



Apr 06, 2020

Categories:

[Coronavirus Response](#)

[Team](#)

[Publications](#)

Authors:

[Rebecca M. Moore](#)

[Jana E. Syrcle](#)

New Guidance from SBA States Faith-based Organizations Are Eligible for PPP and EIDL Loans

On April 3, 2020, the U.S. Small Business Administration (“SBA”) released new guidance, regarding the eligibility of faith-based organizations to participate in the Paycheck Protection Program (“PPP”) and the Economic Injury Disaster Loan Program (“EIDL”). Published as a Faith-Based Organizations FAQ (“FAQ”), this guidance provided much sought-after clarification for faith-based organizations whose eligibility for SBA programs was questionable even after the passage of the CARES Act. The CARES Act made PPP loans available to non-profits with 501(c)(3) status; however, existing SBA regulations rendered “businesses principally engaged in teaching, instructing, counseling or indoctrinating religion or religious beliefs...” ineligible for any type of SBA loan.^[1] Therefore, even after the passage of the CARES Act it remained unclear whether faith-based organizations with 501(c)(3) status, in particular, houses of worship were eligible for SBA loan assistance. However, the FAQ explained the SBA was declining to enforce those prior regulations because they “impermissibly exclude...the participation of a class of potential recipients based solely on their religious status.” This means faith-based organizations are now eligible to apply for PPP and EIDL loans as long as they meet the other standards required by those programs, including size limitations.

Affiliation Rule Exemption for Faith-based Organizations

In addition to making faith-based organizations eligible for PPP and EIDL loans, the SBA’s [Interim Final Rule](#) exempted faith-based organizations from [the affiliation](#) rules, if those affiliations are part of an organization’s religious exercise. According to the SBA, in most cases, applying the affiliation rule to faith-based organizations would place a substantial burden on that organization’s right to

exercise religion, because many faith-based organizations view affiliation as a “mandate given the ‘hierarchical or connectional’ structure of their church”^[2] or “as an expression of their sincere religious belief.”^[3] However, if a religious entity is affiliated with another entity entirely for non-religious reasons, such as administrative convenience, then that entity will be subject to standard affiliation rules. If a faith-based organization makes a good faith determination that the waiver should apply, neither the SBA nor a participating lender will assess the reasonableness of that determination. Read together, the FAQ and Interim Final Rule, allow faith-based organizations to apply for PPP and EIDL loans as long as the organization applying meets SBA small business requirements and has no more than 500 employees (or a higher number if its primary industry per its NAICS code has a higher employee number cap).^[4] When answering Question 3 of the PPP [Borrower Application Form](#), a faith-based organization answering “yes”, may add an Addendum A^[5]. This certifies the faith-based organization is exempt from the SBA affiliation rules due to its good faith determination that it qualifies for the exemption, because the affiliation is “based on a religious teaching or otherwise constitutes a part of the exercise of religion.”

Answers to Frequently Asked Questions

The FAQ provided clarification on questions that faith-based organizations frequently ask when filing their application for PPP or EIDL loans. The following briefly summarizes the SBA’s answers to those questions:

- Even faith-based organizations that do not provide secular services may be eligible for PPP and EIDL loan assistance.
- Faith-based organizations are permitted to use PPP and EIDL funds in the same way as any other small business. Permitted uses under each program are explained in this [FBT article](#) comparing the PPP and EIDL loans. Additionally, funds under either program may be used to pay the salaries of pastors, ministers, and any other staff dedicated to furthering the religious objectives of their organization.

- As long as faith-based organizations meet the requirements of Section 501(c)(3) of the Internal Revenue Code along with any other EIDL or PPP requirements, they do not need to apply to the IRS for tax-exempt status in order to be eligible for SBA loan assistance.
- Per the FAQ, receipt of SBA funds will not affect a faith-based organization's ability to exercise any religious freedoms guaranteed to that organization under the Constitution of the United States. However, organizations should keep in mind that the FAQ is an administrative announcement that could be changed.
- Because the SBA is a Federal program, receipt of any funds from the SBA would obligate the recipient to follow Federal nondiscrimination laws. SBA loan recipients may not discriminate "on the basis of race, color, religion, sex, handicap, age, or national origin with regard to goods, services, or accommodations offered."^[6] However, Federal non-discrimination requirements will not interfere with a faith-based entity's ability to make decisions regarding membership or employment in connection with the exercise of religion. Once the PPP or EIDL loan is paid or forgiven, such nondiscrimination obligations will no longer apply. Please review the FAQ for detailed examples of when the SBA would and would not require faith-based organizations to follow non-discrimination rules.^[7]

As SBA guidance continues to evolve, our team of attorneys is here to help you analyze the complexities of the PPP and EIDL programs. Small businesses were able to start applying for PPP Loans on April 3, 2020, and applications for EIDL loans have been available for some time. Since funding is limited and loans are made on a first-come, first-served basis, faith-based organizations should apply immediately. If you need assistance in determining your faith-based organization's eligibility under the CARES Act, please reach out to [Rebecca M. Moore](#), [Jana E. Syrcle](#), [Brittany J. Warford](#), or any attorney in Frost Brown Todd's [Finance](#) Practice Group.

*To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a **Coronavirus Response Team**. Our attorneys are on hand to answer your questions and provide guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.*

[1] 13 C.F.R. §§ 120.110(k) and 123.301(g).

[2] *Jones v. Wolf*, 443 U.S. 595, 597 (1979).

[3] Cf. 1 W. Cole Durham & Robert Smith, Religious Organizations and the Law § 8.19 (Westlaw rev. ed. 2017) (“Religious organizations, such as parishes or mission centers, normally tend to choose the civil-property

holding structures that most closely mirror their own ecclesiology or polity.”).

[4] In some cases, an entity’s primary industry determines eligibility based upon a monetary cap on annual receipts. Each applicant should look to the SBA’s small business size table, find its NAICS code, and determine whether it must make its determination based upon number of employees or a monetary cap on annual receipts. Per the CARES Act, the monetary cap on annual receipts will not be used to determine eligibility for PPP loans. In these situations, the entity must have no more than 500 employees. Per the FAQ, the SBA has determined this also applies to EIDL loans.

[5] A sample of Addendum A can be found on the last page of the Faith-Based Organizations FAQ.

[6] 13 C.F.R. § 113.3(a).

[7] Specific examples are provided in FAQ #5.

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.