

What Nonprofit Organizations Need to Know about the CARES Act

Monday, March 30, 2020

Overview

On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (“[CARES Act](#)”), the third and by far the largest stimulus package passed by Congress to respond to the COVID-19 outbreak. As discussed in our [main alert](#), the \$2 trillion CARES Act amounts to what will be the biggest economic stimulus package in American history.

The CARES Act contains numerous provisions relevant to nonprofit organizations.

- First, it allocates hundreds of billions of dollars in funding to help employers meet payroll and other expenses, and nonprofits are eligible to receive that funding.
- Second, the Act creates tax incentives for individuals and corporations to increase charitable donations.
- Third, the Act provides funding for nonprofit organizations with specific missions, such as food banks, domestic violence groups, services for homeless youth, and supporting the arts and humanities.

Additionally, it is worth noting that the CARES Act provides hundreds of billions of dollars in funding to states and localities [[read *Foley Hoag alert here*](#)]. Certain of those funds could in turn be used to assist nonprofit organizations or to partner with nonprofits in assisting affected individuals.

Key Points

Sector-Wide Provisions for Nonprofits

Paycheck Protection Program for Small Businesses and Nonprofits. The Act allots approximately \$350 billion to help small businesses, [including nonprofits](#), maintain their payrolls for eight weeks. The legislation authorizes the Small Business Administration to provide businesses with fewer than 500 employees loans of up to \$10 million per business to cover payroll and other authorized expenses, including mortgage interest, rent expenses, and utilities. The Government will forgive the loans for businesses that maintain their payroll and only use the funds to cover authorized expenses. The program is available until June 30, 2020.

Economic Injury Disaster Loan Advances. The Act allows small businesses and nonprofits who apply for an economic injury disaster loan (“EIDL”) to receive an emergency grant of \$10,000 within 3 days of applying for the EIDL. The \$10,000 grant may be used to keep employees on payroll, to pay for sick leave, meet increased production costs due to supply chain disruptions, or pay business obligations,

including debts, rent, and mortgage payments. If a nonprofit receives the grant and also receives a loan under the Paycheck Protection Program, any amount forgiven under the Paycheck Protection loan will be decreased by the \$10,000 grant.

Charitable Contributions by Corporations. For corporations, the deduction for charitable contributions generally is limited to an amount equal to 10% of the corporation's taxable income. For the 2020 tax year, the CARES Act permits corporations to deduct the amount of any "qualified contributions" to the extent that the aggregate of such contributions by the corporation does not exceed the excess of 25% of the corporation's taxable income over the amount of all other charitable contributions so allowed, with any excess generally being eligible for a 5 year carryover. To be a "qualified contribution," the contribution generally must be made in cash to a qualifying organization and must not be for the establishment or maintenance of an existing donor advised fund or be attributable to a contribution carryover from a prior year.

Charitable Contributions by Individuals. For the 2020 tax year, individuals who elect not to itemize deductions may claim a deduction of up to \$300 for certain "qualified contributions." To be a "qualified contribution," the contribution generally must be made in cash to a qualifying organization and must not be for the establishment or maintenance of an existing donor advised fund or be attributable to a contribution carryover from a prior year.

In addition, for individuals, the deduction for charitable contributions generally is limited to 50% of the individual's AGI. For the 2020 tax year, the CARES Act permits individuals to deduct the amount of any "qualified contribution" to the extent that the aggregate of such contributions by the individual does not exceed the excess of 100% of the individual's adjusted gross income (as defined for this purpose) over the amount of all other charitable contributions so allowed, with any excess generally being eligible for a 5 year carryover.

Sector-Specific Provisions for Nonprofits

Food Banks and Food-Assistance Nonprofits. The Act allocates \$450 million for commodities and distribution of emergency food assistance through community partners, including food banks.

Legal Aid. The Act allocates \$50 million to the Legal Services Corporation, which in turn funds legal aid organizations across the county, to address the increased need for legal services due to coronavirus.

Arts and Humanities. The Act contains \$75 million for National Endowment of the Arts grants, including funding to state arts agencies and other partners in an effort to help local, state, and regional communities provide continued access to cultural organizations and institutions of learning. The Act likewise provides \$75 million for National Endowment for the Humanities grants, including funding for state humanities councils and other partners in an effort to help local, state, and regional communities provide continued access to cultural organizations and institutions of learning.

Substance Abuse and Mental Health. The Act provides \$425 million to address mental health and substance use disorders as a result of the coronavirus pandemic. This includes \$250 million to Certified Community Behavioral Health Clinics, \$50 million for suicide prevention, and \$100 million in flexible grant money to address mental health, substance use disorders, and provide resources and support to youth and the homeless during the pandemic.

Children and Families. The Act allocates \$6.3 billion to the Department of Health and Human Services' Administration for Children and Families. This includes \$3.5 billion in grants to states to provide assistance to child care providers and to assist certain families with child care; \$1 billion in community services block grants which go directly to local community-based organizations to provide a wide-range of social services and emergency assistance; \$45 million for family violence shelters; and \$25 million for programs providing services and housing for runaway and homeless youth.

Looking Ahead

Nonprofit organizations are facing numerous challenges in the midst of this public health crisis and the economic maladies it has caused. While these challenges will continue, the CARES Act creates avenues for immediate relief to help keep employees on the payroll and creates incentives for those who can afford it to increase their charitable giving. Additionally, the Act allocates much-needed funding to nonprofits in several critical sectors.

Foley Hoag has formed a firm-wide, multi-disciplinary [task force](#) dedicated to client matters related to the novel coronavirus (COVID-19). For more guidance on your COVID-19 issues, visit our [Resource Page](#) or contact your Foley Hoag attorney. For guidance on COVID-19 nonprofit issues, please contact [Tad Heuer](#) or [Scott Bloomberg](#).