



## **Cares Act - Paycheck Protection Program Loans (PPP)**

### **Executive Summary**

- PPP includes small businesses, including qualifying non-profit organizations
- This includes churches and church related organizations (according to Sen. James Lankford's office)
- Purpose is to help organizations keep their doors open and people employed
- Based on existing general business loan program of the Small Business Administration ("SBA")
- Will potentially make forgivable loans available to qualifying small businesses
- There is no exclusion for churches and other religious organizations according to information from the offices of Senators James Lankford and Marco Rubio (<https://www.rubio.senate.gov/public/cache/files/ac3081f6-14ae-4e6f-9197-172ede28badd/71AB6CB05A08E369E0D488A80B3874A5.faqs---paycheck-protection-program-faqs-for-small-businesses.pdf>),
- It is unclear at this time whether participation in this program may result in the borrower being considered a recipient of federal funds, which may cause the borrower to be subject to federal laws to which it would otherwise not be subject.
- Additional detail and information to be provided by SBA regulations – within 15 days of enactment of the CARES Act

### **Eligibility**

- Most non-profit organizations, that generally have less than 500 employees
- Includes churches and church related organizations (according to Sen. James Lankford's office) – CARES Act language does not exclude churches
- Select non-profit organizations with more than 500 employees may qualify

### **Lenders Loan Criteria Consideration**

- Was the borrower operational on February 15, 2020?
- Was the borrower paying salaries and payroll taxes?
- SBA affiliation rules will be applied to non-profit organizations – SBA generally determines whether organizations control or are controlled by another organization
- Local banks are charged with administering the loans related to PPP and are the contact point for all organizations wishing to apply

### **Borrowing Limits**

- Two and a half (2.5) times the average monthly payroll costs of the organization over the prior year March 2019-February 2020 (average of monthly payroll for the period of March 2019 through February 2020 X 2.5 = Maximum Allowable Loan)
- Excludes any annual compensation above \$100,000 for any person, prorated for February 15 through June 30, 2020.
- "Payroll costs" are defined as salary, hourly wages, group health care benefits (including insurance premiums); retirement benefits; and State or local tax assessed on the compensation; and payments for vacation, parental, family, medical, and sick leave; allowances for dismissal or separation (there is no language in the plan related to clergy housing allowance)



### **Use of Loan Proceeds**

- Salaries, hourly wages (excluding the prorated portion of any compensation above \$100,000 per year for any person)
- Mortgage interest and rent payments on property
- Utilities
- Interest on debt that existed as of February 15, 2020

### **Loan Terms**

- Maximum interest rate of 4%
- Mature no later than 10 years after determination of the amount
- Payments may be deferred for 6–12 months
- SBA is directed to issue guidance on the terms of this deferral
- No collateral or personal-guarantee requirements

### **Loan Forgiveness**

Forgiveness can occur to the extent that the proceeds have been used for the following costs incurred and paid during the 8-week period after the loan is made:

- Salaries, hourly wages, excluding the prorated portion of any compensation above \$100,000 per year for any person
- Mortgage interest (but not prepayments or principal payments) and rent payments, on mortgages and leases in existence before February 15, 2020
- Certain utilities, including electricity, gas, water, transportation, and phone and Internet access for service that began before February 15, 2020

### **Caveats on Loan Forgiveness**

- The amount forgiven is reduced based on failure to maintain the average number of full-time equivalent employees versus the period from either February 15, 2019, through June 30, 2019, or January 1, 2020, through February 29, 2020, as selected by the borrower.
- The amount forgiven is also reduced to the extent that compensation for any individual making less than \$100,000 per year is reduced by more than 25% measured against the most recent full quarter.
- Reductions in the number of employees or compensation occurring between February 15, 2020, and 30 days after enactment of the CARES Act will generally be ignored to the extent reversed by June 30, 2020.

**IMPORTANT DISCLAIMER:** *This document briefly summarizes provisions in the Coronavirus Aid, Relief, and Economic Security Act (“the CARES Act”) that could possibly be of interest to church plans, ministries and plan members. This summary reflects those CARES Act provisions as they are currently understood on March 30, 2020, without any agency guidance. This summary is for general information only. It is not a complete analysis and should not be relied upon as legal advice.*