

No. 25-____

IN THE
Supreme Court of the United States

SEVILLE INDUSTRIES, LLC,
Petitioner,

v.

UNITED STATES SMALL BUSINESS ADMINISTRATION,
KELLY LOEFFLER, in her official capacity as
Administrator of the United States Small Business
Administration, SCOTT BESSENT, in his official
capacity as Secretary of the United States
Department of the Treasury,
Respondents.

**On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit**

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Congress enacted the Paycheck Protection Program to fund “payroll costs,” defined to include “the sum of payments of any compensation with respect to employees” and “the sum of payments of any compensation to or income of a sole proprietor or independent contractor.” Seville Industries, a small business with both W-2 employees and independent contractors, sought a PPP loan to cover both employees and independent contractors. The SBA granted partial forgiveness for employee-related costs but denied forgiveness the portion of the loan covering independent contractors—ruling that such payments cannot count as “payroll costs.” The district court and Fifth Circuit affirmed.

The question presented is whether “the sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation” includes payroll costs for a business’s independent contractors.

**PARTIES TO THE PROCEEDING
AND RULE 29.6 STATEMENT**

Petitioner, who was the plaintiff and then the appellant below, is Seville Industries, LLC. Petitioner has no parent corporation. No publicly held corporation owns any portion of the Petitioner, and Petitioner is not a subsidiary or an affiliate of any publicly held corporation.

Respondents, who were defendants and then appellees below, are the United States Small Business Administration, Kelly Loeffler, the Administrator of the United States Small Business Administration, and Scott Bessent, the Secretary of the United States Department of the Treasury.

CORPORATE DISCLOSURE STATEMENT

Pursuant to this Court's Rule 29.6, Applicant states as follows: Seville Industries, LLC has no parent corporation, and no corporation owns 10% or more of its stock.

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INTRODUCTION

This case presents the identical statutory question that is being raised to this Court at the certiorari stage in *Veltor Underground, LLC v. United States Small Business Administration*: Whether “payroll costs” under the CARES Act include payments a business makes to its independent contractors. In this case, unlike in *Veltor*, Seville maintained both W-2 employees and independent contractors—and sought loan forgiveness for a loan that covered both categories.

The CARES Act defines “payroll costs” to include “the sum of payments of any compensation to or income of a sole proprietor or independent contractor.” On its face, subsection (bb) covers “compensation to ... [an] independent contractor”—language that straightforwardly encompasses what a business pays to the independent contractors who do its work. The Fifth Circuit below, like the Sixth Circuit in *Veltor*, rejected this plain-language reading and limited subsection (bb) to only what a self-employed individual pays itself or an independent contractor pays its own employees. For the reasons set forth in the *Veltor* petition—and reiterated here—that interpretation is wrong. *See Pet. for Cert., Veltor Underground, LLC v. SBA*, No. 25-___ (U.S. filed Feb. 9, 2026) (“*Veltor Pet.*”), at 12–24.

The Court should either grant review and hear this case together with *Veltor* or hold this case until *Veltor* is decided. Both cases present the identical legal question, arise from circuit courts reaching the same erroneous conclusion, and together illustrate the full spectrum of affected businesses—those using only independent contractors (*Veltor*) and those using both

employees and independent contractors (Seville). This Court should grant review.

OPINIONS BELOW

The decision of the United States Court of Appeals for the Fifth Circuit affirming summary judgment to Respondents is reported at 144 F.4th 740, and reproduced at Pet. App. A. The decision of the United States District Court for the Western District of Louisiana is reported at 2024 WL 697592, and reproduced at Pet. App. B.

JURISDICTION

The United States Court of Appeals for the Fifth Circuit affirmed the grant of summary judgment to defendants on July 15, 2025 and denied Petitioner's petition for rehearing on November 11, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL, STATUTORY, AND REGULATORY PROVISIONS INVOLVED

The United States statutes at issue, 15 U.S.C. §§ 636(a)(36), 636m are included in the Appendix at Pet. App. 46a–98a.

STATEMENT

I. Statutory Regime

The statutory framework governing this case is set forth in detail in the *Veltor* petition. *See Veltor* Pet. at 7–8. In brief, Congress enacted the Paycheck Protection Program as part of the CARES Act to provide forgivable loans to small businesses facing acute financial distress during the COVID-19 pandemic. The PPP directed that loan eligibility and loan amounts be calculated based on a business's "payroll costs," defined to include both "the sum of

payments of any compensation with respect to employees” (15 U.S.C. § 636(a)(36)(A)(viii)(I)(aa)) and “the sum of payments of any compensation to or income of a sole proprietor or independent contractor” (*Id.* § 636(a)(36)(A)(viii)(I)(bb)). To obtain loan forgiveness, borrowers were required to use at least sixty percent of covered loan proceeds on “payroll costs.”

II. Factual Background

Petitioner Seville Industries, LLC (“Seville”) is a Louisiana-based small business that, during the covered period, maintained a mixed workforce—employing both traditional W-2 employees and independent contractors. *Seville*, 144 F.4th at 744. This distinguishes Seville from the petitioner in *Veltor*, which retained exclusively independent contractors and no traditional employees. *Veltor* Pet. at 26. Seville’s hybrid workforce structure reflects the reality of countless American small businesses that staff operations through a combination of employees and contractors depending on business needs, labor availability, and the nature of the work performed.

Like millions of small businesses nationwide, Seville experienced severe financial hardship during the pandemic. *Seville*, 144 F.4th at 744. To continue paying its entire workforce—both employees and independent contractors—Seville applied for a PPP loan. Seville’s loan application calculated payroll costs by including payments to both its 53 employees and its independent contractors, as the plain text of the statute appeared to permit. Seville received a PPP loan of approximately \$2.6 million. *Id.* at 745.

During the applicable covered period, Seville used the loan proceeds to keep its business running, maintaining workforce continuity as Congress intended. *Id.* When Seville sought full forgiveness, the SBA initiated a review and ultimately determined that Seville had improperly included payments to independent contractors in its payroll-cost calculation. *Id.*

In March 2022, the SBA issued its Final Loan Review Decision, granting only partial forgiveness. *Id.* The SBA determined that Seville was entitled to forgiveness for the portion of the loan attributable to employee payroll—reimbursing Seville \$687,508.64 in principal and \$13,392.29 in interest—but denied forgiveness for approximately \$1.5 million it sought to cover its payroll costs for its independent contractors. *Id.* Seville unsuccessfully contested the SBA’s decision with the Office of Hearings and Appeals; the OHA subsequently denied reconsideration as well. *Id.*

III. Proceedings Below

In December 2022, Seville timely appealed the SBA’s final agency decision to the United States District Court for the Western District of Louisiana. *Id.* Seville requested an order vacating the OHA decision and directing full forgiveness of its PPP loan. *Id.*

On cross-motions for summary judgment, the district court ruled for the government. The court’s decision turned on the interpretation of the statutory definition of “payroll costs” in 15 U.S.C. § 636(a)(36)(A)(viii). *Seville Indus. LLC v. U.S. Small Bus. Admin.*, 2024 WL 697592, at *4 (W.D. La. Feb. 20, 2024). The Court acknowledged Seville’s textual

arguments—including that Congress’s use of “and” between subsections (aa) and (bb) suggests a conjunctive meaning—but ultimately concluded that the two subsections “were not meant to be added together.” *Id.* at *5–*6.

On appeal, the Fifth Circuit affirmed. *Seville*, 144 F.4th at 751. The Court’s opinion held that subsection (bb) defines “payroll costs” as money earned by independent contractors or sole proprietors, not as money paid to them by businesses. *Id.* at 746. The Court relied on structural concerns—including purported “double-dipping” risks (i.e., the theoretical concern that both a business and its contractor could each count the same payment toward their respective PPP loans)—to reject *Seville*’s plain-language reading. *Id.* at 748–50.

REASONS FOR GRANTING THE PETITION

This case presents the identical legal question as *Veltor Underground, LLC v. SBA*, No. 25-____, which has been concurrently filed before this Court on a petition for certiorari arising from the Sixth Circuit. Both cases ask whether “payroll costs” under the CARES Act include payments a business makes to its independent contractors. Both the Fifth Circuit here and the Sixth Circuit in *Veltor* answered that question in the negative.

The Court should grant this petition and either: (1) hear *Seville* and *Veltor* together or (2) hold this case pending disposition of *Veltor*.

I. The Fifth Circuit’s Decision is Grievously Wrong

The Fifth Circuit’s interpretation of “payroll costs” is wrong for the reasons set forth at length in the

Veltor petition. *See* Veltor Pet. at 12–24. Petitioner incorporates those arguments and briefly summarizes the key points.

The plain text of subsection (bb) includes “payments of any compensation to ... [an] independent contractor,” and the most natural reading of “compensation to” refers to amounts a business pays its contractors. Reading subsection (bb) to capture only what sole proprietors pay themselves and independent contractors pay their own employees collapses “compensation to” into “income of,” erasing words Congress chose. *See* Veltor Pet. at 18–19. Congress paired “compensation to” with “income of” in the same clause; the best reading gives both operative effect.

The “double-dipping” concern that animated the Fifth Circuit's ruling below does not justify rewriting the statute. *Seville*, 144 F.4th at 750. *See* Veltor Pet. at 21–22. The plain text prevents double-dipping: the statute allows either the payer’s “compensation to” a contractor or the contractor's own “income”—but not both—to be counted toward forgiveness. Critically, the government has failed to identify even a single real-world instance of this alleged phenomenon occurring.

Finally, the Fifth Circuit’s interpretation creates the same absurdity that the *Veltor* petition highlights: if independent contractors can rely on the SBA for payment rather than the businesses that retain them, then they have no monetary incentive to actually perform the work the businesses paid them for. This would defeat the entire purpose of the program. *See* Veltor Pet. at 22–23.

II. The Decision Below Exacerbates A Pattern of Confusion Among the Circuits

While the Fifth Circuit here and the Sixth Circuit in *Veltor* reached the same conclusion, the Middle District of Pennsylvania reached the opposite result in *Essintial Enterprise Solutions LLC v. SBA*, No. 1:22-cv-1507, 2024 WL 5248242 (M.D. Pa. Dec. 30, 2024). There, as here, the borrower obtained a multimillion-dollar PPP loan calculated using payments to independent contractors; the SBA approved only partial forgiveness on the ground that such payments were not “payroll costs.” *Id.* at *1. But the district court reversed, holding that “[t]he law does not support the SBA’s conclusion that independent contractor expenses cannot be included in plaintiff’s ‘payroll costs’ of the Loan.” *Id.* at *10. The District Court made clear that the act’s “statutory language... [did] not permit... double dipping,” and reasoned that “[t]he court cannot refer to other statutory provisions to create an ambiguity in a statute where no ambiguity exists otherwise.” *Id.* at *8, *9.

On February 3, 2026, the Third Circuit reversed the district court’s decision. *Essintial Enterprise Solutions, LLC v. SBA*, No. 25-1367, 2026 WL 276342 (3d Cir. Feb. 3, 2026). But the manner in which *Essintial* lost is telling. The Third Circuit did not find that the statutory text compelled the government’s interpretation—Judge Bove acknowledged that “[r]easonable minds could differ” and described the question as “not a routine ground ball.” *Id.* at *1, *2. Instead, the court relied on the government’s policy concerns—double-dipping anxieties, foreign-contractor hypotheticals, and anti-fraud worries—

which are extratextual and misplaced. *Id.* at *6, *8. Even so, the Third Circuit recognized the equitable tension in its ruling, acknowledging Essintial’s “bait-and-switch” argument and devoting an entire section to the “sympathetic” circumstances facing pandemic-era businesses. *Id.* at *7.

III. This issue is important and recurring.

As the Veltor petition explains, the stakes of this dispute are substantial. *See* Veltor Pet. at 29–32. Approximately 81.9% of small businesses are nonemployer firms, and 36%—about 10.25 million—use independent contractors for core functions. The interpretive question affects hundreds of thousands of borrowers and potentially tens of billions of dollars in unforgiven loans.

The window for resolution is closing. The PPP closed to new lending in mid-2021, and forgiveness can be sought up to five years from the loan date—meaning the final wave of contested determinations is cresting now. As forgiveness files close, the opportunity for a uniform rule will narrow rapidly. Only this Court can provide the needed clarity.

IV. This case is an effective vehicle for resolving the question presented.

While *Veltor* presents the statutory question in the context of a business that has no employees but only independent contractors, *Seville* presents the statutory question for a business that has both employees and independent contractors (as do millions of American businesses). The case thus provides this Court the opportunity to address the correct rule of law and outcome in this specific context.

CONCLUSION

The Court should grant the petition.

February 9, 2026

Respectfully submitted,

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