



## Paycheck Protection Program Information & FAQs



U.S. Small Business  
Administration

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### About PPP:

The Small Business Administration's Paycheck Protection Program (PPP), established by Section 1102 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) authorizes up to \$349 billion in forgivable loans to small businesses to pay their employees during the COVID-19 crisis. Congress provided an additional \$320 billion in funding for PPP on April 24, 2020, and the SBA restarted processing applications on Monday, April 27.

### How to Apply:

Visit [SBA's website](#) or [click here](#) for the application. You can apply through any existing SBA lender or through any FDIC depository institution, federally insured credit union, and participating Farm Credit System institution.

### Loan Terms and Interest Rate:

This loan has a maturity of 2 years and an interest rate of 1.00% fixed rate. All payments are deferred for 6 months; however, interest will continue to accrue over this period. There are no prepayment penalties or fees. No collateral is required.

Loans can be for up to two months of your average monthly payroll costs from the last year plus an additional 25% of that amount. That amount is subject to a \$10 million cap. If you are a seasonal or new business, you will use different applicable time periods for your calculation. Payroll costs will be capped at \$100,000 annualized for each employee (the exclusion of compensation in excess of \$100,000 annually applies only to cash compensation, not to non-cash benefits).

### There are 4 Ways to Qualify:

1. Your business has 500 or fewer employees (individuals employed on a full-time, part-time, or other basis not including 1099 workers); or
2. If your business maintains an average of over 500 employees, then you need to consult the [SBA's Table of Small Business Size Standards](#)
  - According to the Table, "Supermarkets and Other Grocery Stores" must have average annual receipts under \$35 million; or
3. Your business can qualify if it meets both tests of the following "Alternative Size Standard"
  - Maximum tangible net worth of the business is not more than \$15 million; and
  - The average net income after Federal income taxes (excluding any carry-over losses) of the business for the two full fiscal years before the date of the application is not more than \$5 million; or
4. Any business with a [NAICS Code that begins with 72](#) (Accommodations and Food Services) that has more than one physical location and employs less than 500 per location. **NOTE: This section does not include grocery.**

### What Can the PPP Loan be Used for?

1. Payroll costs, including benefits;
2. Interest on mortgage obligations, incurred before February 15, 2020\*;
3. Rent, under lease agreements in force before February 15, 2020\*; and
4. Utilities, for which service began before February 15, 2020\*.

**\*Non-payroll expenses must be for mortgages, rent, and/or utilities where the obligations, leases and/or services began before February 15, 2020.**

## Payroll costs include:

1. Salary, wages, commissions, or tips (capped at \$100,000 on an annualized basis for each employee);
2. Employee benefits including costs for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payments required for the provisions of group health care benefits including insurance premiums; and payment of any retirement benefit;
3. State and local taxes assessed on compensation; and
4. For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee.

## PPP and Federal Paid Sick Leave:

The CARES Act expressly excludes qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act (FFCRA) (Public Law 116–127). Learn more about the FFCRA's Paid Sick Leave Refundable Credit [online](#).

## PPP Loan Forgiveness:

The Loan Amounts will be Forgiven as long as:

1. The loan proceeds are used to cover payroll costs, and most mortgage interest, rent, and utility costs over the 8-week period after the loan is made; and
2. Employee and compensation levels are maintained.

***NOTE: At this time due to funding levels for the program, the Treasury Department has cautioned that it is likely that no more than 25% of loan amounts used for non-payroll costs will be forgiven.***

You will owe money when your loan is due if you use the loan amount for anything other than payroll costs, mortgage interest, rent, and utilities payments over the 8 weeks after getting the loan (the date the lender makes the first disbursement of the PPP loan to the borrower).

You will also owe money if you do not maintain your staff and payroll.

1. Number of Staff: Your loan forgiveness will be reduced if you decrease your full-time employee headcount.
2. Level of Payroll: Your loan forgiveness will also be reduced if you decrease salaries and wages by more than 25% for any employee that made less than \$100,000 annualized in 2019.
3. Re-Hiring: You have until June 30, 2020 to restore your full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020.

## Requesting Loan Forgiveness:

You 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. You must certify that the documents are true and that you 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.

## Loan Application & Freedom of Information Act (FOIA):

The PPP application itself has disclosure (see Page 3 of [PPP loan application](#)) that most parts of the application will be subject to FOIA requests. Information about approved loans that will be released includes, among other things, the borrower's name (and the names of its officers, directors, stockholders, or partners), the amount of the loan, and its purpose in general terms and the maturity. Therefore, borrowers' identities will be disclosed. ***Members of Congress have also stated that they plan to publish information on all companies who receive PPP loans.***

## **Borrower's Certification of Necessity:**

All borrowers must assess their economic need for a PPP loan under the standard established by the CARES Act and the PPP regulations at the time of the loan application. Although the CARES Act suspends the ordinary requirement that borrowers must be unable to obtain credit elsewhere, borrowers still must certify in good faith that their PPP loan request is necessary.

Specifically, before submitting a PPP application, all borrowers should review carefully the required certification that "[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant." Borrowers must make this certification in good faith, taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business.

For example, it is unlikely that a public company with substantial market value and access to capital markets will be able to make the required certification in good faith, and such a company should be prepared to demonstrate to SBA, upon request, the basis for its certification. Lenders may rely on a borrower's certification regarding the necessity of the loan request. ***Any borrower that applied for a PPP loan before April 23, 2020 and repays the loan in full by May 7, 2020 will be deemed by SBA to have made the required certification in good faith.***

## **What Should Borrowers Do?**

While the [new Treasury FAQ](#) offers some limited guidance, it provides no objective test or metrics and many questions remain outstanding. For example, it is unclear how the SBA will interpret "access to other sources of liquidity" and "not significantly detrimental to the business." Unfortunately, there is no bright-line test, and every borrower's situation and analysis will be different.

Accordingly, borrowers that have not already submitted an application should carefully evaluate whether they can make the necessity certification in good faith. Borrowers that submitted their applications prior to April 23 should revisit the necessity certification in light of the latest SBA guidance, and if the borrower is uncertain about its ability to make the necessity certification, it should give serious consideration to repaying the loan before the May 7 safe harbor deadline.

If a borrower makes the necessity certification, it should take affirmative steps now to document its need, and prepare and maintain detailed records and analyses supporting its determination of necessity, including a detailed analysis of its working capital and liquidity at the time the application is submitted, as well as the availability of capital from other sources. Borrowers must be prepared to demonstrate to the SBA their bases for the certification.

## **Audits for Loans Over \$2 Million:**

Both the SBA and U.S. Treasury have signaled a very strong enforcement bias, publicly stating that any borrower that has received over \$2 million in PPP loan proceeds will be subject to an audit, with spot checks for smaller loans.

## **Additional Questions or More Information:**

Please contact a lender that you or your business have an existing relationship with as they will be your best source of direct information needed to apply. At this time, lenders have been inundated with applications; your application may be processed more quickly if you apply through a lender that you or your business have a previous relationship with.

Helpful links: [Small Business Administration](#), [Treasury Department](#), [List of Participating Lenders](#), [How to Calculate PPP Loan Amounts](#)