



# Association Advocacy in COVID-19: The CARES Act and Future Legislation

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# Historical Perspective

Previous two national emergencies were met with growth in government and more centralized authority at the federal level

- After 9/11
  - New Department of Homeland Security and Office of the Director of National Intelligence
  - Massive spending on security and defense infrastructure
- 2008 Recession
  - Business relief -- Too little and too late
  - Individuals -- \$600 stimulus checks dribbled out; tax rebates too
  - Dodd-Frank Act's new regulatory authorities
  - Uneven economic recovery
- McConnell, Schumer, Pelosi were all in Congress, two as leaders



# The Money

- CARES Act enacted on March 27, 2020 with a \$2 trillion in stimulus funds
- More funding already needed
  - By April 17, the Small Business Administration suspended new loans for two major programs: Paycheck Protection Program (“PPP”) and Economic Injury Disaster Loans and Grant program (“EIDL”)
- But more appropriations will restart those programs
- Access challenges due to bank Know Your Customer regulations



# Overview of CARES Act Programs: Paycheck Protection Program

- Only qualifying nonprofits are **501(c)(3)** and **501(c)(19)** organizations < **500 employees**
- Loan amount determined by payroll costs – generally 2.5 X average monthly payroll costs for prior one-year period, up to \$10 Million
- Covers payroll costs incurred thru June 30, 2020 (employee salaries, paid leave, insurance premiums) + mortgage, rent, and utility payments
- Principal forgiven for the first 8-week period of loan if spent on covered costs
  - Forgiveness excludes cash compensation > \$100,000 annualized
  - No more than 25% of forgiveness may be for non-payroll costs.



# Overview of CARES Act Programs: Paycheck Protection Program (cont'd)

- Must certify that PPP loan “necessary ... to support ongoing operations”
- Forgiveness reduced proportionally for salary reductions of 25%+ or decrease in full-time employees
- Forgiveness restored if salaries restored and employees rehired by 6/30/2020
- Remaining balance payable over a two-year term at 1% fixed interest rate



# Overview of CARES Act Programs: Employee Retention Tax Credit

- **Any 501(c) tax-exempt organization** eligible unless receiving PPP loan
- Two ways to qualify:
  - 50% decline in gross receipts during calendar quarter vs. same quarter in 2019
  - **Fully or partially suspended operations** in any 2020 quarter due to COVID-19 governmental orders (partially suspended = operations continue but not at “normal capacity”)
- Payroll tax credit of up to 50% of employee qualified wages paid in covered quarter – **up to \$5,000 tax credit per employee**
- Covers March 13 – December 31, 2020

# Overview of CARES Act Programs: Employee Retention Tax Credit (cont'd)

- Tax refund if credit exceeds payroll taxes due that quarter
- If **100+ employees**: credit covers wages **only for employees not providing services** to employer during that quarter (e.g., employees on paid leave)
- If **< 100 employees**: credit covers qualified wages of **all employees** that quarter
- Qualified wages = salaries + allocated health plan expenses
- Wages for FFCRA credits excluded



# Overview of CARES Act Programs: Economic Injury Disaster Loan & Grant

- Application **available to any 501(c) tax-exempt organization** with < 500 employees
- Statute says covers lost revenues of up to \$2 Million
  - In practice: limited to \$25k
- **\$10k advance treated as grant** if used for covered expenses
  - Covered expenses = paid leave, maintaining payroll, increased costs due to supply chain disruption, mortgage or lease payments, or repaying obligations that cannot be met due to revenue loss
  - SBA says limiting grant to \$1k per employee, so less for small orgs
- Not available to entities “**primarily** engaged in political or lobbying activities”
  - Longstanding regulatory limitation (13 CFR § 123.301(h))





# Overview of CARES Act Programs: Economic Injury Disaster Loan & Grant (cont'd)

- Interest rate for nonprofits of 2.75%.
- Waives the requirement for applicants to demonstrate that they are unable to obtain credit from other sources
- Presumably otherwise subject to existing SBA EIDL regulations at 13 CFR § 123.300:
  - **Must certify that “unable to meet obligations as they mature or to pay ordinary and necessary operating expenses”**
  - **Must certify that “have used all reasonably available funds”**



# Overview of CARES Act Programs: Unemployment Insurance Expansion

## **Three initiatives for states to extend UI to individuals affected by COVID-19:**

- Benefit eligibility expanded from 26 to 39 weeks,
- Pandemic Unemployment Assistance adds \$600/week through 7/31/2020
- Independent contractors, self-employed, gig economy workers also eligible

## ***Different rules in different states, changing rapidly. Some states:***

- Waive waiting periods
- Grant benefits for reduced hours or furloughs
- Waive active job hunt requirement
- Waive increase in employer charges for COVID-19 layoffs



# ASAE Advocacy in the CARES Act

- Association advocacy beginning in early March when Larry Kudlow, Director, National Economic Council, made comments about targeted aid for travel and tourism.
- Associations were initially included in the Paycheck Protection Program, until a new version of the CARES Act on Sunday, March 22 changed the definition of nonprofit to Section 501(c)(3) nonprofits only.
- ASAE launched a grassroots campaign for inclusion. Associations professionals from around the country contacted their Members of Congress. Over 10,000 emails to the Hill were sent that week.



# Grassroots Campaign: Congress is hearing from associations!

- In April, ASAE and more than 4,300 organizations across the country sent a letter to Congress and the Administration to once again call for critically needed support for associations amid COVID-19.
- Congressional Video Town Hall with Rep. Ami Bera (CA-7) and Rep. Stephanie Murphy (FL-7).
- We continue to educate Congress about the financial stress the COVID-19 pandemic has created for associations at the same time many of our organizations are trying to assist our own members to obtain emergency aid.



# How You Can Help

- Write Congressional leadership and your legislators
- ASAE template language
- Customize as much as possible
- Share on social and tag your Members of Congress



# 2020 Political Pressures

**Bottom line:** Each side wants to take credit for what's working and blame the other side for bungling what's not, including:

- Are federal funds being targeted to the most in need?
- Have we prioritized the sectors of our economy most in need?
- Are we spending enough?
- How are we prioritizing the supply of medical/safety equipment?
- How do we decide where to reopen and when?
- Who and where to test?



## What's Next?

- Interim bill to add more funds
  - \$300B for PPP but bankers asking for more, maybe c6s are added in
  - Hospitals get their own pot of money
  - Maybe the Federal Reserve's \$600B Main Street Lending Program is addressed to make clear that nonprofits can participate
- Oversight
- CARES 2.0
  - Maybe state/local governments get their own pots of money





# Thank you for participating!

If you have any suggestions for additional COVID –  
19 webcast topics, please email them to Karen  
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