



LIUNA!

April 14, 2020

TERRY O'SULLIVAN
General President

ARMAND E. SABITONI
General Secretary-Treasurer

Vice Presidents:

TERRENCE M. HEALY

RAYMOND M. POCINO

JOSEPH S. MANCINELLI

ROCCO DAVIS

*Special Assistant to the
General President*

VINCENT R. MASINO

DENNIS L. MARTIRE

ROBERT E. RICHARDSON

RALPH E. COLE

JOHN F. PENN

OSCAR DE LA TORRE

SERGIO RASCON

ROBERT F. ABBOTT

SAMUEL STATEN, JR.

PAUL V. HOGROGIAN

THEODORE T. GREEN

General Counsel

HEADQUARTERS:

905 16th Street, NW

Washington, DC

20006-1765

202-737-8320

Fax: 202-737-2754

www.liuna.org

TO ALL LIUNA AFFILIATES IN THE UNITED STATES

Re: Additional Relief Loan Programs Available

Dear Brothers and Sisters:

CARES created other pots of money to stimulate the economy. We address two of these loan programs here. Neither is yet in operation but, when functioning, they could enable Laborers' employers to survive the pandemic and preserve the wages and benefits of our members. LIUNA affiliates should make our signatories aware of these tools to avoid layoffs and keep projects going. Because the details of these programs remain unknown, affiliates should monitor developments.

Treasury and Federal Reserve \$454 Billion Loan Program for Larger Employers

This first loan program is a feature of CARES, the Coronavirus Aid, Relief, and Economic Security Act, enacted on March 27. In prior correspondence, I have focused on the \$349 billion it makes available mainly to employers with 500 or fewer employees if they do not reduce payroll in the face of COVID-19. Here, the focus is on the even larger \$454 billion available for loans to large employers, those with between 500 and 10,000 employees, who need cash to continue ongoing operations. The loans require both short and long-term commitments about workforce levels and other labor-friendly terms throughout the loan period, including promises not to abrogate any existing collective bargaining agreement during and for two (2) years after the loan term, and to remain neutral in any organizing drive undertaken during the loan term.

These loans will be made or guaranteed by the Department of the Treasury and overseen by the Federal Reserve Board. To be eligible, an employer must have 500 - 10,000 employees, must "ha[ve] significant operations in and a majority of its employees in the United States," and must certify in "good faith" that "[t]he uncertainty of economic conditions as of the date of the application makes necessary the loan request to support [its] ongoing operations."

The precise structure of the program is unclear because it is a program starting from scratch; it is not new money added to an existing program. We know little more than that the interest rate will be capped at 2%; for at least six (6) months no principal or interest will be due; and the loan itself will not be forgivable. Neither Treasury nor the Federal Reserve Board has yet issued guidance regarding the program, and they could impose a wide variety of requirements on applicants.

Feel the Power

What has drawn significant attention are several of the unprecedented labor-friendly terms mandated by the statute for this program; in order to secure a loan, the borrower must make other “good-faith” certifications that it:

- Will use the loan “to maintain at least 90 percent of [its] workforce, at full compensation and benefits until September 30, 2020”;
- “[I]ntends to restore not less than 90 percent of the workforce of the recipient that existed as of February 1, 2020, and to restore all compensation and benefits to [its] workers...4 months after the termination date of the public health emergency”;
- “[W]ill not abrogate existing collective-bargaining agreements for the term of the loan and 2 years after completing repayment of the loan”;
- “[W]ill remain neutral in any union organizing effort for the term of the loan”; and
- “[W]ill not outsource or offshore re jobs for the term of the loan and for 2 years after completing repayment of the loan.”

These certifications will be enforceable both by contractual means and by civil and criminal laws that pertain to false statements on loan applications and to statements to the government. It remains to be seen how Treasury and federal prosecutors will interpret terms such as “neutral” and “abrogate”, neither of which is found in the National Labor Relations Act or other federal labor-management laws that ordinarily govern organizing and bargaining. At the same time, CARES doesn’t take away the NLRB’s authority over these matters or a union’s right to arbitrate or sue an employer over a contract violation.

Federal Reserve Board \$600 Billion “Main Street Lending Program” for Most Employers

On April 9, the Federal Reserve Board announced a \$600 billion “Main Street Lending Program” for most employers. The loans may either be new or expand existing loans that preceded April 8. Our interest in these loans is mainly due to the size of the program. There are few labor-friendly features to recommend it.

Eligible businesses are those with significant U.S. operations, and either up to 10,000 employees (most of whom are U.S.-based) or up to \$2.5 billion of annual revenues. A business that has already secured a “Paycheck Protection” loan (described in my April 7 letter to LIUNA affiliates) may participate in this new program as well.

The labor protections attaching to Main Street Lending loans are significantly weaker than loans describe in the preceding program. An applicant business must attest that it requires financing due to the impact of the pandemic and, somewhat vaguely, that “it will make reasonable efforts to maintain its payroll and retain its employees” during the

Additional Relief Loan Programs Available
April 14, 2020
Page Three

loan term. Still, there may be signatories that continue operations and preserve jobs that would otherwise be lost through the use of the Main Street Lending Program.

With kind regards, I am

Fraternally yours,

A handwritten signature in cursive script that reads "Terry O'Sullivan".

TERRY O'SULLIVAN
General President

/mmt