

Urgent Request from the Nonprofit Community for Guidance on the Paycheck Protection Program

June 17, 2020

The charitable nonprofit community urgently requests that the Trump Administration take action to address critical administrative and regulatory issues arising from federal legislation in response to the COVID-19 crisis.

Charitable nonprofits of all sizes play a significant role in the U.S. economy as the country's third-largest private-sector employer. Faith-based and charitable organizations are working on the front lines in every community across America to fight the coronavirus, provide support and relief to its many victims, and adapt their services to respond to community needs throughout the duration of the pandemic and afterwards. They are providing childcare services so health care workers and first responders can go to work, feeding the millions of newly unemployed persons and their families, and delivering other critical physical, educational, spiritual, and mental health services and supports.

Many more nonprofits would be rehiring or even expanding their workforces to address mounting needs if they had the resources to do so. In order that nonprofits can continue to help the millions of people, as well as state and local governments, who rely on us daily, the nonprofit community asks the Small Business Administration and Department of Treasury, as appropriate, to take the following actions:

1. As the June 30, 2020 deadline for PPP applications nears, clarify whether a borrower that returned funds due to the terms of original guidance may reapply for a PPP loan; whether a borrower that did not accept the maximum loan amount may re-apply for an expanded loan amount; and, whether employers may use an alternative timeframe, occurring after March 2020, for determining the 500-employee loan eligibility threshold.
2. Ensure that further interim rules and guidance implementing the Paycheck Protection Program Flexibility Act and loan forgiveness process are rapidly issued and responsive to emerging questions, such as those listed below. Nonprofit employers are seeking certainty on the outcome of the loan forgiveness process as the degree of loan forgiveness will impact their immediate capacity to provide services and programs and retain employees.
3. Clearly articulate guidance that borrowers may choose a covered period of duration between 8 weeks and 24 weeks, rather than limiting borrowers to a choice of a covered period of either 8 weeks or 24 weeks. Many borrowers will exhaust funds within varying time frames and must then appropriately adjust payroll consistent with available resources. Permit borrowers to apply for loan forgiveness at the time after which PPP funds have been exhausted.
4. Resolve questions regarding the newly-extended duration of PPP, such as whether a borrower can still rely on the June 30, 2020 date for rehiring workers to seek full loan forgiveness if they subsequently terminate FTE headcount before December 31, 2020, and whether the applicable reference periods by which to compare terminations of FTE employees or employee compensation reductions for purposes of reductions in loan forgiveness will be also be extended.
5. Provide clarity on the PPP Flexibility Act's exemptions from the proportional reduction of loan forgiveness related to retained full-time-equivalent positions in cases in which the borrower is unable to return to the same level of business activity due to compliance with federal requirements or guidance related to COVID-19, such as whether the exemptions also apply to employee compensation reductions, whether the exemptions apply when local or state health advisories are more restrictive than federal ones, and how exemptions apply if borrowers are opening and closing temporarily based on COVID-19 cases at their facilities.

6. Ensure that guidance is specific to nonprofits. Questions remaining from the loan application process will also apply to applications for forgiveness. For example, how should nonprofits answer the application question pertaining to “owner;” how are jobs funded under government grants counted in the eligibility headcount and for loan forgiveness; can multiple nonprofit operations that share an EIN be considered for separate loans under the program?
7. Confirm that a reimbursing (self-insured) employer under a state unemployment system may use PPP loan proceeds to make payments in lieu of contributions (state payroll taxes) to the state for costs of benefits paid to laid-off or furloughed employees, and that those expenses will be forgivable as eligible payroll costs.
8. Issue timely guidance on the loan review procedures for loans of \$2 million or more, including details on documentation requirements.

Nonprofit organizations value their partnership with the federal government. The following organizations contributed to this list, will stay in communication as further needs are identified, and stand ready to work with the Administration to provide additional information and assistance in implementing the recommendations.

Respectfully submitted,

American Alliance of Museums

Americans for the Arts

Association of Art Museum Directors

Boys & Girls Clubs of America

Ducks Unlimited

Girl Scouts of the USA

Girls Inc.

Goodwill Industries International, Inc.

Habitat for Humanity International

Independent Sector

Jewish Federations of North America

League of American Orchestras

Lutheran Services in America

Mental Health America

National Council of Nonprofits

National Human Services Assembly

United Way Worldwide

YMCA of the USA

YWCA USA