April 23, 2020 Version

Disclaimer: The guidance below is gathered from a number of sources, and we do our best to ensure the information is accurate as of the date above. However, this is a rapidly emerging situation, and as always, you should consult your attorney and tax professional prior to making decisions that impact your organization. We will update this guidance as new information becomes available. Visit www.NonprofitsFirst.org/page/Covid19Resources for the latest information and resources.

On March 27, 2020, the President signed the bipartisan Coronavirus Aid, Relief, and Economic Security (CARES) Act into law. As of this writing, Congress is poised to increase the original Paycheck Protection Program (PPP) funding by an additional $310 billion. Several provisions which apply to nonprofit organizations were previously identified in our Mar 31, 2020 guidance; this document extends the previously provided information.

PPP LOANS:
Clarification on religious organizations: The CARES Act includes a provision for forgivable loans which is extended to 501(c)(3) tax exempt organizations. All other 501(c) organizations, with the exception of 501(c)19 (veterans' organizations), are not identified as eligible under the wording of the CARES Act. Religious-based 501(c)(3) organizations, including houses of worship, are eligible for the loans - the Small Business Administration has clarified that "no otherwise eligible organization will be disqualified from receiving a loan because of the religious nature, religious identity, or religious speech of the organization" (more information).

Forgiveness: The loans are forgivable (turning the loan into a grant) for an amount up to 100% of the loan total provided that the loan amount was spent during an 8-week period following the date funds were received on payroll costs, payment of interest on any mortgage (and some other debt) incurred prior to February 15, 2020, payment of rent on any lease in force prior to February 15, 2020, and payment on any utility for which service began before February 15, 2020. There are caveats to the forgiveness rule - be sure to understand them. Any amount not eligible for forgiveness remains a loan with a 2-year term, with the interest rate fixed at 1%.

To increase probability of obtaining forgiveness, organizations need to be meticulous in record-keeping. Be sure to check with your bank(s) before signing the loan paperwork to determine what, if any, criteria they may have established for forgiveness. Recommended practice includes establishing separate general ledger accounts in your accounting system for PPP funds; some banks also recommend separate bank accounts.

Be aware that forgiveness will also be reduced if you decrease salaries and wages during the 8 weeks after receiving funds by more than 25% for any given employee that made less than $100,000 annualized in 2019, OR if the employer fails to maintain or restore an average number of monthly FTEs equivalent to the FTEs the borrower employed during one of two base periods: either (i) the period from February 15, 2019, to June 30, 2019, or (ii) the period from January 1, 2020, until February 29, 2020 (the borrower may select the period).

Other concerns for nonprofits: The PPP is intended to provide relief for payroll. However, if payroll is already being reimbursed for employees from other government funding sources (i.e. a pre-existing grant or contract), then the PPP generally may not be used for those same employees’ payroll. PPP may be used to fund payroll for employees if the other funding is not paid because the organization is unable to conduct the work specified in the terms of the grant or agreement. Because there is no penalty for early repayment of PPP loans, it may be reasonable to apply for and accept a loan in the amount of the full payroll, then apply for forgiveness only for amounts used on employees that were not paid by other government sources. The organization would then pay back the non-forgivable amount within 6 months of loan disbursement, and owe no interest.

Some non-governmental funders are requiring that nonprofit organizations apply for PPP loans or document to the funder why they have not applied for funding for the eligible period. When considering whether to accept a PPP loan, be sure to understand the implications for all funding sources, and be prepared to document the decision process.

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