

0:06

Welcome everybody. We're going to get started to maximize the time that we have together today. My name is Nancy Weiss, and I'm the general counsel of The Institute of Museum and Library services on behalf of director Crosby Kemper and the imls team. It is my great pleasure to welcome you to today's webinar The Institute of Museum and Library services or imls is an independent Federal.

0:33

Agency located in Washington DC while we are most known for our grant programs that support museums and libraries. The agency's mission is to inspire libraries and museums to advance Innovation lifelong learning and cultural and Civic engagement. We support libraries and museums in these efforts through research policy development and grant-making during this covid-19 Health Emergency, we as so many of you are maximizing resources.

1:03

Nurses to respond to the needs of museums and libraries and the people you serve and that includes getting you as much information as possible that is particularly relevant to the museum and Library communities during this unprecedented time. We're so pleased to introduce our speaker from the SBA today. Noah broad is an economic development specialist with the US small business administration in his role. He works to support and encourage small business ownership and grow.

1:34

During this extraordinary period mr. Road has been representing SBA and its programs by regularly conducting Outreach and webinars focusing on the payroll Protection Program and the PPP issues that may apply to various communities a business today. Mr. Brad will be focusing his presentation on those issues. We hope are most relevant to the museum and Library communities. We want to thank him very much for orienting this presentation to address the needs and interests.

2:03

The eligible Museum and Library communities following the presentation. Mr. Bogle address a number of questions. We've received in advance of this webinar during the question and answer segment. We will be welcoming questions from the audience. And so you may submit your request through the questions panel on your screen with that. I'd like to turn it over to our presenter with. Thanks.

2:27

Thank you Nancy. I really appreciate it. Yeah, it says Nancy as he said my name is no AB Road. I'm with the US small business administration and I'm out of our San Francisco district office and and my work with with all of the organizations associations that have the Northern California area and at this time also, I'm doing a lot of of Outreach with with organizations throughout the state.

2:58

And I appreciate the invite from from Susan Nancy to share a little bit about our programs.

3:05

So what I'm going to do is before I open up to questions and have a little bit of conversation about our different programs going to give a little bit of overview of where we are with the different SBA programs for supporting both business owners, but also nonprofit assets and

especially for this audience. I'm going to go into some of the particularity is about how our programs might impact Peck museums and other nonprofits as well.

3:41

So when I give these presentations and they can give these talks I make sure to caveats that the information that I'm sharing so the information that I'm going to talking about today its current and it's up to date as of this morning every morning we get together and we you know pull in all the newest updates but many of the programs are you talking about our new as of the passage of the cares act which passed just just for five weeks ago might be up to six weeks now and they are being created as they're being rolled out and that really means that That for individuals who are participating in applying and using these programs. It's very important to continually refresh your knowledge in some cases unlearn things you might have learned before and to relearn really how these programs work on a frequent basis. So it's a moment in time to to continually refresh your knowledge.

4:52

The other thing, you know, they also like say is these presentations they're there for informational purposes. So I'm not really able to go into like give pointed advice for anyone applicant who might be applying for these programs.

5:11

You know, I'm kind of in a role where I can share information about the programs and give overviews about them, but you know the and that guidance that Sharing is it's it's available on [sba.gov](http://sba.gov) and on the treasury website and the presentations I get really, you know, bring it all together in one place and make sure that it's up to date.

5:38

But it's not legal advice. It's not recommendations for for any one particular applicant.

5:45

Okay, so disclaimers out of the way, we're going to be talking about are three programs three categories. Yeah, three the three programs that folks who participate in our programs might want to be taking advantage of right now the majority what I'm going to be talking about today is about the paycheck Protection Program, but for nonprofits, there are relevant items that are out.

6:15

Of the paycheck Protection Program as well. So with passage of the cares act SBA is has been able to provide assistance to business owners and nonprofits in really two categories one category is in the category of debt deferment and relief. So in the case of a disaster, you know, thinking hurricanes floods tornadoes earthquakes.

6:45

SBA is actually one of the primary forms of financial assistance direct financial assistance to individuals businesses homeowners renters. Nonprofits museums libraries in the case of a disaster SBA regularly, but physical disaster SBA is issuing is regularly regularly issues loans and and financing to help those entities recover.

7:15

So with the passage of the cares act one of the things we did is if you have a loan under one of our prior disaster Loan program for a prior disaster that were automatically deferring payments on any of those existing loans through the end of the calendar year.

7:35

So that is one category where depth deferment or relief would apply to the nonprofit Community the other Elements of the SBA debt relief programs mostly applied to our business loan programs. So we're paying the first six months of payments for the next six months of payments on our business lending programs, but in the case of those lending programs, those are restricted just to for-profit businesses. So I won't go too much into the debt relief program. So that's the depth of ferment relief category.

8:05

The other category is financial assistance to two organizations and Businesses that are impacted by the coronavirus shelter in place orders and the paycheck Reduction Program. Like I said, I'm going to talk about pretty extensively but for I do I also want to talk about the economic injury disaster Loan program, which its I want to talk about it for two reasons one nonprofits are eligible to apply.

8:38

It is and also to provide contrast to the paycheck Protection Program. So the economic injury disaster Loan program is a program that's been around for a long time. It is regularly deployed for disasters throughout the country and what it is is it is a low interest loan for pretty much any any working purpose business working purpose for small businesses or nonprofits.

9:07

That might be Frank anomic injury as a result of the shelter in place orders in the case of an economic injury disaster loan SBA is a direct lender. This is a loan directly from the federal government to the applicant and regardless of you know, the applicant type everyone for good or bad has essentially the same experience when they go through the economic injury disaster loan.

9:38

You would go to a Sba.gov you fill out the application that application would be reviewed by a by a loan officer at SVA and then a determination on that application is made and and alone is issued from from SBA directly to the applicant if it's if the applicants approved.

10:00

Not loan officer determines the maximum loan size can be up to 2 million dollars in size and that alone. Like I said, it could be pretty much for any any working any working capital purpose. So fixed expenses rent payroll accounts payable extraordinary any extraordinary expenses incurred due to disasters you can use it towards interest payments on existing debts and the loan that you get under the economic injury disaster Loan program.

10:29

Who does not need payments to be made on it until full calendar year has passed so it's payments are deferred for a year and it has an interest rate of 2.75 percent for nonprofits with the 30-year term.

10:42

One of the things that the cares acted is it also enabled something called the economic injury disaster loan advance.

10:50

So when you go to sba.gov and you fill out your economic injury disaster loan application, there's a box now that you can check which allows you to receive up to \$10,000 that does not

need to be repaid back at all and that up to is dependent on how many employees He's that you list on your application for the low. So if it's a thousand dollars per employee up to 10 employees for getting the \$10,000 forgivable advance.

11:23

The advantage only issued first, then the loan is evaluated and then and so that's kind of the door of operations for the economic injury disaster loan for the economic injury disaster loan. The way that this is also processed is we ask, you know, you might be thinking well, you know, like I don't I'm not sure whether I should apply or not. I'm definitely impacted, but I don't know if I qualify.

11:53

Fi and the case of the economic injury disaster loan. The advice is that you should apply if you think if you've been impacted by the shelter in place orders and the agency will make eligibility determinations. So we make eligibility determinations on the economic injury disaster loan when you apply answer every question truthfully and to the best of your ability, but SVA does those eligibility evaluations on those?

12:23

applications Generally eligible nonprofits under the economic injury disaster Loan program are 501 C 3s. Including religious organizations see sixes. Although it can depend on if they do advocacy or not tribal concerns veterans nonprofits HOAs beneficial owners associations clubs housing Partnerships. There's a there's a broad range of nonprofits that are eligible to apply the other thing that's important.

12:54

Important to know about the economic injury disaster Loan program is that size restrictions and affiliation test for economic injury loans aren't applicable for this program. So there aren't size restrictions.

13:07

When you when you go to apply for the economic injury disaster loan and we don't ask that an applicant include all of the associated, you know, umbrella organizations or hypothetical Affiliates that might control it the only Clear, you know dis allowable entity that an eligible entity front of the economic injury disaster Loan program. Our organizations owned or controlled by government entities.

13:39

That's the economic injury disaster Loan program.

13:42

Right now we're not taking new applications for the economic injury disaster Loan program. Unless you are an agricultural enterprise or need to reapply so if you had a had applied for the economic injury disaster loan prior to March 29th, we're asking you to reapply because it puts you into it. We put in new infrastructure to handle the number of applications that we receive for this program and reapplying will put you into that.

14:12

Our infrastructure and ensure that your application can be processed in a much more timely manner. So if you would apply before March 29th, you should reapply and at the moment we don't have a timeline for when this application is going to reopen for for non agricultural

businesses. But but that's kind of the status update on that there is still funding available and that funding is being used to fund existing app.

14:42

Applications that had already been submitted under I think the applications started being accepted for the economic injury disaster loans in early March, maybe yeah like mid-march in California, which I think California had one of the first disaster declarations. So all those applications are still being processed and funded and using existing funding.

15:10

The and then the other one is if you have an existing outstanding application that you haven't been able to get feedback on unfortunately the local district offices where we're at. They're not we're not able to provide updates the only organization within SBA that can provide updates on economic injury disaster loans is our disaster office. And so there have a dedicated line for giving status updates and that's one eight hundred six five nine.

15:39

nine to nine five five so that's the economic injury disaster loan one product one experience and for good or for bad directly from the government so the paycheck Protection Program is a very different program the way that the paycheck Protection Program works is it is alone that's provided by financial institution or a bank that is choosing to participate in the program and we have about five over 5,000 different lenders who are implementing the program and the lenders use their own funds to make the loans to an applicant and they have to follow our guidelines if they want to if they want to participate in the program but there are using their own funds to make these loans which means that the lenders have a lot of discretion in terms of how they are allowed to offer this offer this program to the public So in some cases when the paycheck Protection Program first launched, it was very difficult to find lenders because maybe they only extended it to existing clients. And that was at the discretion of the lenders lenders as well. But that wasn't every lender. So the Golden Rule with the paycheck protection program is that it depends and it depends on your lender. We have over 5,000 different lenders in this program, which means there are about 5,000 plus different.

17:11

Experiences for applicants who might be going through this program.

17:17

The other thing is because it is implemented by lenders the majority of the questions. They will have to be resolved by the lender themselves because the lender is the one that is issuing a loan underwriting it servicing it and and doing any of the compliance work that's required on the lender side.

17:38

The only place where the a is involved with the paycheck protection program at least on the app on the app applying side is is essentially the lender will transmit all of their decisions to SBA and SBA. We record that decision that the lender has made and we assign it a loan number and when we assign it alone the number we reserve funding under the program for that that was allocated by Congress for the paycheck protection for that particular loan. We're not evaluating that loan. We're not reviewing it as it's being issued.

18:16

After the fact we may review that to make sure that that loan was issued in compliance with our program and I'll talk a little bit about about a little bit about that in a bit but it's very different from the economic injury disaster Loan program where the loan is going directly to our agency and we are directly reviewing and making decisions on that one.

18:38

The way it works for the loan size and with the paycheck Protection Program is you there is a cap on the maximum amount of funding that you can get into this program and that's determined by what is 2.5 times your average monthly payroll costs and when determining our average monthly payroll costs, you can't include you can't approach include payroll costs over \$100,000 annualized for anyone employee.

19:08

So That's for the purposes of determining your average monthly payroll costs. The overall purpose of this program is to keep employees on the payroll. It's the paycheck Protection Program a lot of the intentions and the guidance in the structure of the program are focused on ensuring that payroll costs and the payroll payroll needs are being met.

19:35

So a common question that I I get from from organizations are applying to this program is well, you know say you're a zoo and you can't be open to the public right now.

19:47

The shelter-in-place workers have kept you closed and we would get a question that says well, you know, can we wait can we hold on to the funding under the paycheck Protection Program until we've reopened and then pay and then use the funds and the answer is no the purpose of this program is to Um is to divert folks off of unemployment to keep employees being paid and if that means paying employees, even though a business or a non-profit is closed and cannot operate that's perfectly within the kind of four corners of the paycheck protection program that you're not required top. Right, but if you're in a situation where you just you know, there's no way.

20:38

Way to to do work under the current shelter-in-place orders the you can use paycheck Protection Program funding to pay people to stay at home or in some cases. I've worked with business owners who have thought of different ways to use the funds. So maybe some portion of their existing operations can be done online or done remotely or some portion of their staff can be paid to do.

21:09

To do Workforce Development to develop skill sets that when the shelter in place orders lift. They can bring back to the organization. And those are all valid uses that paycheck Protection Program funds as well.

21:23

Ultimately, if you use the paycheck Protection Program funds towards at least 75% of them towards payroll expenses. Then that alone that you receive another paycheck Protection Program does not have to be paid back.

21:42

You can use up to 25 percent of the funding that you get another paycheck Protection Program for non payroll expenses. And so you can use up to 25% for mortgage and mortgage interest or rent or utilities. That's an option. You can also choose to use a hundred percent of the funding towards payroll expenses as well.

22:08

But there is a allowability and allowance essentially if you'd like like to do use up to 25% towards those other categories and still receive for forgiveness.

22:24

So if you don't use the paycheck protection funds towards payroll costs or if you don't meet that 75% threshold the funding turns into a loan and so question might be well, what are the terms on that loan and the terms are it has a maximum loan size of up to 10 million dollars.

22:48

It has an interest rate of 1% Aunt with the term of two years and you don't have to make your first payment until 6 months have passed no collateral has asked for no personal guarantees and no prepayment penalties as well.

23:04

So if you receive a paycheck Protection Program loan and end up not using all of it or decide that you would you know, the, you know decide you're only able to use a certain percentage of it towards payroll costs and don't want to hold alone. You can also pay it back right away without any penalty and the other one is no loan fees should be paid by borrowers as well when you're applying to this.

23:32

So if an individual work, Organization is charging you to fill up paycheck protection program application were asking folks to please report that to other your local SBA district office or office of Inspector General and because it's really clear to the program that loan fees should be collected to fill out a paycheck protection program application.

23:58

So let's get into some of the nitty-gritty that's you know, that's our over. That's our overview 75% 25% payroll costs simple.

24:09

So when we're talking about payroll costs under the paycheck Protection Program, what is a payroll cost? And this program has a broad definition of a payroll costs. They include salary wages commission's or tips. They also include employee benefits including costs related to leave allowances for separation or dismissals Group Health Care insurance premiums.

24:37

Liam's or retirement workers comp though is not included includes state and local taxes assessment compensation. So it's a broad definition of payroll costs. There are a few items that are explicitly not included in the definition of payroll costs. So that's any salary wages commission's are tips in excess of the first 100,000 dollars per employee.

25:05

It includes any payments to independent contractors that you may have. So for the purposes of this program when you're calculating employees and payroll costs.

25:16

You need to back out any independent contractors because independent contractors have the ability to directly apply for paycheck protection programs loans on their own and they shouldn't be included in your application and the Any other expenses not included are also compensation on employees who live outside the United States and and any sick leave that or qualified family leave that is being paid for under the families first coronavirus response act and there's a dedicated pot of funding specifically for that.

26:02

The so that's you know, the definition of payroll costs when you're when you're doing the calculation for the PPP program after the fact when you have received PPP funds, you know, there's a question about what's included in a forgiveness calculation for the paycheck Protection Program. And before I talk about this, I want to put a really large caveats on.

26:32

Anything that I say about forgiveness because the detailed rulemaking has yet to be issued from the treasury Department about how to apply for forgiveness. You know what that exactly looks like the the nuts-and-bolts rulemaking for the treasury has yet to be released for applying for and receiving forgiveness.

26:58

There are some items that that have Been telegraphed that have been made available to some previews if you will about will be in those rules. So, you know that it will include you know, that rulemaking that does come out will include a mechanism for doing proportional forgiveness. So if you don't meet the 75% threshold, you may still be eligible for for forgiveness, but, you know, probably not the full amount of the loan how that proportionality is calculated will be in those.

27:32

was that will be released but have not yet been released the Other item is if you have how you're supposed to calculate head counts and all of the nitty-gritty nuts and bolts ways of cackling head counts for the purposes of forgiveness. All of the questions related to headcounts RFD calculations under the paycheck Protection Program under the Forgiveness steps. Those have yet to be released as well.

28:07

the what has been sort of previewed and what will be in those rules is that if you have already furloughed or or let go employees and you're wondering and maybe those employees make more money on unemployment and the pain Democrat employment under pu a what happens if essentially you have employees that refuse to return back to work when Will receive a paycheck Protection Program funds and and try to try to offer them jobs back. So whether it's they moved or they have fears about return to work or they receive more on unemployment the preview that we have from the treasury Department the underfunding of accuses.

28:59

I was released basically says it's a long as an employer extends the aww extends an offer for hire back to the employee with the same terms as what they have been earning before so hours and salary and if they get a rejection from that employee the employee writes back and says that that they will not be accepting that position that all you need to do is you need to document that and that that that headcount that employee will not be held against you when you go to apply for forgiveness so document that an offer was made and that that offer was rejected and that

particular FTE will not be held against you and it comes time to apply for forgiveness other items when at a high level, you know, what costs are included in forgiveness calculations. I mentioned this little bit this payroll costs. I talked about payments of interest on mortgage obligations rent mortgage.

30:09

Utilities and the other item with forgiveness is that those expenses need to be made within 8 weeks and the eight-week period starts on the day that funds are dispersed into your bank account. And and so that's you know a question. How can get you know wind is the eight-week Period start and it starts at the day that funds hit your bank account.

30:40

Then and then you know with with forgiveness, like I said, we're waiting on more guidance from treasury, but I think I've covered a lot of that already. Well, I'm sure they'll be other questions. So kind of going back to applying for the paycheck Protection Program. So the paycheck Protection Program eligibility under the patient Protection Program is very different from the economic injury disaster Loan program.

31:09

Device under the economic injury is ask for load Loan program is that if you think you have suffered an economic injury, you should apply and the SBA will make an eligibility determination or the agency that makes that determination.

31:27

So if you have questions leave it up to us, right the paycheck Protection Program is structured differently and in the case of the paycheck Protection Program, it's mix we ask that blenders exercise due diligence when they are issuing loans under this paycheck protection of the paycheck Protection Program. So they have some requirements to ensure that that applicants are eligible. We also ask that borrowers self certify that they are eligible eligible as well.

32:04

So the responsibility for eligibility is is between Really does to organizations lenders and borrowers and our office, you know, you know, we're unable to really come out and say yes a hundred percent. You're eligible. No, you're a hundred percent. You're not eligible because ultimately this program is delivered by A lender who makes the decision about whether to lend or not, even if you're squarely within a hundred percent. Yes. Absolutely.

32:35

You are an eligible candidate, you know, we might be able to say that to you, but it doesn't necessarily mean that You'll be able to apply because A lender has to decide to accept that application and fund it.

32:48

Under the terms of paycheck Protection Program though for nonprofits. We're talking about eligibility. There are three, you know, there's three entities that sort of fall into the non profit profit spectrum that are explicitly listed as vulnerable. And so those are organizations structured as 501 c 3 S tribal concerns, which are sometimes nonprofit sometimes for profit.

33:17

And 501c 19's in the so those are veterans organizations. Those are the only three organizations that are only three entities structures that are explicitly listed in the rulemaking guidance for for

political entities it you know, it doesn't I got see how I'd say is as you know, I've got a lot of questions, especially from chambers, which are 501 C 6 is about whether they can apply.

33:48

And the answer that I have for organizations that don't essentially fit into those three bullet points at 501 c 3 is travel concerns or 501 C 19 S is maybe it depends. I don't know and you know, it's not explicitly listed. So for for different ranges of you know, and it goes back to that that idea around the structure of this program.

34:17

It depends on your lender. It depends on the borrower's on evaluation of Eligibility and it and it and it goes, you know, and those are the two controlling entities really for for eligibility and at the paycheck Protection Program.

34:38

There is a few clarifications and and items you know, that that extend a little bit beyond those three eligibility items. So we did release some guidance saying that hospitals are eligible to apply so long as they are receiving less than 50 percent of their funding from state or local sources, exclusive of Medicaid.

35:03

The other item that I get a lot of questions for especially from nonprofits has to do with or size standards. So eligibility, you know, that's categories, you know how your categorized how your how your structured whether you're eligible to apply but also in order to apply for the paycheck Protection Program, you have to meet size standard. There's a size threshold in order to be able to apply for this program.

35:31

So entities with 500 or fewer employees are eligible to apply for the paycheck Protection Program When you're counting employees for eligibility, you want to count individuals employed on a full-time part-time or other basis. So it's a broader definition of employees. It's not fits.

35:54

It does not include 1099 employees and it does not include work study students if you're You're a higher education institution. That's applying.

36:07

And for for these programs for so for vast majority of nonprofits, you'll only be using that 500 employee size standard for business applicants. There are three different standards that you could possibly qualify under one is you could have 500 or fewer employees to you can meet one of our industry size standards.

36:34

We have a different size standard for every single dustry and and there are size standards as well for nonprofits that we that we put out but they're all revenue based so they wouldn't apply here and the other would be the alternative size standard which also doesn't really apply here because that's also a net worth net income alternative size standard. So for nonprofits the 500 or fewer employees standard is really the strongest standard for for determining your size to apply under this program.

37:05

when you're applying under the paycheck Protection Program unlike the economic injury disaster Loan program and which we don't look at affiliation questions for the paycheck Protection Program we do so there is a requirement that nonprofits consider their affiliations when they're applying for this program and we have we have some guy Lindsay I can talk a little bit about affiliation. But so so I'll do that now just to say that, you know the affiliation you know how you determine if filiation is a tricky subject. It's difficult. My advice is to to rely on your lender to work with your lender closely on affiliation to also in some cases.

38:05

You know, if you have if you have a lawyer to also have you know professional legal advice on affiliation as well. It's a it's a subject that you know, I won't as a local Outreach individual with the SBA. I'm not going to say oh, yeah, so you are affiliated Oh, no, you're not affiliated. Like I said SBA with nature Protection Program.

38:33

We don't Those determinations beforehand for applicants right now the structure of this program because it depends on the lender and the borrower to make these determinations and to review the the guidance of the patient Protection Program. But for affiliation, there is guidance that was released its on the treasury website, except treasury dot-gov for / cares.

39:01

And like I said the program limits participation two companies Nonprofits and their Affiliates combined so you wouldn't just count your entity. You should also count Philly, 'it's and you how do you discern whether you're affiliated with another institution?

39:22

You know, the way that the guidance is structured is that there are four tests and all of them relate back to one idea which is control if Another entity controls your organization, then it would be deemed to be affiliated with with with your organization. And so the two of you organization should be considered as a whole the four tests under the paycheck Protection Program are ownership. So that's the power to block actions by board of directors or or control control and organization.

40:06

Stock options convertible Securities agreements to merge less relevant maybe in the nonprofit world. But if there are essentially agreements on paper contracts and agreements that give control to another organization essentially if those rights exist, we treat them as if they've been exercised.

40:28

If there's management overlap between an entity that might be a reason that for for deeming someone to be Affiliated and if there's identity of Interest, so if there are some immediate family members that that are are are affiliated that are playing together. There are some exemptions and waivers. So religious institutions do not need to do an affiliation.

40:58

test any business that is in the next code 72, so if it's a hotel restaurants that would apply for nonprofits and any business that has funding from small business investment company that wouldn't apply for nonprofits and and in the case of so that test I said about agreements to merge or agreements basically if rights exist, we treat them as if they've been exercised or Under ownership, if there's one individual that has the kind of control over an organization that organ

that individual can waiver relinquish those rights and by doing so they wouldn't have to be considered as an affiliate.

41:48

This is kind of the same information but kind of broken out a little bit easier to read to read format or on those four tests. So ownership common management identity of interest and options convertible Securities agreements to merch the affiliation tests are fundamentally. Those are tests that come from the for-profit business world.

42:18

And they are none of the paycheck Protection Program. We've you know, we are requiring those to be applied to nonprofits and and kind of in some places. They fit really well in some places they don't but like I said also our local offices can't necessarily provide legal advice or guidance or structure for managing whether an organization is Affiliated or not affiliated.

42:49

Which can be related satisfying I know but it's also, you know, the structure of of this program. So few other items frequently asked questions with Paycheck Protection Program, especially with nonprofits who needs to be on that application.

43:08

You only need an authorized representative from the from the organization and that authorized representative in the case of Business owner it means that that authorized representative has permission from every owner of 20% or more of the equity of a business and the case of a non-profit an authorized representative means that they've got permission from the from the board of directors and from from the majority of the those who'll to controlling who have control over the nonprofit and then the other item that we've gotten as well.

43:47

Well is some questions about necessity and whether or not an applicant like how do you determine necessity under this program? And for the paycheck Protection Program when you're filling out the application applications have to certify that current economic uncertainty makes the loan request necessary to support the ongoing operations.

44:13

And that is a certification that you making good faith. You have to take a look at your current business activity, whether it's declined or not or their expectations of a declining and as well as your organization's ability to access other sources of funding that are sufficient to support your ongoing operations in a way that's not incredibly detrimental to your operations.

44:42

That is a good face certification from the applicant and he's reasonable and one of the things that we also announces that we will be reviewing any loan that is issued over 2 million dollars in size in addition to other loans that we do have ultimate oversight over those guarantees and over the Forgiveness portion of the paycheck.

45:12

Program and you know if we find that maybe wasn't so reasonable. That's the it does have the authority to to make decisions on the Forgiveness application for those loans as well as the guarantee to the lender that issued the loan.

45:34

And then the last set of updates about our paycheck protection program is that we're in Phase 2 of funding for the paycheck Protection Program phase one had a before hundred billion dollars that were exhausted very quickly and Phase 2 and Phase 2. We have 450 billion dollars that have been authorized under Congress for making paycheck Protection Program loan.

46:01

Is and we as an agency I've been pacing how many loans are being processed and approved every day under the program. And so it's been a less of a chaotic or a dramatic role out for the second phase with more time for people to apply and digest and understand the program.

46:23

And so as a Sunday, we had a hundred eighty eight billion dollars of the 450 billion dollars that have already been approved and that represents about 2.5 million applicants of the paycheck Protection Program. So less than half of the funding has has been already approved and we still have lenders that are doing lending and taking an applications that are approving PPP loans.

46:57

That's the contact information for a local district office out of San Francisco. And so if you're welcome to reach out to us with nitty-gritty questions and we'll do our best to answer those as they come in.

47:13

So with that, I think what I'm going to do is yeah pause closet screenshot where it is and maybe take some time. I know Nancy and Susan had a few questions lined up for me to take and then if they're people in chat that want to put in questions there as well.

47:34

I'm happy to take those questions like Thanks so much Noah, this is Susan.

47:45

I think we'll start with a couple of the questions that were sent in advance of the seminar anticipating that they might have a chance to propose some of them and then they begin to focus on affiliation and the prospect of perhaps an entity having an affiliation with a private or They college or university parents and whether or not they are operating under their own 501 c 3 status or not, whether the concept of control that you referenced earlier would likely dictate or there's more of a nitty-gritty kind of analysis that you suggest bandages.

48:36

It is a little hard to hear you through your your speakers Susan, but it's about be like if well, one of the things I guess that from my picked up on that question is that the with affiliation questions as I mentioned, it's there's generally no straightforward black-and-white answers. It's a qualitative decision around control.

49:05

Who is Affiliated and who is not and I will say with the paycheck protection program that applications are tied to the tax ID number that an applicant files under so at the very least if you're simply a program that is under the umbrella of an existing and that has your your your your your legal and your legal entity is all under a single 501.

49:35

C3 it is unlikely that you would be able to apply for a PPP loan.

49:46

Yeah, I'm not even sure how you do it if you didn't have your own tax ID number and so we require an EIN number or a tax ID number to to put in an application and we wouldn't be able to say okay. Here's a PPP loan for just ten percent of this one EIN number once this one tax ID number so I think you know fundamental you would need to have your own.

50:15

Own entity and your own entity status. You couldn't simply be a program that exists on without its own own separate filing.

50:25

Thank you. I'll try to speak up appreciate that answer your question. Can you hear me a bit better? A little bit Yeah, the issues around mixed funding streams. Now, let's say there is a separate entity but funding streams are partly from gifts and partly perhaps from a steak Source or private source.

50:54

Is that the question just essentially comes to you know, what kind of how does one make assessments about the funding capabilities?

51:11

They have to cover employee employee essentially salary expenses when their people were trying to describe eligibility when they think funding is not going to be there from Have to get side. For example.

51:28

Well, I think the gift side is probably probably.

51:32

I mean the on the nonprofits and with the structure this program, it's looking at it's a expense driven program. It's not as aggressively driven about sources of funding. There's also said, you know, like within the existing rule making and guidance that's been issued on their paycheck Protection Program to kind of that only.

52:02

A areas that he a look into where your sources of funding are for funding a payroll expense that comes in the FAQ that was released related to hospitals. And in that specific one there was like some explicit guidance that said, you know, if you receive less than 50 percent of your funding from state and local sources, then you as a non-profit can apply for this.

52:33

This program but breaking out sources of funding for you know, for other nonprofits and looking at whether they those sources of funding our state funding or local funding or or gift funding isn't something that's explicitly addressed in some of the existing rule making and guidance and and there's not an explicit treatment that I'm aware of for how those are are supposed to be handled.

53:03

I imagine that there's probably you know that there are that is one of those areas where in my capacity in the district office with SVA. I wouldn't be able to give guidance because maybe there are some overlapping legislative items or over overlapping laws about how receiving federal funds need how federal funds from different programs.

53:32

Graham's need to be treated and which case that would that that that's kind of a legal counsel advice situation not one that I would be able to offer guidance on.

53:46

At least right now.

53:50

understood perhaps we'll return to the question is, you know being posed in it in the Windows PC those who would you like me to helping we both know the first one asks the 75% of the PPP loan need to be used for payroll in the first eight weeks or is that only for Forgiveness for example going to borrow where use 50% alone for payroll the first thing we and 10% for utilities. So to speak and then after calculate the limited forgiveness the balance remains as a 1% interest loan and the remaining 40 to be used for payroll for the remainder of the year. Is that possible? No, all of the Forgiveness Provisions applied only to expenses made in the first eight weeks.

54:47

following the disbursement of funds so you can't you can't you know fund future expenses or or you know, or they have to be expenses made during that eight week period and anything that is outside of that 8 week period converts into a loan What happens if you can't use all of the loan proceeds during a week? What if it just wouldn't what happens to be the consequence of not making the 75% apportionment payout and payroll. What's the consequence of that? Sure. It just means that the PPP funds turn into a loan and they need to be paid back.

55:42

If you mean if you make yeah, there will be Provisions for proportional forgiveness. So say you were only able to spend 50% of your funds on on payroll and salary costs. There will be a method for for for giving forgiveness on the paycheck Protection Program funds you've received but that proportional calculation has yet to be released by Treasury.

56:13

Thank you. Could you clarify whether as Paratransit treasury will audit alone more than 2 million dollars at the Forgiveness amount requested is below the 2 million dollar threshold. So we announced that every loan of over two million dollars in size will be reviewed by SBA.

56:33

It doesn't necessarily mean that will show up at the borrower's at the at the borrower's, you know, place a business and conduct an audit Our but they will be reviewed and the that doesn't mean that loans under 2 million dollars will not be reviewed. It just means that categorically everything above two billion dollars will be reviewed and Below two million dollars.

57:00

It will be They'll be other random or on a case-by-case basis or in BO and at the discretion of the of the agency, generally when we review loans under our regular lending programs, not the PPP program, but our regular business lending programs, the review is done with the lender first to ensure that the lender appropriately under did their due diligence.

57:33

the Jets when they did the underwriting on that loan and and in the process of the review, you know, if you know if we do the review, you know a can extend out to include the borrower but

the starting place is you should start with the lender because the lenders are the one participating in the program and implementing it so SBA reviews the lenders first and if they're good in some cases will then extend out to the borrower, but it depends.

58:09

Thank you. Another question. This drilling down into payroll calculation costs is to review if you wouldn't mind the kind of included and excluded costs that you be brought about the payroll cost calculation whether it's like oh or health insurance or Social Security the kinds of calculations that employers need to make when they're deciding.

58:39

how how much of salary should be quantified to be so it's about the benefits like what benefits should be included I assume yeah absolutely cost that employers pay the bill to build in right and so for some of the benefits costs let's see if I can pull it up here I can see if I can.

59:28

detail at one with benefits, but but for me, I kind of went over some of the some of the benefits at least is as they're defined in the in the program and what is defined in the existing program are any benefit costs related to leave allowances for separation and dismissal Group Health Care, including insurance premiums and retirement, so That's you know within the four corners of what's this what's defined as a payroll cost? Those are what are explicitly included and I guess you know other other items that are not explicitly listed an applicant is taking a risk at that point about whether or not it would be determined by other their lender or by SBA on review if that would be included or not.

1:01:01

What time period is used right?

1:01:06

I think the question is can you make May there be does the employer have a lot of discretion to figure out exactly what snapshot in time or does it have to be the snapshot for when they anticipate receiving the Loan Fund?

1:01:21

So the snapshot in time when you're calculating the loan which includes ftes is determined by the lender ultimately because it's an actually let me double-check on this as well.

1:01:56

Yeah, I mean they tell you all that the snapshot in time when you're determining the size of the loan is going to be and for the purpose of determining loan. The lender has a lot of discretion and choosing a 12-month period to look at so they can choose a 12-month period starting from the date of the application. They can choose a special time month period of time if you're a seasonal business.

1:02:25

And they can also choose the prior calendar year. I believe those are the three kind of time periods that employers can look at in terms of the number of employees that you like where you're looking at for your for your F. You know, like what is your what is your head count or your FTE count for applying for and receiving forgiveness that particular number?

1:02:55

Umbrella in that particular process is something that hasn't been released yet by the treasury Department that's kind of ever all the questions that fall into. How do I apply and how do I calculate and how do I receive forgiveness? Are they fall into that category of were awaiting further guidance?

1:03:15

Thank you. How about retirement payments are they eligible in terms of being included for salary costs or on Thursday, which payment retirement payment retirement payments are yeah, those are explicitly listed.

1:03:36

And can you talk a little bit about intern salaries and other sort of hybrid kind of rolls part-time employees are or short term employees that may also be included. Yes a long as they're not 1099s, you know, if you're issuing. Yes long as they're not independent contractors than the they yeah, absolutely.

1:04:09

I don't know if there are certain questions that we identified earlier that you wanted to point to know or you feel like they more or less than addressed through the course of the presentation you gave there is one question that got sent ahead of time. It says we are independent the maintain our 501 c 3 status under the group exemption of a larger organization and a larger.

1:04:36

Organization has more than 500 employees re still eligible. So that's one of those, you know, affiliate nitty-gritty difficult affiliation questions. And in this case, the question that was sent ahead of time also said that maybe that it was a garden Under the Umbrella of a religious organization. So in that case, you know, one of the in that case I'd say is if it's a religious organization religious organizations are exempt from affiliation standards.

1:05:06

You wouldn't have to do any kind of affiliation test. But if your 501 c 3 is under the group of a large organization and it's not a religious organization then you to have to do an affiliation test.

1:05:27

A couple other questions here. If I may I no one would be involved. Can you anticipate generally what they want to see?

1:05:45

Unfortunately not. Yeah that yeah, I don't know if the review process would look like and I'm not out of the office of Capital Access which would be the office that would probably instigate and follow up with those reviews.

1:06:00

I do know that when looking at are under our regular business lending programs and our other guaranteed lending programs the way that the reviews are structured is is we start with the lender and we're and so we look at the loan file that lenders have put together for their applicants under this program and that that's at least you know, you know, I know that for for borrowers, you know, that's Yeah, the the process starts first with the lender because of the fundamental structure of the paycheck Reduction Program that it's ultimately relationship between the lender and SBA first and then it's relationship between the borrower and the lender.

1:06:56

Okay, no offense in a follow-up to that question has to do with timing in terms of when you expect the Forgiveness or request for forgiveness to start the borrowers need to adjust their pay periods accordingly. In other words that the employee after received the pay before June 30th, or have earned the compensation before that date.

1:07:25

That kind of the other son to this forgiveness questions that still in that space. We're waiting for those rules from treasury, which treasury still hasn't released yet. Okay, the general advice that I have for organizations that have already received PPP funding and that are in their eight-week period right now is to so I've kind of for piece of advice in yeah. We're in this space.

1:07:55

If we don't have that treasury guidance that Treasury rulemaking and so the four piece of advice I have for for both business owners and nonprofits that have that funding is document. Well how you're spending your PPP funds emphasize and prioritize clear payroll costs and expenses and and you know, and I would say prioritize payroll expenses that are are made.

1:08:26

Directly to employees and and that are in that timing window and communicate to your lender what your plan is for using the funds?

1:08:41

And the fourth piece of advice I have also is to look closely at the promissory note with the particular lender that you are working with because in some cases some lenders have already gone ahead and put into the promissory notes some of the you know, some guidance or some outlines for how they're going to want to see their particular borrowers approaching forgiveness. So those are the four pieces of advice that I have for folks in.

1:09:11

Yo, I can't necessarily answer that the nitty-gritty of what the Forgiveness process will look like or you know, or whether this will be eligible or that would be eligible or how this would be calculated. But I think that those are kind of you know for different prudent, you know actions that anybody who's participating in the program under any scenario will be able to take thank you Noah. How about in terms of assessing necessity? How will the SBA look at?

1:09:41

Good cash on hand funds restricted to endowment or funds needed to keep dead Covenant. So that also kind of falls under one of those forgiveness questions about you know, whether necessity would be granted or the core that necessity item.

1:10:01

The the question is Sessa t under our regular lending programs not the PPP program is It usually turns on whether or not an applicant has a bank loan denial from another lender. This is not another PPP but under under our regular business lending programs in order to participate in those programs, you have to show that you don't have credit available elsewhere.

1:10:37

And and so and that that Standard is not in place for the paycheck Protection Program. What we have is that that self certification that the paycheck protection programs are necessary for the ongoing operations of your of your program or your business and that's you know, one of the ways that SBA looks at that in our other programs is whether or not a entity.

1:11:11

He has access to credit from other sources. So whether you would be able to get a a easy, you know easy access to credit financing from a financial institution under good terms elsewhere. That's how it works under our regular business lending programs and is not the standard another paycheck Protection Program under the paycheck Protection Program. We only ask that folks self-certify.

1:11:43

That it is necessary to the ongoing continuation of their operations.

1:11:50

It's going to try and bring up that language directly here.

1:12:02

so All right. Yeah current economic uncertainty makes this loan request necessary to support the ongoing operations and that is a subjective determination. But it says fasting made in good faith has to take into account. You know what your current business activity looks like and your ability to access other sources of financing that might be sufficient to support their ongoing operations in a manner that's not significantly detrimental to the business.

1:12:40

So if you've recently taken that, you know those factors into account, yeah, I would I would just say that maybe you should document that you are reasonably taking into account those factors.

1:12:57

Thanks, Noah. Now there's a question about what rules what kind of restrictions there may be organizations that apply both for PPP and Eid L funding what the question specifically asks whether both loans can be made so long as the funds received or not use to cover the same allowable expenses.

1:13:27

This is that essentially the room to follow or the other thing to keep in mind. Yeah.

1:13:34

I mean, this is one of those areas for I feel like nonprofits have have a lot more experience and and capacity, you know, in terms of managing braided funding streams, you know with non-overlapping uses and all the rest the Essentially, I you can receive both the economic and you disaster loan and the paycheck Protection Program loan. They shouldn't be used for the same expenses the you know, the the broader advice to keep it really clean is to keep the paycheck Protection Program funds and Reserve those for salaries and payroll, which is what that program is designed for and to use economic injury disaster loans for other expenses whether their inventory.

1:14:26

Sir, rent or other working capital needs that's just a cleaner way to keep them up keep them apart and and they been so long as they're used for different purposes, you know, you you can receive in and use both those funds.

1:14:44

There is one other place where there is some interaction between those programs, which is When you go to apply for forgiveness under the paycheck Protection Program the amount of forgiveness that will be granted will be reduced by the size of the economic injury disaster loan

advance that you may have received. So say you might be eligible for \$100,000 of a forgivable paycheck protection loan. But you had also received a ten thousand dollar economic.

1:15:21

Like injury disaster and advanced then the total amount that you would be allowed to be forgiven under the paycheck Protection Program would be ninety thousand dollars. So it would be reduced by the size of the advance that you had received under the economic injury disaster Loan program.

1:15:40

Thank you. Noah great. One last question. I'm seeing at least enough the scroll on the right is about whether you're aware of a hard deadline date by which treasury needs to issue its regulations or whether you've even heard any indication about when they likely will issue.

1:16:03

No, I don't currently have a timeline for that.

1:16:09

Okay. Well anything else in terms of the questions that we sort of discussed in the past that you think would be worth offering, you know, just to say that, you know, the paycheck Protection Program currently accepting applications, and I definitely encourage applicants to work closely with their lenders and in putting in an application.

1:16:40

Thank you. I do see a follow-up. I think I overlooked again in terms of estimated forgiving portions to be reported as revenue and they be instead of a payable on the books for those institutions closing their books before applying for forgiveness in is that a question that that that I've clearly stated can estimated forgiven.

1:17:10

Or should be reported as Revenue.

1:17:13

Instead of a payable on the book.

1:17:19

Well, it's not a revenue driven program. I guess I don't understand the question because it looks at payroll costs.

1:17:26

Okay, not revenues.

1:17:31

But can you read the question again who are kind of estimated forgiven portion be recorded as Revenue? Oh, I see. Maybe this is this is for tax purposes.

1:17:44

You know how that how that forgiveness forgiven portion is treated maybe and for that, you know, my recommendation is there's two pieces one is the IRS did release guidance over how paycheck Detection program funds should be treated by recipients and that's that it was fairly detailed treatment that they released. I think three weeks ago our yeah two or three weeks ago and so I can send the link to that if you want.

1:18:26

the Link to that in the chat for the IRS. Yeah, here it is.

1:18:41

Or maybe I can't I don't know if I have the ability but I'll put it aside to staff and you can share it out answer your question. And so I put a link to that in the chat and then I'd say that's also a question for your tax advisors.

1:19:03

Thank you know Nancy. Did you have anything? I think there is might be one more question following up on your some earlier comments as is there a statute of limitations on an audit or review of PPP when will borrowers be advised that I yeah, I don't have the answer to that. Okay.

1:19:29

Well, we're actually we have all of these questions will Up as best we can but I also want to just thank you Noah for providing this really timely presentation and Susan Gerson associate general counsel of The Institute of Museum and Library services for really coordinating with you and also with with stakeholders and associations.

1:19:56

So thank you all we will make this available as soon as possible so that This can be shared more broadly. And we thank all of you for providing questions and and coming together so that we really can delve a little deeper on the issues that have been been pending for museums and libraries.

1:20:22

So thank you again to our speaker and we look forward to continuing providing information as we can and At your contributions, thank you. Thanks for having me. I appreciate the time great. I think we can end the session and and again for the participants will make sure that we have the materials available for you.

1:20:49

Thank you.

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