

CARES Act Small Business Overview

Background: On March 27th, President Trump signed the [CARES Act](#). Part of that legislation provides loans to struggling businesses, non-profits, and other entities through the [Small Business Administration](#). Those loans are also eligible for forgiveness when used for the certain purposes, including payroll, rent, mortgage interest, and utilities. More information about those loans can be found at the [Small Business Administration's Website](#).

Interested Borrowers/Lenders: If you are a potential borrower interested in participating in the Paycheck Protection Program, you should contact your financial institution and ask if they are a Small Business Administration 7(a) approved lender or if they intend to participate in the Paycheck Protection Program. If you would like to find an approved SBA lender or if you are a financial institution interested in participating in the program, you can contact the [Small Business Administration Dallas/Fort Worth District Office](#) at 817-684-5500.

Should you have any additional questions, feel free to reach out to our office. Thank you.

Borrower Eligibility:

- The bill defines eligibility for loans as a small business, 501(c)(3) nonprofit, a 501(c)(19) veteran's organization, or Tribal business concern described in section 31(b)(2)(C) of the Small Business Act with not more than 500 employees, or the applicable size standard for the industry as provided by SBA, if higher.
- Applies current SBA affiliation rules to eligible nonprofits.
- Includes sole-proprietors, independent contractors, and other self-employed individuals as eligible for loans.
- For certain businesses classified under the North American Industry Classification System as "accommodation or food service," those businesses may be eligible if they do not have more than 500 employees per physical location
- Waives affiliation rules for businesses in the hospitality and restaurant industries, franchises that are approved on the SBA's Franchise Directory, and small businesses that receive financing through the Small Business Investment Company (SBIC) program.

Lender Eligibility:

- Provides delegated authority, which is the ability for lenders to make determinations on borrower eligibility and creditworthiness without going through all of SBA's channels, to

all current 7(a) lenders who make these loans to small businesses, and provides that same authority to lenders who join the program and make these loans.

- The SBA Administrator and the Treasury Secretary can authorize additional lenders they deem to have the necessary qualifications to process, close, disburse, and service these loans. These additional lenders approved by Treasury are only permitted to make Paycheck Protection Program loans, not regular 7(a) loans.

Loan Details:

- The program will be organized through the Small Business Administration.
- Under this program, the government will guarantee 100% of loans made through the Paycheck Protection program through December 31, 2020.
- \$349 billion is available for this program through December 31, 2020.
- The covered loan period of this program is from February 15, 2020 to June 30, 2020.
- The maximum loan limit is \$10,000,000.
- Size of loans will be determined by payroll costs incurred by business.
- Allowable uses of the loan include payroll support, mortgage interest, rent, and utility payments. Payroll support includes employee salaries, paid sick or medical leave, and insurance premiums.
- For eligibility purposes, requires lenders to, instead of determining repayment ability, which is not possible during this crisis, to determine whether a business was operational on February 15, 2020, and had employees for whom it paid salaries and payroll taxes, or a paid independent contractor.
- Provides a limitation on a borrower from receiving this assistance and an economic injury disaster loan through SBA for the same purpose. However, it allows a borrower who has an EIDL loan unrelated to the public health emergency to apply for a PPP loan, with an option to refinance that loan into the PPP loan. The emergency EIDL grant award of up to \$10,000 would be subtracted from the amount forgiven under the Paycheck Protection Program.
- Requires eligible borrowers to make a good faith certification that the loan is necessary due to the uncertainty of current economic conditions caused by China Virus; they will

use the funds to retain workers and maintain payroll, lease, and utility payments; and are not receiving duplicative funds for the same uses from another SBA program.

- Waives both borrower and lender fees for participation in the program.
- Waives the credit elsewhere test for funds provided under this program. Waives collateral and personal guarantee requirements under this program.
- Outlines the treatment of any portion of a loan that is not used for forgiveness purposes. The remaining loan balance will have a maturity of not more than 10 years, and the guarantee for that portion of the loan will remain intact.
- Sets a maximum interest rate of four percent.
Ensures borrowers are not charged any prepayment fees.
- Requires the Administrator to provide a lender with a process fee for servicing the loan. Sets lender compensation fees at five percent for loans of not more than \$350,000; three percent for loans of more than \$350,000 and less than \$2,000,000; and one percent for loans of not less than \$2,000,000.
- Includes a sense of the Senate for the Administrator to issue guidance to lenders and agents to ensure that the processing and disbursement of covered loans prioritizes small business concerns and entities in underserved and rural markets, including veterans and members of the military community, small business concerns owned and controlled by socially and economically disadvantaged individuals.

Loan Forgiveness:

- Establishes that the borrower shall be eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date of the loan on payroll costs, interest payment on any mortgage incurred prior to February 15, 2020, payment of rent on any lease in force prior to February 15, 2020, and payment on any utility for which service began before February 15, 2020.
- Amounts forgiven may not exceed the principal amount of the loan. Eligible payroll costs do not include compensation above \$100,000 in wages. Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered 8 week period

compared to the previous year or time period, proportionate to maintaining employees and wages:

- Payroll costs **plus** any payment of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation) **plus** payments on any covered rent obligation + covered utility payments.
- The amount forgiven will be reduced proportionally by any reduction in employees retained compared to the prior year and reduced by the reduction in pay of any employee beyond 25 percent of their prior year compensation. To encourage employers to rehire any employees who have already been laid off due to the public health emergency, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period.
- Allows forgiveness for additional wages paid to tipped workers.
- Borrowers will verify through documentation to lenders their payments during the period. Lenders that receive the required documentation will not be subject to an enforcement action or penalties by the Administrator relating to loan forgiveness for eligible uses.
- Upon a lender's report of an expected loan forgiveness amount for a loan or pool of loans, the SBA will purchase such amount of the loan from the lender.
- Canceled indebtedness resulting from this section will not be counted as taxable income.
- Any loan amounts not forgiven at the end of one year is carried forward as an ongoing loan with terms of a max of 10 years, at max 4% interest. The 100% loan guarantee remains intact.

Other:

- Requires the Administrator to register each loan using the taxpayer TIN, as defined by the Internal Revenue Service, within 15 days.
- Increases the government guarantee of 7(a) loans to 100 percent through December 31, 2020, at which point guarantee percentages will return to 75 percent for loans exceeding \$150,000 and 85 percent for loans equal to or less than \$150,000.

- Allows complete deferment of 7(a) loan payments for at least six months and not more than a year, and requires SBA to disseminate guidance to lenders on this deferment process within 30 days.
- Increases the maximum SBA Express loan from \$350,000 to \$1 million through December 31, 2020, after which point the Express loan will return to \$350,000.
- Requires Veteran’s fee waivers for the 7(a) Express Loan Program to be waived.
- Permanently rescinds the interim final rule entitled, “Express Loan Programs: Affiliation Standards” (85 Fed. Reg. 7622 (February 10, 2020)).

Common Questions and Answers

Q. Where can I apply for the Paycheck Protection Program?

A. 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.

Q. Who is eligible for the loan?

A. 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. In addition, if you are a restaurant, hotel, or a business that falls within the North American Industry Classification System (NAICS) code 72, “Accommodation and Food Services,” and each of your locations has 500 employees or fewer, you are eligible. 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.

Q. I am an independent contractor or gig economy worker, am I eligible?

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

Q. What is the maximum amount I can borrow?

A. 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 8 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.

Q. How can I use the money such that the loan will be forgiven?

A. 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.

Q. When is the loan forgiven?

A. The loan is forgiven at the end of the 8-week period after you take out the loan. Borrowers will work with lenders to verify covered expenses and the proper amount of forgiveness.

Q. What is the covered period of the loan?

A. The covered period during which expenses can be forgiven extends from February 15, 2020 to June 30, 2020. Borrowers can choose which 8 weeks they want to count towards the covered period, which can start as early as February 15, 2020.

Q. How much of my loan will be forgiven?

A. 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.

Q. Am I responsible for interest on the forgiven loan amount?

A. No, if the full principal of the PPP loan is forgiven, the borrower is not responsible for the interest accrued in the 8-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.

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

A. The terms of the loan not forgiven may differ on a case-by-case basis. However, the maximum terms of the loan feature a 10-year term with interest capped at 4 percent and a 100 percent loan guarantee by the SBA. You will not have to pay any fees on the loan, and collateral requirements and personal guarantees are waived. Loan payments will be deferred for at least six months and up to one year starting at the origination of the loan.

Q. When is the application deadline for the Paycheck Protection Program?

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

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

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

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

A. Yes. If you received an EIDL loan related to the virus 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.