



**GUIDANCE FOR UNITED METHODIST LOCAL CHURCHES ON THE
PAYCHECK PROTECTION PROGRAM BORROWER APPLICATION FORM¹**

Updated: May 13, 2020²

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APPLICANT INFORMATION

- A** United Methodist local churches should select the “501(c)(3) nonprofit” option.
- B** If the local church is incorporated, enter the name of the corporation. If the local church is not incorporated, enter the name it uses for other official documents (such as the name shown on IRS Form W-2).
- C** This should be the primary address used by the church.
- D** This must be the EIN of the local church, issued to it by the Internal Revenue Service. Do not use the EIN of any other entity, including the annual conference’s EIN or GCFA’s current or prior EIN.³ Using the wrong EIN could lead to a delay in the processing of the application. If a local church is unsure of its EIN, it can be found on the original EIN issuance letter the local church received from the Internal Revenue Service and on forms filed with the Internal Revenue Service (such as a Forms W-2, 1099, or 941).
- E** Enter a phone number the lender can use to reach the “Primary Contact” named in the application.
- F** This could be, but may not be required to be, the same individual as the “authorized representative” who signs the application. Regardless, the individual listed here should be someone who is able to respond to any inquiries from the lender.
- G** Enter an email address the lender can use to reach the “Primary Contact” named in the application.
- H** Average monthly payroll costs can be calculated using the following steps:

Step 1: Calculate total “Payroll Costs” (defined in detail below) from the previous twelve months or from calendar year 2019 for all employees in the United States.

¹ All references in these guidelines are to the model SBA application attached as Exhibit A. Banks may have their own versions/formats of the application, but which should cover the same areas and include the same language.

² The most recent update provides additional information regarding the requirement to certify that “current economic uncertainty makes [the] loan request necessary to support the ongoing operations of the Applicant.”

³ GCFA’s prior EIN is 36-2167731. If a local church believes it may be using GCFA’s current EIN, it should contact GCFA’s Legal Services Department at legal@gcfa.org.

Step 2: Subtract any compensation paid to an employee in excess of an annual salary of \$100,000.

Step 3: Divide the amount from Step 2 by 12.

Payroll Costs include:

- Salaries, wages, commissions, or similar compensation;
- Payment of cash tips or equivalents;
- Vacation, parental, family medical, or sick leave;
- Severance payments;
- Health care benefits, including insurance premiums;
- Retirement benefits; and
- State or local tax assessed on said compensation.

Payroll Costs do **NOT** include:

- The employer's share of FICA;⁴
- Compensation in excess of an annual salary of \$100,000 paid to any employee;
- Compensation of any employee whose principal residence is outside the US; or
- Qualified sick and family leave wages covered by tax credits under the Families First Coronavirus Response Act (FFCRA).

Clergy Salary. Our view is that salary of United Methodist clergy should be included in Payroll Costs, as such clergy are treated as employees for income tax purposes and are issued a Form W-2 to report their compensation. This distinguishes them from “independent contractors” which, according to SBA guidance are issued Forms 1099-MISC to report their compensation and are not to be treated by loan applicants as employees (because the independent contractors themselves may apply for a PPP loan). United Methodist clergy are unlikely be treated as independent contractors and be eligible for a PPP loan if they were to apply. These differences from independent contractors or other self-employed individuals may be unknown to banks and their employees. If a bank states the salary a local church pays to its pastor cannot be included in Payroll Costs, explaining that United Methodist pastors are treated as self-employed only for social security and Medicare purposes might help get a different answer from the bank. Ultimately, it may become necessary for the local church to apply for a loan from a different bank.

Clergy Housing Allowance. Our view is the housing allowance provided by a local church to its pastor is appropriately included when calculating Payroll Costs. A housing allowance paid to a clergyperson is part of his or her compensation. This portion of the compensation happens to be designated as a housing allowance for purposes of income tax exclusion, but it remains part of the clergyperson's compensation. Other items that are exempt from income taxation, such as group health plan premiums and pre-tax elective deferrals to retirement plans, are included in Payroll Costs. That a housing allowance is potentially

⁴ See question 16 in the SBA's [FAQ for Lenders and Borrowers](#) for additional guidance and examples.

nontaxable would thus not appear to automatically exclude it from the scope of Payroll Costs. The SBA's [FAQ for Lenders and Borrowers](#) states "the cost of a housing stipend or allowance provided to an employee as part of compensation" is included in the definition of Payroll Costs. Before that answer was added to the FAQ, there was anecdotal evidence that some lenders had taken the position that a housing allowance should not be included, as it is not expressly described in the CARES Act or in the SBA regulations. How this is treated may vary from bank to bank, and some may still argue that a housing allowance provided to clergy cannot be included, even though the FAQ does not include such a limitation. If a local church is able to include the amount of a housing allowance in its calculation of Payroll Costs, it is important to remember that the inclusion of the combined salary and housing allowance paid to a single employee would be subject to the \$100,000 limit. *Note that the rental value of an in-kind parsonage or church-paid utilities should not be considered Payroll Costs.*

Costs of Other Benefits. It appears that other employer provided benefits, such as death and disability benefits under the UMC's Comprehensive Protection Plan (CPP) for clergy or UMLifeOptions for lay employees, are not included in Payroll Costs.

- I** Enter the local church's loan request amount, which cannot exceed the amount determined using the following steps, or \$10,000,000, whichever is less:

Step 4: Multiply the average monthly Payroll Costs from Step 3 (above) by 2.5.

Step 5: Add the outstanding amount of an Economic Injury Disaster Loan (EIDL) received between January 31, 2020 and April 3, 2020, less the amount of any "advance" under an EIDL COVID-19 loan (because it does not have to be repaid). *This step is unlikely to apply to local churches.*

- J** Enter the local church's total number of employees at the end of 2019.

- K** Select all of the purposes for which the loan proceeds will be used. Keep in mind that no more than 25% should be used for non-payroll purposes if the local church wishes for the full amount of the loan to be forgiven.

- L** Generally, local churches and other nonprofit organizations do not have equity owners. It may be reasonable to enter "**NA – Nonprofit Organization**" here, "**Not Applicable**," or something similar. This may require printing an online form to hand-write this type of response into this field.

QUESTIONS

- 1** Unless the local church is in bankruptcy, the answer should be "**No.**"
- 2** Unless the local church, or a business owned or controlled by the local church (like a daycare, foundation, or other social services ministry – see Question 3 below), previously

has obtained a loan from the SBA that is delinquent or in default, the answer should be “No.”

- 3 Most local churches should be able to answer “No.” However, some local churches may be affiliated with a daycare center or on site or closely related social services ministry, while others may have an affiliated foundation.

What the application generally means by “affiliated” is that if the local church has day-to-day control or influence over another organization for non-religious-based reasons, such as administrative convenience or common management, then such other organization would be “affiliated” with the local church. However, if the local church is associated with another organization for theological and connectional reasons (*e.g.*, reflecting a historical relationship, shared mission, or to preserve ecclesiastical oversight of the organization), the local church would not be treated as being affiliated with the organization for the purposes of this application. The SBA and participating lenders will not independently assess the reasonableness of a local church’s good-faith determination that it is not affiliated within another organization.

If a local church is affiliated with other organizations, the answer to this question would be “Yes,” and the employees of the affiliated organizations should be included in the count in Box J, which could impact whether the local church has 500 or fewer employees.

Applicants related to other faith-based organizations based on religious polity or doctrine may want to include the following text in a separate document attached to the application:

ADDENDUM A

The Applicant claims an exemption from all SBA affiliation rules applicable to Paycheck Protection Program loan eligibility because the Applicant has made a reasonable, good faith determination that the Applicant qualifies for a religious exemption under 13 C.F.R. 121.103(b)(10), which says that “[t]he relationship of a faith-based organization to another organization is not considered an affiliation with the other organization . . . if the relationship is based on a religious teaching or belief or otherwise constitutes a part of the exercise of religion.”

- 4 Unless the local church has applied for an EIDL during the relevant dates, the answer should be “No.”
- 5 A local church is not an individual applicant, and it does not have any owners, so the answer to this question should be “No.” The authorized representative who signs the application should initial here.
- 6 Again, a local church is not an individual applicant and has no owners, so the answer here should be “No.” The authorized representative who signs the application should initial here.

- 7 Expenses for employees whose principal residence is outside the United States cannot be included in the calculation of Payroll Costs for PPP loans. As long as the local church has not included any such expenses in its calculation, the answer should be “**Yes.**”
- 8 A local church would not be associated with a franchise listed in the directory, so answer “**No.**”

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CERTIFICATIONS

- M** If a local church’s pastor is its only paid employee, and if the pastor has not elected to do voluntary income tax withholding, that local church is technically not paying or submitting payroll taxes. However, the church should still certify here, while being prepared to explain why it does not collect and remit payroll taxes. A copy of a letter from the Internal Revenue Service stating a local church does not need to file a Form 941 in such a circumstance is attached as Exhibit B.
- N** There is no general definition as to what is required for an applicant to make this certification in good faith. However, the SBA has stated that borrowers who receive a loan that is less than \$2 million will be deemed to have made this certification in good faith. Borrowers who receive larger loans will be subject to review by the SBA, and that review could assess the legitimacy of this certification. While the standards for such a review are not yet available, should the SBA determine a borrower did not make this certification in good faith, the borrower will have the opportunity to repay the loan as a means to avoid any other administrative enforcement actions.⁶
- O-S** The local church should be prepared to comply with all requirements expressed in these certifications. The local church should also ensure it is retaining all documentation needed to support not only the application, but also to support the use of any funds received and any subsequent request for loan forgiveness. It may be advisable for local churches who receive PPP loans to deposit the proceeds in a bank account separate from other local church accounts, to isolate the loan funds from other local church finances in the unlikely event that the government was to seek an audit.
- T** The authorized representative should understand that the lending bank will rely in good faith on documentation submitted by the local church; and that the bank can share that information with government agencies charged with oversight of the program.

⁵ The certifications should be initialed by the authorized representative who signs at the bottom of the page.

⁶ This information comes from Question and Answer #46 in the SBA’s [FAQ for Lenders and Borrowers](#), which was added on May 13.

U The local church's own bylaws or policies⁷ may indicate the individual who should sign the application as the local church's authorized representative. In the absence of clear policy, the chair of the trustees, chair of the church council, or the lead pastor may be reasonable choices as the authorized representative of the local church.⁸

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FREEDOM OF INFORMATION ACT

As noted on page 4 of the PPP loan application, certain information submitted to the SBA or otherwise relating to a PPP loan is subject to disclosure to third parties upon request pursuant to the Freedom of Information Act ("FOIA"). Applicants should consider requesting confidential treatment for all materials submitted in connection with a PPP loan application and marking such materials as confidential, including:

- Payroll cost calculations,
- Financial statements and other required tax or financial submissions,
- Descriptions of affiliate relationships, and
- Other written or financial information.

Although the SBA may independently decide if information is confidential commercial information if not so marked, marking such materials as confidential is advisable. Applicants wishing to designate information as confidential information should include something like the following header and disclosure paragraph on each item submitted to SBA.

Sample header/footer to include on each page:

*Contains Confidential Commercial Information
FOIA-Exempt Treatment Requested*

Sample disclosure paragraph to include on first page:

Applicant's information submitted in connection with its application, or thereafter, relating to payroll costs, financial information, taxes, and affiliates (if any) **constitutes confidential commercial information**, the release of which would cause substantial harm to the Applicant, and/or its affiliates. This information is not available to the public. Accordingly, Applicant respectfully requests that the SBA exempt all such information from public disclosure under Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and 13 C.F.R. § 102.7, and any other applicable laws or regulations. Additionally, Applicant respectfully

⁷ A bank may request a copy of the local church's bylaws. If the local church has adopted its own set of bylaws, those should be provided. If it has not, the local church could provide copies of ¶¶ 243-258 of *The Book of Discipline*, which effectively serve as the local church's bylaws.

⁸ The local church may be asked to produce a resolution or similar document authorizing the loan application and/or verifying the authority of the authorized representative, which may require the local church to hold a charge conference or church council meeting.

requests that the SBA notify it in the event of any request for disclosure of all or any portion of this submission pursuant to FOIA or other laws or regulations.

CIVIL RIGHTS

Some have expressed concerns that receiving a PPP would subject churches to greater governmental oversight. Organizations that receive federal funds, like grants, might be subject to certain employment nondiscrimination requirements that might conflict with religious beliefs, along with additional financial and disclosure requirements. Notably, the SBA included the following in its regulations:

All loans guaranteed by the SBA pursuant to the CARES Act will be made consistent with constitutional, statutory, and regulatory protections for religious liberty, including the First Amendment to the Constitution, the Religious Freedom Restoration Act, and SBA regulation[s]..., which provides: “Nothing in SBA nondiscrimination regulations shall apply to a religious corporation, association, educational institution or society with respect to the membership or the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its religious activities.” SBA intends to promptly issue additional guidance with regard to religious liberty protections under this program.

In addition, the [FAQ for faith-based organizations](#) states, generally: (1) faith-based organizations are exempt as to their own employment and membership decisions; (2) faith-based organizations are not exempt as to their provision of goods, services, or accommodations to the public; (3) these nondiscrimination obligations cease to apply when the loan is repaid or forgiven; and (4) the SBA will not apply its nondiscrimination regulations in a way that imposes substantial burdens on religious exercise.

Due to some of the conditions that tend to accompany accepting “federal financial assistance,” such as audit requirements, legal counsel is advisable.

The information above should not be considered legal or tax advice. Local churches or other UMC employers should consult with counsel in considering the application of the rules and regulations regarding PPP loans to their circumstances.