



EquipmentDealers
ASSOCIATION

April 16, 2020

United States Senate Committee on
Small Business and Entrepreneurship
Chairman Marco Rubio
428A Russell Senate Office Building
Washington, D.C. 20515
Via Facsimile: 202-224-5619

Dear Chairman Rubio:

Founded in 1900, the Equipment Dealers Association (EDA) – formerly known as the North American Equipment Dealers Association (NAEDA) – is a non-profit trade organization that represents approximately 4,500 retail dealerships that are directly focused on the sale and service of agricultural, construction, industrial, forestry, outdoor power, lawn and garden, and/or turf equipment. Together with our regional equipment association partners, we work to provide essential value to our members by enhancing the dealer-manufacturer relationship and advocating for a positive legislative and regulatory environment.

Thank you for your support of The Paycheck Protection Program (PPP) and specifically for including an eligibility solution for SBA identified Franchise Business Concerns (Rooftops). Under the CARES Act, the normal affiliation rules are waived for any business concern operating as a Franchise that has an assigned Franchise Identifier Code (FIC) listed in the SBA Franchise Directory, allowing the Franchise Business Concern (rooftop) with less than 500 employees to apply for a PPP loan.

There appears to be uncertainty on how the waiver rule applies when the business concerns (rooftops) are not separate legal entities with their own EIN#.

The “waiver of affiliation” rules (which were made effective for both the hospitality industry and franchise businesses) evidences clear Congressional intent to expand the availability of the SBA program to those businesses that would not otherwise qualify and should be determined based on the number of employees at each individual business location. The eligibility should not depend on whether the business concerns (rooftops) are organized as separate legal entities with a separate EIN# or operate under a common EIN#. Therefore, a business concern (rooftop) operating under a FIC with less than 500 employees should receive the same benefit of the “waiver of affiliation” rules as a separate legal entity operating under a FIC. It is our opinion that Congress’ intent in adopting the “waiver of affiliation rules” for franchise businesses was to make PPP funding available to separate business concerns (rooftops) with fewer than 500 employees, regardless of the business/legal organization.

In the case of Farm Equipment Franchises, most of these business concerns are in rural communities, have less than 30 employees per rooftop, are fighting the economic and safety challenges caused by COVID 19, and as other main street business, need to keep their employee base intact through this



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pandemic. Plainly, these are the types of businesses that Congress intended to help and their eligibility for financial assistance should not be controlled by organizational structure.

Our request is that the Committee instruct and advise the Treasury provide an FAQ to bring clarification to PPP eligibility of companies that operate multiple Franchise business concerns (rooftops) under one common Federal EIN#.

Eligibility FAQ's Example:

Question: Can a company that operates multiple business concerns (rooftops), which are not organized as separate legal entities but each location has less than 500 employees and operates under a Franchise Identification Code (FIC) listed in the SBA Franchise Directory, be eligible for a PPP loan even though the aggregate number of employees of the company exceeds 500?

Answer: Yes. Each of the individual business concerns (rooftops) operating under a common EIN# will be considered an eligible applicant so long as the applicant (rooftop) has less than 500 employees and operates under a Franchise Identification Codes (FIC) listed in the SBA Franchise Directory. The maximum aggregate loan amount for all such individual applicants applying under a common EIN# shall be \$10M.

As the PPP loan funds are limited and available on a first come basis, your immediate attention to this matter would be appreciated.

Very Best Regards,

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cc: United States Senate Committee on Small Business and Entrepreneurship Members

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