



Paycheck Protection Program (PPP)

<p>Eligible Businesses</p>	<p>Small businesses, 501(c)(3) nonprofit organizations, Tribal business concerns, 501(c)(19) veteran’s organizations, and those that were in business on February 15, 2020, and either:</p> <ul style="list-style-type: none"> ■ Have less than the greater of (i) 500 employees or (ii) the applicable size standard for the industry as provided by SBA. ■ Includes sole proprietors, self-employed individuals or independent contractors. <p>ADDITIONALLY: Restaurants, hotels or businesses that fall within the North American Industry Classification System (NAICS) code 72, “Accommodation and Food Services,” and that have 500 or fewer employees at each of its locations are eligible.</p>
<p>Waiver of Affiliation</p>	<p>The SBA will apply certain affiliation rules to determine when two or more businesses should combine for purposes of determining the number of employees. Although these rules are complex and rely on a variety of factors, they are waived in the case of certain accommodation and food services businesses, businesses operating as a franchise (provided they are assigned a franchise identifier by the SBA) and businesses that received certain financial assistance from a company licensed under the Small Business Investment Act.</p> <p style="text-align: center;">Paycheck Protection Program Frequently Asked Questions</p>
<p>Covered Loan</p>	<p>Any loan issued during the period between February 15, 2020, and June 30, 2020.</p>
<p>Maximum Loan Amount</p>	<p>The lesser of one of the following:</p> <ul style="list-style-type: none"> ■ 250% of the average monthly “payroll costs” during the one-year period ending on the loan date (the measurement period). ■ \$10,000,000. <p>For new businesses, the measurement period is between January 1, 2020, to February 29, 2020.</p>

This content is for general informational purposes only and should not be used as a substitute for individualized tax advice with a qualified tax advisor. This information is current as of the date of publishing, April 26, 2020. This content does not necessarily represent the views or professional advice of WithumSmith+Brown, PC.



<p>Payroll Costs Defined</p>	<p>Payroll costs will include any compensation concerning employees, as follows:</p> <ul style="list-style-type: none"> ■ 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 group health care benefits, including insurance premiums. ■ Payment for any retirement benefits. ■ Payment for state or local tax assessed on the compensation. <p>Does not include the following:</p> <ul style="list-style-type: none"> ■ Compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the covered period. ■ Taxes imposed or withheld under chapters 21 (FICA), 22 (Railroad Retirement Act) or 24 (income taxes withheld at source) of the Internal Revenue Code of 1986 during the covered period. ■ Compensation of an individual whose principal place of residence is outside the USA. ■ Qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act (PL 116-127) (FFCRA). ■ Qualified family leave wages for which a credit is allowed under section 7003 of the FFCRA.
<p>Interest Rate</p>	<p>Not to exceed 1% during the term of the loan.</p>
<p>Loan Fees</p>	<ul style="list-style-type: none"> ■ There may be borrower and lender fees. ■ Prepayment fees are waived.
<p>Loan Maturity</p>	<p>The loan is due in two years.</p>
<p>Where to Apply</p>	<p>You can apply at any lending institution that is an approved SBA 7(a) lender and additional lenders to be approved by Treasury.</p>





Borrower Qualifications

- The loan is necessary due to the current economic conditions caused by COVID-19.
- The funds will be used to retain workers and maintain payroll, lease and utility payments.
- It is not receiving duplicative funds for the same uses under another SBA program.

NOTE: A borrower that receives a covered loan under the PPP cannot also take the employee retention payroll tax credit under section 2301 of the CARES Act.

For a full list of applicant questions and requirements, please refer to the most current application. However, please check with your SBA lender as they may have their own application form for you to complete.

Allowable Use of Funds

- Payroll costs (as defined).
- Continuation of healthcare benefits during paid sick, medical, or family leave.
- Mortgage interest payments.
- Rent.
- Utility payments.
- Insurance premiums.
- Interest on debt obligations incurred prior to February 15, 2020.

Loan Guarantee

Government guarantee of 7(a) loans is increased to 100% through December 31, 2020.

Payment Deferral

Six months (includes payment of principal, interest and fees).





Terms of Loan Forgiveness

Borrowers can obtain tax-free loan forgiveness in an amount equal to the sum of the following expenses that incur during the eight weeks after the loan date:

- Payroll costs (excluding compensation over \$100,000/year).
- Payment of interest on mortgage obligation.
- Rent payments.
- Utility payments.

The amount of loan forgiveness cannot exceed the amount borrowed.

Loan forgiveness will be reduced proportionately in the following situations:

- If the average number of employees per month reduces during the eight-week covered period, as compared to, at the election of the taxpayer, either the period February 15, 2019, to June 30, 2019, or January 1, 2020, to February 29, 2020.
- If there is a reduction in total employee compensation during the 8-week covered period, which is over 25% of the total employee compensation during the most recent full quarter (excluding employees making more than \$100,000/year).

No reduction in loan forgiveness will apply if any reduction in employee headcount or salary is restored by June 30, 2020.

Payroll and expense documentation is required to receive loan forgiveness and to ensure the appropriate use of the amount forgiven.

If a taxpayer receives loan forgiveness, then it cannot take advantage of the employer payroll tax holiday under section 2302 of the CARES Act.

NOTE: For purposes of this loan forgiveness section, “covered period” is defined as the eight-week period beginning on the date of the origination of a covered loan. This is currently subject to variance in application, and we are awaiting further regulations from the SBA regarding this specific provision.

Applying for both a 7(a) loan and an Economic Injury Disaster Loan (EIDL)

If you received an EIDL loan related to COVID-19 between January 31, 2020, and the date at which the PPP becomes available, you would be able to refinance the EIDL into the PPP for loan forgiveness purposes. However, you may not take out an EIDL and a PPP for the same purposes. Remaining portions of the EIDL, for purposes other than those laid out in loan forgiveness terms for a PPP loan, would remain a loan. If you took advantage of an emergency EIDL grant award of up to \$10,000, subtract that amount from the forgivable amount under PPP.