



April 2, 2020

Paycheck Protection Plan under the CARES Act

The Paycheck Protection Plan (PPP) supports nonprofit organizations cost for payroll, rent, mortgage interest and utilities for an eight-week period through a Small Business Administration (SBA) loan made by a local bank. If the nonprofit maintains the same number of full-time-equivalent employees between February 15 and June 30, 2020 and does not reduce employee pay by more than 25% during this period, 100% of the loan may be forgiven.

The following questions and answers will focus on how small nonprofit organizations may take advantage of a PPP loan.

How does a nonprofit apply for a PPP loan?

Call your local bank representative right now and tell them your organization is interested to apply for a PPP SBA 7(a) loan. A sample application accompanies this document. Links on the SBA web site to the application are disabled as this Q & A is being prepared.

What local banks are SBA lenders?

We have received the following information:

- **First State Bank of the Florida Keys**
Existing First State Bank customers who would like to be contacted to apply as soon as the SBA program is released, can fill out a Contact Request Form on the Bank's website www.KeysBank.com/sba-loan-contact-request or contact Brad Lutz, AVP Commercial Lending, at 305-293-7163 or BradL@KeysBank.com.
- **BB&T, now Truist**
Clients and others seeking CARES solutions should contact Jay W. Hall or Dale Bittner directly at: Jay W. Hall: 305-292-3832 or jay.hall@bbandt.com
Dale Bittner: 305-292-3842 or dbittner@bbandt.com
- **Centennial Bank**
Existing Customers can reach out to their loan officer directly, or call:

Upper Keys Centennial Bank

- Amy Pierson 305-676-3128 apierson@my100bank.com
- Jack Thorley 305-676-3017 jthorley@my100bank.com

Middle Keys Centennial Bank

- Jack Thorley 305-676-3017 jthorley@my100bank.com
- Angela Gruetzmänn 305-676-3016 agruetzmänn@my100bank.com

300 Southard St. Suite 201, Key West, FL 33040
www.cffk.org (305) 292-1502

Key West and Lower Keys Centennial Bank

- Mark Todaro 305-676-3145 mtodaro@my100bank.com
- Theresa Faber 305-676-3148 tfaber@my100bank.com
- Mark Stanton 305-676-3144 mstanton@my100bank.com

- **Iberia Bank**

Existing Customers can contact the following:

Jacqueline Luhta, Business Development Officer, 305-809-8987

Trich Worthington, Group Branch Manager, 305-289-5820

Are all 501(c)(3) nonprofits eligible?

Yes, unless the organization has over 500 employees or exceeds income requirements (\$8 million per year revenue, but other limits may apply depending on the type of services provided).

How much can the loan be?

The computation of the loan amount is based on 2.5 times the average monthly compensation paid by the nonprofit for the prior 12 months. Guidance has suggested this period will be April 1, 2019 through March 31, 2020. The sample application form indicates the period will be for 2019 in most cases. Compensation includes:

- Salary, wages, commission, cash tips
- Vacation, parental, family, medical or sick leave
- Allowance for dismissal or separation
- Health insurance premiums
- Retirement benefits
- State and local taxes assessed on the compensation of employees

Is collateral required? What about personal guarantees and fees?

There is no collateral required for PPP loans. Also, no personal guarantees are required. We understand that SBA will be paying the fee to the lender so that the nonprofit will not be charged.

What documentation is required to prove the average monthly compensation?

We are looking for guidance. Payroll tax form 941 should provide information on salaries, wages, commission and cash tips plus other leave pay. You may need to provide invoices and cancelled checks to prove health insurance premium and retirement benefits paid. Your banker taking the application will have instructions from SBA on what is required. The sample loan application has a series of certifications that must be made by an officer of the nonprofit. You should note the penalties described on the application for making false statements and make yourself comfortable with the documentation provided before signing this statement.

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Can the loan be for less than 2.5 times the average monthly compensation?

Yes, the nonprofit can request a loan that is lower than the maximum amount.

We pay independent contractors and issue form 1099. Can this be counted as compensation?

We are looking for additional guidance. However, since independent contractors are also eligible to apply for PPP loans it does not appear these will be eligible costs for the nonprofit organization paying the independent contractor.

I read where people making over \$100,000 per year are not eligible for the program. Are their costs excluded?

Individuals with a salary in excess of \$100,000 per year may be included in determining the average 12-month compensation paid as well as in determining what costs are eligible to be forgiven. However, an adjustment must be made to reduce the actual amount paid to the individual to equal \$100,000 per year.

For example:

- a person making \$126,000 per year would only count in the average 12-month period for \$100,000 per year, or an average of \$8,333.33 per month.
- If the compensation paid after the loan was received continued to be at \$10,500 per month, the amount eligible for the loan to be forgiven would be limited to \$8,333.33 per month.
- For the eight-week eligibility period, the employer would be responsible for \$2,166.67 per month and the forgiven loan would cover \$8,333.33 per month.

What can the loan proceeds be used for?

The loan is intended to cover:

- Payroll costs as defined above
- Additional payments made to tipped employees
- Costs to continue health care benefits
- Paid sick leave, medical or family leave
- Rent on buildings (real property) or equipment (personal property – like a copier lease)
- Utilities: electric, gas, water, phone, or internet

What documentation will be required to have the loan forgiven?

We are looking for additional guidance. Your banker will probably want payroll records for the eight-week period. Also, you will need to prove payments for health insurance, rent and utilities through invoices and possibly cancelled checks. You should expect that a nonprofit officer will need to certify under penalty of perjury that the information is true, accurate and complete.

How can the forgivable amount of the loan be decreased?

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If the average monthly full-time-equivalent (FTE) employees for the eight-week period after the loan proceeds are received is lower than the base period, then a percentage of the loan will not be forgiven.

- For example, assume the following:
 - Average monthly payroll for the base period was \$18,000 and a loan was made for \$45,000
 - $\$18,000 \times 2.5 = \$45,000$
 - Payroll costs during the eight-week period are \$40,000 and no one was paid over \$100,000 on an annual basis
 - No employees had their pay reduced by more than 25% as compared with the pay for the most recent full quarter ending 3/31/2020.
 - The nonprofit was established and operating before 2/15/2019.
 - Average monthly FTE during the eight-week period were 4 (2 full-time and 4 part-time working 50% of full-time hours)
 - Average monthly FTE during the period last year, 2/15/19 through 6/30/19 were 5 (2 full-time and 6 part-time working 50% of full-time hours)
 - The amount eligible to be forgiven is \$32,000
 - $\$40,000 \times (4 / 5) = \$32,000$
 - Assume also that rent and utilities were paid for \$2,500 per month for a total of \$5,000 during the eight-week period. Since these are eligible costs, the \$5,000 is forgiven.
 - The loan is forgiven for \$37,000. An \$8,000 loan must be repaid over a 2-year period with interest. No payment of interest or principal is due before six months, which may be extended to 12 months.

The nonprofit was forced to lay off employees after 2/15/20. These employees have been rehired before 6/30/20. How does that impact the computation of a forgivable loan amount?

Guidance suggests that the fact these employees, or new employees if that is the case, will be counted as a part of the employees during the eight-week period and there will be no reduction based on the FTE test. Your bank lending officer should receive instructions how this will be documented for the loan forgiveness application.

What if the nonprofit spends more than the amount of the loan on eligible costs and there is no reduction in the forgivable amount?

The maximum amount to be forgiven is the amount of the loan. The nonprofit will be responsible to pay any extra qualifying expenses from other donations or savings.

What is the interest rate that will be charged if the loan is not forgiven?

SBA guidance is the interest rate will be 0.5%.

The nonprofit does not have a sick pay or family leave pay policy. Because of the Families First Coronavirus Response Act, two employees received sick pay for 10



days during the eight-week period. Are these costs eligible for the refundable loan?

Yes, but the laws prohibit double dipping. There are payroll tax credits available to cover sick and family leave pay, subject to certain restrictions. The nonprofit cannot use the payroll tax credits if a PPP loan is made.

Disclaimer:

This information is for educational purposes only, is current as of April 2, 2020 and is subject to change without notice.

Neither the Community Foundation of the Florida Keys, Inc. nor its employees provide legal or tax advice. You should consult with your legal counsel and/or your accountant or tax professional regarding the legal or tax implications of any benefits or requirements of the CARES and Families First legislation on your organization.