Faith & Giving Coalition
CARES Act Update
May 1, 2020

PPP CONFUSION
So … do they want us to keep our employees – or not?

Last week Congress replenished the CARES Act's empty Paycheck Protection Program (PPP) with another $310 billion. SBA started processing loans again early this week.

Unfortunately, driven by controversies over Ruth's Chris, Shake Shack, and others receiving PPP loans, last week SBA issued new guidance. (See FAQs #31 and #37 at this link.) It states that when organizations certify that a PPP loan is an economic necessity, they must take into account "other sources of liquidity sufficient to support their ongoing operations in a manner that is not detrimental to the business."

The text of the new guidance opens by referring to businesses owned by "companies with adequate sources of liquidity to support the business's ongoing operations."

This makes sense. The rationale driving the new guidance was preventing publicly traded companies and other larger, well-funded for-profits from receiving loans that had been intended for smaller, financially struggling organizations.

But the new guidance includes broader language referring to "borrowers" and "all borrowers."

This leaves it open to interpretation. Could the new, more detailed requirements also apply to faith-based and other nonprofits? If so, how will these new requirements be interpreted and applied?

Confusion has ensued.

Some lenders have interpreted the new guidance as imposing heightened duties on all organizations, including faith-based and other nonprofits. They have issued stern warnings and made other written and oral statements discouraging organizations from applying for or retaining PPP loans.

As a result, some struggling houses of worship and other FBOs have canceled their PPP applications. Others have returned their PPP funds to beat the May 7 safe-harbor deadline imposed by the new guidance. Still others are seriously considering such steps.

Some government sources tell us that the new guidance was written for and directed at for-profit businesses. They do not believe it was directed at faith-based or other nonprofits.

Quite understandably, however, FBOs would like to see such assurances in black and white. The Faith & Giving Coalition and others are asking for such assurances.

Any organization working through questions involving this new guidance should consult an attorney, preferably one who is well-versed in SBA programs and related areas.

In the meantime, some organizations are suggesting financially struggling nonprofits hold off canceling PPP applications or returning PPP funds until closer to the May 7 safe-harbor deadline. New guidance could emerge in the next few days that clears up the confusion and alleviates concerns about participating in the program.

Stay tuned …

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