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LATEST UPDATES ON THE PAYCHECK PROTECTION PROGRAM

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OVERVIEW OF CARES ACT LOAN PROGRAMS

- Paycheck Protection Program Loans
- Existing SBA Deferral Grants
- Economic Injury Disaster Loans
- Federal Reserve Loans (Air Carriers)
- Middle Market Loans

Paycheck Protection Loans

- CARES Act Appropriated \$350B
- Available “First Come First Serve”
- Began accepting applications April 3
- Funds ran out April 16
- Congress is considering appropriating additional funds
- Eligible Borrowers include
 - Traditional SBA Borrowers
 - Any Business With 500 or Fewer Employees
 - Special Rules for Restaurants and Hospitality
- Maximum Loan Amount Is Lesser of:
 - 2 ½ months payroll; or
 - \$10,000,000.00

SBA Data on Loans Through April 16, 2020

| Loan Size | Approved Loans | Approved Dollars | % of Count | % of Amount |
|------------------|----------------|------------------|------------|-------------|
| \$150K and Under | 1,229,893 | \$58,321,791,761 | 74.03% | 17.04% |
| >\$150K - \$350K | 224,061 | \$50,926,354,675 | 13.49% | 14.88% |
| >\$350K - \$1M | 140,197 | \$80,628,410,796 | 8.44% | 23.56% |
| >\$1M - \$2M | 41,238 | \$57,187,983,464 | 2.48% | 16.71% |
| >\$2M - \$5M | 21,566 | \$64,315,474,825 | 1.30% | 18.79% |
| >\$5M | 4,412 | \$30,897,983,582 | 0.27% | 9.03% |

- Overall average loan size is \$206K.

Paycheck Protection Loans, Cont'd

- Funds Can Be Used For:
 - Payroll Costs
 - Salaries & Commissions
 - Group Health Care Costs
 - Retirement Benefits
 - Mortgage Interest
 - Rent
 - Utilities
 - Interest on Other Debt
- Borrower must certify loan is necessary to maintain operations due to uncertainty of economic conditions and will be used for authorized purpose.

Paycheck Protection Loan Terms:

- Interest Rate Established at 1%
- Payments Deferred for 6 Months
- Any Unforgiven Amount Will Be Amortized Over 2 years
- No Personal Guaranty or Collateral
- No Prepayment Penalty

Definition of Payroll Costs

- Included:
 - salary, wage, and commissions
 - tips
 - payment for vacation, parental, family, medical, or sick leave
 - allowance for dismissal or separation
 - group health care benefits, including insurance premiums
 - retirement benefits
 - State or local tax assessed on the compensation of employees
- Excluded:
 - compensation in excess of an annual salary of \$100,000;
 - compensation of an employee lives outside of the United States;
 - qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act; or
 - qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act

Forgiveness of Loan

The sum of the following incurred during the eight-week period following the date of the loan will be forgiven:

- Payroll Costs
- Mortgage Interest
- Rent
- Utilities

Amount forgiven cannot exceed principal of loan

Reduction In Forgiveness

- Reduction in Workforce:

Reduce Forgiveness amount by fraction equal to

Avg. # of Full Equivalent Time Employees During 8-Week Period

Avg. # of Full Time Equivalent Employees From Either:

(i) 2/15/19-6/30/19 or (ii) 1/1/20-2/29/20

- Reduction in Payroll:

Reduce forgiveness in an amount equal to the reduction in salary or wages for any employee greater than 25% the total salary or wages during the immediately preceding quarter

Exemption For Re-Hires

The Reduction Will Not Be Applied If:

- There is a reduction in employment between 2/15/2020 and 4/26/2020 and that reduction is eliminated by 6/30/2020
- There is a reduction in wages or salary for 1 or more employees between 2/15/2020 and 4/26/2020, and that reduction is eliminated for such employees by June 30, 2020
- The SBA and Secretary of Treasury can issue regulations for additional de minimis exemptions

Existing SBA Section 7(a) Loans

- May be deferred for 6 months
- SBA will pay interest and principal owed over the 6-month period

Economic Injury Disaster Loans

- Available to small businesses with an economic injury resulting from COVID-19
- Loan approval based on credit score
- Loans below \$200,000 do not require a personal guaranty
- Immediate Advance of \$10,000 available upon application for use with payroll, mortgage or lease payments, supply chain disruption or other obligations that cannot be met due to revenue losses

Add'l Loans & Credit Programs

- \$500,000,000,000 available from U.S. Treasury to provide loans to eligible borrowers, States and municipalities
- Eligible Borrowers are air carriers and other businesses that have not otherwise received adequate relief under the CARES Act
- Must be an entity formed in U.S. with operations in U.S. and majority of employees in U.S.
- Middle Market lending program to be established for businesses with 500-1000 employees

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QUESTIONS?

Workplace Safety Issues Related to COVID-19

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Workplace Safety Issues Related to COVID-19

CDC Guidance for
Critical
Infrastructure
Workers

OSHA Guidance on
Respirators,
Recordkeeping and
Enforcement

Workers'
Compensation
Issues

Other Federal and
State Issues
Regarding
Workplace Safety

CDC Guidance Regarding Essential Workers Exposed to COVID-19

Workers

- Take temperature before work
- Wear face mask at all times
- Practice social distancing at workplaces

Employers

- Take employee temperatures and assess symptoms before work
- Send sick workers home immediately
- Issue face masks or approve employee provided face masks
- No sharing of equipment used near mouth or nose
- No sharing of utensils or food
- Increase frequency of cleaning commonly touched areas

OSHA Guidance on Respirators

Temporary enforcement guidance regarding enforcement discretion for annual fit testing requirement for healthcare (March 14, 2020)

Enforcement Guidance for N95 shortage (April 3, 2020)

- Consider alternative classes of respirators
- Extended use or re-use or use of expired N95s

Expanded temporary enforcement guidance for all industries regarding enforcement discretion for annual fit testing requirement (April 8, 2020)

- “Good faith” efforts to comply with respiratory protection standard
- Assess ways to decrease need for N95 or other filtering facepiece respirators (wet methods, portable local exhaust systems, ventilation)

See also CDC guidance regarding respirators

OSHA Guidance on Recordkeeping (April 10, 2020)

Address recordkeeping for COVID-19 cases

Not applicable to healthcare and emergency responder organizations

Intended to provide certainty and minimize time spent making work-relatedness determinations

OSHA will not enforce recordkeeping violations unless:

- Objective evidence that COVID-19 may be work-related and
- Evidence was reasonably available to employer
- If recordable, should be a “respiratory illness” subject to employee privacy requests

Interrelationship between recordability and reportability

OSHA Interim Enforcement Guidance (April 13, 2020)

Complaints regarding PPE availability, lack of training, concerns about COVID-19 workplace exposures

Phone/fax used for most complaints that are not healthcare or emergency responder establishments

Area Directors must conduct risk assessment of inspection

- Rapid response investigations (RRI) to severe injury reports are “encouraged wherever possible”

OSHA risk levels for enforcement

- High – healthcare, emergency responders
- Medium – contact with public (schools, high volume retail)
- Low – do not require much contact with public or co-workers.

OSHA Discretion in Enforcement when Employer Makes “Good Faith” Efforts (April 16, 2020)

OSHA recognizes limitations in availability of training resources, equipment, and medical facilities

Directs investigators to evaluate (and give “strong consideration” to) whether employer made good faith efforts to comply

- Did employer explore other options (i.e. virtual learning)
- Did employer use interim alternative measures to protect employees?
- Was training re-scheduled as soon as possible?

Even if not cited, OSHA may conduct “monitoring” inspections in the future.

OSHA Construction Guidance (April 21, 2020)

Allow workers to stay at home if sick

Allow workers to wear face masks

Advise workers to avoid physical contact with others and direct employees/contractors/visitors to increase personal space to 6 feet, where possible

Train workers regarding donning and doffing PPE

Encourage good respiratory etiquette (covering coughs and sneezes)

Promote handwashing and hand sanitizing (60% alcohol)

Use recommended cleaning chemicals to disinfect surfaces

Limit in-person meetings (in number and duration)

Clean and disinfect portable jobsite toilets regularly, fill hand sanitizer regularly, disinfect frequently touched items

Encourage workers to report health concerns

Other OSHA Issues



PPE



EYE AND FACE
PROTECTION



SANITATION



HAZARD
COMMUNICATION



GENERAL DUTY
CLAUSE



ANTI-RETALIATION

MSHA Guidance from DOL

The Mine Safety and Health Administration will work with mine operators when it comes to the following recertifications:

Annual refresher training certification (30 CFR Part 46)

Surface and underground annual refresher training certification (30 CFR Part 48)

Certified person; sampling (30 CFR §§ 70/71/90.202)

Certified person; maintenance and calibration (30 CFR §§ 70/71/90.203)

Exemptions to recertifications will not be granted; however, their due dates will be extended by at least the time the government is operating under the President's emergency declaration.

Please note: This exception does not apply to new miner training. New miners must be trained before beginning work. Once the Emergency Declaration is lifted, mine operators should work with their respective district offices to ensure that all certifications are conducted in a timely manner.

Workers' Compensation Issues

Compensability of COVID-19 claims

- Did infection occur in the course of and arising out of employment?
- “Causation” element is generally not met unless job exposes employee to a hazard of contracting COVID-19 to a greater degree than the general public
- Healthcare workers and emergency responder claims will be most difficult for employer to defend
- Watch for state legislation creating “rebuttable presumptions” in favor of healthcare workers and emergency responders (i.e. Ohio HB 571/Ohio HB 573, introduced March 23, 2020)

Ohio declared dividend in amount of 100% of policy year 2018 premiums

On the horizon...

May 1, 2020 Ohio SAH Order expires

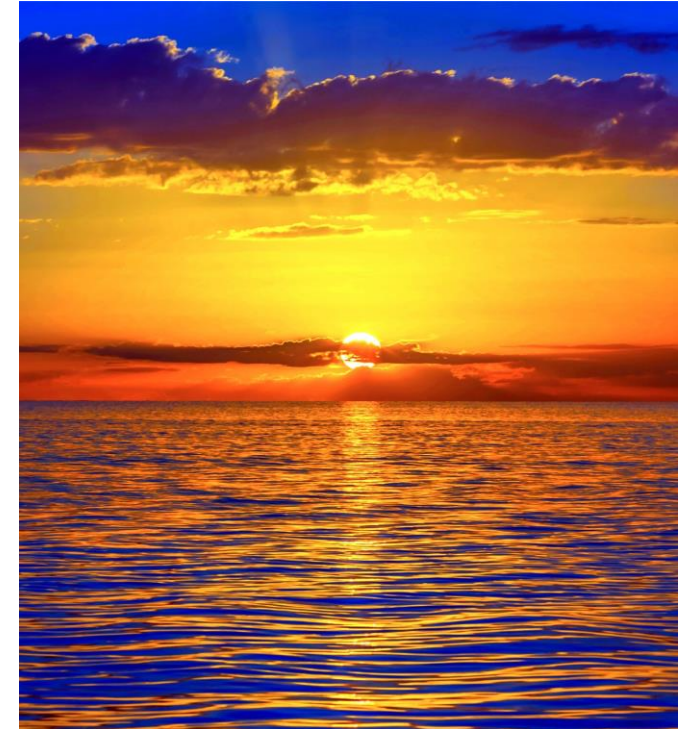
Opening up America (in 3 phases)

Gradual RTW issues

- Temperature taking/symptom checking
- Mask wearing
- Surface disinfecting
- Social distancing
- Testing

More federal legislation

- HR 6559 (April 21, 2020) COVID-19 Every Worker Protection Act
- State laws/orders targeted toward protecting healthcare workers and emergency responders and critical infrastructure workers
- Possible federal and state legislation to address employer liability concerns



Risk Mitigation Strategies

Written plan for COVID-19 risk assessment and risk reduction on jobsite

Incorporate OSHA, CDC, and state Department of Health guidance and update frequently

Include job and site specific COVID-19 risk assessments and modifications

Address employee expectations (rules)

Address symptom checking and monitoring

Signage, hand-washing, hand-sanitizing, cleaning, equipment cleaning (dedicated employee for this?)

Restrict access (visitors, deliveries, other contractors)

Rules regarding social distancing (meetings, trailers, vehicles)

Provide PPE and training and document “good faith compliance efforts”

Designate a COVID-19-point person for company and/or job site

- Monitors compliance
- Coordinates with other contractors, owners, operators

Thank you for
attending!

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