

December 28, 2020

The Honorable Steven Mnuchin,  
Secretary  
U.S. Department of Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

The Honorable Jovita Carranza,  
Administrator  
U.S. Small Business Administration  
409 3rd Street, SW  
Washington, DC 20416

**RE: Please Include as Many Deserving 501(c)(6) Nonprofits as Possible in the PPP**

Dear Secretary Mnuchin and Administrator Carranza:

Founded in 1896, the Independent Insurance Agents & Brokers of America (IIABA or the Big “I”) is the nation’s oldest and largest association of independent insurance agents and brokers, representing more than 25,000 agency locations, 50 state associations and numerous city/county associations under the Trusted Choice brand. Trusted Choice independent agents offer consumers all types of insurance—property, casualty, life, health, employee benefit plans and retirement products—from a variety of insurance companies.

On behalf of our membership, we thank you for your leadership during this challenging time and for your stewardship of critical support initiatives, such as the Paycheck Protection Program (PPP) and Economic Injury Disaster Loan (EIDL) program. Through these and other vital programs, Congressional action and your efforts have proven critical to shield our economy and collective livelihoods from permanent damage or failure.

We are extremely grateful to Congress for recently providing many nonprofit associations and other 501(c)(6) organizations eligibility under the PPP. Access to these important loans is critical for many associations around the country including the Big “I” and our numerous state and local associations. Thankfully, the provisions passed within H.R. 133 look like they will provide many associations with the long-awaited relief they need to avoid bankruptcy, sustain employee welfare and continue to provide resources, education and support for America’s industries and professions.

**As you work to expeditiously implement these and other changes, the Big “I” respectfully urges you – within the flexible parameters put forth by Congress – to implement changes that include as many deserving 501(c)(6) nonprofits as possible in the PPP.**

We are highly concerned that the Big “I” and its state and local associations could find themselves still shut out from PPP loans based on an inappropriate, broad-brush application of the eligibility criteria as outlined in Section 318. This section specifies that a 501(c)(6) organization is eligible for PPP loans if:



- The organization does not receive more than 15 percent of receipts from lobbying activities;
- The lobbying activities do not comprise more than 15 percent of the organization's total activities;
- The cost of lobbying activities of the organization did not exceed \$1,000,000 during the most recent tax year that ended prior to February 15, 2020; and
- The organization has 300 or fewer employees.

We believe that, without appropriate guidance on how to measure “receipts from lobbying” and “lobbying activities,” numerous nonprofit associations will remain locked out of the PPP despite dedicating modest resources to lobby the government. Additional guidance on these issues is critical to ensure consistent, fair and inclusive application of these eligibility requirements.

First, guidance from the Treasury Department is urgently needed as to the definition of “lobbying activities.” 501(c)(6) nonprofits disclose lobbying activity in multiple ways, such as under the Lobbying Disclosure Act (LDA) or via an IRS Form 990. Further, organizations with federal lobbying activity below that required to register as an organization engaged in lobbying under the LDA report their federal lobbying expenses only through the IRS Form 990. Definitions of what constitutes “lobbying” differ under the LDA and under IRS reporting requirements for the Form 990. For example, the LDA defines lobbying activities as compensated contacts with covered federal officials made to influence legislative or administrative action, and preparation efforts in support of such contacts. The LDA does not include communications with the public or any segment of the public in an attempt to influence their views with respect to legislative matters or elections, but Section 162(e) of the Internal Revenue Code does classify such activities as “lobbying” for purposes of Form 990 reporting.

Although 501(c)(3) nonprofit organizations separately report these “grassroots lobbying” activities from “direct lobbying” expenditures to influence a legislative body in Part II-A of Schedule C of the Form 990, 501(c)(6) organizations report their lobbying activities on Part III of Schedule C, which does not separate out those expenditures. Rather, the Form 990 requires 501(c)(6) associations to report their combined Section 162(e) nondeductible lobbying and political expenditures. Thus, reported “lobbying” expenditures of associations on the Form 990 may include a substantial amount of the bread and butter activity of associations in communicating with and educating their members about pending legislative initiatives, even though such activities fall outside of core lobbying activities as defined in the LDA.



Moreover, for 501(c)(6) associations and other nonprofits, there is no IRS mechanism in place to record lobbying or political activities as a revenue-generating function. (Indeed, these activities generally produce no revenues for associations.) As a result, we believe the “receipts from lobbying” provision will create confusion among lenders and applicants. Guidance is therefore also urgently needed as to the eligibility provision capping “receipts from lobbying activities.”

**As Congress requires new processes to be in place by the end of the year, we urge you to consider these steps for implementation. Specifically, please issue a guidance document that clarifies eligibility criteria:**

1. Clearly define 501(c)(6) nonprofits “receipts from lobbying” as revenue generated by the nonprofit for the express purpose of financing lobbying activities;
2. Define “lobbying activities” as having the same meaning as set forth under the Lobbying Disclosure Act; and
3. Clarify that the timeframe parameters for the third criterion (the most recent tax year that ended prior to February 15, 2020) should also be used as the period for measuring the organization’s percentages of expenditures and receipts relating to “lobbying activities” under the first two criteria.

These necessary steps will help direct essential relief to deserving 501(c)(6) organizations that exist to support every industry and serve as a foundational instrument of American economy, society and democracy. No legitimate, well-purposed associations or their employees should be left in the cold simply because they exercise their First Amendment rights to advocate on behalf of the industries or professions they represent.

Thank you for your invaluable service to our country and for your respectful consideration to include as many deserving 501(c)(6) nonprofits as possible in the PPP. If you or your staff have questions, please contact Wyatt Stewart, AVP, Federal Government Affairs at [Wyatt.Stewart@iiaba.net](mailto:Wyatt.Stewart@iiaba.net).

Sincerely,



Charles E. Symington, Jr.  
SVP, Industry, External & Government Affairs

