

Churches won't face challenge regarding PPP loans

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WASHINGTON (BP)—Churches that received small loans as part of a COVID-19 relief program learned May 13 they will not face the risk of a federal government challenge to their certification of the loans' necessity.

The good news for houses of worship and nonprofit organizations came in a new guidance from the U.S. Small Business Administration regarding the Paycheck Protection Program, which is designed to help employee retention by small businesses, a category that includes churches.

Congress designated \$349 billion for the PPP in a \$2 trillion relief package approved in late March in response to the economic fallout from the pandemic and followed with another \$310 billion in late April when the earlier funds were depleted. Loans through the PPP are forgivable if certain stipulations are met.

A previous Small Business Administration guideline prompted many religious bodies and nonprofits that had received loans to contemplate returning the funds and not participating in the program because of unclear requirements, according to the Southern Baptist Ethics & Religious Liberty Commission.

'Safe harbor' for borrowers

In its latest guidance, the SBA resolved the question by providing a "safe harbor" for any borrower that received a loan of less than \$2 million.

The ERLC is "pleased to see this guidance from the SBA giving critical

clarification to a program that many churches and charities had already participated in,” said Travis Wussow, the ERLC’s general counsel and vice president for public policy.

“We worked with the administration alongside a broad coalition of religious organizations to seek this clarity, and we’re thankful that faith-based participants can move forward with confidence, serving the spiritual needs of their communities and the most vulnerable among us.”

Wussow said many nonprofits “have applied for PPP assistance based on incomplete information about giving trends and the medium-range economic impact of the COVID-19 pandemic.”

With the SBA’s clarification, he wrote, “they need not worry about whether their certification that the application was necessary will be second-guessed with the benefit of hindsight.”

As an example of the uncertainty in the earlier guidance, it left open the question of whether nonprofits would “need to deplete all unrestricted cash” before applying for loans, Wussow said.

In its May 13 guidance, the SBA described the “safe harbor” this way: “Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith.”

The “safe harbor is appropriate,” the SBA said, “because borrowers with loans below this threshold are generally less likely to have had access to adequate sources of liquidity in the current economic environment than borrowers that obtain larger loans.” This will foster “economic certainty as PPP borrowers with more limited resources endeavor to retain and rehire employees,” according to the guidance.