

# CORONAVIRUS: AN UPDATE ON SBA'S PAYCHECK PROTECTION PROGRAM FOR THE AMERICAN HOSPITAL ASSOCIATION

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# SBA GUARANTEED LOANS THROUGH THE PAYCHECK PROTECTION PROGRAM



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# SBA'S PAYCHECK PROTECTION PROGRAM

- What is the Paycheck Protection Program (PPP)?
- Who is eligible for a loan under the PPP?
- What is the application process?
- What are the requirements for loan forgiveness?

# WHAT IS THE PAYCHECK PROTECTION PROGRAM?

- Created under section 1102 of the CARES Act.
- Expansion of existing SBA 7(a) lending program.
- SBA provides 100% guarantee on loan. Allows small for-profit and nonprofit entities to borrow under favorable terms.
  - Maximum loan amount is lesser of 2.5 x average monthly “payroll costs” or \$10 million
  - Interest rate = 1%
  - Loan term = 2 years
  - No personal guarantee or collateral required

# WHAT IS THE PAYCHECK PROTECTION PROGRAM (CONT.)?

- Loan proceeds may be used for
  - Payroll costs
  - Rent
  - Mortgage payments
  - Utilities

# WHO IS ELIGIBLE FOR A LOAN UNDER THE PPP?

Generally --

- For-profit businesses and nonprofit organizations, including religious organizations, in operation on February 15, 2020
- Must employ 500 or fewer employees
  - Includes full-time and part-time employees
  - Take monthly average over preceding 12 months
- Affiliation rules apply
- Must not be in bankruptcy or be suspended or debarred by any Federal department or agency

# SPECIFIC TO NONPROFIT ORGANIZATIONS

- Section 501(c)(3) organizations
  - Interim Final Rule says “A tax-exempt nonprofit organization described in section 501(c)(3) of the Internal Revenue Code.” Statute also requires exemption from tax under section 501(a).
- Affiliation rules apply. Look to totality of facts and circumstances.

“Concerns and entities are affiliates of each other when one controls or has the power to control the other, or a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists....SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists.” 13 CFR 121.103(a).



# SPECIFIC TO NONPROFIT ORGANIZATIONS

- Interim Final Rule provides
- “The relationship of a faith-based organization to another organization is not considered an affiliation with the other organization . . . If the relationship is based on a religious teaching or belief or otherwise constitutes a part of the exercise of religion.” 13 CFR 121.103(b)(10)(i)
- “[T]he term ‘faith-based organization’ includes, but is not limited to, any organization associated with a church or convention or association of churches within the meaning of 26 U.S.C. 414(e)(3)(D).” 13 CFR 121.103(b)(10)(i)

# WHAT IS THE APPLICATION PROCESS?

- Submit application to lender.
  - Note certain elements of SBA application form are awkward fit for nonprofit.
- Note certifications on application.
- Have documentation of employees and payroll expenditures.
  - Payroll documentation may require extra work or analysis if using third party for payroll.
- Lenders likely to give priority to existing borrowers.

# WHAT ARE THE REQUIREMENTS FOR LOAN FORGIVENESS?

- Loan may be forgiven up to full principal amount, subject to a number of conditions.
- Detailed computation. General principles to get full forgiveness as follows.
  - To get full forgiveness, at least 75% of loan proceeds used for payroll costs. No more than 25% of loan proceeds spent on rent, mortgages, utilities.
  - Average monthly number of full-time equivalent employees over eight weeks starting from date loan originates at least equals average monthly full-time equivalent employees for benchmark period.
  - Limits on amount of reduction to wages paid to each employee.

# INFORMATION ON TREASURY.GOV

The screenshot shows a web browser window displaying the U.S. Department of the Treasury website. The address bar shows the URL: <https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-business>. The page features the Treasury Department logo and navigation menu with options: ABOUT TREASURY, SECRETARY MNUCHIN, POLICY ISSUES (highlighted), DATA, SERVICES, NEWS, and a SEARCH button. A red banner below the navigation menu reads: "For small businesses seeking direct relief from COVID-19, CLICK HERE to learn more about Paycheck Protection Loans." The breadcrumb trail includes: HOME > POLICY ISSUES > TOP PRIORITIES > CARES ACT > ASSISTANCE FOR SMALL BUSINESSES. The main heading is "Assistance for Small Businesses". A "Top Priorities" sidebar lists "CARES Act" and "Assistance for Small Businesses". The main content area contains two paragraphs: "The Paycheck Protection Program prioritizes millions of Americans employed by small businesses by authorizing up to \$349 billion toward job retention and certain other expenses." and "Small businesses and eligible nonprofit organizations, Veterans organizations, and Tribal businesses described in the Small Business Act, as well as individuals who are self-employed or are independent contractors, are".

## LINK TO TREASURY.GOV PAGE

- <https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>

QUESTIONS?



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