



May 14, 2020

The Honorable Jovita Carranza
Administrator
Small Business Administration
409 Third Street SW
Washington, DC 20416

RE: Comments in Response to SBA Notice of Interim Final Rules "Business Loan Program Temporary Changes; Paycheck Protection Program," SBA-2020-0015 (April 15, 2020)

Dear Madam Administrator:

On behalf of the North Carolina Center for Nonprofits, I am writing to submit these comments in response to SBA Notice of Interim Final Rules "Business Loan Program Temporary Changes; Paycheck Protection Program" (SBA-2020-0015). The Center is a 501(c)(3) public charity with more than 1,400 nonprofit members serving all 100 counties of North Carolina. The Center fully supports the [comments submitted by the National Council of Nonprofits](#). Specifically, we agree with the nine recommendations in those comments:

- **Eligibility:** Expand nonprofit access to "alternative size standards" on equal basis as for-profit businesses and agricultural concerns.
- **Calculating Maximum Loan Amounts:** Appreciation for recognizing unique nature of nonprofit accounting and documentation.
- **Maturity Date:** Reject decision to impose a two-year maturity date as based on an unrealistic expectation of economic recovery and replace with a longer maturity date.
- **"First-Come, First Served" Promise:** Delete Question M and the answer ("yes") as false given the extensive reports of smaller nonprofits and businesses being forced to the back of the line as lenders gave priority to preferred customers in violation of the Interim Final Rule.
- **Need for Nonprofit PPP Data:** Immediately publish state-by-state and national data on nonprofit applications, loans granted, loan amounts and averages, and more.
- **Payment of Principal and Interest:** Extend due date for first payments of principal and interest to one year, recognizing that the proposed start date of six months will occur for most borrowers at a time when scientists expect a second wave of COVID-19 cases and disruptions.
- **Loan Forgiveness:** Reject the "75%/25%" payout rule as arbitrary, capricious, and contrary to the will of Congress.
- **Certifications:** Alter the good-faith certification of "necessity," delete reference to the "75%/25%" payout rule, and clarify that payments on pre-existing debt are forgivable.
- **Need for Nonprofit-Specific Guidance:** Issue guidance providing clarity on unique questions related to charitable nonprofit operations, such as "ownership," applicability of "alternative size standards," and impact of government grants and contracts.

Based on feedback from North Carolina nonprofits that have applied for, or received, Paycheck Protection Program (PPP) loans, the Center offers these additional insights on a few of the comments and suggestions offered by the National Council of Nonprofits.

1. **Eligibility.** The Center has heard concerns from nonprofits with more than 500 employees that the CARES Act does not provide access to immediate financial assistance since they are eligible for neither the PPP nor the Main Street Lending program. In particular, some nonprofits have noted that they have more than 500 total employees but fewer than 500 full-time equivalent employees. These organizations and other larger nonprofits would likely qualify for the PPP if charitable nonprofits could use the “alternative size standard” that is applicable to small business concerns. The Center encourages the SBA to expressly allow charitable nonprofits to use this “alternative size standard” and to exercise the greatest possible flexibility in allowing nonprofits with more than 500 employees to be eligible for PPP loans.
2. **Need for Nonprofit PPP Data.** The Center has heard from many nonprofits that some lenders appear to have prioritized the PPP applications of for-profit businesses over those of nonprofits. If true, this is very troubling. It would be extremely helpful for the SBA to publish data comparing the number of PPP applications, number of loans issued, and average loan amounts of nonprofit and for-profit loan applicants. It would be even more helpful if the SBA could publish this data by state so nonprofits and policymakers could assess whether there is inequitable treatment of charitable organizations in some or all states.
3. **Certifications.** As the SBA has begun to provide guidance and government officials have made public statements about the certification of necessity, nonprofits are struggling to understand the evidence of economic distress they need to demonstrate to feel comfortable making this certification in good faith. The safe harbor for borrowers with loans of less than \$2 million in Question 46 of the SBA’s Frequently Asked Questions is helpful for many nonprofits, but further guidance would be helpful for charitable organizations with larger loans. North Carolina nonprofits have suffered a variety of types of economic harm from COVID-19, including:
 - a. loss of earned income (e.g. admission fees for museums and arts organizations, thrift store sales, childcare fees);
 - b. increased costs in providing services remotely;
 - c. need to provide new types of services to ensure that organizations’ tax-exempt missions are being accomplished;
 - d. loss of access to volunteers to help with service delivery; and
 - e. increased need for essential services (e.g. food, health care, housing assistance) without corresponding funding increases (and, in many cases, with reductions in revenue).

The Center believes that all of these types of economic harm, among others, are valid reasons for demonstrating the necessity of a PPP loan. However, it would be extremely helpful for the SBA to provide clearer guidance on the types of nonprofit-specific economic distress that are adequate to make the certification of necessity in good faith. The Center also strongly encourages the SBA to be understanding that the vast majority of nonprofits seeking PPP loans are making this certification in good faith based on the best available evidence of actual or prospective economic harm due to COVID-19 and that nonprofits’ circumstances are evolving as the crisis and its impact continue to evolve.

4. **Need for Nonprofit-Specific Guidance.** Many North Carolina nonprofits have expressed confusion about specific questions on the application form (e.g. who a nonprofit should list as the “owner”, since nobody “owns” a tax-exempt 501(c)(3) organization), the applicability of the “alternative size standard” to charitable nonprofits, and other nonprofit-specific organizational issues noted in the National Council of Nonprofits comments. The Center encourages the SBA to address nonprofit-specific questions in its final rulemaking and other future guidance on the PPP.

Thank you for your consideration of these concerns. Please do not hesitate to contact me with any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "David R Heinen". The signature is written in a cursive style with a large, looped 'D' and 'H'.

David R. Heinen
Vice President for Public Policy and Advocacy

dheinen@ncnonprofits.org

919-986-9224 (cell)