

Paycheck Protection Program FAQs

April, 2020

The Paycheck Protection Program (PPP) is part of the CARES ACT and authorizes up to \$349 billion of federally guaranteed Small Business Administration (SBA) loans to qualifying small and medium-sized businesses. The following is a brief overview of the key features of the PPP. While we anticipate that the SBA and the US Treasury will release additional guidelines for these loans in the coming weeks, here are answers to the most frequently asked questions and helpful links to important information for businesses.

What period is covered by the PPP program?

The “covered period” runs from February 15, 2020 through June 30, 2020. All covered loans must be originated by June 30, 2020. We have been looking into this program and have been networking with several banks and business owners to see what they are doing. Feedback from the banks so far includes:

- ▶ Most banks indicate that they will be working with existing customers first to be sure they have both the processing and lending capacity to handle the anticipated high demand. It’s best for borrowers to work with their existing banks assuming the bank is an SBA approved bank.
- ▶ If you do not work with an SBA approved bank already, you need to find one or wait for your bank to be approved which may take some time. Check your state-specific SBA web site to see the list of approved banks.

What are PPP Eligible Businesses?

Businesses and entities must have been in operation on February 15, 2020. Eligible businesses include any business, non-profit, veterans’ organization or tribal business, if the business employs not more than the greater of:

- ▶ 500 employees, or
- ▶ If applicable, the size standard in number of employees established by the Administration for the industry in which the business operates

Eligible businesses also include:

- ▶ Individuals who operate under a sole proprietorship or as an independent contractor
- ▶ Businesses that employ not more than 500 employees per physical location only when the employer is in the Accommodation and Food Services sector providing customers with lodging and/or preparing meals, snacks, and beverages for immediate consumption.

Affiliation rules are waived only for three specified types of businesses:

- ▶ Businesses in the accommodation and food services sector (NAICS code beginning with 72)
- ▶ Franchises assigned a franchise identifier code by the SBA
- ▶ Businesses receiving financial assistance from an approved Small Business Investment Company (e.g., from an SBIC fund)

Employees are defined as individuals employed on a full-time, part-time or other basis.

What is the maximum amount of a PPP loan?

The maximum amount of a PPP loan is the lower of:

- ▶ \$10 million, or
- ▶ 2.5X the average total monthly payments for payroll costs incurred during the 1-year period before the date on which the loan is made. Seasonal businesses should use the 12-week period beginning February 15, 2019 or March 1, 2019 through June 30, 2019.

What are included in payroll costs?

Payroll Costs are defined broadly to include payments of any compensation with respect to an employee that is:

- ▶ Salary, wages, commissions or similar compensation
- ▶ Payment of cash tip or equivalent
- ▶ Payment for vacation, parental, family, medical or sick leave
- ▶ Allowance for dismissal or separation
- ▶ Payments required for the provisions of group health care benefits including insurance premiums
- ▶ Payment of any retirement benefits
- ▶ Payment of state or local assessed tax on the compensation of employees
- ▶ Sum of payments or any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment or similar compensation and that is in an amount that is not more than \$100,000 in 1 year as prorated for the covered period.

What payroll costs are not included?

- ▶ Compensation of an individual employee in excess of an annual salary of \$100,000 as prorated for the period February 15 – June 30, 2020
- ▶ Payroll taxes during the covered period
- ▶ Any employee whose principal place of residence is outside of the US
- ▶ Qualified sick leave wages for which a credit is allowed under section 7001 of the FFCRA
- ▶ Qualified family leave wages for which a credit is allowed under section 7003 of the FFCRA

What can PPP loan proceeds be used for?

- ▶ Payroll Costs
- ▶ Costs of continuation of group health care benefits during periods of paid sick, medical or family leave and insurance premiums
- ▶ Employee salaries, commissions or similar compensation
- ▶ Payments of interest on any mortgage (which shall not include any prepayment of or payment of principal on a mortgage obligation)
- ▶ Rent
- ▶ Utilities
- ▶ Interest on any other debt obligation that was incurred before the covered period

What if I owe payments?

- ▶ Payments will begin 6 months after the loan, and the entire loan must be paid off within 2 years.

To be eligible for a PPP Loan, the borrower must certify in good faith that:

- ▶ The uncertainty of current economic conditions makes necessary the loan request to support ongoing operations
- ▶ Funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments and/or utility payments
- ▶ The borrower does not have an application pending for a loan for the same purpose and duplicative of amounts under a covered loan

What are the PPP program fees and payment requirements?

- ▶ No fees shall be collected
- ▶ Collateral is not required
- ▶ Personal Guarantee is not required
- ▶ Interest rate of the loan is 1%
- ▶ Payments of principal, interest and fees are deferred for no less than 6 months and no more than 1 year

How does my business qualify for loan forgiveness?

PPP Loans are eligible for loan forgiveness for businesses that maintain their payroll during the eight-week period after the origination date of the loan. Even so, the loan forgiveness rules are technical.

The PPP loan plus interest will be forgiven and not subject to tax if during the 8 weeks beginning on the date of origination of the loan, proceeds are applied to:

- ▶ Covered rent obligation (rent obligated under a lease in force before February 15, 2020)
- ▶ Covered utility payment (payment for a service for the distribution of electricity, gas water transportation telephone or internet for which service began before February 15, 2020)
- ▶ Payroll costs. Employers must use 75% of the proceeds to cover payroll costs. Only 25% of non-payroll costs will be forgiven.
- ▶ Interest on any covered mortgage obligation incurred prior to February 15, 2020

Loan forgiveness may not exceed the principal amount of the loan. It is also proportionately reduced by any reduction in the number of employees during the covered period as compared to certain prior periods.

The amount of loan forgiveness is reduced when the employer either reduces the salary or wages of any employee paid less than \$100,000 by 25% or more, or if there is a reduction in the number of full-time equivalent employees during the covered period. These reductions don't apply if the employee is rehired before June 30, 2020.

What loan forgiveness documentation must be provided?

Verification of the number of full-time equivalent employees on payroll and pay rates including:

- ▶ Payroll tax filings
- ▶ State unemployment filings
- ▶ Canceled checks

When can I apply?

- ▶ Beginning April 3, 2020 for small businesses and sole proprietorships
- ▶ Beginning April 10, 2020 for independent contractors/self-employed

What incentives does the CARES Act provide for banks to process loans quickly?

To incentivize banks to make PPP loans and to speed up the lending process, the CARES ACT:

- ▶ Increases the guaranty on such loans by the federal government to 100% for the remainder of 2020
- ▶ Provides for new SBA lenders to be approved by the US Treasury
- ▶ Contains other provisions such as fee waivers, limits on lender liabilities for ineligible borrowers, facilitation of loan sales to secondary markets, and requires the SBA to pay certain processing fees to lenders
- ▶ Any loan forgiveness from this program is excluded from taxable income

The Paycheck Protection Program will provide substantial relief to many small and medium-sized businesses. It will provide much needed cash flow assistance in the form of federally guaranteed loans to allow lenders to maintain their workforce during this crisis. The ability to receive loan forgiveness used to make payroll and other eligible outlays can be a decisive factor and one that may enable many businesses to retain or perhaps rehire workers during this emergency.

Even so, the provisions are complicated. Our advisors, tax and business management professionals are ready to help business owners navigate the CARES Act and provide advice and guidance now and in the better times to come.

HELPFUL LINKS

Application: [Paycheck Protection Program Borrower Application Form](#)

Borrower Guides: [Paycheck Protection Program \(PPP\) Information Sheet: Borrowers](#)

US Chamber of Commerce: [Coronavirus Emergency Loans—Small Business Guide & Checklist](#)

For more information, please see our other informative guides:

[Key Components of the CARES Act for Individuals](#)

[What Businesses Need to Know About the CARES Act](#)

[Employee Retention Credit FAQs](#)

[Families First Coronavirus Response Act FAQs](#)

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