Update 6/8/2020

Updates on the PPP Loan Program, June 2020

The President has signed the House Bill H.R. 7010 called the Paycheck Protection Flexibility Act relating to PPP Loans into law as of last Friday, June 5, 2020. It addresses the following:

1. Loan maturity – PPP loan minimum maturity was extended from two years to five years.

2. Covered period – The definition of the covered period, for forgiveness, can be changed to begin on the date funds are received and end on the earlier of (a) 24 weeks later or (b) December 31, 2020. The current definition provides for eight weeks, which is still an option under new Section 1106(l).

3. Limited forgiveness reductions & timing to restore – Under the CARES Act a borrower can avoid reductions to PPP loan forgiveness based on relative FTE reductions and compensation reduction to those making less than $100,000 by more than 25% by restoring on or before June 30, 2020 the FTE count reductions (by number) or in any salary reductions (to the same people by rate) that occurred during the period February 15, 2020 through April 26, 2020. The June 30, 2020, date can be extended to December 31, 2020, for the full-time equivalents test only and a new exception would apply if a borrower (a) is able to document (i) an inability to rehire individuals who were employees on February 15, 2020 and (ii) an inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020; or (b) is able to document an inability to return to the same level of business activity as before February 15, 2020, due to compliance with requirements established or guidance issued by the Secretary of HHS, the Director of the CDC, or OSHA during the period beginning on March 1, 2020, and ending December 31, 2020.

4. 75% payroll requirement – The SBA imposed a requirement that no less than 75% of the PPP loan proceeds be used for “payroll costs” (as defined in the CARES Act). One of the three alternative limits to loan forgiveness (and the lowest is the one to be used) is the spend divided by 75%. The proposed legislation changed the payroll requirement to 60%.

5. Payroll tax deferral – A borrower that requests loan forgiveness becomes ineligible for the payroll tax deferral provision of the CARES Act once loan forgiveness is approved by the lender. HR 7010 removes this caveat and allows a PPP borrower to utilize the payroll tax deferral regardless of loan forgiveness.

We believe most of the parishes have made decisions and have used the loans, assuming they would use it within the original 8 weeks of the covered period or the alternative payroll covered period. In an effort to make sure that everyone is on track with these loans, I want to point out what we think you should be doing at this time:

- Covered Period Designation
  Decide if you will be using the original covered 8 week period of the loan which starts the date of the loan funding. Based on subsequent rulings, you can choice to utilize the alternative payroll covered period. This alternative payroll covered period would begin the first day of the next pay period after the loan funding date.

EXAMPLE: Loan was funded on May 1, 2020. The original 8 week covered period would run from May 1, 2020 to June 25, 2020. If your pay date was 5/8/20, you would begin using the payroll as of that date.

The Alternate Payroll Covered Period would begin on May 10, 2020 which is the first day of the next payroll period after the loan funding date. The alternative payroll covered period would be May 10, 2020-July 4, 2020. You would begin using payroll dated May 22, 2020 – July 3, 2020.

- PPP Loan Forgiveness Application

The new PPP Loan Forgiveness Application states that an entity can use any payroll expenses that are **PAID OR INCURRED** during the covered period or the alternative payroll covered period. This wording allows the use of a fifth payroll period to be used from the PPP loan proceeds if the next payroll period after the loan period is for payroll incurred within the covered period as long as they are paid in the very next payroll.

EXAMPLE: Covered period is 5/1/20-6/25/20. Parish payrolls paid on 5/8/20, 5/22/20, 6/5/20, 6/19/20 and 7/3/20 can be used against the loan proceeds. Even though the 7/3/20 is paid outside of the covered period, the wages paid on this date were INCURRED during the covered period.

- FTE Calculation/Safe Harbor

A safe harbor exemption exists for certain borrowers from the loan forgiveness reduction based on FTE employee levels. Specifically, the Borrower is exempt from the reduction in loan forgiveness based on FTE reductions if both of the following conditions are met: (1) the Borrower reduced its FTE employee levels in the period beginning Feb. 15, 2020 and ending April 26, 2020 and (2) the Borrower restored its FTE employee levels by no later than June 30, 2020 to its FTE employee levels in the Borrower's pay period that included February 15, 2020.

We recommend that you review your FTE employee levels at February 15, 2020 and verify that you have returned your FTE employee levels to the same level and will continue to maintain this level until June 30, 2020 or you should ensure that your FTE employee levels are returned to the Feb 15, 2020 by June 30, 2020.

If your FTE employee levels did not change from 2/5/15-4/26/20, you will need to calculate your average FTE levels as required by the forgiveness application.

I have developed a simple spreadsheet to help you track your expenses based on the costs you have incurred up to this point to help determine if you are on track to achieve the minimum 75% of payroll costs required to maximize the loan. The spreadsheet is named Parish PPP Loan Utilization Summary. I would also recommend that you calculate your FTE employee levels at Feb 15, 2020 to see if they have been restored to that same level at this time or by June 30, 2020 at the latest.

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If you would like the Diocese to calculate your 2/15/20 and current FTE Employee levels, please let us know. We can calculate this and your current FTE employee levels to verify they have been restored to the necessary levels to obtain maximum forgiveness.

The Diocese is also working on developing a standard reporting package for parish payroll (lay and clergy) and retirement expenses that can be used for submission for the parish loan forgiveness applications. We will keep you updated as these are available.

If anyone would like help in evaluating where they are with this program through the June 5, 2020 payroll, please email us at ebartoli@dioceseofscranton.org. We can update your spreadsheets and provide feedback if we think any changes are necessary to optimize your loan.