

March 17, 2021

Isabel Guzman
Administrator
United States Small Business Administration
409 3rd St., SW
Washington, DC 20416

Re: Issues of Concern to Charitable Nonprofits Eligible for the Paycheck Protection Program

Dear Administrator Guzman:

Sincerest congratulations on your confirmation to serve as Administrator of the Small Business Administration. We appreciate the leadership and knowledge you bring to the SBA, particularly during the crisis caused by the pandemic. We look forward to working with you, given the increased and critical importance of the programs that SBA administers that include eligibility for nonprofit organizations, especially the Paycheck Protection Program (PPP).

Recognizing the SBA has traditionally had more involvement with private-sector businesses, we greatly appreciate your efforts to better understand the specific needs and differences of charitable nonprofit organizations in general. We are particularly interested in partnering with you to make the PPP work more effectively and efficiently for both the SBA and the nonprofits, ensuring that nonprofit organizations are viable and able to serve communities across America.

Charitable nonprofits of all sizes play a significant role in the U.S. economy as the country's third-largest private-sector employer. Faith-based and charitable organizations are working on the front lines in every community across America to fight the coronavirus, provide support and relief to its many victims, and adapt their services to respond to community needs throughout the duration of the pandemic and afterwards. They are providing childcare services so health care workers and first responders can go to work, feeding the millions of newly unemployed persons and their families, and delivering other critical physical, educational, spiritual, and mental health services and supports.

Additionally, there are other important issues that merit your attention in relation to the current PPP application deadline of March 31, 2021. The year-end COVID relief law extended the Paycheck Protection Program to more applicants, created the Second Draw process, and established the Shuttered Venue Operators Grants (SVOG) program, yet it also set a very quick deadline of March 31 for applying for PPP loans. The American Rescue Plan Act, if enacted, will further expand eligibility for forgivable loans and add additional funds to the PPP and SVOG programs. But employers will have, at best, fewer than three weeks to apply for these loans unless Congress extends the application period. Because the American Rescue Plan Act does not extend this deadline, the SBA needs to position itself to allow applications — especially the applications from the newly eligible nonprofits — to be submitted immediately after enactment of the bill.

The nonprofit community also asks the Small Business Administration and Department of Treasury, as appropriate, to take action so that charitable nonprofits can maintain and expand

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their operations, including hiring additional workers, to address critical needs that are growing exponentially due to the pandemic. Please note the following issues of concern and the corresponding proposed remedies:

- 1. Nonprofits with Multiple Locations:** We start with this new issue for SBA that is made urgent because of recent congressional action. Section 5001 of the American Rescue Plan Act extends PPP eligibility to charitable nonprofits that operate at multiple locations and employ not more than 500 employees per physical location. It is imperative that the SBA clarify several questions as soon as possible, including how “physical location” is defined, how nonprofits should allocate employees who work out of or report to more than one location, and what, if any, special rule should apply to employees, such as home health workers, who regularly work in the homes of clients and do not physically report to an office of the nonprofit.
- 2. Ownership:** Provide guidance on how charitable nonprofits dedicated to the public good should answer the application question about ownership or alter application forms in recognition that nonprofits do not have individual owners.
- 3. Alternative Size Standard:** Extend the revenue-based alternative size standard (< \$15 million in assets; < net revenues of \$5 million – 2-year average) to charitable nonprofits retroactively to March 2020.
- 4. Employee Count:** Adopt a nonprofit-specific rule for counting part-time and full-time employees on the basis of full-time equivalents. Exempt federal government contract employees from the employee count.
- 5. Accounting for Government Grants in Employee Count:** Provide guidance on how jobs funded under government grants are to be counted in the eligibility headcount and for loan forgiveness. Further clarity is needed to assist nonprofits in accounting for salaries covered by PPP loans and to ensure nonprofits are not subject to “claw back” of funds at the federal or state level due to the interplay of PPP loans and grants.
- 6. Forgivable Unemployment Expenses:** Provide guidance clarifying that payments by reimbursing employers for unemployment claims and premiums to third-party insurers are treated as forgivable payroll costs on par with forgivable taxes paid by contributing employers.
- 7. Nonprofit Affiliation Rule:** SBA reviewers routinely misapply affiliation restrictions to certain nonprofit organizations across the country, placing increased burdens and demands on nonprofit applicants and delaying loan application processing. SBA should provide clear direction to reviewers that local organizations with separate EINs, 990s and by-laws are fully eligible for a PPP loan under the stated eligibility terms. These incorrect assumptions have created additional long and stressful processes for legitimately eligible organizations, such as local Boys and Girls Clubs, Girl Scout councils, YMCAs, YWCAs, among others.

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Nonprofit organizations value their partnership with the Small Business Administration. We look forward to meeting with you at the earliest possible opportunity to discuss the nonprofit sector and how our organizations are both similar to and different from some of the SBA's traditional private-sector clients.

The following organizations contributed to this letter, will stay in communication as further needs are identified, and stand ready to work with the SBA to provide additional information and assistance in implementing the recommendations. To follow up, please contact David L. Thompson of the National Council of Nonprofits via email dthompson@councilofnonprofits.org or phone 202-962-0322.

Respectfully submitted,

American Alliance of Museums
American Cancer Society Cancer Action Network
Americans for the Arts
American Heart Association
American Lung Association
Association of Art Museum Directors
Boys & Girls Clubs of America
California Association of Nonprofits
Council on Foundations
Ducks Unlimited
Girl Scouts of the USA
Girls Inc.
Goodwill Industries International, Inc.
Habitat for Humanity International
Independent Sector
Jewish Federations of North America
League of American Orchestras
Lutheran Services in America
Mental Health America
National Council of Nonprofits
National Health Center
National Human Services Assembly
The Leukemia & Lymphoma Society
Union of Orthodox Jewish Congregations of America
United Way Worldwide
Volunteers of America
YMCA of the USA
YWCA USA