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Loans Under the Paycheck Protection Program

The Paycheck Protection Program (part of the recently enacted Coronavirus Aid, Relief, and Economic Security (CARES) Act) is meant for small businesses to be able to apply for loans now to cover things like payroll, mortgage interest payments, rent and utilities. The CARES Act designates $349 billion for this program. Because the program is time-sensitive and tied to a three-month period this spring, its applicability to camp may be somewhat limited. Still it is worth considering for certain camp administration costs being incurred now because – if your camp business meets certain criteria – some of the principal of these loans may be entirely forgiven.

Are camps covered by the loan program?

Generally, employers with 500 employees or less (including 501(c)(3) nonprofits), individuals who operate under a sole proprietorship or as an independent contractor, and eligible self-employed individuals. So likely all Maine camps – both for-profit and nonprofit – are covered.

How does the program work?

Under the program, your camp business can get a loan to cover the following allowed costs: payroll, mortgage interest payments, rent, utilities, and specified health care benefits costs. You apply for the CARES Act loan through a local bank that is authorized to do SBA loans (a list of SBA-approved lenders can be found here but I recommend you start by talking to your regular bank).

For a seasonal employer, you may borrow up to 2.5 times your "average monthly payroll" costs calculated either by:

- Taking the total annual payroll for 2019 (excluding payroll costs over $1000,000 for each employee) and dividing by 12; or
- Using the average monthly payroll for the period February 15, 2019 through June 30, 2019.[1]

Most businesses will use the first method, but a seasonal business, which summer camps arguably may be, may elect to instead use the second calculation. "Payroll costs" include payments made for wages, salaries, tips and commission, as well as payroll-related costs as vacation/sick/PTO benefits, payments made for group health benefits, retirement contributions, and state and local taxes assessed on compensation. "Payroll costs" do not include the compensation of an individual employee in excess of an annual salary of $100,000 or the costs of the new emergency paid sick or paid FMLA leave passed recently by Congress and for which a payroll tax credit is allowed.

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[1] If you were in business on February 15, 2019 and are *not* a seasonal employer, generally you may borrow up to 2.5 times the average total monthly payments for payroll costs incurred during the 1-year period before the loan date.

You don't need to provide a personal guarantee or collateral for the loan, but any eligible camp applying for one of these loans must make a good faith certification—

- that the uncertainty of current economic conditions makes the loan request necessary to support the ongoing operations of the camp;
- acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;
- that the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan; and
- that, during the period beginning on February 15, 2020 and ending on December 31, 2020, the camp has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan.

The loan has a maturity of 2 years and an interest rate of 1.0%. Prepayment penalties are waived. Any required loan payments (principal, interest, and fees) will be deferred for six months.

How long will this loan program be available?

As it currently stands, applications under this program will be accepted through June 30, 2020. There is some uncertainty, however, as to whether the funds will be sufficient so it's best to apply early!

What are the eligible expenses that a camp can use the loan for?

If you receive one of these loans, you can't use it for all camp expenses, but you may use the proceeds of the covered loan for:

- Payroll costs (employee salaries and wages, excluding the compensation of an individual employee in excess of an annual salary of $100,000 and excluding qualified sick leave or family leave wages for which a credit is allowed under the Families First Coronavirus Response Act).;
- Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
- Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation);
- Rent;
- Utilities; and
- Interest on mortgage and other debt obligations incurred before February 15, 2020.

Do I need to pay the loan back?

Guidance on the particulars is still trickling out, but generally the loan principal will be forgiven if (during the two months following your loan origination date) you use the funds only for:

- Payroll costs;

- Any payment of interest on any covered mortgage obligation (not prepayment or payment of principal on a mortgage);
- Any payment on any covered rent obligation; and
- Any covered utility payment.

But – if you reduce the number of your employees (as compared to either a designated four-month period in 2019 or the first two months of 2020), or if you reduce the salary or wages of any employee in excess of 25% of their total salary or wages during the most recent full quarter during which the employee was employed before the covered period, then the amount of the loan forgiveness will be reduced. However, if you bring back up the number of employees or the reduced wages by June 30, 2020, then your loan will again qualify for forgiveness. You also have to limit the non-payroll expenses (mortgage interest, rent, and utilities) to no more than 25% of the loan amount in order to have those costs forgiven. 75% of forgiven amounts must be payroll.

If I want to apply, what should I do next?

Talk to your preferred bank and start filling out an application with them. A sample application can be found here (If your preferred bank is not working on these types of loans, try another. The list of lenders here are all authorized to make and approve these loans.) You'll also want to start collecting and maintaining documents you will likely need during the process. Lenders will need to determine that you were in operation (even if not actually in camp right now) on February 15, 2020 and had employees that you paid salaries and payroll taxes for or paid independent contractors (as reported on a Form 1099–MISC). Borrowers do not have to demonstrate they are unable to obtain credit elsewhere.

Does the CARES Act provide for any other loan-related assistance?

The CARES Act also expands the types of entities eligible for the EIDL (Economic Injury Disaster Loan) program for loans made before December 31, 2020. These SBA-direct loans are available to small businesses COVID-19 disaster areas (this now includes all of Maine). These loans have a 3.75% interest rate for small businesses and a 2.75% rate for nonprofits, and are capped at $2 million. Additionally, the Act waives requirements (1) that the borrower provide a personal guarantee for loans up to $200,000, (2) that the eligible business be in operation for one year prior to the disaster, and (3) that the borrower be unable to obtain credit elsewhere.

Borrowers may receive up to $10,000 as an emergency advance within three (3) days after applying for an EIDL grant. If the application is denied, the applicant is not required to repay the $10,000 advance. Emergency advance funds can be used for payroll costs, increased material costs, rent or mortgage payments, or for repaying obligations that cannot be met due to revenue losses.

When speaking to your bank about your options, discuss which program(s) may be right for you. While it may be possible to receive funds pursuant to an EIDL grant and the Paycheck Protection Program, funds may not be used for duplicative purposes. Further, it should be noted that, as to any emergency EIDL grant, if the applicant transfers into or is approved for the Paycheck Protection Program, such advance amounts shall be reduced from the loan forgiveness amount for a loan for payroll costs.