COVID-19 UPDATE: Guidance on Paycheck Protection Program (PPP) Loans

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Beginning on April 3, 2020, small businesses and sole proprietorships can apply for loans through the Paycheck Protection Program (the "PPP") established under the Coronavirus Aid, Relief and Economic Security (CARES) Act. The PPP authorizes up to $349 billion in forgivable loans to small businesses to pay their employees during the COVID-19 crisis.

Borrowers should consult with their local lender as to whether the lender is participating in the PPP. Although the PPP is open until June 30, 2020, there is a funding cap, so borrowers wanting to take advantage of the program are advised to apply as quickly as they can. In addition, beginning on April 10, 2020, independent contractors and self-employed individuals may apply for loans under the PPP.

On April 2, 2020, the U.S. Small Business Administration issued the Interim Final Rule implementing sections 1102 and 1106 of the CARES Act. The Rule provides some much-anticipated information regarding the terms of loans made under the PPP.

General Terms of PPP Loans

The terms of the loans made through the PPP will be the same for all borrowers:

- Interest rate of 1.0%
- Maturity of two (2) years
- No payments required for six (6) months
- Loan proceeds must be used for:
- Payroll costs
- Costs related to group health care benefits
- Mortgage interest
- Rent
- Utilities
- Interest payments on debt obligations incurred before February 15, 2020
- Refinancing of certain SBA EIDL loans
- No SBA fees
- No personal guarantees or collateral required
- Up to the full principal amount of the loan may be forgiven provided that:
- The non-payroll costs (i.e. rent, mortgage interest and utilities) do not exceed 25% of the forgiveness amount; and
- Employee and compensation levels are maintained

Loan Forgiveness

- Generally, the amount of a PPP loan that may be forgiven is equal to the amount of the loan proceeds used for payroll (which shall be at least 75% of the forgivable amount) and the amounts used for rent, mortgage interest and utilities (up to 25% of the forgivable amount) during the 8 week period following the origination date of the loan.
- The forgivable amount is reduced proportionally by any reduction in number of employees compared to the prior year (or compared to January and February 2020 if the borrower chooses to use such alternative comparative period).
- The forgivable amount is also reduced by any reduction in pay of any employee in excess of 25% of their prior year compensation.
- To encourage employers to rehire any employees who have already been laid off (or to increase an employee's salary which was previously reduced), borrowers will have until June 30 to restore their employment and salary levels for changes made between February 15 and April 26.
- The following example is provided:
- Employer obtains a $100,000 PPP loan and used at least 75% of the proceeds for payroll and less than 25% of the proceeds for rent and utilities during the 8-week period following the loan closing.
- Employer had 10 employees during the lookback period but only retained 6 employees during the 8 weeks after the loan origination and did not have 10 employees on or before June 30. Pay was not reduced for any employee.
- In this case, $60,000 of the loan proceeds would be eligible for forgiveness. ($100,000 x 6/10)
- The final interim Rule issued on April 2, 2020 provides that SBA will issue additional guidance on loan forgiveness.

Loan Application

Here, [you can download the updated loan application](#).

Frequently Asked Questions

We are providing a list of frequently asked questions from The Small Business Owner's Guide to the CARES Act issued by the U.S. Senate Committee on Small Business and Entrepreneurship.

QUESTION: What types of businesses and entities are eligible for a PPP loan?

Answer:

- 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 the applicable size standard in number of employees for the North American Industry Classification System (NAICS) industry as provided by SBA, if higher.
- 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 NAICS 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.

QUESTION: How is the loan size determined?

Answer:

- **If you were in business February 15, 2019 – June 30, 2019:** Your max loan is equal to 250 percent of your average monthly payroll costs during that time period. If your business employs seasonal workers, you can opt to choose March 1, 2019 as your time period start date.
- **If you were not in business between February 15, 2019 – June 30, 2019:** Your max loan is equal to 250 percent of your average monthly payroll costs between January 1, 2020 and February 29, 2020.
- **If you took out an Economic Injury Disaster Loan (EIDL) between February 15, 2020 and June 30, 2020** and you want to refinance that loan into a PPP loan, you would add the outstanding loan amount to the payroll sum.

QUESTION: What costs are eligible for payroll?

Answer:

- Compensation (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 employees

QUESTION: What costs are not eligible for payroll?

Answer:

- Employee/owner compensation over $100,000
- Taxes imposed or withheld under chapters 21, 22, and 24 of the IRS code
- Compensation of employees whose principal place of residence is outside of the U.S.
- Qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act

QUESTION: What are allowable uses of loan proceeds?

Answer:

- Payroll costs (as noted above)
- Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums
- Employee salaries, commissions, or similar compensations (see exclusions above)
- Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation)
- Rent (including rent under a lease agreement)
- Utilities
- Interest on any other debt obligations that were incurred before the covered period

QUESTION: How does the PPP loan coordinate with SBA's existing loans?

Answer:

Borrowers may apply for PPP loans and other SBA financial assistance, including Economic Injury Disaster Loans (EIDLs), 7(a) loans, 504 loans, and microloans, and also receive investment capital from Small Business Investment Corporations (SBICs). However, you cannot use your PPP loan for the same purpose as your other SBA loan(s). For example, if you use your PPP to cover payroll for the 8-week covered period, you cannot use a different SBA loan product for payroll for those same costs in that period, although you could use it for payroll not during that period or for different workers.

A full list of frequently asked questions is provided in the SBA Guide to the Cares Act.