



The CARES Act: Financial Relief for Nonprofits

(Updated April 15, 2020)

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, was signed into law. The CARES Act provisions include, among other things, lending programs, including loan forgiveness, for nonprofits.

This article summarizes three of the provisions of the CARES Act that might provide relief to nonprofits impacted by COVID-19.

PAYCHECK PROTECTION PROGRAM

Forgivable Loans

The Small Business Administration (the "SBA") will guarantee loans covered by this section of the CARES Act (the "covered loans") to eligible borrowers that are made for the purposes of covering payroll costs and certain operating expenses, such as rent and utility costs (the "covered costs"). Some or all of the covered loan may be forgivable, as described in more detail below. The loans will be provided by banks that participate in the SBA lending programs.

Eligible Borrowers

Eligible borrowers include nonprofits, which are defined as 501(c)(3) organizations that don't employ more than 500 employees. An employee means a worker employed on full-time, part-time, or other basis.

Period Covered by the Covered Loans

The period covered by the covered loans is the period beginning February 15, 2020 and ending June 30, 2020 (the "covered period"). In addition, if an eligible borrower took a loan during the period beginning January 31, 2020 and ending when eligible loans are available, that loan may be refinanced with a covered loan.

Amount of Covered Loans

The maximum loan amount is the lesser of \$10 million or:

- 2.5 times the average total monthly payments incurred for payroll costs in the last twelve months before the covered loan is made, plus



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- the outstanding amount of a loan to be refinanced that was made during the period beginning on January 31, 2020 and ending the date on which covered loans are made available under the CARES Act.

There are alternate calculations for organizations that operate seasonally and for organizations that were not operating between February 15, 2019 and June 30, 2019.

Covered Costs: Payroll Expenses

At least 75% of covered loan proceeds must be used for payroll costs. Payroll costs covered by a covered loan are the sum of:

- compensation that is not in excess of an annual salary of \$100,000, prorated for the covered period;
- tips;
- payment for vacation, parental, medical, or family or sick leave (except, in the case of family or sick leave, wages for which [a credit](#) is allowed under Families First Coronavirus Response Act);
- allowance for dismissal or separation;
- payments for group health care benefits, including insurance premiums;
- payment of any retirement benefit; and
- payment of certain state or local taxes assessed on the compensation of employees.

Covered Costs: Operating Expenses

Operating expenses covered by a covered loan are: interest on mortgage obligations; rent; utilities; and interest on debt obligations incurred before the covered period.

Terms

There will not be an SBA fee for the covered loan and no personal guarantee or collateral will be required. If a balance remains after loan forgiveness (see below), the remaining balance will continue to be guaranteed by the SBA and have a maturity of two years with an interest rate of 1%. No payments on a covered loan will be due for six months following disbursement of the loan.

Amount of Forgiveness

The amount of the covered loan that may be forgiven equals the covered costs incurred by the nonprofit during the eight-week period beginning on the date of origination of the loan. At least 75% of the covered costs must be payroll costs. The amount of the forgiveness may be reduced based on a reduction in the average number of workers employed by the nonprofit or a reduction in the amount of salary and wages paid by the nonprofit. The forgiveness of the loan will not result in taxable income.

Any reduction in the amount of loan forgiveness will be completely avoided if the employer rehires all employees laid off (going back to February 15, 2020) or increases their previously reduced wages, by no later than June 30, 2020. These provisions are designed to provide an incentive to employers to not lay off workers (or to rehire them) and instead utilize the loan amounts to pay payroll and other expenses.

OTHER AVAILABLE FINANCING

Low Interest Rate Loans

The federal Economic Injury Disaster Loan (“EIDL”) Program will provide low interest rate loans to nonprofits. The program provides for emergency loans and also allows a borrower to request an advance (not more than \$10,000) to be received within three days. The advance may generally be used for the purposes described above. The advance does not have to be repaid. Nonprofits can apply for a Paycheck Protection Program loan and an EIDL, as long as the proceeds are not used for the same purposes.

Loans for Larger Nonprofits

Loans to larger nonprofits (those with 501 to 10,000 employees) may be available under the CARES Act with annualized interest rates of no more than 2%. Unlike the loans under the Paycheck Protection Program, these loans would not be forgivable. The details for qualifying and applying for these loans have not yet been established.

OTHER RESOURCES

The Small Business Administration (the “SBA”) issued its Interim Final Rule, now identified as the [Initial Rule](#), on the Paycheck Protection Program and also issued the borrower’s [Application Form](#). [The SBA subsequently issued a supplemental Interim Final Rule with guidance on the SBA’s affiliate rules in connection with the Paycheck Protection Program and also issued FAQs for faith-based organizations participating in the Paycheck Protection Program and the EIDL program.](#)

For in-depth analyses of the foregoing sections and other sections of the CARES Act, please see:

- Lowenstein Sandler's [Paycheck Protection Program \(PPP\) Information Sheet: Nonprofit Borrowers](#).
- Dechert's [Financial Support for Nonprofit Organizations Pursuant to the U.S. CARES Act](#).
- National Council of Nonprofits' [Loans Available for Nonprofits in the CARES Act \(Public Law 116-132\)](#), which includes a chart that contrasts and provides information on the three loan options, eligibility criteria, terms, and other information.

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