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COVID-19 RESPONSE PHASE 3: FAQs (Part 2)

INDIVIDUALS

Q: Does this bill provide individuals more compensation on Unemployment Insurance than they receive via employment?

A: The enhanced UI is designed to keep as many as whole as possible. Some may temporarily receive more benefit than previous payment – though that number is very small relative to the number of people who will be filing UI claims in next few weeks.

Right now, states pay between \$250-500/week in unemployment and they base it on a percentage of a worker's paycheck, usually between 1/3 to 1/2 of prior earnings. An additional \$600 will put some workers at or just above their usual paycheck – this increase only lasts until July 31st. Additionally, the worker must have been laid off by their employer, so they can not voluntarily "opt-in" by quitting. The main point of the overall bill is to provide a lifeline to small businesses, so they don't have to lay people off in the first place. Without this bill, the UI problem will be magnitudes worse.

SMALL BUSINESS

Q: Is Planned Parenthood eligible for SBA loans and grants?

A: No, Planned Parenthood is not eligible for SBA grants or loans. Originally, the Senate bill contained a clause that excluded nonprofits that received Medicaid (i.e. Planned Parenthood) from participating in the Paycheck Protection Program. This exclusion clause was ultimately removed from the final bill.

However, the final bill binds nonprofits to the SBA's affiliation rules. The bill permits nonprofits to participate in SBA's loan programs, provided they have 500 employees or less. Planned Parenthood is a nonprofit and is subject to the 500 employee cap and the affiliation rule. Therefore, Planned Parenthood and their affiliates are not eligible for SBA grants or loans, as they have more than the allowable 500 employees.

Q: Are businesses that employ more than 500 employees across multiple locations eligible for the Paycheck Protection Program at each individual location?

A: A business is generally eligible for the Paycheck Protection Program if it is a for-profit business, 501c3, or 501c19 (veterans organization) nonprofit with fewer than 500 employees. There are a few exceptions. Businesses in the accommodation and food service industry (assigned a North American Industry Classification System code beginning with 72) with more than one location, a business could also be eligible at the store and location level if the store employs fewer than 500 workers. In other words, each store location could be eligible.

Previous Senate drafts required the accommodation and food service industry business to have less than \$500 million in gross receipts to be eligible. This \$500 million requirement has been removed from the Senate's final bill. Lastly, if franchisors that appear in the SBA's National Franchise Directory, assistance will extend down to the franchisee at the store or location level.

AIRLINES and DISTRESSED INDUSTRIES

Q: How does the “conflict of interest” prohibition for the president and members of Congress apply?

A: Conflicts of Interest

- *Applies only to the \$500B allocated to Treasury – not the SBA lending provisions.*
- *Applies to President, Vice President, head of any executive department, any Member of Congress, and their immediate family members (spouse, children, son-in-law, daughter-in-law).*
- *If Member (or President/Vice President/head of executive department) combined with that individual's family members controls or owns more than 20% of any class of equity security of a company (by voting rights or value), that means that company is ineligible for lending under the \$500B allocated to Treasury.*
- *Applies not just to public companies but also private companies (LLCs, S corps, etc.).*
- *Principal executive officer and financial officer of each company seeking funding under Treasury lending must certify that the conflict of interest section does not apply to their company (i.e., they are not controlled by a Member/President/VP/head of executive department or those people's family).*

Q: Does the bill provide assistance to cruise lines, the owners and operators of small passenger vessels, or port facilities?

A: In general, the CARES Act provides \$454 billion to provide loans, loan guarantees, and other investments to assist eligible businesses. Eligible businesses are U.S. businesses whose losses result from the coronavirus, and U.S.-owned cruise lines, owners and operators of small passenger vessels, and port facilities are expected to qualify.

Q: Does the bill provide any regulatory relief to the trucking industry?

A: The CARES Act includes language requested by the Department of Transportation (DOT) to clarify state authority to issue special permits for increased truck weight. Under either a “major disaster” or “emergency,” states can issue special permits for heavier trucks to deliver relief supplies. This ensures the validity of state-issued special permits.

Q: What are the labor provisions related to the Federal Reserve loan facility and how do they apply?

A: **Topline:** *There are no mandatory union provisions for the \$454 billion in emergency funding. The Secretary has wide authority to establish the best programs needed to support the economy.*

What are the union provisions in the bill?

- *There is a section in the bill instructing the Secretary to “endeavor to seek” to establish a mid-size business lending facility for direct lending as one of several facilities funded with that \$454 billion.*
- *Two of the requirements for direct loan recipients under solely the mid-size business lending facility impose union-related restrictions. Those include not abrogating existing Collective Bargaining Agreements (CBAs), and an agreement that the business will stay neutral in union organizing.*

What do they do?

- *The provisions restrict the business from abrogating an existing collective bargaining agreement and agreeing to stay neutral in any labor union formation.*

Will businesses have to agree to these restrictions?

- *The section only requires the Secretary to “endeavor to seek” to establish a direct loan program. The Secretary does not have to establish one.*
- *The bill text only requires a good faith certification by a business that it is meeting the requirements of the union provisions if one is established.*
- *There is no enforcement mechanism.*
- *It is also important to remember these provisions apply to only one option for how the \$454 billion in funding will be distributed.*
- *The bill provides several ways for the Treasury to work with the Fed to get money to businesses outside of the union provisions.*

What flexibility does the Secretary have to waive the provisions?

- *The Secretary has maximum flexibility: Remember, the point of the emergency lending is to give the Secretary maximum flexibility for helping our most distressed sectors of our economy.*
- *In the bill text, you will see that the Treasury Secretary has a great deal of discretion and waiver authority.*
- *For example, the bill preserves the Secretary’s right to waive certain restrictions for the loan if it’s to “protect the interest of the Federal government.”*
- *And the bill only requires a good faith effort for the Treasury Secretary to try to follow the terms and conditions, but it’s not a requirement.*
- *Treasury Secretary may not be able to follow it or might decide to structure midsize business support differently.*

Are there other provisions in the bill that impact unions or union activity?

- *Yes. Section 4025 of the bill prevents the government from requiring an air carrier to enter into collective bargaining agreement (CBA) negotiations to get a loan. It does not prevent an air carrier from entering CBA negotiations on its own.*
- *The airline industry does not oppose this provision.*

APPROPRIATIONS and MISCELLANEOUS PROVISIONS

Q: Why is there a \$25 million appropriation for “Congressional Salary and Expenses” in the bill?

A: \$25 million is provided to the Chief Administrative Officer, which is appropriated under the Salaries and Expenses account for the House of Representatives. Before funds can be spent, a spend plan is to be provided to and approved by the Committee on Appropriations. These funds are intended for computer purchases for teleworking, technology for video town halls, equipment for computer imaging, expansion of IT Customer support, and emergency expenses to support the Sergeant at Arms. These funds are not intended to be used to increase salaries of Members or staff.

Q: How will the \$150 billion Coronavirus Relief Fund for states and local government be allocated?

*A: **Coronavirus Relief Fund** (Sec. 5001) – A program created under the Department of the Treasury to provide funding to States, Tribes, and localities to offset lost revenue as a result of the coronavirus public health emergency. The bill provides an appropriation of \$150 billion to be distributed by formula based on population. Eligible local governments may apply directly to the Treasury for funding and amounts paid to a state will be reduced accordingly.*

Who is eligible to apply and receive funding?

- *States, eligible local government, Tribal governments, DC, and the territories.*

How is funding distributed?

- *Funding is paid based on a state share of the total population, subtracting any amounts paid to local governments.*
- *No state can receive less than \$1.25 billion.*
- *\$3 billion is reserved for the District of Columbia, Puerto Rico, Virgin Islands, Guam, Northern Mariana Islands, and American Samoa. The amount for each is based on population.*
- *\$8 billion is reserved for Tribal governments after consultation.*

What is the timing for distributing funds to states?

- *Funds must be paid within 30 days of enactment.*

How is funding allocated to states?

- *State receive an amount equal to their relative population, deducting any amount that may have been paid to units of local government within the state who applied for funding independent of the state.*

What criteria is used to determine if local governments can apply?

- *A local government means any county, municipality, town, or other unit of general government with a population greater than 500,000.*
- *Smaller units of local government will need to work with their states to access funding.*

How much can local governments receive if they apply directly?

- *In no event will the total amount allocated directly to local units of government exceed 45% of the state’s allocation.*

- A local government may receive 45 percent of the amount provided to the state times its relative population to the state
 Ex:
$$\frac{\text{Town Population}}{\text{State Population}} \times 45\% \text{*(total amount for state)}$$

How is population determined?

- The most recent year for which data are available from the Bureau of the Census.

What can funds be used for?

- Funds may only be used to cover the costs associated with necessary expenses incurred as a result of the coronavirus diseases 2019 public health emergency, not accounted for in the most recently approved state budget, for calendar year 2020. The fungibility of certain aspects of public budgeting and the general sorts of revenue shortfalls that are expected in the current economic climate makes it unclear how restrictive those limitations will be in practice.
- Covered by protections and restrictions that apply to annual LHHS appropriations, including Hyde.

Q: What funding is provided to the Federal Emergency Management Agency (FEMA) to support state and local response efforts?

A: The CARES Act infuses \$45 billion into FEMA's Disaster Relief Fund (DRF), which will be added to the existing amounts in the DRF (approximately \$40 billion). This funding will help response efforts in states with approved major disaster declarations. The bill also includes \$100 million for FEMA's Emergency Management Performance Grants (EMPG), which support state and local emergency management capacity; \$100 million for Assistance to Firefighter Grants to support the acquisition of personal protective equipment; and \$200 million for FEMA's emergency food and shelter program.