

# WEF MA Opportunities for COVID-19 Assistance

April 14, 2020

**Claudio H. Ternieden, Sr. Director of Government Affairs**  
**MODERATOR**

# Speakers

- **Fredric P. Andes**, Partner in the Chicago and Washington, D.C., offices of Barnes & Thornburg and leader of the firm's water team.
- **Matthew Agnew**, Attorney in Barnes & Thornburg's Dallas office, helping counsel firm clients through the financial assistance packages available for small businesses and non-profits during the COVID-19 pandemic.
- **Jason Meyers**, Partner and finance specialist at Barnes & Thornburg with a depth of knowledge regarding SBA loans and financing options for businesses and non-profits struggling with the COVID-19 pandemic.
- **Penny Young**, Chief Administrative Officer and Chief Financial Officer at Water Environment Federation, a Certified Public Accountant, leading WEF's financial actions in response to the COVID-19 pandemic.

# About the meeting...

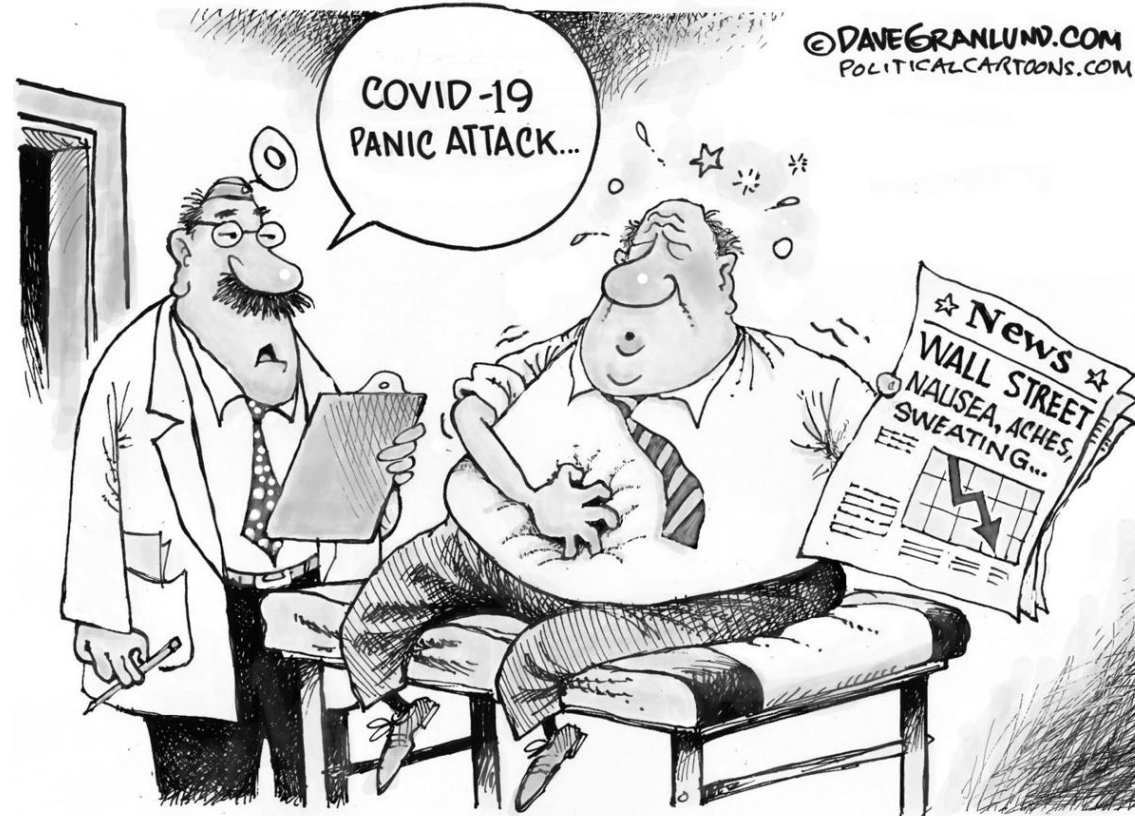


# What options should Member Associations consider?

- Should I apply for a loan from the government?
- Will I qualify for loan forgiveness?
- What are your employer obligations under The Family First Coronavirus Response Act?

# Don't Panic—There Are Options

- CARES Act
  - SBA Paycheck Protection Program Loans
  - SBA Economic Injury Disaster Loan
  - Work Share Program
- Family First Coronavirus Response Act



# CARES Act Work Share Program

- States with short time compensation programs allow employers to reduce hours for its workforce, and the state's unemployment compensation programs will cover a portion of the reduced hours. For example, an employee whose hours have been reduced by 25% will be entitled to an unemployment compensation claim equal to 25% of the employee's weekly unemployment benefit.
- A 25% reduction in compensation does not equal the same amount of funds under the 25% unemployment benefit because the unemployment benefit does not equally replace an employee's compensation.

# Family First Coronavirus Response Act

- Effective April 1, 2020
- The act applies to private businesses with fewer than 500 employees and all public employers.
- Eligible employees are those covered by Title I of FMLA. The employee must have worked for the employer for at least 30 days. Employees shall provide the employer with such notice of leave as is practicable.
- **EXCLUSION AND APPLICABILITY:** The Act POSSIBLY exempts small businesses with fewer than 50 employees if compliance with the requirements would jeopardize the viability of the business as a going concern. (CAUTION: DOL encourages employers to be judicious in using the provider exception).

# Family First Coronavirus Response Act Employer Requirements

- *Two weeks (up to 80 hours) of **paid sick leave** at the employee's regular rate of pay when the employee is subject to self-quarantine or isolation due to COVID-19 symptoms or diagnosis; or*
- *Two weeks (up to 80 hours) of **paid sick leave** at two-thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine, or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19; or*
- *Up to an additional 10 weeks of **paid expanded family and medical leave** at two-thirds the employee's regular rate of pay where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.*
- Eligible employer tax credits will fully reimburse employers for all qualifying sick and child-care leave payments mandated under the Families First Coronavirus Response Act by reducing payroll taxes owed to the IRS.



# Economic Injury Disaster Loan – Eligibility and Application

- This program is for any small business (as defined by the SBA), private non-profit organization or 501(c)(19) veterans organizations affected by COVID-19.
- Apply online at [SBA.gov/disaster](https://www.sba.gov/disaster)

# Economic Injury Disaster Loan – Loan Parameters

- The maximum EIDL is a \$2 million working capital loan at a rate of 3.75% for businesses and 2.75% for nonprofits with up to a 30-year term. Payments on Coronavirus EIDL loans are deferred for one year.
- Up to \$200,000 can be approved without a personal guarantee. Approval can be based on a credit score and no first-year tax returns are required. Borrowers do not have to prove they could not get credit elsewhere.
- No collateral is required for loans of \$25,000 or less. For loans of more than \$25,000, general security interest in business assets will be used for collateral instead of real estate. The borrowers must allow the SBA to review its tax records.

# Economic Injury Disaster Loan ADVANCE

- Eligible applicants for an EIDL can receive up to a \$10,000 emergency grant within three days of application (through Dec. 31).
- There is no obligation to repay the grant. To receive the \$10,000 emergency grant, it is not necessary to have an approved EIDL loan. However, if you are able to secure a PPP loan, the \$10,000 grant will be subtracted from the forgiveness amount.
- **IMPORTANT NOTE: YOU CANNOT USE A PPP LOAN AND AN EIDL LOAN FOR THE SAME PURPOSE.**

# Paycheck Protection Program Loans

## PAYCHECK PROTECTION PROGRAM LOANS SUMMARY

LOAN AMOUNT	Small businesses with less than 500 employees (including sole proprietorships, independent contractors and self-employed persons), 501(c)(3) non-profit organizations, or 501(c)(19) veterans organizations affected by COVID-19 are eligible for a loan equal to 2.5 times their payroll up to \$10m.
USE OF LOAN PROCEEDS	Entities receiving funds may use it for payroll costs and other employee compensation, group healthcare premiums, mortgage interest payments, rent, utilities, and interest on any other debt obligations that were incurred prior to Feb. 15, 2020.
AMOUNT FORGIVEN	The loan can be forgiven in an amount equal to payroll costs, mortgage interest, rent, or utility costs during the eight weeks following the origination of the loan.
HOW TO APPLY	Any existing SBA lender, federally insured depository institution, federally insured credit union, or Farm Credit System institution that is participating in the 7(a) Loan Program can take your application for funds. The banks started accepting applications on April 3, 2020.

# Paycheck Protection Program Loan Forgiveness

- You will owe money when your loan is due if you use the loan amount for anything other than payroll costs, mortgage interest, rent, and utilities payments over the 8 weeks after getting the loan. Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.
- You will also owe money if you do not maintain your staff and payroll.
  - Number of Staff: Your loan forgiveness will be reduced if you decrease your full-time employee headcount.
  - Level of Payroll: Your loan forgiveness will also be reduced if you decrease salaries and wages by more than 25% for any employee that made less than \$100,000 annualized in 2019.
  - Re-Hiring: You have until June 30, 2020 to restore your full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020.

# Paycheck Protection Program Loans

- Who should apply?
  - Employers whose employees are continuing to receive FTE compensation and benefits
  - Businesses struggling to remain afloat during the COVID-19 crisis
- Who should not apply?
  - Entities with statistically significant reductions in workforce
  - Entities without employees
  - Entities without any expected losses
- **HURRY NOW**—Only \$349B in the original fund, but Congress is discussing a potential \$250-500B increase.

# PPP Loan Application

## Documentation Required

- ✓ SBA PPP Loan Application
- ✓ Bank Loan application – most challenging component, not all banks handle SBA loans or are yet ready to do so
- ✓ Payroll and related cost documentation – verifiable through independent source

# SBA PPP Loan Application

<https://www.sba.gov/document/sba-form--paycheck-protection-program-ppp-sample-application-form-0>

**Paycheck Protection Program Borrower Application Form**

Check One:  Sole proprietor  Partnership  C-Corp  S-Corp  LLC (member-owned)  Single self-employed individual (Sole Proprietor)  Multiple self-employed individuals (Partnership)  Non-LLC trust or estate  Tribal business (see 750(b)(2)(C) of Small Business Act)  Other

Business Legal Name: \_\_\_\_\_ SBA or Trade Name if Applicable: \_\_\_\_\_

Business Address: \_\_\_\_\_ Business TIN (SSAN, EIN): \_\_\_\_\_ Business Phone: \_\_\_\_\_

Principal Contact: \_\_\_\_\_ Email Address: \_\_\_\_\_

Average Monthly Payroll: \$ \_\_\_\_\_ (2.5 x REEL, Not of Advance if Available) Number of Employees: \_\_\_\_\_

Purpose of the loan:  Payroll  Mortgage Interest  Other  Other (specify): \_\_\_\_\_

**Applicant Ownership**

List all owners of 1% or more of the equity of the Applicant. Attach a separate sheet if necessary.

Owner Name	Title	Ownership %	TIN (SSAN, EIN)	Address

**Qualifications (If or 2) being requested "Yes" if the loan will be requested**

Question	Yes	No
1. In the Applicant or any owner of the Applicant, present, former, intended, personal or business, declared or hidden, voluntarily excluded from participation in the transaction by any Federal department or agency, or presently involved in any bankruptcy?	<input type="checkbox"/>	<input type="checkbox"/>
2. Has the Applicant, any owner of the Applicant, or any business owned or controlled by any of them, ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted in the last 7 years and cannot pay a loan to the government?	<input type="checkbox"/>	<input type="checkbox"/>
3. In the Applicant or any owner of the Applicant or owner of any other business, or late common management with any other business? If yes, list all such businesses and describe the relationship on a separate sheet identified as addendum A.	<input type="checkbox"/>	<input type="checkbox"/>
4. Has the Applicant received an SBA Economic Injury Disaster Loan between January 31, 2020 and April 3, 2020? If yes, provide details on a separate sheet identified as addendum B.	<input type="checkbox"/>	<input type="checkbox"/>

**Collateral (If or 2) are requested "Yes" if the loan will be requested**

Question	Yes	No
5. In the Applicant (if an individual) or any individual owning 1% or more of the equity of the Applicant subject to an addition, current delinquency, assignment, or other issue by which Federal interest charges are brought in any jurisdiction, or presently incumbered, or on probation or parole?	<input type="checkbox"/>	<input type="checkbox"/>
6. Within the last 7 years, for any reason, has the Applicant (if an individual) or any owner of the Applicant (1) been convicted of a Federal crime; (2) placed on probation; (3) placed on parole; or (4) been placed on any form of parole or probation (including pretrial release)?	<input type="checkbox"/>	<input type="checkbox"/>
7. In the United States the principal place of residence for all employees of the Applicant included in the Applicant's payroll submission sheet?	<input type="checkbox"/>	<input type="checkbox"/>
8. In the Applicant a business that is listed in the SBA's Franchise Directory?	<input type="checkbox"/>	<input type="checkbox"/>

SBA Form 3483 (04/20)

**Paycheck Protection Program Borrower Application Form**

**By Signing Below, You Make the Following Representations, Authorizations, and Certifications**

**CERTIFICATIONS AND AUTHORIZATIONS**

I certify that:

- I have read the statements included in this form, including the Statements Required by Law and Executive Order, and I understand them.
- The Applicant is eligible to receive a loan under the rules in effect at the time this application is submitted that have been issued by the Small Business Administration (SBA) implementing the Paycheck Protection Program under Division A, Title I of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (the Paycheck Protection Program Risk).
- The Applicant (1) is an independent contractor, eligible self-employed individual, or sole proprietor or (2) employs no more than the greater of 500 or employees or, if applicable, the size standard in number of employees established by the SBA in 13 C.F.R. 121.201 for the Applicant's industry.
- I will comply, whenever applicable, with the civil rights and other limitations in this form.
- All SBA loan proceeds will be used only for business-related purposes as specified in the loan application and consistent with the Paycheck Protection Program Risk.
- To the extent feasible, I will purchase only American-made equipment and products.
- The Applicant is not engaged in any activity that is illegal under Federal, state or local law.
- Any loan received by the Applicant under Section 7002 of the Small Business Act between January 31, 2020 and April 3, 2020 was for a purpose other than paying payroll costs and other allowable loan uses under the Paycheck Protection Program Risk.

The Applicant who are individuals: I authorize the SBA to request criminal record information about me from criminal justice agencies for the purpose of determining my eligibility for program authorized by the Small Business Act, as amended.

**AUTHORIZATIONS**

The authorized representative of the Applicant must certify in good faith to all of the below by including next to each one:

- The Applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC.
- Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.
- The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Risk. I understand that if the funds are knowingly used for unauthorized purposes, the Federal government may hold me legally liable, such as for charges of fraud.
- The Applicant will provide to the Lender documentation verifying the number of full-time equivalent employees on the Applicant's payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight-week period following the loan.
- I understand that loan forgiveness will be provided for the size of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities, and not more than 25% of the forgiven amount may be for one-person costs.
- During the period beginning on February 15, 2020 and ending on December 31, 2020, the Applicant has not and will not receive another loan under the Paycheck Protection Program.
- I further certify that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects. I understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 USC 1361 and 371 by imprisonment of not more than five years and a fine of not more than \$1,000,000, under 18 USC 1017 by imprisonment of not more than five years and a fine of not more than \$5,000, and, if submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and a fine of not more than \$1,000,000.
- I acknowledge that the lender will confirm the eligible loan amount using required documents submitted. I understand, acknowledge and agree that the lender can access any information that I have provided with SBA's authorized representative(s), including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA policies.

Signature of Authorized Representative of Applicant \_\_\_\_\_ Date \_\_\_\_\_  
Print Name \_\_\_\_\_ Title \_\_\_\_\_

SBA Form 3483 (04/20)



# Loan Documentation

General Information for application

- Audited Financial Statements
- Current Financial Statement
- Tax Return
- Board Resolution approving the loan
- Certification of Good Standing (state)
- Articles of Incorporation
- Organization Bylaws

# Loan Documentation

## Payroll & Related Information

- 2019 Payroll Reports from Vendor, possibly 2020 reports as well (\$100K salary exclusion required)
- 941 Quarterly Returns – last 4 quarters
- Employee Benefits paid by Employer
  - Health, Dental, Vision Insurance
  - Life Insurance
  - AD&D Insurance
  - State Unemployment Insurance
  - Other?

# In Closing...

**WE'RE**  
*in this*  
**TOGETHER**

Your contact at WEF:  
Lisa Ruane,  
[lruane@wef.org](mailto:lruane@wef.org)