

# Paycheck Protection Program FAQs for Small Businesses

## Where can I apply for the Paycheck Protection Program?

You can apply for the Paycheck Protection Program (PPP) at any lending institution that is approved to participate in the program through the existing U.S. Small Business Administration (SBA) 7(a) lending program and additional lenders approved by the Department of Treasury. This could be the bank you already use, or a nearby bank. There are thousands of banks that already participate in the SBA's lending programs, including numerous community banks. You do not have to visit any government institution to apply for the program. You can call your bank or find SBA-approved lenders in your area through SBA's online [Lender Match tool](#). You can call your local Small Business Development Center or Women's Business Center and they will provide free assistance and guide you to lenders.

## Who is eligible for the loan?

You are eligible for a loan if you are a small business that employs 500 employees or fewer, or if your business is in an industry that has an employee-based size standard through SBA that is higher than 500 employees. Tribal businesses, 501(c)(19) veteran organizations, and 501(c)(3) nonprofits, including religious organizations, will be eligible for the program. Nonprofit organizations are subject to SBA's affiliation standards. Independently owned franchises with under 500 employees, who are approved by SBA, are also eligible. Eligible franchises can be found through SBA's Franchise Directory.

## I am an independent contractor or sole proprietor, am I eligible?

Yes. Sole proprietors, independent contractors and self-employed individuals are all eligible for the Paycheck Protection Program.

## Can you count 1099 pay for independent contractors such as a contract closer in your calculation of payroll for your application?

No, you cannot include contract closers in your calculation. Contract closers must apply for their own loan.

### **What is the maximum amount I can borrow?**

The amount any small business is eligible to borrow is 250 percent of their average monthly payroll expenses, up to a total of \$10 million. This amount is intended to cover 8 weeks of payroll expenses and any additional amounts for making payments towards debt obligations. This eight-week period may be applied to any time frame between February 15, 2020 and June 30, 2020. Seasonal business expenses will be measured using a 12-week period beginning February 15, 2019, or March 1, 2019, whichever the seasonal employer chooses.

### **Do I need to hold my PPP loan proceeds in a separate segregated account?**

No. However, using a separate account may make it easier to document the use of the proceeds for forgivable purposes.

### **How can I use the money such that the loan will be forgiven?**

The amount of principal that may be forgiven is equal to the sum of expenses for payroll, and existing interest payments on mortgages, rent payments, leases, and utility service agreements. Payroll costs include employee salaries (up to an annual rate of pay of \$100,000), hourly wages and cash tips, paid sick or medical leave, and group health insurance premiums. If you would like to use the Paycheck Protection Program for other business-related expenses, like inventory, you can, but that portion of the loan will not be forgiven.

### **Can health insurance can be considered as part of payroll expenses when paid by the business for the owners and their families who are not on the payroll but only receive yearly distributions?**

Not likely. Costs are only included as payroll costs if they are paid as compensation to an employee. If an owner and their family doesn't work in the business their expense and payments cannot be used in the loan calculation.

### **Does the PPP cover paid sick leave?**

Yes, the PPP covers payroll costs, which include employee benefits such as costs for parental, family, medical, or sick leave. However, it is worth noting that 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 [here](#).

### **When is the loan forgiven?**

At the end of the eight-week period after you take out the loan, you can apply to your loan servicer for forgiveness. Borrowers will work with lenders to verify covered expenses and the proper amount of forgiveness. Servicers will have up to 60 days to respond to a forgiveness request.

### **What is the covered period of the loan?**

The covered period during which expenses can be forgiven extends from February 15, 2020 to June 30, 2020. Borrowers can choose which eight weeks they want to count toward the covered period, which can start as early as February 15, 2020.

### **How can I request 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.

### **How much of my loan will be forgiven?**

Up to 100% of the loan proceeds you spend over the eight-week period from the date the loan is disbursed that is spent on payroll costs, mortgage interest, rent, and utilities. The purpose of the Paycheck Protection Program is to help you retain your employees, at their current base pay. If you keep all of your employees, the entirety of the loan will be forgiven. If you still lay off employees, the forgiveness will be reduced by the percent decrease in the number of employees. If your total payroll expenses on workers making less than \$100,000 annually decreases by more than 25 percent, loan forgiveness will be reduced by the same amount. If you have already laid off some employees, you can still be forgiven for the full amount of your payroll cost if you rehire your employees by June 30, 2020.

**Do you lose forgiveness eligibility of the PPP loan if an employee is fired for cause\poor work within the time frame discussed re: required employee retention?**

Maybe. Currently, the SBA guidance suggests two test for determine the amount of eligible forgiveness borrower. First, the servicer will measure your headcount at the date of forgiveness request compared to Feb 15. Second, the servicer will measure whether the rate of pay for employees has been decreased from the Feb 15 level. You may not lose forgiveness eligibility if you only reduce employee hours, but not salary or pay rate.

**Is there a sure way to know ahead of time that you qualify for full forgiveness?**

No.

**Am I responsible for interest on the forgiven loan amount?**

No, if the full principal of the PPP loan is forgiven, the borrower is not responsible for the interest accrued in the eight-week covered period. The remainder of the loan that is not forgiven will operate according to the loan terms agreed upon by you and the lender.

**If an agency uses funds for payroll and ends up making a profit for those eight weeks can they still get the forgiveness?**

Yes. There is no restriction on forgiveness except that the funds be used for an allowable purpose and that staff levels are maintained.

**What are the interest rate and terms for the loan amount that is not forgiven?**

PPP loans have a two-year maturity with a one percent interest rate. Loan payments will be deferred for at least six months and up to one year starting at the origination of the loan.

**What if you only asked for a PPP loan to cover your payroll but you spend part of it on your utilities or mortgage? Would they be forgiven too?**

Yes, but your eligible amount of forgiveness may be reduced if you don't spend at least 75% of your loan on payroll costs.

**If a company has no employees just independent contractors that are paid via 1099, can the company still qualify for a PPP and obtain forgiveness for interest and utilities?**

Maybe. You can still qualify for a PPP as a sole proprietor however the amount you are eligible to borrow will be based solely on payroll costs (aka your income as paid via salary or reported on Schedule C of your tax return). If you elect to use those proceeds to only pay interest and utilities, you will only be eligible for a maximum forgiveness equal to 25%.

**Is salary to a part-time employee covered under PPP and forgivable?**

Yes.

**What expenses can be considered utilities?**

The term “covered utility payment” means payment for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020.

**Can you include state and local taxes?**

You can include any sum you pay as an employer for the payment of any state or local tax assessed on the compensation of employees.

**Can PPP loan money be applied retroactively to payroll costs incurred prior to loan origination date? Example, money drawn from line of credit to cover payroll before loan origination date.**

Yes, however, your forgiveness is based only on the amount of payroll costs you spend after the loan origination date.

**Is the employer required to bring back all employees on the payroll as of 2/15/2020?**

No. For determining forgiveness you compare the average level of FTE staffing before Feb 15 with the level at the time of the request for forgiveness.

**When is the application deadline for the Paycheck Protection Program?**

Applicants are eligible to apply for the PPP loan until June 30th, 2020.

**I took out a bridge loan through my state, am I eligible to apply for the Paycheck Protection Program?**

Yes, you can take out a state bridge loan and are still be eligible for the PPP loan.

**If I have applied for, or received an Economic Injury Disaster Loan (EIDL) related to COVID19 before the Paycheck Protection Program became available, will I be able to refinance into a PPP loan?**

Yes. 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, that amount would be subtracted from the amount forgiven under PPP.

**Are you eligible for the Employee Retention Tax Credit if you receive a PPP Loan and/or an EIDL Loan?**

No. An Eligible Employer may not receive the Employee Retention Credit if the Eligible Employer receives a Small Business Interruption Loan under the Paycheck Protection Program.

**To apply for the EIDL Emergency Grant do you have to apply for the EIDL Loan first?**

Yes. An EIDL advance is available once a company has completed an application for an EIDL loan. If the applicant doesn't qualify for the EIDL or elects not to take out the loan, they will not need to repay the advance. If the applicant obtains an advance and later obtains a PPP, the amount of the advance will be subtracted from the amount they can borrow under the PPP.

**How do affiliations impact eligibility?**

Affiliation rules may impact your eligibility because they can require separate business with common owners to aggregate their employees for determining whether they meet the 500-employee cap. There are four tests for determining affiliation and whether you need to aggregate employees in multiple distinct business with common owners. Those guidelines are found [here](#). For this program, the SBA's affiliation standards are waived for small businesses (1)

in the hotel and food services industries; or (2) that are franchises in the SBA's Franchise Directory; or (3) that receive financial assistance from small business investment companies licensed by the SBA. Additional guidance may be released as appropriate.

**I'm not on payroll and I have 10 employees am I eligible?**

Yes.

**Can sales commissions be included in the payroll cost total?**

Yes. Payroll costs that can be covered by a PPP includes all cash compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips).

**If a company did not layoff any employees, but lost some staff because they left on their own volition, would the company still be entitled to forgiveness or would they need to show a concerted effort was made to hire a replacement?**

Maybe. The CARES Act and SBA rule condition forgiveness 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. To determine its baseline headcounts, an employer can use either (a) the average number of full-time equivalents (FTEs) it employed from January 1, 2020 to February 29, 2020, or (b) the average number of FTEs it employed from February 15, 2019 to June 30, 2019. Whichever average the employer chooses, it must maintain that number for at least the eight weeks after receiving a loan to be eligible for the maximum forgiveness. The Small Business Administrator and the Secretary of the Treasury may prescribe regulations granting de minimis exemptions from the requirements for forgiveness.

**If a company hires part-time staff in May/June can the loan funds still be used for their payroll expense even though they were not considered in the head count at the time of application?**

Yes. You do not need to use the funds for specific employees' payroll but just general payroll expense you incur based on your current workforce. For determining forgiveness, you compare

the average level of FTE staffing before Feb 15 with the level at the time of the request for forgiveness. Adding part time staff may result in a partial FTE based on the number of hours they work.

**In addition to a paycheck, if you take draws in supplement to a paycheck, is that acceptable to include as "payroll" to an owner?**

Maybe, but talk your bank. Sole proprietors are eligible to include their income in the payroll costs. This typically based on either their paid salary or a proportional amount of the income reported on Schedule C in your personal tax return. No matter what, the salary/draw you include in the loan calculation is capped at an equivalent of \$100,000 per annum.

**As it relates to payroll expenses for owners, are guaranteed payments to managing owners of partnerships viewed differently than owner W-2 income?**

Maybe. Managing owners are eligible to have their income included. It can be in the form of W-2 income or a proportional amount of the income reported on Schedule C in your personal tax return. No matter what, the salary/draw you include in the loan calculation is capped at an equivalent of \$100,000 per annum. Payments to passive investors, dividends, etc. are not includable in payroll costs for purpose of loan eligibility.

**Can employee pay increase? Annual hourly pay increases usually happen at the end of the first quarter. Would it be permissible to still increase hourly pay rates or should increases be delayed?**

Yes. Nothing the PPP prevents you from hiring more employees or increasing pay. IF you decrease FTE count or reduce pay you may not be eligible for the full level of forgiveness.

**With regard to the PPP and individuals making over \$100,000, can they continue to earn over \$100,000, they just can't apply for the loan with compensation over the cap?**

Yes.



**What if we are leased employees, such as a PEO (Professional Employment Organization)?**

You only include amounts in payrolls costs for employees paid via a W-2. Salaries for contractors you retained that are paid by a PEO or via 1099 are not eligible for inclusion in determining loan amount.

**Can IRA employer contributions be added to the \$100,000 cap for an employee for figuring payroll costs, or is it \$100,000 total including benefits (including health care, etc.)**

Yes. The \$100,000 cap is only on cash income via salary, tips, bonus or commission. Other forms of payment health insurance costs, paid time off and retirement benefits can be included to determine loan eligibility but do not count against the \$100,000 cap.

**Can shareholder draws be used as payroll income?**

Only if they are involved in the day-to-day operation of the business such that they would be counted as a partial or full FTE.

**I am single member LLC—solo law office—I don't specifically pay myself a "salary," would my income just be 1/12th of my net business income as reported on my taxes?**

Yes, but check with your bank. A sole proprietor is eligible for a PPP based on the income the report and pay taxes on a Schedule C in your personal tax return. However, if you are a business that is structured as a C or S corporation, you must use payroll to pay yourself, because the corporation is taxed separately from the individual. If you own a corporation and have not been paying yourself a salary through payroll, you will not have a salary covered through the PPP. This is because distributions or dividends from a corporation are not considered to be a salary or self-employment income.

**What do I need to certify?**

As part of your application, you need to certify in good faith that:

- Current economic uncertainty makes the loan necessary to support your ongoing operations.
- The funds will be used to retain workers and maintain payroll or to make mortgage, lease, and utility payments.
- You have not and will not receive another loan under this program.

- You will provide to the lender documentation that verifies the number of full-time equivalent employees on payroll and the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight weeks after getting this loan.
- Loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities. Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.
- All the information you provided in your application and in all supporting documents and forms is true and accurate. Knowingly making a false statement to get a loan under this program is punishable by law.
- You acknowledge that the lender will calculate the eligible loan amount using the tax documents you submitted. You affirm that the tax documents are identical to those you submitted to the IRS. And you also understand, acknowledge, and agree that the lender can share the tax information with the SBA's authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews.

For more information, go to [alta.org/coronavirus](https://alta.org/coronavirus).