

April 1, 2020

### **GOVERNMENT AND PRIVATE AID AVAILABLE TO NONPROFITS FOR COVID-19 RELIEF**

New York City nonprofits have persisted and thrived through September 11th, the 2008 Great Recession, and Hurricane Sandy. The COVID-19 crisis presents a similar challenge. Government and private funding partners are stepping up address the challenges posed to nonprofits.

Although COVID-19 has put the world in an uncertain and unsettling state, nonprofits can rely on Lawyers Alliance for New York for assistance. As Lawyers Alliance has done in the past, it can assist nonprofits through these troubling times to succeed through and thrive after these events.

New York Governor Andrew Cuomo issued an executive order that took effect on **Sunday, March 22, 2020**, directing all non-essential businesses reduce their in-person workforce by 100 percent. This excludes essential businesses and workers. For an updated list of what is considered an essential business please click [here](#). Please continue to check the [New York State website](#) as it is continuously updated.

As a result of COVID-19, many nonprofits may face an unexpected loss in revenue. These nonprofits may be able to mitigate such loss and even seek interest-free loans through particular programs offered by federal, city, and private funder programs. Nonprofits should consider the following programs which may prove to be of tremendous assistance:

#### **Federal Government Assistance Programs**

##### **Federal Emergency Management Agency (FEMA)**

On March 20, 2020, the State of New York received a Major Disaster Declaration (FEMA-4480-DR) from the federal government on account of the COVID-19 Incident. The Incident started on January 20, 2020, and is ongoing. The declaration authorizes public assistance for Category B Emergency Protective Measures. If your organization appears in the list below, it may potentially qualify to apply for public assistance.

Potentially eligible applicants should gather the information needed to: (a) participate in the disaster as public assistance applicants; and, (b) submit for reimbursement for FEMA-eligible expenditures incurred as a result of the COVID-19 virus.

Potential eligible public assistance applicants include the following:

1. New York City Agencies, special districts, and authorities;
2. Certain types of private nonprofit (PNP) organizations;
3. Critical PNPs – PNPs that own or operate a facility that provides a critical service. Some examples of Critical PNPs include:
  4. Nursing Homes
  5. Laboratories
  6. Rehab Centers that Provide Medical Care
  7. Hospitals and Emergency Care Facilities
  8. Fire / Rescue Emergency Services
  9. Educational Facilities (public or private) including Colleges

10. Non-critical but essential PNPs – PNPs that own or operate a facility that provides a non-critical, but essential social service AND provides those services to the general public. These could include:
  11. Community Centers
  12. Child Care Facilities
  13. Food Assistance Programs
  14. Senior Citizen Centers
  15. Homeless Shelters
  16. Houses of Worship

### **Small Business Administration (SBA) Loans**

New York has also received a disaster declaration under the Federal SBA's loan program.<sup>1</sup> If your organization has experienced 'economic damage' as a result of the COVID-19 crisis<sup>2</sup>, the organization may apply for the SBA's already-existing disaster relief low-interest (2.75 percent) loan program<sup>3</sup> for working capital issued in amounts ranging from \$25,000 up to \$2 million to small businesses and not-for-profit organizations suffering substantial economic injury as a result of the COVID-19 outbreak. The SBA's [Economic Injury Disaster Loan](#) (EIDL) program continues to evolve rapidly. Expedited advances of up to \$10,000 are available under this program [and/or Express Bridge Loans of up to \$25,000 (to be repaid from the EIDL proceeds), for those already qualified, may also be available]. The SBA website now shows a simplified EIDL application process with a reduced number of forms.

The EIDL application now requires only two forms: (1) the [Business Loan Application](#) (Form 5) or [Home or Sole Proprietor Loan Application](#) (Form 5C), and (2) the [Economic Injury Disaster Loan Supporting Information](#) form. A disaster assistance loan officer may request the additional previously required forms after the application is submitted, but they are no longer needed for the initial application.

Nonprofit organizations may also qualify for assistance under a separate SBA loan facility: the Paycheck Protection Program.<sup>4</sup> When considering applying for funds under this or other facilities (e.g., an EIDL/Grant) care must be taken in order to avoid overlapping facilities which might cause an organization to be disqualified from the facility it prefers.

### **How Does a Business Qualify?**

While many factors go into qualifying for an Economic Injury Disaster Loan, a primary one is that a small business (less than 500 employees) has to show they have a financial impact or loss directly associated with COVID-19.

### **How Can the Loans Be Used?**

These loans may be used to pay fixed debts, payroll, accounts payable, and other bills that otherwise could not be paid due to COVID-19 – but, again, be careful around possible interactions with assistance sought under, for example, the Paycheck Protection Program (and/or other sources).

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<sup>1</sup> <https://disasterloan.sba.gov/ela/Declarations/DeclarationDetails?declNumber=6063499&direct=false>

<sup>2</sup> <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

<sup>3</sup> [https://disasterloan.sba.gov/ela/Documents/Three\\_Step\\_Process\\_SBA\\_Disaster\\_Loans.pdf](https://disasterloan.sba.gov/ela/Documents/Three_Step_Process_SBA_Disaster_Loans.pdf)

<sup>4</sup>

[https://lawyersalliance.org/userFiles/uploads/legal\\_alerts/Paycheck\\_Protection\\_Program\\_CARES\\_Act\\_Legal\\_Alert\\_March\\_2020.pdf](https://lawyersalliance.org/userFiles/uploads/legal_alerts/Paycheck_Protection_Program_CARES_Act_Legal_Alert_March_2020.pdf)

### **What Is the Interest Rate and Terms of the Loan?**

The interest rate is 2.75 percent for nonprofits. Loan terms are for up to 30 years, structured with a 12-month principal and interest deferral. There are no prepayment penalties.

### **Debt Relief**

The SBA Debt Relief program will provide a reprieve to borrowers as they overcome the challenges created by this health crisis.

Under this program:

- The SBA will also pay the principal and interest of **new 7(a) loans** issued prior to September 27, 2020.
- The SBA will pay the principal and interest of **current 7(a) loans** for a period of six months.

### **Who can I contact at the SBA?**

Organizations can reach the SBA Disaster Assistance Customer Service Center at 1-800-659-2955 or [disastercustomerservice@sba.gov](mailto:disastercustomerservice@sba.gov).

### **Additional Provisions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act**

On March 27, 2020 Congress passed and the President signed into law the CARES Act. Our colleagues at the National Council on Nonprofits have provided a summary of relevant provisions of the statute.<sup>5</sup> Most importantly for our clients, the stimulus bill includes important provisions that may substantially increase the amount of loans to which nonprofits with 500 or fewer employees have access.<sup>6</sup> Importantly, if nonprofits maintain employment of their staff between February 15 and June 30, they will be eligible to have these loans forgiven, functionally transforming the loans into grants. Nonprofits should therefore consider that implementing immediate mass layoffs or furloughs may disqualify a nonprofit from relief pursuant to these and similar New York City programs described below. Finally, the law also allows all taxpayers in the United States to deduct up to \$300 in charitable giving. Nonprofits would be wise to inform past and present donors of this new provision.<sup>7</sup>

### **New York State Assistance Programs**

To the extent a nonprofit organization is paying sales tax, New York State has given its Tax Commissioner discretion to waive penalty and interest on such taxes.<sup>8</sup>

In addition, nonprofits engaged in the purchase of supplies to support their mission should feel empowered to report to New York State any 'price-gouging' as a result of the COVID-19 crisis.<sup>9</sup>

### **New York City Assistance Programs**

New York City has stated that it will provide relief for small businesses, including nonprofits, in the City that have a reduction in revenue because of COVID-19.

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<sup>5</sup> [https://www.councilofnonprofits.org/sites/default/files/documents/cares-act-analysis.pdf?utm\\_source=First+Read+Newsletters&utm\\_campaign=1eb2d4a2b1-EMAIL\\_CAMPAIGN\\_2020\\_03\\_27\\_04\\_15&utm\\_medium=email&utm\\_term=0\\_252d27c7d1-1eb2d4a2b1-34672080&mc\\_cid=1eb2d4a2b1&mc\\_eid=4ed6ce809f](https://www.councilofnonprofits.org/sites/default/files/documents/cares-act-analysis.pdf?utm_source=First+Read+Newsletters&utm_campaign=1eb2d4a2b1-EMAIL_CAMPAIGN_2020_03_27_04_15&utm_medium=email&utm_term=0_252d27c7d1-1eb2d4a2b1-34672080&mc_cid=1eb2d4a2b1&mc_eid=4ed6ce809f)

<sup>6</sup> <https://www.philanthropy.com/article/Stimulus-Bill-Provides/248350>

<sup>7</sup> *Id.*

<sup>8</sup> <https://www.tax.ny.gov/press/alerts/sales-tax-relief-for-covid-19.htm>

<sup>9</sup> <https://paulweisscdn.azureedge.net/media/3979472/nys2-office-of-the-governor-department-of-state-division-of-consumer-protection-complaint-form.pdf>

### **NYC Employee Retention Grant Program**

The City is offering small businesses with fewer than 5 employees a grant to cover 40 percent (up to \$27,000) of payroll costs for two months to help retain employees. Nonprofits are clearly also covered by this program.

#### **Eligibility**

Businesses, including nonprofits, must:

- Be located within the five boroughs of New York City;
- Demonstrate that the COVID-19 outbreak caused at least a 25 percent decrease in revenue;
- Employ 1-4 employees in total across all locations;
- Have been in operation for at least 6 months; and
- Have no outstanding tax liens or legal judgments.<sup>10</sup>

### **NYC Small Business Continuity Fund**

Businesses with fewer than 100 employees who have seen sales decreases of 25 percent or more will be eligible for zero interest loans of up to \$75,000 to help mitigate losses in profit. It is Lawyers Alliance's understanding that nonprofits are also included in this program and must show a similar decrease in 'revenues' to the extent they do not have sales *per se*.

#### **Eligibility**

Businesses must:

- Be located within the five boroughs of New York City;
- Demonstrate that the COVID-19 outbreak caused at least a 25 percent decrease in revenue;
- Employ 99 employees or fewer in total across all locations;
- Demonstrate ability to repay the loan; and
- Have no outstanding tax liens or legal judgments.<sup>11</sup>

### **Private Financial Assistance Programs**

There are an increasing number of private sources offering support under the present circumstances. The following list is by way of examples only and is not intended in any way to be exhaustive or complete.

#### **Asian American Impact Fund**

Asian American Impact Fund has announced grants from \$1,000 to 2,000 for nonprofits providing assistance to the Asian-Pacific Islander community in rapid response to COVID-19.<sup>12</sup>

#### **Brooklyn Community Foundation COVID-19 Response Fund**

The Brooklyn Community Foundation has launched the Brooklyn COVID-19 Response Fund "to provide immediate and longer-term resources to vulnerable residents"<sup>13</sup> of the borough of Brooklyn. The Foundation recognizes that COVID-19 will have "vastly disproportionate health, economic, and social

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<sup>10</sup> [https://www1.nyc.gov/site/sbs/businesses/covid19-business-financial-assistance.page?utm\\_source=First+Read+Newsletters&utm\\_campaign=1ee1935082-EMAIL\\_CAMPAIGN\\_2020\\_03\\_18\\_11\\_38&utm\\_medium=email&utm\\_term=0\\_252d27c7d1-1ee1935082-34718532&mc\\_cid=1ee1935082&mc\\_eid=a7540b157b](https://www1.nyc.gov/site/sbs/businesses/covid19-business-financial-assistance.page?utm_source=First+Read+Newsletters&utm_campaign=1ee1935082-EMAIL_CAMPAIGN_2020_03_18_11_38&utm_medium=email&utm_term=0_252d27c7d1-1ee1935082-34718532&mc_cid=1ee1935082&mc_eid=a7540b157b).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> <https://www.brooklyncommunityfoundation.org/COVID19>.

impacts on communities of color—especially older adults, people with compromised immune systems, low-wage workers, and people who are unhoused.”<sup>14</sup>

The current plan of the Foundation is “to issue grants to front-line service organizations that provide lifelines for vulnerable populations, meal delivery and daily living needs for homebound neighbors, support for low-wage workers who may experience food insecurity, loss of wages, and limited access to healthcare and paid sick leave, as well as other emerging needs.”<sup>15</sup>

#### **Center for Disaster Philanthropy**

Center for Disaster Philanthropy has created a response fund dedicated to nonprofits in regions with a large number of people affected by COVID-19 who work with vulnerable populations, such as seniors, people with disabilities, immigrants, and hourly workers.<sup>16</sup>

#### **Dance NYC**

Dance NYC is providing dance organizations with budgets between \$25,000 and \$250,000 with one time grants of \$2,500 to \$5,000.<sup>17</sup>

#### **Fund for the City of New York**

The Fund has operated a longstanding loan program to help nonprofits struggling with temporary cash flow needs based on the existence of government contracts and associated receivables. The program continues to operate in this difficult climate. Such loans must be paid back within three months.<sup>18</sup>

#### **New York Community Trust**

New York Community Trust has created a fund to provide grants to human services and arts and culture organizations with budgets under \$20,000,000 who are impacted by COVID-19.<sup>19</sup> The grants range from \$10,000 to \$250,000 and are anticipated to last up to twelve weeks.

As part of this fund, the Nonprofit Finance Fund is offering unsecured loans in amounts ranging from \$100,000 to \$3,000,000 with terms of 1 to 3 years.<sup>20</sup>

#### **NY Presbyterian Hospital**

NY Presbyterian Hospital has committed \$10 million over the next two years to a Northern Manhattan Recovery Fund to help its communities recover. In the first phase, the fund will provide emergency relief totaling up to \$2 million, disbursed to small businesses, nonprofits, and partnerships recommended by a Recovery Fund Advisory Group comprised of community members. In the second phase, an additional \$8 million will be made available with efforts centered around the long-term sustainability of the community. The fund will be administered by the Hispanic Federation.<sup>21</sup>

#### **No Kid Hungry**

No Kid Hungry is providing aid to community-based organizations and school districts. Such providers may submit inquiries for emergency grants to support local nutrition programs.<sup>22</sup>

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> <https://www.dance.nyc/programs/funds/organizations>

<sup>18</sup> <https://www.fcny.org/fcny/core/>

<sup>19</sup> <https://proposals.nycommunitytrust.org/>

<sup>20</sup> <https://nff.org/nyc-covid-19-recovery-fund>

<sup>21</sup> <https://hispanicfederation.org/nomafund/>

<sup>22</sup> *Id.*

### **Robin Hood Foundation**

Robin Hood Foundation is offering grants of up to \$45,000 for up to three months for organizations experiencing financial strain due to COVID-19.<sup>23</sup>

### **Trinity Church**

Trinity Church has created a rapid response fund to provide one-time grants of up to \$25,000 for their current grantees who are working with communities that are disproportionately impacted by the pandemic.<sup>24</sup>

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The foregoing programs are all geared, like the services offered by Lawyers Alliance, towards the strengthening of nonprofits. Our colleagues throughout the independent sector are also producing resources including compiling lists of the many other government programs, including mortgage relief, eviction protection, and waiver of COVID-19 related health costs, aimed at supporting individuals struggling during this tumultuous time.<sup>25</sup> Links to several of these can be found at the Lawyers Alliance Coronavirus Information page on our website: <https://lawyersalliance.org/coronavirus-information>.

While the immediate initial focus and response to the health crisis has been, and continues to be, ensuring the health and safety of individuals, it is not too soon for organizations to plan as best they can for continuation of operations. Access to, and best use of, the foregoing resources will require coherent and plausible business plan scenarios. Lawyers Alliance stands ready to try to assist eligible nonprofits with the business and transactional legal needs associated with the formulation and implementation of such plans.

***This alert is meant to provide general information only, not legal advice. If you have any questions about this alert please contact Neil Stevenson at (212) 219-1800 ext. 273 or visit our website at [www.lawyersalliance.org](http://www.lawyersalliance.org) for further information.***

Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations and social enterprises that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys collaborate to deliver expert corporate, tax, real estate, employment, intellectual property, and other legal services to community organizations. By connecting lawyers, nonprofits, and communities, Lawyers Alliance for New York helps nonprofits to develop and provide housing, stimulate economic opportunity, improve urban health and education, promote community arts, and operate and advocate for vital programs that benefit low-income New Yorkers of all ages.

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<sup>23</sup> <https://www.robinhood.org/relief-fund-application/>

<sup>24</sup> <https://www.brooklyncommunityfoundation.org/resources-cbos-address-impact-coronavirus>.

<sup>25</sup> <https://www.paulweiss.com/practices/transactional/coronavirus-covid-19-relief-center/practice-overview/relief-center>