



## Paycheck Protection Loans

(Act Sec 1102)

Revised 4/7/202

The CARES Act authorized a Paycheck Protection Loan Program. These loans can be forgiven if certain conditions are met. The following are the particulars of Paycheck Protection Loans.

- Who Can Apply: To qualify for this program, the business must NOT have more than 500 employees, or the maximum specified by the SBA. There is an exception for accommodation, food services and drinking places with multiple locations where each location cannot have more than 500 employees. Special rules also apply to franchisees.
- Program Duration: This program is only available through June 30, 2020. However, businesses are encouraged to quickly apply because there is a funding cap of \$349 Billion and lenders need time to process the loans.
- Application Start Dates:
  - **April 3, 2020** – Beginning April 3, small businesses and sole proprietorships can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.
  - **April 10, 2020** – Starting April 10, independent contractors and self-employed individuals can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.
- Eligibility: Applies to all forms of businesses (except those noted below as ineligible below) including partnerships, corporations, sole proprietorships, tax exempt non-profits, qualified veterans' organizations and certain tribal businesses. Businesses in certain industries can have more than 500 employees if they meet applicable SBA employee-based size standards for those industries.

SBA's affiliation standards are waived for small businesses (1) in the [hotel and food services industries](#) (NAICS code 72); 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.

- Ineligible Businesses: The treasury revised the eligibility requirements on April 2, 2020. These mostly mirror the SBA 7(a) borrower requirements. Ineligible businesses include:

- **Cannabis Companies** - engaged in any activity that is illegal under federal, state, or local law"
- **Lenders** - a financial business primarily engaged in lending (pawn shops, although engaged in lending, may qualify in some circumstances).
- **Prior Defaults on SBA Loans** - Companies or their owners that have defaulted on SBA loans or any other federal loan. This includes any business or business owned or controlled by owners that has ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted within the last seven years and caused a loss to the government"
- **Criminal Activities** - Companies who have owner(s) who:
  - (a) are currently indicted or arraigned, or
  - (b) on parole for a criminal charge; or
  - (c) were convicted of a felony within the last five years.
- **Pyramid Sale Distribution Plans**
- **Household Employers** - Individuals who employ household employees such as nannies or housekeepers.
- Available Loan Amount: 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 plus any other debt that the SBA approves for refinancing, but not greater than \$10 million.
- Loan Fees and Guarantees: Loan fees are waived, and there are no collateral requirements or personal guarantees. The loan terms are the same for everyone. The lender does receive a fee paid by the government of 5% for loans of not more than \$350,000, 3% for loans greater than \$350,000 but less than \$2 Million and 1% \$2 Million or more.
- Interest Rate: The SBA is quoting a fixed rate of 1.0% .
- Active Business Requirement: The borrower must have been in business on Feb 15, 2020.
- Payment Start Date: Deferred during the crisis—6 to 12 months.
- Loan Due: Any loan amounts not forgiven will be due in 2 years.
- Certification: A borrower must certify in good faith that:
  - Current economic uncertainty makes the loan necessary to support ongoing operations.
  - The funds will be used to retain workers and maintain payroll or to make mortgage, lease, and utility payments.

- The borrower has not and will not receive another loan under this program.
- The borrower 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 the borrower provides in the 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.
- The borrower acknowledges that the lender will calculate the eligible loan amount using the tax documents submitted. The borrower affirms that the tax documents are identical to those submitted to the IRS. And it is also understood, acknowledged, and agreed 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.
- What Expenses Can the Loan Proceeds Be Used For? – The loan proceeds should be used for the following business expenses:
  - Payroll costs, including benefits;
  - Interest on mortgage obligations incurred before February 15, 2020;
  - Rent, under lease agreements in force before February 15, 2020; and
  - Utilities, for which service began before February 15, 2020.
- What Counts as Payroll Costs? – Generally **gross** payroll costs including salary, wages, commissions, or tips (capped at \$100,000 on an annualized basis for each employee):
  - Payments to Independent contractors are **NOT** included.
  - Per [SBA/Treasury released April 7, 2020](#) – the definition of payroll costs are calculated on gross basis with no reduction for federal taxes imposed or withheld as had been previously reported. This supersedes the prior released dated April 2, 2020.
  - However, does not include employer's share payroll taxes.

- 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.
- Not Included in Payroll Cost are:
  - Compensation to employees whose principal place of residence is outside of the United States.
  - Qualified sick leave wages for which a credit is allowed under the Families First Coronavirus Response Act or
  - Qualified family leave wages for which a credit is allowed under the Families First Coronavirus Response Act.
- Period for Determining Average Payroll Costs - Employers will need to select a pay period in order to determine average monthly payroll costs.
  - Unless the business is a seasonal business or weren't in business (and paying employees) on or before February 15, the pay period should be 12 months from the report date. For example, if today were April 2nd, it is recommend the business select a period of April 1, 2019 - March 31, 2020.
  - Seasonal employers who normally have higher-than-average payroll costs during the months in the "Covered Period" (Feb 15 - June 30) should select a period of Feb 15, 2019 - June 30, 2019.
  - Any company that wasn't in business and paying employees by February 15, 2019 will be considered a "new business" and should select a period of January 1, 2020 - February 29, 2020.
- Loan Forgiveness: The CARES Act provides loan forgiveness for Payroll Protection Loans (limited to the amount of the loan). Forgiveness is based upon the sum of the following expenses paid during the 8-week period after the loan origination date:
  - Payroll Costs
  - Mortgage Interest (loans incurred before Feb 15, 2020)
  - Lease/Rent Payments (in force prior to Feb 15, 2020)
  - Utilities for Services in Place Before Feb 15, 2020. Includes electric, gas, water, transportation, telephone and internet.

Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.

A portion of the loan may not be forgiven if the borrower does not maintain staff and pay levels.

- Number of Staff: Loan forgiveness will be reduced if the borrower decreases full-time employee headcount.
- Level of Payroll: Loan forgiveness will also be reduced if the borrower decreases salaries and wages by more than 25% for any employee that made less than \$100,000 annualized in 2019.
- Re-Hiring: A borrower 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.
- How Loan Forgiveness Is Requested – 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. The borrower must certify that the documents are true and that the borrower 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.
- Where to apply - Borrowers can apply through any existing SBA lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. Other regulated lenders will be available to make these loans once they are approved and enrolled in the program. Consult with a local lender as to whether it is participating. Visit [www.sba.gov](http://www.sba.gov) for a list of SBA lenders.
- What is Needed to Apply – A borrower will need to complete the [Paycheck Protection Program loan application](#) and submit the application with the required documentation to an approved lender that is available to process the application by June 30, 2020. Payroll documentation will be required.

**CAUTION:** A Paycheck Protection Loan makes an employer ineligible for the employer retention credit created in the CARES Act.