

**CARES Act Expands Loans to Labor Unions**

Attached to this release is a summary of the Small Business Association's Economic Disaster Loan (EIDL) program. The SBA loans are normally available to small businesses, but the CARES Act allows non-profits like labor unions to apply. These loans can be for amounts up to \$2 million and be used to cover bills that cannot be paid due to the COVID-19 crisis, such as payroll and or mortgage or rent payments. The loans must be repaid at an interest rate of 2.75 percent.

Unions applying for an EIDL can also request immediate assistance in the form of an emergency grant, which does not need to be repaid, even if the loan application is ultimately denied. The application form is a self-certified form with information to be supplied by the union under penalty of perjury.

Under the SBA rules, 13 CFR Sect. 123.301, a labor union or other non-profit organization will not be eligible for a business loan if the applicant is primarily engaged in political or lobbying activity, which has been interpreted to mean more than 50 percent of its operations dedicated to politics and lobbying.

For a union that applies for a loan, the on-line loan application might be confusing because it is directed at for-profit business applicants. Please follow these recommendations in applying.

- Organization Type: labor unions should choose "other"
- Date Business Establishes/Current Ownership Since: labor unions should use the same date in each field
- Business Activity: labor unions should choose "Personal Services," which will generate the options in the next question
- Detailed Business Activity: labor unions should choose "Annual memberships" from the drop-down menu that appears when "Personal Services" is selected in the question above
- Individual Owner/Agent: labor unions should provide the information for an elected officer
  - Title/Office: labor unions should select "Other"
  - Ownership Percent: requires a number (cannot enter "N/A"); labor unions should input "0"

Labor unions in the capacity as employers will also be able to take advantage of federal payroll tax credits in the form of reimbursements for specified COVID-19 related medical and family leave. Tax credits will also be available to incentivize employers to keep employees on the payrolls during the COVID-19 hardship. The credit amount is 50 percent of qualified wages up to \$5,000 per eligible employee.

CARES allows employers to defer payment of federal payroll taxes that would otherwise be owed from March 27 to Dec. 31, 2020.

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This release informs you of items of interest in the field of labor relations. It is not intended to be used as legal advice or opinion.

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# COVID-19 Assistance for Labor Unions

## *SBA Emergency Economic Injury Loans & Grants*

The CARES Act expands the Small Business Administration's Economic Injury Disaster Loan (EIDL) program. Although these SBA loans are normally only available to small businesses, the CARES Act allows nonprofits like labor unions to apply. The new law also makes \$10,000 emergency grants available, even to applicants that are ultimately denied the loans.

*The CARES Act made some other, forgivable loans available to 501(c)(3) nonprofit organizations that are NOT available to labor unions. Organizations that are not labor unions should NOT refer to this memo for information about CARES Act relief.*

### **What can labor unions borrow under this program?**

Labor unions, as a type of private nonprofit, are temporarily eligible to apply for loans available through the SBA's Economic Injury Disaster Loan program. These loans can be for amounts up to \$2 million and can be used to cover bills that cannot be paid due to the COVID-19 crisis, like payroll and mortgage or rent payments. Except for the emergency grant assistance described below, the loans must be repaid at an interest rate of 2.75%. Other terms are determined on a case-by-case basis, including the possibility to defer repayment for up to four years.

### **What grant assistance is available to labor unions?**

Applicants for an EIDL can also request up to \$10,000 in immediate assistance in the form of an emergency grant. The emergency grant does not need to be repaid, *even if the loan application is ultimately denied*. The SBA will rely on the applicant's self-certification (made under penalty of perjury by submitting the [online loan application](#)) that it is eligible to receive the funds.

### **What labor unions are eligible to receive funds?**

The CARES Act makes the EIDL program loans and grants available to all private nonprofit organizations that have a current tax-exempt status with the IRS. For a local union, this generally will mean that it applied for tax-exempt status at some point in the past (or that it falls under a group exemption held by the national or international) *and* that its tax-exempt status isn't currently revoked, such as for failure to file its annual IRS Form 990 for three consecutive years. Unlike businesses, labor unions are eligible for the program *regardless of their size or number of employees*. The union will also need to certify that it does not engage in illegal activity, among other statements. The AFL-CIO can provide additional information concerning this certification to your counsel.

### **How does a labor union apply and when are applications due?**

The SBA has created an online application that is available at <https://covid19relief.sba.gov/>. Labor unions that are eligible and want to apply should do so *as soon as possible*. A limited total amount of funds are available to all applicants.

### **Where can I get more information about eligibility or the application process?**

The SBA has a 24-hour hotline for questions, but because many of the general rules about these loans were written with only small businesses in mind and not nonprofits or unions, it is *strongly recommended* that labor applicants contact their attorney with questions.