

Q&A: The C.A.R.E.S Act

From Nuts & Bolts Webinar, April 2, 2020, and Q&A Web Forum, April 3, 2020

ELIGIBILITY

1. What funds does our nonprofit qualify for?

The exact verbiage is: small businesses, 501c3s, 501 c19s, and veterans organizations with 500 employees or less; sole proprietorships; independent contractors; self-employed individuals. For sure, most nonprofits qualify for PPP and likely EIDL (Economic Injury Disaster Loan). There is a third piece that hasn't been fully developed yet that will be \$.5 trillion loaned by treasury. This is intended to take care of people not taken care of by PPP or EIDL; nonprofits with employees greater than 500 and up to 10,000 will be included in this. The treasury lending program may even be available to those who couldn't take advantage of PPP because that pool of money ran out.

2. We are a U.S. nonprofit working in Zambia. Are we limited in funds since our scope of work is international?

We don't believe so. You cannot include employees who are outside of the U.S. as part of your payroll calculations when you apply but you shouldn't be limited because of the work that you do.

3. Are these loans available for churches?

The Act does not explicitly state that religious organizations ineligible.

4. Does the CARES Act apply to 501(c)(4) nonprofits?

According to its terms, no. BUT – apply anyway and give it a shot.

5. If our library is a subdivision of the borough, are we able to apply for a PPP loan?

The third piece of this legislation – the treasury lending program – specifically mentions state municipalities so that's where they may end. BUT – we recommend applying anyway and as long as you're answering the questions honestly, the worst that could happen is you don't get approved and then hopefully you'll be picked up in the treasury program.

6. If we rely on donations to pay our staff, and don't know whether enough will come in to meet or exceed what we need in the near future, can we apply?

Yes – there is nothing about this situation that would preclude you from applying.

7. If we are closed but paying our staff, are we eligible?

Yes.

8. If we are maintaining operations, are we still able to apply for this loan?

Yes.

9. If an organization has a healthy cash reserve will this preclude the org from receiving the PPP loan?

No, it will not – they will not be looking at net assets or excess operating cash reserves.

10. Do people have time to finish their 2019 taxes and still be eligible for the stimulus check?

Our understanding is that they will be sending out the individual stimulus checks based on 2018 tax return if you haven't yet completed 2019 taxes.

LOAN CALCULATIONS

Payroll

11. **To calculate average monthly payroll amount, should we use 2019 wage information, or can we use April 2019 through March 2020?**

You can use either one. We recommend checking with your current lending institution to see if they have a preference.

12. **How can these loans can benefit someone who is just starting a business and does not have 2019 payroll/tax records?**

If you started your business before February 15th, you have some records. Contact [Tom Bonomo](mailto:tomb@adminconsultingsolutions.com) (tomb@adminconsultingsolutions.com) at Administrative & Consulting Solutions for further support.

13. **If you have laid off some staff how do you apply? Do you only count the payroll of those still working?**

You will be using your base payroll looking at either calendar year for 2019 or a more recent version if that's more reflective of where you are. If you have made significant changes that have dramatically affected your payroll, you may want to have a conversation with the lender to let them know where you stood before COVID-19 and why you want to use that info as the baseline. As far as the FTE count, you'll want to look at the period right before all of this happened in February and that's what will be used at the end of June.

14. **Does this also include staff working from home?**

Yes.

15. **Would bonuses be included in the salary calculations?**

Since bonuses are all part of your compensation to employees, yes, this would be included in your salary calculations.

16. **What happens if your payroll is higher in the summer because you have temp teachers?**

When you pull your payroll together to use for the calculation and you've got seasonal workers, that year-long period should include salary for those seasonal workers so you'll be able to capture that pay differential between summer and the rest of the year.

17. **How do outside contractors such as landscapers or janitorial services factor into payroll calculations?**

The guidance that was released on April 2 was inconsistent. We believe that independent contractors who are part of a separate business – like landscapers or janitorial services – would not be included. But in the case of independent contractors who work more or less exclusively for your nonprofit – for example, a controller or bookkeeper – you could make a good faith argument that he/she should be included in your payroll calculations.

18. **Can we use independent contractors/consultants and/or staff working in other countries as part of the calculation in payroll/contractor costs?**

Non-US citizens would be excluded, so you would have to pull that out of your payroll calculations.

19. **Can payments made for employer SUI be included in the payroll calculation?**

It depends – if you're referring to the maximum loan calculation the answer is no.

20. What if an employee chose to take a temporary leave of absence to meet their personal needs (it was not company-driven)? How would this affect my calculations?

This shouldn't matter and if it's happening on a limited basis it shouldn't affect your overall calculation. When you look at the changes in your payroll and FTEs it may be so minor that it doesn't affect your reimbursement responsibility especially if you have some offsets against those.

FTEs

21. What's the calculation for full time equivalents (FTEs)? What if our office operates on a 35 hour/week, not a 40/hour per week?

Let's look at an example to demonstrate this: A full work week is 40 hours. I have 4 people on my payroll, 2 working the full 40 hours/week and 2 working 20 hours/week. The 2 that work 20 hours are each .5 FTE and those that work 40 hours a week are each 2 FTE. I would have a total of $2 + .5 + .5 = 3$ FTE. You would do the same thing using 35 hours (or 37.5 hours or whatever is considered full-time at your organization) and calculate from there.

22. Are they paying more attention to FTE or number of positions for the forgiveness part? For example, I have 10 employees on payroll that work out to 5 FTE. If one employee reduces hours and, instead of hiring, I increase the hours for other employees so that now I have 9 employees, (still 5 FTE). What would happen there?

They are more concerned with the FTE count, which would still be 5 in this scenario.

23. We have one employee that is a temp and contracted with us through May 8. She remains on our payroll until then. But how do you suggest we handle this with respect to calculating FTEs? Undoubtedly, it will be reduced come June.

Since that compensation was temporary and you were planning for that to go away as of May 8 – before the pandemic happened – have a provide documentation and hopefully your lender will be able to exclude it.

TERMS OF LOAN FUNDING

24. Can the PPP loan be used to cover...

- a) *the employee portion of insurance premiums?* – No, you deduct it. If you're paying 100% of the bill and then your employees have the co-pay part of health insurance, that's a deduction.
- b) *Other employee-related expenses, such as short & long-term disability, & workers comp premiums?* – No.

25. We did a staff reduction of hours due to lack of work and they are collecting partial unemployment compensation. We are maintaining all healthcare for staff. My understanding is that we should use PPP to bring them back full time and use this to pay the rest of the salary/time they aren't working.

You don't have to use this to bring them back. You'll use those funds as you need them in your organization. Whether you have a liability back or not is determined by whether or not you brought them back. Your payments for things like mortgage, rent, interest, utility bills, etc. to offset the payroll reimbursement back for employees you can't retain at the levels they were before.

26. The words "lease" and "rent" seem to be used interchangeably. Does lease mean rent for property or can it also refer to leased equipment?

It's mainly referring to property. For example, if I'm a social service organization that owns residential apartments that we lease out or rent to clients, we can use the interest in both scenarios –

a.) if you own and you have debt associated with those homes or b.) if you rent and have a lease against it, then you can use the funding for interest payments in either of those situations.

27. If we get a loan now and get it approved, can we hold off the closing until some time in June?

If you won't need the funds until later in the year, you could take the cash and set up a liability if you do not want to recognize the income until you determine what you are going to do with it. Handle it like a restricted fund.

28. If we apply for one part of the CARES Act, are we restricted from applying to other sections?

No, you should be able to apply for relief through PPP and EIDL and you can refinance some of the emergency relief funds into the PPP loan. They just want to make sure you aren't applying for multiple government-funded sources of support for the same services.

29. I have been hearing about the EIDL Advance of \$10,000. How does that impact the PPP program and forgiveness?

Unsure at this moment.

30. If you are receiving payment from grants or contracts with the state or a local county, is this double dipping?

No, assuming the grants are operational and are not tied into salary retention and protection.

31. Is there any more guidance for how not to "double dip"?

When you look at what you're applying for vs. what you're receiving, ask yourself if you're using those funds for 'the same purposes' and understand that you may be subject to some scrutiny. The intent of this act is to provide needed, appropriate relief. So just look at that within the context of what's available and choose what affords you the best solutions, knowing that if you do something 'inappropriately', there could be legal charges.

32. Does borrowing against retirement accounts include deferred 403b plans?

Yes, we believe so and would recommend contacting your plan administrator.

APPLICATION PROCESS

33. Do you recommend doing the application online?

There shouldn't be a problem with completing the online application, but you may want to follow up with your lending institution to make sure you aren't missing anything.

34. If you submit online, you get in the queue for the money, correct? Should we be working with our bank at the same time?

Yes and yes.

35. So who actually hits the submit button to the SBA? Is it us, or the bank?

It would be the bank or lending institution.

36. Our banker is telling us we need to apply on our own. Am I correct there's no way to do that? Who can we call for guidance?

Email PANO's Membership Manager, Kyla Alvarez (kyla@pano.org), for options available through PANO partners Administrative & Consulting Solutions or Maher Duessel. Flat rate for PANO Members is \$200.



37. We have contacted our lender but can't get through by phone or email to get answers due to high call volumes. What is the best way to proceed?

There are other lenders/banks you can go to. One of the largest SBA lenders is Wells Fargo. While it is best to go through current relationships, if you are not getting a response you may need to see what else is available. For example, if you do your own personal banking through another bank and have a relationship there, try with them.

38. Banks in Philadelphia are telling people they aren't working with any one besides existing customers.

Yes, some smaller banks/lending institutions may be limiting due to capacity. Others may see this as an opportunity to create an avenue for non-clients to become a client in the future. We recommend reaching out to local lending institutions who may have the capacity to help you.

39. In the business information section, where it asks for "Owner", nonprofits do not have owners. Do we leave that blank or put the name of the entity with its EIN?

This may vary from lender to lender. Our recommendation is to leave that section blank and check with your lending institution because they may have specific guidelines for this section – for example, they may want you to include contact info for someone who is authorized to complete certain transactions.

40. If our library is part of the municipality can the library apply or does it go through the municipality? Our library is not a 501(c)(3).

Where is your payroll? Is it through municipality or library? Is the library separately incorporated? Since this is payroll protection, that determines the answer.

41. Are there going to be separate applications for payroll and utilities?

No, you won't need to worry about utilities for the purposes of the application, but they will be a factor in the forgiveness calculation once you receive the funds. We advise opening a separate account for the loan money so that you can keep good track of it and where/how it's spent.

LOAN REPAYMENT/FORGIVENESS

42. If our landlord is willing to forgive rent for 3 months now, should we still include this payment in our calculation? Then when we get the money, we should go ahead and pay them?

Morally, yes. If your FTEs and payrolls are remaining at your pre-coronavirus levels, you won't have a repayment amount. If you've had to reduce below acceptable levels, then you'll want to use other avenues to reduce what you have to pay back. The rent part would go against the forgiveness amount. Whether you decide to go back and repay someone that has forgiven you is your decision, not a requirement.

43. Can you clarify repayment vs relief on this loan? If you use the funds for payroll, your lender has 60 days to do what?

Once you provide the info to your lender, they are obligated to tell you within 60 days whether you are obligated to reimburse them for funds you received.

44. If we set up the loan as a liability, can we count the costs we incur from June 30 for 8 weeks after as the period for loan forgiveness?

How you deal with the funds you receive, whether you put it in a liability or put it right into income and operations, is your decision to make. The funds will be determined to be yours or a liability at the point of reconciliation with the lender.

- 45. We qualify to request \$180,000 through PPP. Some programs are still being funded to cover staff payroll; others are not. Since PPP is a one-time ask and we do not know in the future how/which programs may be adversely affected by the pandemic, is it recommended we apply for the max we qualify for, and then whatever we do not use under the 75%payroll-25% other formula we just pay back once the dust settles?**

The amount you can ask for depends on your payroll calculation – check out a recording of our [Nuts & Bolts](#) webinar from April 2. You can apply for the max and what you don't use under the 75% rule would be paid back. If you have a good relationship with your bank, contact them directly to advocate for the loan.

- 46. When calculating the amount of the loan spent to qualify for forgiveness may you include costs that might be funded by other sources?**

This is one reason we are advising folks to set up a separate account just for money from these loans. If you have money coming out of that account specifically to pay for payroll and utilities that should theoretically free up the money you would ordinarily be spending on those things so that you can use it for other purposes. It gets a little trickier with donor-restricted funding but the simple answer is that the money from these loans should be going toward payroll/utilities.

- 47. A full-time employee left last August and we have not replaced him. Also, our PT employees work irregular schedules based on program needs. May is historically a busy month but will not be this year. How do we maximize the forgiveness portion of the Paycheck Protection Program?**

The simple answer is to get employment numbers up to maximize forgiveness but I'm not sure the time period described in this situation will impact the forgiveness calculation. If you get the loan funds, you'll be able to use that to do the catch-up to qualify for maximum forgiveness. As a reminder, here's what they'll be comparing:

- a. Employment – They'll take your employment numbers on February 15 and then look at what happened to employment from February 15-April 26 as a result of the pandemic. You'll have until June 30 to bring employment back to the February 15 benchmark.
- b. Compensation – They are also going to look at compensation as of February 15 and measure how much less compensation you paid from February 15-April 26. You'll have until June 30 to bring compensation back to February 15 levels.

CARES ACT & UNEMPLOYMENT

- 48. Can an organization apply for an SBA loan if its employees file an unemployment claim (e.g., for an organization with only two full time employees, would it be preferable to seek the SBA loan rather than having the 2 employees seeking unemployment compensation)?**

This sounds like two independent questions. The answer to the first part, whether or not you can apply for an SBA loan, is yes.

From the employer standpoint, if the funding you have is going to carry you through, and that's the right business decision for you, then keep paying your staff. But if this pandemic is creating or has the potential to create a hardship and you can't do that, it may be advantageous for your employees to collect unemployment. You may want to conduct an internal analysis on what your org believes you need and also be considerate of where your employees are and what works best for them.

49. We are a UC reimbursable employer in PA – do we have to pay back the \$600 per month as well as the regular unemployment?

We believe the \$600 is going to be forgiven and won't be an expense of the organization. This is part of what the government is trying to do – make employees whole without changing your rates or your reimbursements in the future. Check out [this page](#) on PANO's website for more.

50. Is the \$600 an actual amount or is it up to \$600? Could the unemployment bring an employee over their actual salary?

It is \$600.

CHARITABLE GIVING/CHARITABLE DEDUCTION

51. Are there any specific new tax benefits available to donors?

Yes, charitable contribution limits have been increased and there is a new incentive for charitable gifts so people will hopefully give more during this time.

52. Is the \$300 charitable deduction per person? So a married couple can deduct \$600 total?

Yes.