



March 31, 2020

Coronavirus Update

PAYCHECK PROTECTION PROGRAM UNDER THE HISTORIC CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT SIGNED INTO LAW ON MARCH 27, 2020

On March 27th President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) into law. The CARES Act is an historic \$2 trillion dollar economic stimulus package providing support to businesses, individuals, and nonprofits, along with state and local governments. For nonprofits that need emergency funding to cover payroll and other operating costs, the Paycheck Protection Program contained in the CARES Act is a potential source of financial relief.

Under the Paycheck Protection Program, the Small Business Administration (SBA) will guaranty loans made to eligible nonprofits and small businesses pursuant to an expansion of the existing SBA 7(a) loan guaranty program. An eligible nonprofit can apply to an SBA qualified lender for a special emergency SBA loan in an amount up to the lesser of 2.5 times its average monthly payroll costs for the prior year and \$10 million dollars. The loans must be used to cover operating costs including compensation, health insurance premiums, facilities costs (rent and utilities), and interest on any mortgage payments. In calculating payroll costs, you may not include annual compensation for an individual employee in excess of \$100,000.

Emergency SBA loans made under the Paycheck Protection Program will be unsecured loans therefore the nonprofit will not have to pledge any collateral. In addition, no personal loan guarantee will be required. Other benefits to accessing a loan under this Program are that there is no prepayment penalty, payments for the first six months are deferred and the SBA will not collect any fees for such loans. The interest rate will be capped at 4 percent.

In order for a nonprofit to be eligible for an emergency SBA 7(a) loan, the organization must have existed on February 15, 2020, have 500 or fewer full-time and part-time employees, and be either a charitable organization exempt under Section 501(c)(3) or a veteran organization exempt under Section 501(c)(19) of the Internal Revenue Code. Nonprofits will not be required to prove that they are unable to find funds elsewhere but will be required to certify that the funds are needed due to the economic conditions created by the coronavirus. Additionally nonprofits must state that they have not received funds for the same purposes from another source. When considering applying for funds under this or other facilities (e.g. an Emergency EIDL Grant) care must be taken in order to avoid overlapping facilities which might cause an organization to be rejected. The loan may convert to a grant if the organization either maintains employment or rehires its employees by June 30, 2020.

The foregoing is a summary of some of the key terms for this important emergency relief. Additional information regarding the Paycheck Protection Program is expected from the SBA within the next two weeks, including information on qualified lenders. The existing network of qualified SBA 7(a) lenders are implicated as the lenders for such loans, however the SBA and the Secretary of the Treasury may extend authority to make the loans to additional lenders with the necessary qualifications.

The National Council of Nonprofits has provided guidance for nonprofits about the Paycheck Protection Program and other benefits for nonprofits under the CARES Act on its website:

<https://www.councilofnonprofits.org/trends-policy-issues/initial-analysis-of-the-coronavirus-aid-relief-and-economic-security-act-cares>

Guidance from the U.S. Chamber of Commerce is here:

https://www.uschamberfoundation.org/sites/default/files/C3_COVID_EmergencyLoanGuide.pdf

The full text of the CARES Act can be found here: [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#), H.R. 748 legislative text

Lawyers Alliance for New York may be able to help eligible nonprofit organizations with reviewing loan agreements. If you have questions regarding this alert, contact Senior Staff Attorneys Neil Stevenson at nstevenson@lawyersalliance.org or Hedwig O'Hara at hohara@lawyersalliance.org. Representatives of nonprofit organizations who would like information on becoming a client should contact Client Relations Associate Gina Pujols-Johnson for assistance at gpujols-johnson@lawyersalliance.org or (212) 219-1800 x278. Information about becoming a client is also available at <https://lawyersalliance.org/becoming-a-client>.

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