DEPARTMENT OF THE TREASURY
BUREAU OF THE FISCAL SERVICE
WASHINGTON, DC 20227

February 28, 2021

Phil Rosenfelt
Acting Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Acting Secretary Rosenfelt:

Thank you for your letter dated February 27, 2021 concerning persons who owe a delinquent Federal student loan and seek to participate in the Paycheck Protection Program (PPP), which is administered by the Small Business Administration (SBA) under the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. 116–136) and the Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (Pub. L. 116-260).

Under 31 U.S.C. § 3720B and Treasury's implementing regulations at 31 CFR § 285.13, a person owing a delinquent Federal nontax debt generally may not obtain Federal financial assistance. The Secretary of the Treasury may exempt certain classes of debts from affecting a debtor's eligibility for Federal financial assistance if the Secretary determines it is in the best interests of the Federal Government. *See* 31 U.S.C. § 3720B(a); 31 CFR § 285.13(f)(3). Such an exemption does not change the eligibility requirements that agencies set under their own statutes and regulations. This authority to grant an exemption has been delegated to the Fiscal Service Commissioner.

You requested that I exempt delinquent Federal student loans from the bar imposed by 31 U.S.C. § 3720B and 31 CFR § 285.13 with respect to the PPP. The exemption request pertains to Federal student loans in delinquent status that have arisen from programs under Parts B, D, and E of the Higher Education Act of 1965, as amended, as well as other programs now administered by the Department of Education. These programs include the William D. Ford Federal Direct Loan program, the Federal Family Education Loan program, the Federal Perkins Loan program, the Health Education Assistance Loan program, and the Teacher Education Assistance for College and Higher Education Grant program. The request pertains to Federal student loans owed directly to the Department of Education as well as Federal student loans held by institutions of higher education or those guaranteed or insured by the Department of Education and which are held by private lenders or guaranty agencies.

I hereby grant your request. This exemption from the bar imposed by 31 U.S.C. § 3720B will apply only to Federal financial assistance in the form of PPP loans and will cover delinquent Federal student loans owed by current or previous PPP borrowers as well as new PPP applicants. SBA retains the authority, however, to set additional and more stringent eligibility criteria in the PPP regulations. *See* 31 CFR § 285.13(b)(3) and (c)(2).

As further detailed in your letter, this exemption will remove a barrier for delinquent Federal student loan borrowers to help them access economic assistance from the PPP and may promote repayment of these borrowers' Federal student loans. Because SBA is required to forgive PPP loans for qualified borrowers, the exemption should pose little risk of financial loss to the Federal Government. Further, SBA supports the exemption and plans to revise the eligibility criteria in the PPP regulations to remove a similar barrier affecting borrowers with Federal student loans in delinquent status. Taken together, these factors support my decision that the exemption is in the Federal Government's interest.

Please contact Michelle Cordeiro, Senior Attorney, at (202) 874-6680 with any questions.

Sincerely,

[redacted]

Matthew J. Miller
Acting Commissioner

cc: Timothy Gribben
Acting Fiscal Assistant Secretary
U.S. Department of the Treasury

Tami Perriello
Acting Administrator
Small Business Administration.

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY

February 27, 2021

Mr. Matthew Miller
Acting Commissioner for the Bureau of the Fiscal Service
U.S. Department of the Treasury
401 14th St SW, Room 545
Washington, DC 20227

Dear Acting Commissioner Miller:

I am writing to request and recommend an exemption to allow small business owners who are currently delinquent on a Federal student loan, including sole proprietors, independent contractors, and self-employed individuals, to obtain loans through the Paycheck Protection Program (PPP). The Small Business Administration (SBA) has reviewed and supports this request.

The Debt Collection Improvement Act (DCIA) bars persons who are delinquent on Federal nontax debts from obtaining Federal financial assistance in the form of certain loans or loan insurance guarantees.[1] The Department of the Treasury has issued regulations at 31 CFR § 285.13 to implement this bar. Under these regulations, the head of a creditor agency may request that Treasury exempt any class of debts from affecting a debtor's eligibility for Federal financial assistance if an exemption is in the best interests of the Federal government.[2]

In accordance with 31 C.F.R. § 285.13(f)(2), I am providing the following information in support of this request for an exemption:

1. *The nature of the program under which the delinquencies have arisen.*

   The delinquencies referenced above have arisen under loans from programs under Parts B, D, and E of the Higher Education Act of 1965, as amended, as well as other programs now administered by the Department. These programs include the William D. Ford Federal Direct Loan (Direct Loan) program, the Federal Family Education Loan (FFEL) program, the Federal Perkins Loan program, the Health Education Assistance Loan (HEAL) program, and the Teacher Education Assistance for College and Higher Education (TEACH) Grant program, if those TEACH Grants have converted into loans. These delinquencies include loans owed directly to the Department of Education, as well as Federal student loans held by institutions of higher education, or those guaranteed or insured by the Department of Education and which are held by private lenders or guaranty agencies.

[1] *See* 31 U.S.C. § 3270B. SBA regulations for the PPP impose a similar bar on delinquent debtors. *See* 86 Fed. Reg. 3698 (Jan. 14, 2021). This exemption request only applies to the bar in the DCIA and Treasury's implementing regulations.
[2] *See* 31 C.F.R. § 285.13(f)(3).

2. *The number, dollar amount, and age of the debts in the program for which exemption is recommended.*

The information for each of the programs referenced above is as follows[3]:

Direct Loans		
Age of Debt	*Outstanding Balance (billions)*	*Borrowers (millions)*
<1 year	80.7	7.6
1-2 years	126.2	8.3
2-5 years	391.3	15.8
5-10 years	535.7	19.9
10-20 years	168.8	8.7
20+ years	13.5	0.7

FFEL		
Age of Debt	*Outstanding Balance (billions)*	*Borrowers (millions)*
10-20 years	218.5	9.5
20+ years	27.3	1.6
Unknown	0.01	0.002

Perkins Loans		
Age of Debt	*Outstanding Balance (billions)*	*Borrowers (millions)*
2-5 years	1.0	0.3
5-10 years	2.0	0.7
10-20 years	1.2	0.5
20+ years	1.2	0.5

[3] This data includes loans outstanding as of December 31, 2020. Age is based on time since the earliest first disbursement of a loan. At this time, the Department of Education is not able to provide data on HEAL Program loans or loans made under the Federal Insured Student Loan Program (a program that last made loans in 1984), which would otherwise appear in the data about FFEL loans. There may be some duplication of borrowers across programs and time in repayment groups.

TEACH Grants that have converted to loans		
Age of Debt	*Outstanding Balance (millions)*	*Borrowers (thousands)*
1-2 years	3.2	1.4
2-5 years	35.1	10
5-10 years	213.5	37
10-20 years	103.2	16.7

3. *The reasons why an exemption is justified, including why the granting of financial assistance to persons owing the type of debt for which exemption is requested would not be contrary to the Government's goal to reduce losses by requiring proper screening of potential borrowers.*

An exemption for delinquent Federal student loans is justified because the exclusion of student loan borrowers with current delinquencies confounds the purpose of the PPP, and the impact of this exclusion falls disproportionately on sole proprietors, independent contractors, and self-employed individuals – especially Black and Brown business owners – who are already less likely to receive PPP loans. The SBA shares these views and is planning to amend the PPP regulations, application forms, and guidance to remove this exclusion. An exemption under 31 CFR § 285.13 would enable the SBA to carry out the purposes of the PPP without prejudice to the Department of Education's student loan programs.

PPP loans can give small businesses the help they need to stay afloat during this critical time and to preserve jobs. Creating barriers to accessing PPP loans not only hurts small business owners; it hurts their employees, the communities in which they operate, and the entire economy. Excluding business owners who are delinquent on their Federal student loans frustrates the purposes of the PPP by excluding small businesses that could benefit greatly from the program and contribute to broader economic strength.

Addressing the exclusion of delinquent Federal student loan borrowers from the PPP would also help strengthen repayment of Federal student loans. Business owners who can keep their doors open and retain their employees during the present national emergency, which arose through no fault of their own, are likely to be in a better position to repay their Federal student loans in the future. Because PPP loans are designed to be forgiven, such loans are more likely to facilitate than impede repayment of Federal student loans when the current student loan payment pause ends.[4] It is in the government's interest to ensure that Federal student loans support rather than inhibit economic mobility or jeopardize financial stability – especially during a national emergency and economic crisis.

Further, data from prior rounds of PPP funding suggest that Black- and Brown-owned businesses were less likely to receive PPP loans than white-owned businesses owners. The current round of PPP funding includes provisions intended to address this disparity, but excluding Federal student loan borrowers with delinquencies could undercut these efforts.

[4] The Department of Education has suspended required loan payments, stopped collections on defaulted loans, and reduced the interest rate to 0% on Department of Education-owned loans until September 30, 2021.

Black and Brown students rely more heavily on student loans than their peers and experience delinquency at disproportionately high rates. As a result, prohibiting delinquent student loan borrowers from obtaining PPP loans is more likely to exclude business owners of color from access to the loans their businesses need.

The Department of Education requests this exemption for new applicants, as well as for borrowers who have already applied for or received a PPP loan. The requested exemption would treat PPP borrowers with delinquent student loan debts equally, without regard to when they submitted their PPP application. Although PPP regulations required applicants to disclose whether they had a delinquent Federal debt, such as a student loan debt, in our experience, student loan borrowers are often confused about the status of their loans and whether their loans constitute Federal debt. This confusion may have led some borrowers to make innocent errors on their PPP application. The SBA shares this view and plans to amend the PPP regulations to remove the bar for delinquent student loans as it applies to previous PPP borrowers as well as new applicants. The government's interest will be best served if Treasury provides an exemption that allows SBA to carry out its policy of treating all delinquent student loans consistently for purposes of the PPP.

Taken together, it is the Department of Education's position that exempting delinquent Federal student loans from affecting eligibility for PPP is in the best interests of the Federal government. I look forward to working with you on this matter.

[redacted]

Acting Secretary of Education