U.S. Small Business Administration

SBA CARES Act - Paycheck Protection Program (PPP)

Paycheck Protection Program

GT GreenbergTraurig

The CARES Act

$250 Billion
set aside for direct payments to individuals and families

$377 Billion
in small business loans

$260 Billion
in unemployment insurance benefits

$500 Billion
in loans for distressed companies

$150 Billion
to assist states and localities

$150 Billion
for hospitals to invest in equipment and infrastructure

Infographic Courtesy of Greenberg Traurig Law

SBA
U.S. Small Business Administration

2020 CARES Act:
Coronavirus Aid Relief & Economic Security

Prepared by the **U.S. CHAMBER OF COMMERCE**

CORONAVIRUS EMERGENCY LOANS

Small Business Guide and Checklist

Updated: April 1, 2020

The Coronavirus Aid, Relief, and Economic Security (CARES) Act allocated $350 billion to help small businesses keep workers employed amid the pandemic and economic downturn. Known as the Paycheck Protection Program (PPP), the initiative provides 100% federally guaranteed loans to small businesses.

Importantly, these loans may be forgiven if borrowers maintain their payrolls during the crisis or restore their payrolls afterward.

The administration has released initial guidelines; they are available at **www.treasury.gov**. The U.S. Chamber of Commerce has issued this guide to help small businesses and self-employed individuals check eligibility and prepare to file for a loan.

Small businesses and sole proprietors can begin applying on April 3. Independent contractors and self-employed individuals can apply beginning on April 10.

Here are the questions you may be asking—and what you need to know.

You can apply through any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. Other regulated lenders will be available to make these loans once they are approved and enrolled in the program. You should consult with your local lender as to whether it is participating.

While the program is open until June 30, 2020, the government is advising borrowers to **apply as soon as possible** given the loan cap on the program.

1 Am I ELIGIBLE?

You are eligible if you are:

- A small business with fewer than 500 employees
- A small business that otherwise meets the SBA's size standard
- A 501(c)(3) with fewer than 500 employees
- An individual who operates as a sole proprietor
- An individual who operates as an independent contractor
- An individual who is self-employed who regularly carries on any trade or business
- A Tribal business concern that meets the SBA size standard
- A 501(c)(19) Veterans Organization that meets the SBA size standard

In addition, some special rules may make you eligible:

- If you are in the accommodation and food services sector (NAICS 72), the 500-employee rule is applied on a per physical location basis
- If you are operating as a franchise or receive financial assistance from an approved Small Business Investment Company the normal affiliation rules do not apply

REMEMBER: The 500-employee threshold includes all employees: full-time, part-time, and any other status.

2 What will lenders be LOOKING FOR?

Borrowers will need to complete the Paycheck Protection Loan Application (which is available **HERE**) and payroll documentation

Lenders will also ask you for a good faith certification that:

1. The uncertainty of current economic conditions makes the loan request necessary to support ongoing operations
2. The borrower will use the loan proceeds to retain workers and maintain payroll or make mortgage, lease, and utility payments
3. Borrower does not have an application pending for a loan duplicative of the purpose and amounts applied for here
4. From Feb. 15, 2020 to Dec. 31, 2020, the borrower has not received a loan duplicative of the purpose and amounts applied for here (Note: There is an opportunity to fold emergency loans made between Jan. 31, 2020 and the date this loan program becomes available into a new loan)

If you are an independent contractor, sole proprietor, or self-employed individual, lenders will also be looking for certain documents (final requirements will be announced by the government) such as payroll tax filings, Forms 1099-MISC, and income and expenses from the sole proprietorship.

What lenders will NOT LOOK FOR

- That the borrower sought and was unable to obtain credit elsewhere.
- A personal guarantee is not required for the loan.
- No collateral is required for the loan.

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3 How much can I BORROW?

Loans can be up to 2.5 x the borrower's average monthly payroll costs, not to exceed **$10 million**.

How do I calculate my average monthly PAYROLL COSTS?

sum of **INCLUDED** payroll costs − sum of **EXCLUDED** payroll costs = **PAYROLL COSTS**

INCLUDED Payroll Cost

1. **For Employers:** The sum of payments of any compensation with respect to employees that is a:
   - salary, wage, commission, or similar compensation;
   - payment of cash tip or equivalent;
   - payment for vacation, parental, family, medical, or sick leave
   - allowance for dismissal or separation
   - payment required for the provisions of group health care benefits, including insurance premiums
   - payment of any retirement benefit
   - payment of state or local tax assessed on the compensation of the employee
2. **For Sole Proprietors, Independent Contractors, and Self-Employed Individuals:** The sum of payments of 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 one year, as pro-rated for the covered period.

EXCLUDED Payroll Cost:

1. Compensation of an individual employee in excess of an annual salary of $100,000, as prorated for the period February 15, to June 30, 2020
2. Payroll taxes, railroad retirement taxes, and income taxes
3. Any compensation of an employee whose principal place of residence is outside of the United States
4. Qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act (Public Law 116–5 127), or qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act

NON SEASONAL EMPLOYERS:

Maximum loan =

2.5 X Average total monthly payroll costs incurred during the year prior to the loan date

For businesses not operational in 2019:

2.5 X Average total monthly payroll costs incurred for January and February 2020

SEASONAL EMPLOYERS:

Maximum loan =

2.5 X Average total monthly payments for payroll costs for the 12-week period beginning February 15, 2019 or March 1, 2019 (decided by the loan recipient) and ending June 30, 2019

- **Payments deferred for six months**
- **0.50% fixed interest rate**
- **Loan is due in two years**

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4 Will this loan be FORGIVEN?

Borrowers are eligible to have their loans forgiven.

How Much?

A borrower is eligible for loan forgiveness equal to the amount the borrower spent on the following items during the 8-week period beginning on the date of the origination of the loan:

- Payroll costs (using the same definition of payroll costs used to determine loan eligibility)
- Interest on the mortgage obligation incurred in the ordinary course of business
- Rent on a leasing agreement
- Payments on utilities (electricity, gas, water, transportation, telephone, or internet)
- For borrowers with tipped employees, additional wages paid to those employees

NOTE: The government is now advising that because of high participation, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs. The loan forgiveness cannot exceed the principal.

How could the forgiveness be reduced?

The amount of loan forgiveness calculated above is reduced if there is a reduction in the number of employees or a reduction of greater than 25% in wages paid to employees. Specifically:

Reduction based on reduction of number of employees

PAYROLL COST Calculated on page 2 **X** Average Number of Full-Time Equivalent Employees (FTEs) Per Month for the 8-Weeks Beginning on Loan Origination **÷**

Option 1: Average number of FTEs per month from February 15, 2019 to June 30, 2019

Option 2: Average number of FTEs per month from January 1, 2020 to February 29, 2020

For Seasonal Employers: Average number of FTEs per month from February 15, 2019 to June 30, 2019

Reduction based on reduction in salaries

PAYROLL COST Calculated on page 2 **−** For any employee who did not earn during any pay period in 2019 wages at an annualized rate more than $100,000, the amount of any reduction in wages that is greater than 25% compared to their most recent full quarter.

What if I bring back employees or restore wages?

Reductions in employment or wages that occur between February 15, 2020 and April 26, 2020 (as compared to February 15, 2020) shall not reduce the amount of loan forgiveness **IF** by June 30, 2020 the borrower eliminates the reduction in employees or reduction in wages.

WHAT'S NEXT?

Look out for more information about eligible lenders and additional guidance from the SBA soon.

For more guidance and resources for small businesses, visit **uschamber.com/co**

Private lenders will ultimately issue PPP loans based on guidance from the SBA and Treasury Department. More information, including from lenders, should be available once the guidance is issued.

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Paycheck Protection Program

What is the Paycheck Protection Program (PPP)?

- $349 billion Paycheck Protection Program to support small businesses maintain employee staffing and wages. **Funds are distributed on a first come, first served basis – APPLY ASAP, applications began being accepted by local banks on Monday, April 6, 2020**
- The Paycheck Protection Program is a loan designed to provide a direct incentive for small businesses to keep their workers on the payroll
- SBA will forgive loans if all employees are kept on the payroll and wages are maintained for eight weeks and the money is used for payroll, rent, mortgage interest, or utilities
- 75% of loan **MUST** be used for employee retention and payroll; 25% may be used toward non-payroll items such as rent, mortgage interest, or utilities
- You apply through any SBA 7(a) lender or FDIC or FICU or Farm Credit System
- **It is highly recommended that you use an SBA approved lender that you have an existing banking relationship with**

Who Can Apply for the PPP?

Paycheck Protection Program

- This program is for any small business with less than 500 employees (including sole proprietorships, independent contractors and self-employed persons), private non-profit organization or 501(c)(19) veterans organizations affected by coronavirus/COVID-19
  - Eligible Non-Profit Organizations
  - Veterans Organizations
  - Tribal Business Concerns
  - Sole proprietorships and self-employed individuals
  - Independent Contractors
- Businesses in certain industries may have more than 500 employees if they meet the SBA's size standards for those industries
- Small businesses in the hospitality and food industry with more than one location could also be eligible if their individual locations employ less than 500 workers

How the PPP Works

- The loan will be fully forgiven if the funds are used for payroll costs, interest on mortgages, rent, and utilities
- Due to likely high subscription, at least 75% of the forgiven amount **MUST** be used for payroll expenses
- Loan payments will also be deferred for six months
- No collateral or personal guarantees are required
- Neither the government nor lenders will charge small businesses **any fees**
- Forgiveness is based on the employer maintaining or quickly rehiring employees and maintaining salary levels. Forgiveness will be reduced if full-time headcount declines, or if salaries and wages decrease
- This loan has a maturity of 2 years and an interest rate of 1%

How Will PPP Application Process Work

Paycheck Protection Program

- A Lender must consider whether the borrower:
  - Was in operation on February 15, 2020; and
  - Had employees for whom the borrowers paid salaries, benefits, and payroll taxes **OR** a company with a sole proprietor or who paid independent contractors, as reported on Form 1099-MISC
- When is the Application Period
  - Banks could begin receiving and processing PPP Loans on 06 April 2020 for small businesses and sole proprietors and 10 April 2020 for Independent Contractors and self-employed individuals and can continue to process PPP loans until June 30, 2020
  - First come, first served until the full $349B has been distributed
- Other Considerations
  - The term “employee” included individuals employed full-time, part-time, or other basis
  - A borrower who has W2 employees cannot count Independent Contractors (1099-MISC) personnel as part of payroll as those individuals are permitted to apply on their own behalf
  - Full and complete application with all required* documentation and forms
  - Borrowers will calculate their qualified loan amount based on terms and limitations set by SBA – your lender will provide a PPP Loan Calculator worksheet to help you

*** Each lending institution’s application process may be different, please obtain the list of required forms and documentation from your lending institution**

Paycheck Protection Program

What Should you Prepare in Order to Apply?

- This list is courtesy of M&T Bank as an **example** of the list of documents they will be requiring for PPP Loan Applications, other lenders' list of required documents may be different – **you must consult with your lender**
  - Lender Bank Application, this is separate from the SBA Application
  - Copy of the PPP Loan Calculator used to arrive at your qualified loan total
  - 2019 IRS Quarterly 940, 941 or 944 payroll tax reports
  - Last 12 months of payroll reports, beginning with the last payroll date and going back for 12 months
  - Documentation showing total of all health insurance premiums paid by the business owner under a group health plan
  - Documentation of the sum of all retirement plan funding that was paid by the business owner (not including funding that came from employees out of their paycheck deferrals)
  - Details on how your business has been affected by the COVID-19 outbreak
  - Your businesses' Tax ID Number (EIN)
  - Your checking account number at the lender where the funds will be deposited
  - Form K-1 for any owner (>20% stake) that received distributions or disbursements via K-1 during the previous year
- Lenders have advised that they will only process PPP Loans when all documents are submitted and fully complete
- Your accountant or CPA firm can assist you with this process and can be compensated from the lender fee paid by SBA. Please consult with your CPA, if you have one.

Forms and Information Needed

Paycheck Protection Program

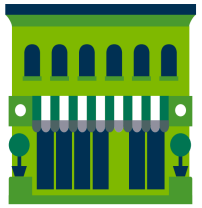
- SBA Paycheck Protection Program Borrower Application Form (SBA Form 2483)
- SBA PPP Lender Application Form (to be completed by your lender) (SBA Form 2484)
- SBA CARES Act Section 1102 Lender Agreement (SBA Form 3506)
- PPP Agency Agreement, if a CPA assisted you with preparation of the PPP application and process
- Your Employer Identification Number (EIN)
- Scanned copies of your 2019 and 2020 payroll reports
- Be prepared to provide other financial documentation, such as tax returns, earnings statements, company paid benefits reports, and company IRA matching reports (See slide 6) as required by your lender. **Contact your lender to determine what supporting documents are required and what the PPP application process is for your lender**

Paycheck Protection Program

What payroll costs are included?

EMPLOYERS			SOLE PROPRIETORS AND INDEPENDENT CONTRACTORS
Salary, wages, commissions, or tips (capped at $100,000 on an annualized basis for each employee)	Employee benefits including costs for vacation, parental, family, medical, or sick leave	Payments required for group health care benefits including insurance premiums	Wages Commissions Income Net earnings from self-employment (capped at $100,000 on an annualized basis for each employee)
Payment of state and local taxes assessed on compensation	Allowances for separation or dismissal	Payment of any retirement benefit	

Who's eligible?



Businesses with 500 or fewer employees that were operating on or before Feb. 15, 2020, plus:

- Eligible non-profit organizations
- Veterans organizations
- Tribal business concerns
- Sole proprietorships and self-employed individuals
- Independent contractors

How do I prepare?

- ✓ Gather ownership information, including your Tax Identification Number and breakdown of ownership.
- ✓ Scan PDF copies of 2019 and 2020 year-to-date payroll reports.

What are the terms?

6-month deferment on payments followed by 18 months of Principal & Interest

1% APR INTEREST RATE

24 mo. LOAN TERM

A Visual Guide, Courtesy of M&T Bank

Paycheck Protection Program

What else should I know?

Eligibility is limited to one loan per Tax Identification Number.

Forgiveness would be reduced if headcount decline or wages fall by more than 25% for any employee that made less than $100,000 in 2019.

Businesses have until June 30, 2020 to rehire employees and restore salaries.

How much can I borrow?

Loan amount maximum is determined by a formula based on

(Average monthly payroll costs) x 2.5

or up to $10 million

Most businesses:
Average monthly payroll for 2019, excluding costs over $100,000 on annualized basis for each employee

Seasonal businesses:
Average monthly payroll from Feb. 15 to June 30, 2019, excluding costs over $100,000 on an annualized basis for each employee

New businesses:
Average monthly payroll from Jan. 1 to Feb. 29, 2020, excluding costs over $100,000 on an annualized basis for each employee

Can this loan be forgiven?

A borrower is eligible for loan forgiveness[1] equal to the amount the borrower spent on the following items during the 8-week period beginning on the date of the origination of the loan:

- **Payroll costs**
- **Mortgage interest**
- **Rent**
- **Utilities payments**

A Visual Guide Continued, Courtesy of M&T Bank

Credits

SBA Logo, PPP Logo, and SBA information courtesy of the SBA website for the Paycheck Protection Program

Visual Guide Graphics courtesy of M&T Bank website for the Paycheck Protection Program

CARES Act Infographic courtesy of Greenberg Traurig Law website

Coronavirus Emergency Loans Checklist courtesy of U.S. Department of Commerce

M&T Bank – Local Point of Contact

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M&T Paycheck Protection Program Links:

- M&T Bank PPP Website
- M&T Bank PPP In-Depth Video (7:45)
- M&T Bank PPP In-Depth PDF
- M&T Bank "What You Need to Know"
- M&T Bank Payroll Calculator