

## Increased PPP Eligibility for Larger Nonprofits

On March 11, 2021, President Biden signed into law the American Rescue Plan Act of 2021 (the Rescue Plan) – a \$1.9 trillion economic relief package. The Rescue Plan allocated an additional \$7.25 billion to the Paycheck Protection Program (PPP), making well over \$100 billion available in PPP funding. The current round of the PPP will also likely be extended as Congress has introduced bipartisan legislation that would extend the deadline to apply for a PPP from March 31, 2021 to May 31, 2021 (the legislation extending the time period, however, has not yet been passed).

Importantly, the Rescue Plan expanded eligibility for nonprofits by establishing a 500 employee “per location” exception to the general employee headcount rules (in essence, a “de facto” waiver of the SBA affiliation rules). Previously, nonprofits that were considered affiliated with other organizations (through common Board of Director control or management, for example) were ineligible for a PPP if their total employee headcount (including all affiliates) exceeded 500. That is no longer the case.

The Rescue Plan further states that a nonprofit organization (defined in the original CARES Act as a 501(c)(3) organization and exempt from taxation under section 501(a) of the Internal Revenue Code) is eligible to receive a PPP if the organization employs not more than *500 employees per physical location of the organization*. Even large nonprofits that employ well over 500 employees in total will be eligible for a PPP so long as the organization does not employ more than 500 employees in a single physical location.

The Rescue Plan also states that certain 501(c)(6) and “destination marketing” organizations – which were previously established as eligible for the PPP in the December 2020 stimulus act – are eligible to receive a PPP if the organization employs not more than *300 employees per physical location of the organization*.

Additional 501(c) nonprofit entities (outside of 501(c)(3), (4), (6), and (19) organizations) that are exempt from taxation (and not otherwise ineligible under existing SBA regulations) are also eligible for the PPP as established by the Rescue Plan, but not subject to the “per location” exception. These nonprofit organizations are eligible to receive a PPP if:

1. the additional covered nonprofit entity does not receive more than 15% of its receipts from lobbying activities;
2. the lobbying activities of the additional covered nonprofit organization do not comprise more than 15% of the total activities of the organization;
3. the cost of the lobbying activities of the additional covered nonprofit organization did not exceed \$1,000,000 during the most recent tax year of the additional covered nonprofit organization that ended prior to February 15, 2020; and
4. the additional covered nonprofit organization employs *not more than 300 employees*.

501(c)(4) organizations are ineligible for a PPP.

The Rescue Plan also established Internet Publishing Organizations (having a NAICS code of 519130) as eligible for the PPP, so long as (1) the organization employs no more than 500 employees (or satisfies the alternative size standard) *per physical location of the organization*, and (2) the organization makes a good faith certification that proceeds of the loan will be used to support expenses at the component of the business concern or organization that supports local or regional news.

We anticipate the Small Business Administration (SBA) to issue an updated First Draw PPP Application to address these expanded eligibilities.

The attorneys at Bond, Schoeneck and King can assist you with determining your eligibility for the PPP. Please contact [Jeffrey B. Scheer](#) or the attorney at the firm with whom you are regularly in contact.



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