The following information has been adapted from the Small Business Administration's (SBA) Paycheck Protection Program Borrower Information Fact Sheet to provide information tailored for nonprofits.

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PAYCHECK PROTECTION PROGRAM (PPP) INFORMATION SHEET: NONPROFIT BORROWERS

Updated on May 28, 2020

What is the Paycheck Protection Program?

The Paycheck Protection Program ("PPP") is a loan program created by the federal CARES Act that authorizes up to $349 billion in forgivable loans to nonprofits, among other business entities, to pay their employees and cover certain other core expenses during the COVID-19 crisis. All loan terms are the same for everyone.

The first wave of PPP funding was exhausted on April 16, 2020. The government approved $310 billion of new funding for the PPP on April 24, 2020. On April 27, 2020, the SBA resumed accepting PPP applications from participating lenders. About one fifth of the new PPP funding is earmarked for smaller banks, smaller credit unions, and community financial institutions that provide financing to underserved and economically disadvantaged communities. The new funding is expected to be exhausted soon.

How large can my loan be?

Loans can be for up to 2.5 times your average monthly payroll costs from the last year (either the previous 12 months or calendar year 2019). That amount is subject to a $10 million cap. Payroll costs are capped at $100,000 per year for each employee (note: an employee's cash compensation above $100,000 is not counted as part of the nonprofit's payroll costs when calculating the amount of the loan, but the full cost of that employee's benefits is counted).

Payroll costs are calculated on a gross basis without regard to federal taxes imposed or withheld. In other words, payroll cost is not increased by the employer's share of payroll tax or reduced by taxes imposed on an employee and required to be withheld by the employer.

Are the loans forgivable?

The loan amounts will be forgiven so long as:

- the loan is used to cover payroll costs, interest on mortgage, rent, and utility costs over the 8-week period after the loan is made; and
- employee and compensation levels are maintained.

The SBA has indicated that at least 75% of the forgiven amount must be used for payroll costs.

How much of my loan will be forgiven?

You will owe money when your loan is due if you use the loan for anything other than payroll costs, mortgage interest, rent, and utility payments over the 8 weeks after getting the loan.

You will also owe money if you do not maintain your staff and payroll.

- Number of Staff: Your loan forgiveness will be reduced if you decrease your full-time employee headcount.
- Level of Payroll: If your total eligible payroll expenses (excluding compensation in excess of $100,000 per employee per year) decreases by more than 25%, loan forgiveness will be reduced by the same amount.
- Re-Hiring: You have until June 30, 2020, to restore your full-time employment and salary levels for any reductions made between February 15, 2020 and April 26, 2020. Note, though, that if you have laid off employees, and they decline an offer to rehire them at the same compensation and for the same number of work-hours, the headcount reduction will not count against you in calculating PPP loan forgiveness. Employers must have made a good faith, written offer of rehire, and the employee's rejection of that offer must be documented. An employer must inform the state unemployment insurance office within 30 days of the employee's rejection of the offer of reemployment, and employees who reject offers of reemployment may forfeit eligibility for continued unemployment compensation. Moreover, the SBA recently clarified that loan forgiveness will not be impacted if an employer fires an employee for cause; an employee voluntarily resigns; or an employee voluntarily requests and receives a reduction in hours.
- EIDL Grant Reduction: Loan forgiveness will be reduced by the amount of an EIDL grant received by the organization, if any.

What if my nonprofit uses government funding to cover some of its payroll costs? How should I treat the portion of my payroll already covered by other government grants?

The government has not released guidance on this point, but we recommend the following steps.

So long as the nonprofit itself pays the staff member's compensation (meaning that the government does not pay the staff member directly), the whole of that compensation should be included when calculating average monthly payroll costs in the first part of the PPP application.

When calculating the amount of loan forgiveness to claim, however, some of the nonprofit's payroll costs may be excluded. If the nonprofit can defer using its other government grants to cover payroll during the 8 weeks after it receives a PPP loan, it should do so. In that case, the nonprofit can claim all of its otherwise qualifying payroll costs (or that portion for which other government funding can be deferred) as part of its loan-forgiveness amount.

If the nonprofit cannot defer using its other government grants to cover payroll, then it should exclude the portion of its average monthly payroll costs that are covered by those other grants from the amount it claims for loan forgiveness.

Which nonprofits can apply?

Nonprofits are eligible to apply for a PPP loan if:

- they are exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code;
- they were in existence before March 1, 2020; and
- they employ no more than 500 full-time and part-time employees whose principal place of residence is in the United States.

Be aware that the SBA might consider two or more nonprofits under common control to be "affiliated." An affiliation of multiple organizations could exceed the 500-employee limit. This determination is complex and may require legal counsel.

What if my nonprofit client is a religious organization? Can it qualify?

Yes. The government considers religious organizations to be eligible for loans under the Paycheck Protection Program.

What can I use these loans for?

You should use the proceeds from these loans on:

- payroll costs, including benefits;
- interest on mortgage obligations incurred before February 15, 2020;
- rent, under lease agreements in force before February 15, 2020; and
- utilities, for which service began before February 15, 2020.

When can I apply?

Applications will be accepted through June 30, 2020, or until the federal funds for this program are exhausted. This program is supposed to operate on a "first come, first served" basis. If you are interested, apply as soon as you can.

Where can I apply?

Check the website of your existing bank or lending institution to determine if it is accepting applications. Many participating lenders are only accepting applications from existing customers. Most lenders are accepting applications through their online portals. Note, however, that many national banks have extremely long backlogs for PPP applications and may never process your application. Check the website for information on expected wait times. To increase the likelihood that your loan application will be processed, you may wish to apply with a community bank or FinTech company such as PayPal. A full list of lenders is available at www.sba.gov. Contact a lender as soon as possible to begin the application process.

What do I need to apply?

You will need to complete the Paycheck Protection Program loan application and submit the application with the supporting documentation to an approved lender. Click here for the application.

What supporting documentation will I need to include with my application?

Each lender's requirements may vary. You should be prepared to provide your lender with documents that verify the number of full-time equivalent employees and pay rates, as well as eligible mortgage, lease, and utility obligations. Consider compiling the following:

- 2019 IRS quarterly payroll tax reports.
- Last 12 months of payroll reports beginning with your last payroll date, including:
    - gross wages for each employee, including the officer(s) if paid;
    - W-2 wages;
    - paid time off for each employee;
    - vacation pay for each employee;
    - family medical leave pay for each employee;
    - state and local taxes assessed on the employee's compensation for each employee;
    - documentation showing the total of all health insurance premiums paid by the nonprofit under a group health plan for all employees; and
    - documentation of the sum of all retirement plan funding paid by the nonprofit (excluding contributions from the employees).
- Borrowers who do not have this documentation should provide supporting documentation, such as bank records, sufficient to demonstrate the qualifying payroll amount.

Do I need to look for other funds first, before applying to this program?

No. The SBA waived its usual requirement that a borrower first try to obtain some or all of the loan funds from other sources.

How can I request loan forgiveness?

You will need to submit an application for forgiveness directly to the lender that provided your PPP loan. On May 15, the SBA issued a standard loan forgiveness application, available here.

- documentation of qualified expenses during the 8-week period after you received the PPP loan,
- documentation verifying the number of full-time-equivalent employees on payroll, and
- a certification from an authorized representative of your nonprofit stating that the documentation you provided is true and correct and the amount of forgiveness requested was used for qualified expenses.

What are the general PPP loan terms:

- Interest rate will be 1%.
- No collateral will be required.
- No personal guarantees will be required.
- You do not need to apply first for credit elsewhere.

When do I have to pay the loan back?

You will not have to start making payments on the loan for 6 months after you receive the money, but interest will accrue during this time. The full amount will be due within 2 years of when you received the money. If you want to pay earlier, there are no penalties for pre-payment.

What do I need to certify?

As part of your application, you need to certify in good faith that:

- Current economic uncertainty makes the loan necessary to support your ongoing operations.
- The funds will be used to retain workers and maintain payroll or to make mortgage, lease, and utility payments.
- You have not received and will not receive another loan under this program.
- You will provide documentation that verifies the number of full-time equivalent employees on payroll and the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities during the 8 weeks after getting this loan.
- You understand that loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities, and not more than 25% of the forgiven amount may be for non-payroll costs.
- All the information you provided in your application and in all supporting documents and forms is true and accurate. Knowingly making a false statement to get a loan under this program is punishable by law.
- You acknowledge that the lender will calculate the eligible loan amount using the tax documents you submitted. You affirm that the tax documents are identical to those you submitted to the IRS. And you also understand, acknowledge, and agree that the lender can share the tax information with the SBA's authorized

representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews.

Can I make the certifications above if my nonprofit has a large operating reserve?

This is a business decision that depends on the facts and circumstances of your nonprofit and should be supported by careful and documented deliberation of your board members. SBA guidance issued on April 24 states that, in making the above certifications, organizations should take into account their current business activity and their ability to access other funds sufficient to support their ongoing business operations in a manner that is not significantly detrimental to their business.