection with its provision of these services. If you would like to learn more, you may contact Steven Goldstein, Partner, at 212.223.5034, Lou Pizzileo, Partner, at 516.336.2455, directly, as per the attached tear sheet.
- The Small Business Council has published the [Small Business Owner's Guide to the CARES Act](#), which provides useful information not only regarding the CARES Act but also additional financial assistance for which you may qualify, including Emergency Economic Injury Grants, the Small Business Debt Relief Program, as well as free counseling to help you navigate this uncertain economic time.
- The United States Chamber of Commerce has also published a useful [Coronavirus Emergency Loans Small Business Guide and Checklist](#) to help you in navigating the CARES Act financial assistance offerings.

Please feel free to contact me directly if you have any questions or wish to discuss any of the above. Thank you.