By now most nonprofit leaders have heard about the Coronavirus Aid, Relief, and Economic Security Act or CARES (the Act), a $2.2 trillion Phase 3 COVID-19 emergency relief bill aimed at providing relief to the American people and businesses in response to the coronavirus outbreak.

For our sector, the Act contains several provisions applicable to nonprofit organizations. The available relief and the process for obtaining it will depend largely on your NPO's tax classification under Section 501(a) of the Internal Revenue Code (the "Code").

**For 501(c)(3) and 501(c)(19)** (veteran organizations) with 500 or fewer employees, which include full-time and part-time employees, that have been in existence since March 1, 2020, the Act provides for $349 billion of small business relief through federally backed loans called the "Paycheck Protection Program" (PPP).

The PPP broadens the usual SBA limitation from only for-profit businesses to include those NPO's organized under Section 501(c)(3) of the Internal Revenue Code. "Veteran organizations," as defined in section 501(c)(19), are also considered eligible under the PPP.

These forms of NPO's can receive the lesser of $10 million or 2.5 times the average total monthly payroll costs from the prior year with expedited loans of up to $1 million. You can get this loan quickly through approved banks, credit unions and some nonbank lenders.

Payments of principal, interest, and fees will be deferred for at least 6 months, but not more than 1 year, and interest rates are capped at 4%. The SBA will not collect any yearly or guarantee fees for the loan, and all prepayment penalties are waived. No personal guarantees are required to receive funds, no collateral needs to be pledged and this group of NPO's are not required to show that they cannot obtain credit elsewhere. These NPO's must certify that:

- The loan is necessary because of the uncertainty of current economic conditions;
- The funds will be used to retain workers, maintain payroll, or make lease, mortgage, and utility payments; and
- The NPO is not receiving duplicative funds for the same uses.

In addition, the SBA will not have recourse against any individual, shareholder, member, or partner of an eligible loan recipient for non-payment, unless the individual uses the loan proceeds for unauthorized purposes.

The loan must be used for the following types of expenses:

- Payroll costs - compensation to employees; payments for vacation, parental, family, or medical or sick leave; severance payments; payments required for group healthcare benefits (including insurance premiums), retirement benefits, and state and local employment taxes.
- Debt Service - interest payments on any mortgage obligations or other debt obligations incurred before February 15, 2020 (but not any payments or prepayments of principal).
- Facilities costs - rent and utilities.

The loans ***cannot be used*** for compensation of independent contractors and eligible payroll costs do not include annual compensation greater than $100,000 for any individual employee, compensation of employees with a principal place of residence outside the United States; or leave wages already covered by the Families First Coronavirus Response Act.

An important provision is that **PPP loans to NPO's are eligible for loan forgiveness** for 8 weeks of the eligible costs (as listed above) commencing from the origination date of the loan. The amount of loan forgiveness may be reduced if the organization reduces the number of employees as compared to the prior year, or if the employer reduces the pay of any employee by more than 25% as of the last calendar quarter. The NPO that re-hires workers that have been recently laid off as a result of the crisis will not be penalized for having a reduced payroll for the beginning of the relevant period.

The NPO can apply for loan forgiveness to their lenders by submitting required documentation and will receive a decision within 60 days. If a balance remains after the organization receives loan forgiveness, the outstanding loan will have a maximum maturity date of 10 years after the application for loan forgiveness.

Additional guidance is promised soon by the SBA on such matters as: how to apply for the loan and who to apply to for the loan.

**All Other Types of Nonprofit Organizations** such as 501(c)(4) (social welfare organizations) and 501(c)(6) (trade and professional associations) with 500 or fewer employees that were in existence at March 1, 2020 are provided emergency financial relief under the Economic Injury Disaster Loan (EIDL) grant program.

The existing EIDL program provides loans of up to $2 million at an interest rate of 2.75 percent for nonprofits. These loans may be used to pay fixed debts, payroll, accounts payable and other bills that can't be paid because of disaster impact.

The standard EIDL program which requires a personal guarantee, that the NPO be in operation for one year prior to the disaster and that the NPO be unable to obtain credit elsewhere have all been waived. And the SBA is now allowed to approve applicants for small-dollar loans solely their credit score or an alternative to determine an ability to repay.

Finally, 501(c)(3) or 501(c)(19) NPO's may apply for an EIDL grant in addition to a loan under PPP as long as the loans are not used for the same purpose.

Perhaps more significantly for NPO's in need of an immediate influx of funds, is that the NPO can receive a **$10,000 emergency advance** within three days after applying for an EIDL grant. If the application is denied, the NPO borrower is not required to repay the $10,000 advance. Emergency advance funds can be used for payroll, increased material costs, rent or mortgage payments, or repaying obligations that cannot be met because of revenue losses.

**Larger Entities with 500 to 10,000 Employees** can find financial relief through a new Stabilization Fund. While it does not provide for loan forgiveness it does mandate an interest rate of no more than 2.0 percent and does not accrue interest or require repayments for the first six months. To qualify, the NPO must retain or rehire at 90 percent of their staff at their full compensation.

**All entities** are allowed a refundable payroll tax credit of up to $5,000 for each employee on the payroll when certain conditions are met. To be eligible, an entity must have carried on a trade or business during calendar year 2020, and satisfy one of the following two tests:

- Have business operations at least partially suspended during the calendar quarter by order of a government authority limiting commerce, travel, or group meetings due to the pandemic; or,
- Have a reduction in revenue of at least 50 percent in the first quarter of 2020 compared to the first quarter of 2019.

For nonprofit organizations, the entity's whole operations must be taken into account when determining the decline in revenues and for 501(c)(3) and 501(c)(19) organizations funds employed under the PPP loans would not be eligible for these payroll tax credits.

**Benefits for Donors** to 501(c)(3) organizations are also provided by the Act as incentives to taxpayer. There is a new deduction for total charitable contributions of up to $300 made by an individual taxpayer. This is an “above the line” deduction so all taxpayers would be eligible to take the deduction, even those who use the standard deduction. The deduction would not apply to noncash gifts or to gifts contributed to donor advised funds. It would apply to contributions made in 2020 and therefore would be claimed on tax forms/filings next year.

In addition, for those individuals that itemize their deductions, the Act would suspend for 2020 the usual limit from the existing cap on annual contributions from 50 percent of adjusted gross income (AGI) or 60 percent for cash to 100 percent.

For corporations, the annual charitable contribution limit for 2020 which is usually 10 percent of AGI is increased to 25 percent and donations of food by corporations would go from 15 percent cap to 25 percent.

**For Our Next Steps** all of us should realize that there are not yet any federal rules, regulations or guidelines for most of these changes. Even forms and applications will need to be created or amended. Our government workers will need to be trained and some programs will require state action.

The good news is that many of the states have already come out with similar benefits and incentives and more states are likely to follow suit.

We all need to be tolerant and be certain we have advisors we can trust to ensure we can not only get the benefits available to us, but that we are doing the right things today to weather this storm, provide our constituencies with the goods and services they have come to expect from our sector and still be around to continue our good work when this is behind us.

The professionals at Raffa-*Marcum’s Nonprofit and Social Sector Group* are here to help. Just ask. And you can expect our conscientious monitoring of all events that effect our Sector and to get you the information and guidance you need to ensure the impact of your mission. Stay tuned.

Tom Raffa