



Greetings in Christ!

While the past few weeks have been trying, we hope and pray the churches in the Indiana District continue to faithfully preach the Word in its truth and purity and administer the Sacraments rightly, when and where they are able. It is safe to say that we all look forward to the day that every LC-MS church can meet without restriction as the Body of Christ to receive His Gifts of Word and Sacrament.

This letter shall serve as an addendum to our previous letter concerning the CARES Act emailed on April 6th and posted to the Indiana District Website on April 9th. As explained previously, the CARES Act provided for the availability of funds through the Small Business Administration (SBA) with the establishment of the PPP loan program. It was determined by the SBA that religious organizations were eligible for these loans, in spite of the fact that 501c3 organizations have not been eligible for SBA loans in the past. We continue to be understanding of the reality that churches and schools could have a pressing need for funds and have availed themselves of this opportunity. Our main focus of the previous CARES Act letter was to give information, raise concerns and further point to the Indiana District Covid Congregations in Need initiative. For further information on the Indiana District Covid initiatives, please contact the District office.

More recently, the SBA has released their latest FAQ regarding the PPP loan program. Overall, the latest FAQ is an attempt to put to ease lender concerns of the PPP loan process, specifically pertaining to how difficult it is for PPP lenders to be as diligent as they usually are with SBA loans. In case anyone is not aware, the SBA recently explained that nearly 5,000 lenders approved around 1.6 million PPP loans in under 14 days, which is more than 14 years' worth of loans. Needless to say, this level of activity, in such a short time, can create confusion during the loan process and moving targets with regard to guidance and regulations. The newest FAQ comes on the heels of the most recent government intervention in the PPP program as they added more than \$310 billion to replenish the PPP loan program. We cannot predict how the SBA will act moving forward but the tone of the FAQ gave the impression that lenders would be held harmless, so to speak, for any requirements not met, when approving and supplying loans, under the CARES Act. Rather, it appears any issues that may arise during the forgiveness portion of the PPP process would involve the SBA dealing with borrowers more directly. This opens up a completely different discussion, which may be discussed at a later date when we know more from the SBA, but the language of the latest FAQ points to borrowers being under greater scrutiny when these loans are further examined for possible forgiveness.

The most interesting and concerning portion of the latest FAQ involves question 31 and question 37 of the document, which makes statements that should be considered. While question 31 asks about large companies, the answer involves language that pertains to all borrowers. The first line of the answer states, "in addition to reviewing applicable affiliation rules to determine eligibility, **all borrowers** must assess their economic need for a PPP loan under the standard established by the CARES Act and the PPP regulations at the time of the loan application." This statement makes it very clear that the answer to this question applies to all borrowers. A statement further in the answer says, "Borrowers must make this certification in **good faith**, taking into account their **current business activity** and their ability to access **other sources of liquidity** sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business." While it is up to

interpretation how stringent the SBA will ultimately be in response to the above statement, it seems reasonable to believe they will at the very least consider how much a borrower received, whether a borrower was eligible for the loan based on regulations, and what documentation is needed to prove necessity and eligibility (possibly including any number of financial statements, or list of accounts with balances). Again, we cannot begin to fully predict how the SBA will act or interpret their FAQs moving forward, but with respect to their latest FAQ there is enough verbiage to make us leery and quite concerned with any future interpretation of this question and its answer.

Finally, the last sentence in question 31 of the FAQ somewhat solidifies our concerns when it states, “Any borrower that applied for a PPP loan prior to the issuance of this guidance and repays the loan in full by May 7, 2020 will be deemed by SBA to have made the required certification in good faith.” This statement was made for a reason, and quite possibly for a reason we are not fully aware, but it reads very much like a friendly warning or notice. By having this statement, the SBA is able to say they warned every borrower of the importance of good faith estimations by giving borrowers a date to return the money they received if a borrower determines (after the issuance of this latest FAQ) that they were not in need of those received funds. It is quite possible a borrower applied for and received a PPP loan without real clarity of how the SBA might interpret need, but after this guidance a borrower realizes that they have “other sources of liquidity” in which they are able to tap. Again, that is not to say churches and schools that received PPP funds are not in need or that the SBA will not see the need either. We are simply adding to our original CARES Act letter by explaining that recent verbiage from the SBA is of great concern, and how each church and school might consider a careful review of the latest FAQ.

Please know this is not an attempt to take a position concerning the PPP loan program or any entities possible acceptance of these funds. We are simply pointing out verbiage that is troubling and could become problematic in the future with the hopes that each entity will take an extra moment to carefully consider how this latest FAQ could change the landscape of understanding towards the PPP loan program, both now and moving forward.

Sola fide,

Cody Dodson
TJ Mattick

<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>

The First Commandment

Thou shalt have no other gods.

What does this mean? – Answer.

We should fear love and trust in God above all things.

Luther’s Small Catechism