

## **Paycheck Protection Program Borrower FAQ**

### **1. What is the Paycheck Protection Program?**

On Friday, March 27, Congress approved the CARES Act which includes the very important Paycheck Protection Program. This program will directly help small businesses (<500 employees) by providing cash-flow assistance through 100% federally guaranteed loans to employers who maintain their payroll during this emergency. If employers maintain their payroll, the loan amount is forgiven, as long as the loan funds are only used for permitted purposes (payroll costs, mortgage payments, lease obligations, interest on prior indebtedness, certain utilities, additional wages paid to tipped employees). The goal is to help workers remain employed, as well as help affected small businesses and our economy snap-back quicker after the crisis. PPP has a host of attractive features:

- Potential forgiveness of the loan amount based on employee retention and salary levels;
- No SBA fees; and
- Loan payments will be deferred for six months.

### **2. What types of businesses and entities are eligible to apply under the Paycheck Protection Program?**

- Businesses and entities must have been in operation on February 15, 2020.
- Small business concerns, as well as any business concern, a 501(c)(3) nonprofit organization, a 501(c)(19) veterans organization, or Tribal business concern described in section 31(b)(2)(C) that has fewer than 500 employees or fewer employees than established by the relevant industry code.
- Individuals who operate a sole proprietorship or as an independent contractor and eligible self-employed individuals.
- Any business concern that employs not more than 500 employees per physical location of the business concern and that is assigned a North American Industry Classification System code beginning with 72, for which the affiliation rules are waived.
- Affiliation rules are also waived for any business concern operating as a franchise that is assigned a franchise identifier code by the Administration and company that receives funding through a Small Business Investment Company.

### **3. How much money can I borrow?**

In general, eligible recipients are eligible to borrow the **lesser** of 2.5x Average Monthly Payroll Costs from 2019 or \$10 million. Payroll costs are defined as:

- the sum of payments of any compensation with respect to employees that is a:
  - salary, wage, commission, or similar compensation;
    - payroll costs are capped at \$100,000 on an annualized basis for each employee.

- 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; or
- payment of State or local tax assessed on the compensation of employees; and
- 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.

Ineligible payroll costs can be defined as:

- Compensation for any employee in excess of an annual salary over \$100,000 (note: you can include employee compensation up to the \$100,000 cap)
- Taxes imposed or withheld under Chapters 21, 22, or 24 of IRS Code during the covered period. These taxes are more commonly identified as FICA, Railroad Retirement Taxes, and Federal Income Taxes.
- Compensation for any employee whose principal residence is outside USA
- Qualified sick and/or family leave wages, for which a credit is allowed under Families First Coronavirus Response Act

Please note that the covered period is defined as beginning on February 15, 2020 and ending on June 30, 2020.

#### **4. What can loan proceeds be utilized for?**

Loan proceeds can be utilized to pay payroll (including salaries and commissions or similar payments), group health payments, interest on a related mortgage, rent or lease payments, utilities, and interest on any debt incurred before February 15, 2020.

#### **5. What interest expenses are considered eligible?**

Any business-related interest payments on a mortgage or other debt obligation (excluding any prepayment or principal obligation) that was incurred before February 15, 2020.

#### **6. What rent expenses are considered eligible?**

Payments for business-related rent under a leasing agreement that was in force before February 15, 2020.

#### **7. What utility expenses are considered eligible?**

Payments for business related utilities (for the distribution of electricity, gas, water,

transportation, telephone, or internet access) for which service began before February 15, 2020.

### **8. What items are required to apply under the Paycheck Protection Program?**

Applicants are expected to provide the following items to be considered for a loan under the Paycheck Protection Program:

- Borrower certification required by the SBA
- The four quarterly filed IRS Form 941 tax reports for 2019, or 2019 filed W-3, or, for independent contractors and self-employed individuals, your Form 1099-MISC forms and/or tax returns reported to the IRS
- State income, payroll, and unemployment insurance filings ) - see note above about eligible and ineligible payroll costs
- List of employees that had salaries in excess of \$100,000 in 2019 and their corresponding salary

Please note that as this new program evolves, additional documents may be requested, if needed.

### **9. IMPORTANT: What documents must be completed by the applicant?**

PPP lenders will be required to consider whether an applicant was in operation on February 15, 2020, and either had employees for whom it paid salaries and payroll taxes. Applicants will not be required to demonstrate repayment ability.

Applicants are expected to complete the following items to be considered for the Paycheck Protection Program:

- Paycheck Protection Act Application Form Good Faith Certification completed, signed, and dated by an authorized business representative and initialed by any principal a 20% stake or greater stating that "the uncertainty of current economic conditions makes necessary the loan request to support ongoing operations of the eligible recipient", "funds will be used to retain works and maintain payroll or make mortgage payments, lease payments, and utility payments", "that the eligible recipient does not have an application pending for a loan under the Paycheck Protection Program for the same purpose and duplicative amounts of the applied for or received covered loan", and "during the period beginning February 15, 2020 and ending on December 31, 2020 that the eligible recipient has not received amounts under the Paycheck Protection Program for the same purpose and duplicative amounts of the applied for or received covered loan".

Specific document requirements by entity type follows:

## Corporation

- Payroll documents
  - At least one of the following (in priority order)
    - 2019 940 Employers FUTA Tax Return, and/or
    - 2019 W3 Transmittal Wage & Tax Statement, and/or
    - All 4 2019 Quarterly 941 Tax Reports
  - Payroll reports that show:
    - Federal Income Tax (FIT) paid and Federal Unemployment Tax (FUTA) withheld from employees and paid on behalf of employees since February 15, 2020
    - 2019 Employer contributions for health insurance (including employer contribution to HSA)
    - 2019 Employer contributions to retirement benefits (including 401k plans, Simple IRAs, SEP IRAs)
    - *(If applicable)* List of employees (w/salaries) with total compensation (including benefits) > \$100,000
    - *(If applicable)* List of employees (w/salaries) with total compensation whose principal residence is outside the U.S.
    - *(If applicable)* If seasonal business, need total payroll costs for period 2/15/2019 to 6/20/2019
- Entity documents
  - Articles of Incorporation
  - Corporate Bylaws
  - *(If applicable)* Shareholder Agreement
  - Certificate of Assumed Name *(if applicable)*

## LLC

- Payroll documents
  - At least one of the following (in priority order)
    - 2019 940 Employers FUTA Tax Return, and/or
    - 2019 W3 Transmittal Wage & Tax Statement, and/or
    - All 4 2019 Quarterly 941 Tax Reports

- Payroll reports that show:
  - Federal Income Tax (FIT) paid and Federal Unemployment Tax (FUTA) withheld from employees and paid on behalf of employees since February 15, 2020
  - 2019 Employer contributions for health insurance (including employer contribution to HSA)
  - 2019 Employer contributions to retirement benefits (including 401k plans, Simple IRAs, SEP IRAs)
  - *(If applicable)* List of employees (w/salaries) with total compensation (including benefits) > \$100,000
  - *(If applicable)* List of employees (w/salaries) with total compensation whose principal residence is outside the U.S.
  - *(If applicable)* If seasonal business, need total payroll costs for period 2/15/2019 to 6/20/2019
- Entity documents
  - Certificate of Formation/Articles of Formation
  - Operating Agreement/LLC Agreement
  - Certificate of Assumed Name *(if applicable)*

### **Limited Partnership**

- Payroll documents
  - At least one of the following (in priority order)
    - 2019 940 Employers FUTA Tax Return, and/or
    - 2019 W3 Transmittal Wage & Tax Statement, and/or
    - All 4 2019 Quarterly 941 Tax Reports
  - Payroll reports that show:
    - Federal Income Tax (FIT) paid and Federal Unemployment Tax (FUTA) withheld from employees and paid on behalf of employees since February 15, 2020
    - 2019 Employer contributions for health insurance (including employer contribution to HSA)
    - 2019 Employer contributions to retirement benefits (including 401k plans, Simple IRAs, SEP IRAs)
    - *(If applicable)* List of employees (w/salaries) with total compensation (including benefits) > \$100,000

- *(If applicable)* List of employees (w/salaries) with total compensation whose principal residence is outside the U.S.
  - *(If applicable)* If seasonal business, need total payroll costs for period 2/15/2019 to 6/20/2019
- Entity documents
  - Certificate of Formation/Partnership
  - Partnership Agreement
  - Certificate of Assumed Name *(if applicable)*

## Non-Profits

- Payroll documents
  - At least one of the following (in priority order)
    - 2019 940 Employers FUTA Tax Return, and/or
    - 2019 W3 Transmittal Wage & Tax Statement, and/or
    - All 4 2019 Quarterly 941 Tax Reports
  - Payroll reports that show:
    - Federal Income Tax (FIT) paid and Federal Unemployment Tax (FUTA) withheld from employees and paid on behalf of employees since February 15, 2020
    - 2019 Employer contributions for health insurance (including employer contribution to HSA)
    - 2019 Employer contributions to retirement benefits (including 401k plans, Simple IRAs, SEP IRAs)
    - *(If applicable)* List of employees (w/salaries) with total compensation (including benefits) > \$100,000
    - *(If applicable)* List of employees (w/salaries) with total compensation whose principal residence is outside the U.S.
    - *(If applicable)* If seasonal business, need total payroll costs for period 2/15/2019 to 6/20/2019
- Entity documents
  - Articles of Incorporation
  - Corporate Bylaws
  - IRS Determination Letter for non-profit status
  - *(If applicable)* Shareholder Agreement
  - Certificate of Assumed Name *(if applicable)*

### **Sole Proprietor / Independent Contractor**

- Payroll documents
    - 2019 Personal Tax Returns
    - 1099-MISC forms received in 2019 (*if applicable*)
  - Entity documents
- Certificate of Assumed Name (*if applicable*)

### **10. Who needs to sign the application?**

Questions 5-7 of the application, the Certifications and the application are to be completed, initialed/signed and dated by each applicant who is an Individual as well as each 20% or greater owner of an Applicant Business. All parties below are considered owners of the Applicant Business as defined in 13 CFR 120.10, as well as "principals."

- For a sole proprietorship, the sole proprietor;
- For a partnership, all general partners, and all limited partners owning 20% or more of the equity in the firm;
- For a corporation, all owners of 20% or more of the corporation;
- For limited liability companies, all members owning 20% or more of the company; and
- Any Trustor (if the Applicant is owned by a trust).

### **11. What are the benefits of receiving a loan under the Paycheck Protection Program?**

Loans under the Paycheck Protection Program require no collateral or personal guarantee. Additionally, recipients of the Paycheck Protection Program are eligible for loan forgiveness of the indebtedness if they comply with the loan forgiveness requirements. Furthermore, the amount of loan forgiveness under the Paycheck Protection Program is non-taxable.

### **12. Will PPP loans be forgiven?**

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, including benefits (using the same definition of payroll costs used to determine loan eligibility)
- Interest on the mortgage obligation incurred in the ordinary course of business incurred before February 15, 2020
- Rent on a lease agreement in force before February 15, 2020
- Payments on utilities, including electricity, gas, water, transportation, telephone and Internet access for service that began before February 15, 2020; and
- Due to the likely high demand for these loans, at least 75% of the forgiven amount must have been used for payroll expenses.

Forgiven amounts will not be considered cancellation of indebtedness income for federal tax purposes.

### **13. Can the amount forgiven be reduced?**

The amount of loan forgiveness calculated above is reduced if there is a reduction in the number of employees (i.e., failure to maintain the average number of full-time equivalent employees versus the period from either February 15, 2019, through June 30, 2019, or January 1, 2020, through February 29, 2020, as selected by the borrower) or a reduction of greater than 25% in wages paid to employees. Specifically, the amount forgiven is reduced to the extent that compensation for any individual making less than \$100,000 per year is reduced by more than 25 percent measured against the most recent full quarter. Reductions in the number of full-time employees or compensation occurring between February 15, 2020, and April 26, 2020 will be ignored if the action (layoff or salary reduction) is reversed by June 30, 2020.

### **14. What are the primary terms of the PPP loans?**

Any amount not forgiven as described above will bear interest rate of 1.0 percent and mature no later than 2 years after the amount of forgiveness is applied. Payments on PPP loans will be deferred for 6 months.

### **15. How do I receive forgiveness on my PPP loan?**

Once the eight week period from the date of your loan has ended, you can apply for forgiveness on your loan. In this application, you must include:

- Documentation verifying the number of employees on payroll and pay rates, including IRS payroll tax filings and State income, payroll and unemployment insurance filings. Note that at least 75% of the forgiven amount must have been used for payroll.
- Documentation verifying payments on covered mortgage obligations, lease obligations, and utilities.
- Certification from a representative of your business or organization that is authorized to certify that the documentation provided is true and that the amount that is being forgiven was used in accordance with the program's guidelines for use.

### **16. Can I get more than one PPP loan?**

No, an entity is limited to one PPP loan. Each loan will be registered under a Taxpayer Identification Number at SBA to prevent multiple loans to the same entity.

### **17. What types of non-profits are eligible for the PPP?**

All 501(c)(3) non-profits with 500 employees or fewer, or more if SBA's size standards for the non-profit allows. Please visit <https://www.sba.gov/size-standards/> to find out your non-profit's SBA size standards by number of employees. For example, churches and museums with fewer than 500 employees are eligible. You will need the 6-digit North American Industry Classification Code for your business.



**18. Can an entity have both a PPP and EIDL loan?**

Yes, an entity can have both a PPP and EIDL loan however, the proceeds from the EIDL loans cannot be used for covering payroll costs.

**19. What happens after the forgiveness period?**

Any loan amounts not forgiven at the end of one year is carried forward as an ongoing loan with term of 2 years, at 1.0% interest. Principal and interest will continue to be deferred, for a total of 6 months after the initial disbursement of the loan. The clock does not start again.

**20. How is the forgiveness amount calculated?**

Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered 8-week period compared to the previous year or time period, proportionate to maintaining employees and wages (excluding compensation over \$100,000):

- Payroll costs plus any payment of interest on any covered mortgage obligation (not including any prepayment or payment of principal on a covered mortgage obligation)

The lender must decide on the forgiveness request within sixty (60) days of submission.

**21. What taxes are to be excluded when determining the loan amount?**

Taxes imposed or withheld under chapters 21, 22, and 24 of the Internal Revenue Code of 1986 are to be excluded from payroll costs. These taxes are more commonly identified as FICA, Railroad Retirement Taxes, and Federal Income Taxes.

**22. When can I apply?**

- Starting April 3, 2020, small businesses and sole proprietorships can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.
- Starting April 10, 2020, independent contractors and self-employed individuals can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.
- Other regulated lenders will be available to make these loans as soon as they are approved and enrolled in the program.

**23. What is my interest rate?**

1.0% fixed rate.

**24. When do I need to start paying interest on my loan?**

All payments are deferred for 6 months; however, interest will continue to accrue over this period.

**25. When is my loan due?**

In 2 years

**26. Can I pay my loan earlier than 2 years?**

Yes. There are no prepayments penalties or fees.

**27. Do I need to first look for other funds before applying to this program?**

No. We are waiving all the usual SBA requirement that you try to obtain some or all of the loan funds from other sources (I.e., we are waiving the Credit Elsewhere requirement).

**28. Do I need to pledge any collateral for these loans?**

No. Collateral is not required for loans funded under the PPP.

**29. Do I need to personally guarantee this loan?**

No. There is no personal guarantee requirement for loans funded under the PPP. However, if loan proceeds are used for fraudulent purposes, the U.S. Government will pursue criminal charges against you.

**30. What tax documents are acceptable for an applicant business to submit for payroll documentation?**

- Four 2019 quarterly filed IRS Form 941s or;
- 2019 IRS W-3

**31. What documentation is needed for a self-employed individual applying under PPP?**

- 2019 Schedule C of Individual Tax Return or;
- 2019 IRS Form 1099

**32. What is the maximum monthly salary allowed per employee?**

The maximum monthly salary allowed per employee in the monthly average payroll is \$8,333.