**Why PCOs must act fast on the CARES Act Paycheck Protection Program**

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law on March 27. The act includes a relief program for employers known as the Paycheck Protection Program (PPP).

PPP applications for corporations, LLCs and partnerships start Friday, April 3. Sole proprietorships and independent contractors may start applying Friday, April 10. Funds are limited under the current law to $350 billion, but many pundits believe the funds will run out within a day or two – never making it to April 10 for the sole proprietorships and independent contractors. Treasury Secretary Steve Mnuchin has said he and the president will go back to Congress for more funds if the program is depleted quickly, but there are no guarantees. **Therefore, we recommend that you get with your bank ASAP, making sure they know you will be applying on Friday.**

**How do you get the money?**

The funds will be guaranteed and governed by the Small Business Administration (SBA) and lent by local banks who are SBA lenders. These banks will be processing the applications. **Make sure you have access to such a bank**.

**What’s available to employers with 500 or fewer employees?**

*Loan amount per business – up to $10 million*

With a rate no higher than 4 percent, most businesses can borrow the lesser of $10 million or 2.5 times their average total monthly payroll for the year prior to the date of the loan. For companies that were not in business from Feb. 15, 2019 through June 30, 2019, the company’s monthly payroll costs are calculated over the period Jan.1, 2020, through Feb. 29, 2020.

Loan payments, including principal, interest and fees, may be deferred for up to one year, and the SBA has no recourse against any borrower for nonpayment of the loan, except where the borrower has used the loan proceeds for a nonallowable purpose.

*Use of loan for qualified costs only*

Businesses can only use the PPP loan for various qualified costs related to employee compensation and benefits, including 1.) payroll costs, which is defined to include, among other things, payment for vacation, parental, family, medical or sick leave, continuation of health care benefits, and employee compensation, 2.) mortgage interest obligations, 3). rent, 4). utilities and 5). interest on debt incurred *before* Feb. 15, 2020.

*Certain qualifications apply*

To qualify for a PPP loan, a business must 1). have been in operation since Feb. 15, 2020, 2). have paid salaries, payroll taxes or 1099 nonemployee compensation, and 3). meet size limitations (e.g., 500 or less employees).

**What PPP loan forgiveness is available?**

Amounts borrowed under the PPP are eligible for forgiveness equal to payments made during the eight-week period starting from the date of loan origination, for payroll costs and mortgage interest, rent and utility payments.

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**How can layoffs reduce the amount of loan forgiveness**?

To incentivize companies to retain employees, the amount of loan forgiveness may be reduced due to any employment reduction by the employer. For most employers, if their level of employment during this covered period (i.e., the average monthly employment from Feb. 15, 2020 to June 30, 2020) is not at least equal to their pre-existing employment level, the amount of the loan forgiveness will be reduced by a proportionate amount.

**What should borrowers expect?**

Borrowers must complete an application form that requires them to enter monthly payroll amounts, including:

1. Payment of salaries or wages;
2. Payment of cash tip or equivalent;
3. Payment for vacation, parental, family or sick leave;
4. Allowance for dismissal or separation;
5. Payments required for provision of group health care benefits including insurance premiums;
6. Payment or any retirement benefit;
7. Payment of state or local tax assessed on compensation of employees; and
8. Payments of any compensation to a sole proprietor or independent contractor that is a wage, commission or similar compensation that is not more than $100,000 per year prorated for a month.

Amounts may not include:

1. Compensation to an individual employee in excess of $100,000 as prorated for a month.
2. Taxes imposed or withheld under chapters 21, 22 or 24 of Internal Revenue Code of 1986 during that period.
3. Any compensation of an employee whose principal place of residence is outside of the U.S.
4. Qualified sick leave wages for which credit is already allowed under section 7001 of the Families First Coronavirus Response Act.

Borrowers will provide the number of employees employed from Feb. 15, 2019, through June 30, 2019, and attest that:

1. Business was a going concern on Feb. 15, 2020, and had employees for whom the borrower paid salaries and payroll taxes or paid independent contractors.
2. These estimates are accurate.
3. They will use the proceeds from the loan amount to only pay the following expenses:

* Payroll costs, especially bringing the same number of employees back to full complement during the 60 days;
* Costs related to the continuation of group health care benefits;
* Employee salaries, commissions or similar compensation;
* Mortgage payments;
* Rent (including under a lease agreement);
* Utilities; and
* Interest on any other debt obligations that were incurred prior to Feb. 15, 2020 (note proceeds may not be used to pay down principal or pay loans in full).

1. In 60-90 days, borrowers will apply for loan forgiveness.
2. They understand that the loan proceeds will be deposited into their account at their lender and that they will use that account to pay the above costs for the next 60 days.
3. They understand that if they use the proceeds for different purposes or do not seek forgiveness that they are personally guaranteeing this loan and that this will convert to a business loan with a term to be determined by the lending institution.

That the borrower certifies that:

1. The uncertainty of current economic conditions makes necessary the loan request to support their ongoing operations.
2. The funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments and utility payments.
3. They will maintain an average monthly number of full-time equivalent employees (as defined in section 45R(d)(2) of the Internal Revenue Code of 1986) during the covered period that is not less than the average monthly number of full-time equivalent employees during the applicable period.

Finally, the borrower signs the note and funds are deposited into their account within 24 hours.