Paycheck Protection Program (PPP)

Funder Organization: Bank funded, guaranteed by the Small Business Administration (SBA)

Program URL: https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp

Type of Fund: SBA 100% Guaranteed Loan

Target Audience or Geography: United States (all areas)

Program Launch: As of April 3, 2020, small businesses were able to apply for and receive PPP loans to cover their payroll and certain other expenses through participating bank and non-bank lenders.


On Tuesday, April 14, 2020 SBA released additional interim guidance for the program: https://www.sba.gov/document/policy-guidance--ppp-interim-final-rule-additional-eligibility-criteria-requirements-certain-pledges-loans


Brief Program Description


The Paycheck Protection Program (“PPP”) authorizes up to $349 billion in forgivable loans to small businesses to pay their employees during the COVID-19 crisis. All loan terms will be the same for everyone.

Lenders (see Application Submittal Process shown below) originate the PPP loan directly to the borrower and this loan is 100% guaranteed by SBA. The borrower does not pay any fees.
General Guidelines for Determining PPP Loan Amount (*Sole Proprietorship and Self-Employed filing a Schedule C please refer to pages 6 - 8 below of this document):

Step 1: Aggregate payroll costs from the last twelve months for employees whose principal place of residence is the United States.

Step 2: Subtract any compensation paid to an employee in excess of an annual salary of $100,000 and/or any amounts paid to an independent contractor or sole proprietor in excess of $100,000 per year.

Step 3: Calculate average monthly payroll costs (divide the amount from Step 2 by 12).

Step 4: Multiply the average monthly payroll costs from Step 3 by 2.5.

Step 5: Add the outstanding amount of an Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020, less the amount of any “advance” under an EIDL COVID-19 loan (because the “advance” does not have to be repaid).

New businesses: The period shall be determined using average payroll costs from January 1, 2020 and ending February 29, 2020, and multiply the total by 2.5.

Eligibility Requirements

Business must have been in operation as of February 15, 2020 and have paid taxes on employees (or by the independent contractors).

• A small business with fewer than 500 employees.
• A small business that otherwise meets the SBA’s size standard.
• A 501(c)(3) not-for-profit charitable organization 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.
• For a business in the hospitality, accommodation or food services sector (click HERE for NAICS code 72 to confirm), the 500-employee rule is applied on a per physical location basis.
• A business operating as a franchise in the SBA’s Franchise Directory (click HERE to check);
• For a business receiving financial assistance from an approved Small Business Investment Company licensed by the SBA, the normal affiliation rules do not apply.
• The United States is the principal place of residence for all employees included in the Applicant’s payroll calculation

OR if the business has no more than 500 employees per physical location AND if the business has an NAICS code beginning with ‘72’ at the time of the eligible period.

Businesses in certain industries can have more than 500 employees if they meet applicable SBA employee-based size standards for those industries (click HERE for additional detail).
The Cares Act defines “employee” as individuals employed on a full-time, part-time, or other basis. — HR 748 Cares Act Page 9 - Sec 1102 (D)(v).

**Ineligibility Restrictions**

- Businesses engaged in illegal activity under federal, state or local law. (Cannabis warning).
- A household employer (you have a nanny, staff, etc.)
- Any previous defaults on a federal loan in last 7 years.
- Some businesses may not be eligible businesses as determined by SBA.

**Use of Funds**

- Payroll costs.
- Costs related to the continuation of group health care benefits for illness, medical or family leave, and insurance premiums.
- Employee salaries, commission, or similar compensation.
- Rent including rent under a lease agreement in force before February 15, 2020.
- Utilities including telephone and internet access, for which service began before February 15, 2020.

**Determining Payroll:**

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.

**Excluded Payroll Costs:**

- 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.
- Federal employment taxes imposed or withheld during the covered period between February 15, 2020 and June 30, 2020 under chapters 21, 22, or 24 of the Internal Revenue Code of 1986 (Ref: Cares Act, HR. 748, p7, Sec 1102,(a)(viii)(II)(bb)
- Payroll costs do not include the employer’s share of FICA (Federal Insurance Contributions Act - IRS Chapter 21) (Ref: SBA PPP FAQs p.5, Q.#16)
- Employer’s share of railroad retirement taxes (IRS Chapter 22)
- Income tax withholding at Source on Wages (IRS Chapter 24)
• Any compensation of an employee whose principal place of residence is 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 (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.
• Do not count independent contractors as employees for purposes of PPP loan calculations. Independent contractors have the ability to apply for a PPP loan on their own.

**Interest Rates:** 1.0%

**Loan Term:** 2 years.

**Collateral Requirements:** None (unsecured)

**Loan Program Payment Deferment (if any):** 6 months, although interest shall accrue during the deferment period.

**Forgiveness Terms (if any):** The amount of loan forgiveness can be up to the full principal amount of the loan plus accrued interest. The actual amount of loan forgiveness will depend, in part, on the total amount spent over the covered period (known as 8 weeks from origination of the covered loan) on the sum of any: payroll cost, payments of interest on any covered mortgage obligation, payment of interest on a loan, rent, and utilities.

At least 75% of the forgiven amount must have been used for payroll.

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 by more than 25% during the covered period compared with the most recent full quarter prior to the covered period. — HR 748 Cares Act Page 19 - Sec 1106 (D)(3).

A business has until June 30, 2020 to restore full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020. — HR 748 Cares Act Page 19 - Sec 1106 (D)(5)

**Calculating Average Number Of Full-Time Employees:** The average number of full-time equivalent employees shall be determined by calculating the average number of full-time equivalent employees for each pay period falling within a month. — HR 748 Cares Act Page 19 - Sec 1106 (D)(2)(A)

Forgiveness will reduced by, but not limited to: the quotient of dividing the average number of full-time employees per month employed by the borrower during the covered period, by: the average number of full-time equivalent employees per month employed by the borrower during the period of February 15, 2019 through June 30, 2019; OR by the average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on January 1, 2020 and ending February 29, 2020. — HR 748 Cares Act Page 19 - Sec 1106 (d)(2)

**EQUATION:**

$$\frac{\text{AVG # OF FTE (FEB 15-JUNE 30 2020)}}{\text{AVG # OF FTE (FEB 15-JUNE 30 2019)}} \text{ OR } \frac{\text{AVG # OF FTE (JAN 1-FEB 29 2020)}}{\text{AVG # OF FTE (FEB 15-JUNE 30 2019)}}$$

**EXAMPLE:**

$$\frac{15 \text{ AVG FTE (FEB 15-JUNE 30 2020)}}{40 \text{ AVG FTE (FEB 15-JUNE 30 2019)}} = 2020 \text{ FTE 37.5% OF 2019 (A REDUCTION OF 62.5%)}$$

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To request loan forgiveness a business can submit a request to the lender that is servicing the loan. The request will include documents that verify the number of full-time equivalent employees and pay rates, as well as the payments on eligible mortgage, lease, and utility obligations. It must certify that the documents are true and that it used the forgiveness amount to keep employees and make eligible mortgage interest, rent, and utility payments. The lender must make a decision on the forgiveness within 60 days.

For purposes of loan forgiveness, the borrower will have to document the proceeds used for payroll costs in order to determine the amount of forgiveness.

**Personal Guarantee:** No personal guarantee requirement. ***However, if the proceeds are used for fraudulent purposes, the U.S. government will pursue criminal charges against you.***

**Loan Program Interaction:** If you received an EIDL loan related to COVID-19 between January 31, 2020 and April 3, 2020, you can apply for a PPP loan. If your EIDL loan was not used for payroll costs, it does not affect your eligibility for a PPP loan. If your EIDL loan was used for payroll costs, your PPP loan must be used to refinance your EIDL loan. Proceeds from any advance up to $10,000 on the EIDL loan will be deducted from the loan forgiveness amount on the PPP loan.

**Sole Proprietorship and Self-Employed (filing a Schedule C):** Please see pages 6 - 8 of this document.

**Application Submittal Process:** Contact a bank, credit union, or lender that participates in the SBA 7a loan program. Start with the financial institution where you have an existing banking relationship.

**Required Forms and Documentation:** Businesses will likely be required to submit the following to the lender: SBA Form 2483 (Paycheck Protection Program Application) and payroll documentation as is necessary required by lenders to establish eligibility.

**Borrowers Required to Provide “Good Faith Certifications” to Lenders Attesting:**

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).

**SBA Program Information Page:**
https://www.sba.gov/funding-programs/loans/paycheck-protection-program-ppp

**SBA PPP April 3, 2020 Interim Final Rule:**

**SBA PPP April 14, 2020 Interim Final Rule-Additional Eligibility Criteria:**

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Additional Information

Businesses will be required to submit to the lender documentation as is necessary to establish eligibility such as payroll processor records, payroll tax filings, or Form 1099-MISC along with your most recent IRS Form 941- Employer’s Quarterly Federal Income Tax Return.

For borrowers that do not have any such documentation, the borrower must provide other supporting documentation, such as bank records, sufficient to demonstrate the qualifying payroll amount.

Sole Proprietorships will be required to submit SBA Form 2483 along with income and expenses.

In addition to the bank and SBA application materials, we recommend that the business owner prepares the following supporting information:

2. Current year-to-date 2020 financials (P&L and Balance Sheet) for the business.
3. A spreadsheet that details the prior 12 months of payroll costs, as defined in the Brief Program Description shown above.
4. A spreadsheet that indicates which employees/owners, if any, earn in excess of $100,000 along with the amount of the wage/salary/commission.

Guidelines for Sole Proprietorship and Self-Employed (filing a Schedule C) for Determining PPP Loan Amount

You are eligible for a PPP loan if: (i) you were in operation on February 15, 2020; (ii) you are an individual with self-employment income (such as an independent contractor or a sole proprietor); (iii) your principal place of residence is in the United States; and (iv) you filed or will file a Form 1040 Schedule C for 2019. In addition, you should be aware that participation in the PPP may affect your eligibility for state administered unemployment compensation or unemployment assistance programs.

How do I calculate the maximum amount I can borrow and what documentation is required?

How you calculate your maximum loan amount depends upon whether or not you employ other individuals. If you have no employees, the following methodology should be used to calculate your maximum loan amount:

Step 1: Find your 2019 IRS Form 1040 Schedule C line 31 net profit amount (if you have not yet filed a 2019 return, fill it out and compute the value). If this amount is over $100,000, reduce it to $100,000. If this amount is zero or less, you are not eligible for a PPP loan.

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Step 2: Calculate the average monthly net profit amount (divide the amount from Step 1 by 12).

Step 3: Multiply the average monthly net profit amount from Step 2 by 2.5.

Step 4: Add the outstanding amount of any Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020 that you seek to refinance, less the amount of any advance under an EIDL COVID-19 loan (because it does not have to be repaid).

Regardless of whether you have filed a 2019 tax return with the IRS, you must provide the 2019 Form 1040 Schedule C with your PPP loan application to substantiate the applied-for PPP loan amount and a 2019 IRS Form 1099-MISC detailing nonemployee compensation received (box 7), invoice, bank statement, or book of record that establishes you are self-employed. You must provide a 2020 invoice, bank statement, or book of record to establish you were in operation on or around February 15, 2020.

*SBA indicates that self-employment income from between January 1, 2020 and February 14, 2020 may not be considered in the PPP calculation because of the lack of "verifiable documentation" on expenses in this period. SBA will issue additional guidance for those individuals with self-employment income who: (i) were not in operation in 2019 but who were in operation on February 15, 2020, and (ii) will file a Form 1040 Schedule C for 2020.

If you have employees, the following methodology should be used to calculate your maximum loan amount:

Step 1: Compute 2019 payroll by adding the following:
   a. Your 2019 Form 1040 Schedule C line 31 net profit amount (if you have not yet filed a 2019 return, fill it out and compute the value), up to $100,000 annualized, if this amount is over $100,000, reduce it to $100,000, if this amount is less than zero, set this amount at zero;
   b. 2019 gross wages and tips paid to your employees whose principal place of residence is in the United States computed using 2019 IRS Form 941 Taxable Medicare wages & tips (line 5c- column 1) from each quarter plus any pre-tax employee contributions for health insurance or other fringe benefits excluded from Taxable Medicare wages & tips; subtract any amounts paid to any individual employee in excess of $100,000 annualized and any amounts paid to any employee whose principal place of residence is outside the United States; and
   c. 2019 employer health insurance contributions (health insurance component of Form 1040 Schedule C line 14), retirement contributions (Form 1040 Schedule C line 19), and state and local taxes assessed on employee compensation (primarily under state laws commonly referred to as the State Unemployment Tax Act or SUTA from state quarterly wage reporting forms).

Step 2: Calculate the average monthly amount (divide the amount from Step 1 by 12).

Step 3: Multiply the average monthly amount from Step 2 by 2.5.

Step 4: Add the outstanding amount of any EIDL made between January 31, 2020 and April 3, 2020 that you seek to refinance, less the amount of any advance under an EIDL COVID-19 loan (because it does not have to be repaid).

You must supply your 2019 Form 1040 Schedule C, Form 941 (or other tax forms or equivalent payroll processor records containing similar information) and state quarterly wage unemployment insurance tax reporting forms from each quarter in 2019 or equivalent payroll processor records, along with evidence of any retirement and health insurance contributions, if applicable. A payroll statement or similar
documentation from the pay period that covered February 15, 2020 must be provided to establish you were in operation on February 15, 2020.

**Loan Forgiveness (Sole Proprietorship and Self-Employed)**

Forgiveness will be limited to eight weeks of net profit based upon the owner’s 2019 Form 1040.

75 percent of the amount forgiven must be attributable to payroll costs.

The amount of loan forgiveness can be up to the full principal amount of the loan plus accrued interest. The actual amount of loan forgiveness will depend, in part, on the total amount spent over the covered period on:

1. payroll costs including salary, wages, and tips, up to $100,000 of annualized pay per employee (for eight weeks, a maximum of $15,385 per individual), as well as covered benefits for employees (but not owners), including health care expenses, retirement contributions, and state taxes imposed on employee payroll paid by the employer (such as unemployment insurance premiums);
2. owner compensation replacement, calculated based on 2019 net profit as described in Paragraph 1.b. above, with forgiveness of such amounts limited to eight weeks' worth (8/52) of 2019 net profit, but excluding any qualified sick leave equivalent amount for which a credit is claimed under section 7002 of the Families First Coronavirus Response Act (FFCRA) (Public Law 116-127) or qualified family leave equivalent amount for which a credit is claimed under section 7004 of FFCRA;
3. payments of interest on mortgage obligations on real or personal property incurred before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business mortgage payments);
4. rent payments on lease agreements in force before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business rent payments); and
5. utility payments under service agreements dated before February 15, 2020 to the extent they are deductible on Form 1040 Schedule C (business utility payments).