Federal COVID-19 Legislation: What Do They Mean for Nonprofits?
Resources

- www.councilofnonprofits.org
- Resource page – Nonprofits and Coronavirus, COVID-19
- Analysis of the Families First Coronavirus Response Act, National Council of Nonprofits
- Initial Analysis of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)
- Loans Available for Nonprofits in the CARES Act (a chart comparing the three new loan programs of potential interest to nonprofits sector-wide)
- Cutting Through the Jargon: How the CARES Act Works for Nonprofits, Nonprofit Quarterly
- Self-Insured Nonprofits and Unemployment Insurance, David Heinen, blog
Federal COVID-19 Legislation: What Do They Mean for Nonprofits?

Phase 1 = Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020

Phase 2 = Families First Act
(Families First Coronavirus Response Act)

Phase 3 = CARES Act
(Coronavirus Aid, Relief, and Economic Security Act)

Phase 4 = CARES Act 2.0???
Federal COVID-19 Legislation: What Do They Mean for Nonprofits?

What We’ll Cover

NEED TO KNOW
- Families First Act
- CARES Act
- Other Federal Actions

QUESTIONS & ANSWERS

NEED TO ACT
- Secure financing
- Advocate: States, Local, Federal
Federal COVID-19 Legislation:
What Do They Mean for Nonprofits?

Disclaimer

Our Best Understanding
But No Federal Rules, Regs, Guidelines Yet
And No State Rules, Regs, Guidelines Yet
Not Legal or Financial Advice
Families First Coronavirus Response Act (FFCRA)
Public Law 116-127
Families First Act (FFCRA)

- Paid Sick and Family Leave
- Refundable Payroll Tax Credit
- CARES Act modifications
Families First Act (FFCRA)

Paid Leave Requirements

➢ **Employer Size**: Fewer than 500

➢ **Effective**: April 1, 2020

➢ **Expires**: Dec. 31, 2020
Families First Act (FFCRA)

Paid Leave Requirements

➢ Employer Size: Fewer than 500

“Exceptions”

➢ Healthcare providers/EMTs
➢ Fewer than 50 employees

➢ Effective: April 1, 2020

➢ Expires: Dec. 31, 2020
Families First Act (FFCRA)

Paid Leave Requirements

- Two Weeks of Emergency Paid Sick Leave
  - Employee Leave – can’t work or telework due to quarantine or isolation order,
  - advice to self-quarantine, or
  - experiencing symptoms of COVID-19
  - Regular Pay
    - up to $511/day
    - up to $5,110 over the entire paid sick leave period
Families First Act (FFCRA)

Paid Leave Requirements

➢ Two Weeks of Emergency Paid Sick Leave
  ❑ Employee Leave – can’t work or telework due to
  ❑ quarantine or isolation order,
  ❑ advice to self-quarantine, or

https://www.dol.gov/sites/dolgov/files/WHD/Pandemic/FFCRA.pdf

❑ up to $511/day
❑ up to $5,110 over the entire paid sick leave period
Families First Act (FFCRA)

Paid Leave Requirements

➢ Two Weeks of Emergency Paid Sick Leave

✓ Family Leave – can’t work or telework due to
  ✓ Caring for quarantined individual,
  ✓ Caring for child due to school, care center closure,
  ✓ childcare provider unavailable

✓ 2/3rds Pay
  ✓ up to $200/day
  ✓ up to $2,000 over the entire paid sick leave period
Families First Act (FFCRA)

Paid Leave Requirements

➢ 10 Weeks of **Emergency Family and Medical Leave**
  - caring for a child if the child’s school or childcare center is closed due to coronavirus.
  - Job protections - exceptions for some employers (< 25 employees) if hardship
  - 2/3rds pay up to $200/day
Families First Act (FFCRA)

Paid Leave Requirements

➢ Closure of Worksite
  ❑ Cancels paid leave requirement
  ❑ Employees likely eligible for UI

➢ See DOL Guidance

https://www.dol.gov/agencies/whd/pandemic/ffcra-questions (March 27, 2020)

https://www.dol.gov/sites/dolgov/files/WHD/Pandemic/FFCRA.pdf (April 1, 2020)
Families First Act (FFCRA)

Refundable Payroll Tax Credits

➢ Applicable to Employer Share of Payroll Taxes
➢ **Refundable**: Leave costs exceeding payroll taxes owed will be refundable to the employer at the end of each quarter
➢ IRS Form 941
Families First Act (FFCRA)

Refundable Payroll Tax Credits

➢ Applicable to Employer Share of Payroll Taxes

➢ Refundable: Leave costs exceeding payroll taxes owed will be refundable to the employer at the end of each quarter

IRS FAQs (April 1, 2020)

New IRS Form 7200

IRS Form 941
Coronavirus Aid, Relief, and Economic Security Act (CARES Act)
Public Law 116-136
CARES Act
- Overview
- Loans for Nonprofits
- Above-the-Line Deduction
- Employee Retention Tax Credit
- Payroll Tax Deferral
- Unemployment Insurance
- Student Loans
CARES Act

Overview

- $2 trillion
- Approved unanimously
- Signed Friday, Mar. 27, 2020
- Significant relief for nonprofits
CARES Act

Note

- Looking at items of sector-wide interest
- New Act contains other items for subsectors (e.g., cultural institutions, eds & meds)
# Loans Available for Nonprofits in the CARES Act

<table>
<thead>
<tr>
<th>Program</th>
<th>Description</th>
<th>Size Eligibility</th>
<th>Dollar Value</th>
<th>Loan Processor?</th>
<th>Nonprofit Eligibility</th>
<th>Personal Guarantee</th>
<th>Certification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paycheck Protection Program (Emergency SBA 7(a) Loans) Secs. 1102, 1106</td>
<td>Emergency loan program for nonprofits and for-profit entities to secure funds to pay staff and operating costs for two months, and secure full loan forgiveness under certain circumstances.</td>
<td>500 or fewer employees</td>
<td>The lesser of $10 million or 2.5 times the average total monthly payroll costs from the one-year period (look back) prior to the date of application. Express SBA 7(a) loans available up to $5 million.</td>
<td>Local financial institutions</td>
<td>Must have been in operation on 2/15/2020 and had paid employees and/or paid independent contractors. Expressly available for charitable nonprofits with 500 or fewer employees, but requires that employees of affiliated nonprofits may be counted toward the 500 employee cap, depending on the degree of control of the parent.</td>
<td>No collateral or personal guarantee required.</td>
<td>Good-faith certification that need for the loan is based on economic conditions; funds to be used to retain worker and maintain payroll or</td>
</tr>
<tr>
<td>Expanded EIDL &amp; Emergency Grants (SBA 7(b) Loans) Sec. 1110</td>
<td>Existing Economic Injury Disaster Loan (EIDL) program expanded to more for-profit entities, applies lesser credit standards, and creates a rapid grant procedure.</td>
<td>Existing EIDL limits for nonprofits*</td>
<td>Normal EIDL loans available up to $2 million. EIDL advances of $10,000 paid within 3 days. In operation before 1/31/2020. Loans can be based solely on credit score. Existing EIDL program applies to “private nonprofit organizations” that excludes religious institutions and some other charitable organizations.</td>
<td>Small Business Administration</td>
<td></td>
<td>Waives personal guarantee up to $200,000, and requirement of inability to obtain credit elsewhere.</td>
<td>Self-certification under penalty of perjury.</td>
</tr>
<tr>
<td>Mid-Size Loan Program Sec. 4003</td>
<td>Largely undefined loan program to be created by the Treasury Department to fill the gap between the Paycheck Protection Program for smaller employers and the industry stabilization loans to big business.</td>
<td>Between 500 and 10,000 employees</td>
<td>Unspecified</td>
<td>Unspecified</td>
<td></td>
<td>Good-faith certification that need for the loan is based on economic conditions; funds to be used to retain and restore employment, won’t</td>
<td></td>
</tr>
</tbody>
</table>

*EIDL limits for nonprofits:

- The lesser of $10 million or 2.5 times the average total monthly payroll costs from the one-year period (look back) prior to the date of application.
- Additionally, the following must be true:
  - At least 50% of the average total monthly payroll costs from the one-year period (look back) prior to the date of application were paid to employees that are current employees of the applicant as of the applicable date of application,
  - The applicant is the same organization that was in operation on 2/15/2020, and had paid employees and/or paid independent contractors during that time,
  - The employee count on the applicable date of application is less than or equal to the greater of (i) 1,000 employees or (ii) a full-time equivalent employee count (computed on a pro rata basis) that is less than or equal to the greater of (x) 30% of the average monthly full-time equivalent employee count during the calendar year 2019 or (y) 60% of the average monthly full-time equivalent employee count for the second quarter of 2019.
CARES Act

Loans Available to Nonprofits

➢ Paycheck Protection Program
➢ Emergency EIDL Program
➢ Mid-Size Business Loan Program
Paycheck Protection Program

➢ **Who Eligible**: 500 or fewer employees*

➢ **Loan Amount**: 2.5 x monthly payroll*

➢ **Loan Use**: payroll, benefits, rent/mortgage, debt

➢ **How Apply**: local banks*

➢ **Available**: through June 30*
Paycheck Protection Program

➢ **Who Eligible**: 500 or fewer employees*

➢ SBA Issued Guidance (4/3) clarifying that Faith-Based Organizations are eligible for PPP and EIDL programs.
Paycheck Protection Program
Sample Application

Key Provision: Loan Forgiveness

Employers will have loans forgiven in whole or part if they:

- maintain employment for the 8 weeks after origination of loan, or
- rehire employees by June 30 (laid off between 2/15 and 4/26)
CARES Act

Paycheck Protection Program

➢ **Key Provision**: Loan Forgiveness

Employers will have loans forgiven in whole or part if they:

✓ maintain employment for the 8 weeks after origination of loan

✓ Rule if rehire employees by June 30

Loans available Now

Emergency EIDL Program (Economic Injury Disaster Loans)

Two Major Types

1. “Normal EIDL”
2. Emergency EIDL Grants
CARES Act

Emergency EIDL Program
(Economic Injury Disaster Loans)

➢ **Who eligible**: “private non-profits”*
➢ **Loan Amount**: up to $2 million*
➢ **How Apply**: SBA online
➢ **Available**: through Dec 31

“Normal EIDL”
CARES Act

Emergency EIDL Program
(Economic Injury Disaster Loans)

“Normal EIDL”

➢ Key Provisions:
✓ Based on credit score
✓ Waives personal guarantee up to $200,000

➢ Forgiveness: No
CARES Act

Emergency EIDL Program
(Economic Injury Disaster Loans)

Emergency Advance

➢ Who eligible: “private non-profits”*

➢ Loan Amount: $10,000 in 3 days

➢ How Apply: SBA online

➢ Available: through Dec 31
CARES Act

Emergency EIDL Program
(Economic Injury Disaster Loans)

➢ **Loan Amount:** $10,000 in 3 days

➢ **Apply online:**

https://covid19relief.sba.gov/#/
Applicant is a private non-profit organization that is a non-governmental agency or entity that currently has an effective ruling letter from the IRS granting tax exemption under sections 501(c),(d), or (e) of the Internal Revenue Code of 1954, or satisfactory evidence from the State that the non-revenue producing organization or entity is a non-profit one organized or doing business under State law, or a faith-based organization.
CARES Act

Loans

Mid-Size Business Loan Program

➢ **Who Eligible**: nonprofits, others with between 500 and 10,000 employees

➢ **Loan Amount**: unclear

➢ **Loan Use**: retain 90% of staff

➢ **How Apply**: unclear

➢ **Available**: through Dec. 31
CARES Act

Loans

Mid-Size Business Loan Program

➢ “the Secretary shall endeavor to seek the implementation of a program…”

➢ Advocacy Needed!
Charitable Giving Incentives

➢ **Above-the-Line Deduction**
  - Available to all individual taxpayers
  - $300 donation in 2020 tax year

➢ **Lift AGI Cap (for itemizers)**

➢ **Corporate Donations**
  - Raises cap to 25% of taxable income
  - Raises food donation cap to 25% also
Employee Retention Tax Credits

➢ Refundable payroll tax credit

➢ Up to $5,000 per employee per quarter

➢ Conditions:
  ✓ be an ongoing concern at the beginning of 2020,
  ✓ experienced a whole or partial shutdown, and
  ✓ saw a drop in revenue of at least 50 percent in the first quarter compared to the first quarter of 2019.
Employee Retention Tax Credits

➢ **Tax-exempt organizations**: the entity’s whole operations must be taken into account when determining eligibility.

➢ **NOTE**: employers receiving Paycheck Protection Program loans are not eligible for these credits.
CARES Act

Payroll Tax Deferral

❖ Deferral

Allows delayed payment of the employer portion payroll taxes in 2020. Can’t get PPP

❖ Repayment:

✓ Half by 12/31/2021
✓ Half by 12/31/2022
Unemployment Insurance

❖ Individuals
  ✓ Waives waiting period, extends 13 weeks
  ✓ $600/week more than state benefit (4 months)
  ✓ Uninsured – church employees – covered

❖ Employers
  ✓ Most employers – hold harmless lang.
  ✓ Self-Insured – only covered 50%
CARES Act  

Student Loans

➢ **Forbearance** (thru 9/30/20)
  ✓ Automatic (no need to talk to provider)
  ✓ Qualifies for PSLF (now 114 payments)

➢ **0% Interest Rate** (thru 9/30/20)
  ✓ Automatic

➢ **Wage Garnishment, Debt Collections Stopped** (at least 60 days from 3/13/20)
  ✓ Automatic
Other Federal Actions

Internal Revenue Service
- Delayed Income Tax Filings
- Nonprofit Filings Not Delayed

Office of Management and Budget
- Flexibility to Federal Departments to grant waivers, continue paying under grants
  OMB Memo M-20-17
2020 Census: Be Counted Now!

my2020census.gov

- Census Day: April 1, 2020 (Last Week)
- Fill Out Form Now: online, by phone, via paper questionnaire
- Census Bureau Suspended Operations
  - Reduced in person assistance
  - Reduced in person follow-up
- Deadline Extended: 8/14/2020
Questions?
Taking Action
Taking Action

1. Emergency EIDL Advance
   - Loan Amount: $10,000 in 3 days
   - Apply online: https://covid19relief.sba.gov/#/

2. Paycheck Protection Program Loans
   - Loan Amount: 2.5 x monthly payroll
   - Apply at Bank: starting FRIDAY Apr. 3
Taking Action in the States