

U.S. Small Business Administration

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The PPP Program

PPP vs EIDL

Paycheck Protection Program

- Implemented with participating lenders
- 100% guaranteed by SBA
- 1% interest rate, 2/5-year term**
- $10,000,000 max (2.5x monthly payroll for calendar year 2019)
- Very different than normal 7(a) loans
  - Borrower Certifications
  - Vastly simplified underwriting

Economic Injury Disaster Loan

- Direct loan from SBA
- Underwritten by SBA
- Processed/Approved by the Office of Disaster Assistance of SBA
- 3.75% interest rate, 30-year term max
- 2.75% for eligible non-profits
- $2,000,000 max

** 2 Year terms prior to June 5th; 5 year term thereafter

PPP in one slide

The Paycheck Protection Program is a loan designed to provide a direct incentive for small businesses to keep their workers on the payroll.

SBA will forgive loans if all employees are kept on the payroll and the money is used for payroll, rent, mortgage interest, or utilities.

You can apply through any existing SBA 7(a) 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. You should consult with your local lender as to whether it is participating in the program.

How can PPP loans be used

- Use of proceeds
  - Payroll costs
  - Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
  - Mortgage interest payments (but not mortgage prepayments or principal payments);
  - Rent payments;
  - Utility payments;
  - Interest payments on any other debt obligations that were incurred before February 15, 2020; and/or
  - Refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020.
    - If you received an SBA EIDL loan from January 31, 2020 through April 3, 2020, you can apply for a PPP loan. If your EIDL loan was not used for payroll costs, it does not affect your eligibility for a PPP loan.
    - If your EIDL loan was used for payroll costs, your PPP loan must be used to refinance your EIDL loan. Proceeds from any advance up to $10,000 on the EIDL loan will be deducted from the loan forgiveness amount on the PPP loan

PPP Borrower Certifications

What certifications need to be made?

- The applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on a Form 1099–MISC.
- Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant.
- The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments;
  - I understand that if the funds are knowingly used for unauthorized purposes, the Federal Government may hold me legally liable such as for charges of fraud. As explained above, not more than 40 percent of loan proceeds may be used for nonpayroll costs.
- Documentation verifying the number of full-time equivalent employees on payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the loan forgiveness covered period for the loan will be provided to the lender.
- Loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utility payments. As explained above, not more than 40 percent of the forgiven amount may be used for nonpayroll costs.

PPP Borrower Certifications

Simplified Plain English

- You were in business on February 15, 2020 and had employees or independent contractors.
- You need the loan because of this crazy pandemic and its affect on your business operations.
- You are going to use the funds to keep people working and paid. You are also going to pay for mortgage interest (not principal), utilities, rent and lease payments. You also will use no more than 40% of what you've borrowed for these categories.
- You are going to provide lots of documentation for the "covered period".
- We will forgive the debt provided you can document it and you spent at least 60% on payroll costs.

Costs Eligible for Forgiveness

Payroll Costs

Eligible payroll costs.

- Costs paid and payroll costs incurred during the Covered Period (or Alternative Payroll Covered Period).
- Payroll costs are considered paid on the day that paychecks are distributed or the Borrower originates an ACH credit transaction.
- Payroll costs are considered incurred on the day that the employee's pay is earned.
- Payroll costs incurred but not paid during the Borrower's last pay period of the Covered Period (or Alternative Payroll Covered Period) are eligible for forgiveness if paid on or before the next regular payroll date.
- Otherwise, payroll costs must be paid during the Covered Period (or Alternative Payroll Covered Period).
- For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of $100,000, as prorated for the covered period.

Count payroll costs that were both paid and incurred only once. For information on what qualifies as payroll costs.

Payroll Costs

Payroll costs consist of:

- 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);
- Payment for vacation, parental, family, medical, or sick leave;
- Allowance for separation or dismissal;
- Payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement;
- Payment of state and local taxes assessed on compensation of employees;

For an independent contractor or sole proprietor **:

- Wages, commissions, income, or net earnings from self-employment, or similar compensation.

** Businesses who utilize independent contractors cannot consider them as payroll costs. Independent contactors are themselves eligible for a PPP loan

What is not a forgivable Payroll Cost

The Act expressly excludes the following:

- Any compensation of an employee whose principal place of residence is outside of the United States;
- The compensation of an individual employee in excess of an annual salary of $100,000, prorated as necessary;
- Qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response

Costs Eligible for Forgiveness

Non-Payroll

Eligible nonpayroll costs.

- Covered mortgage obligations: payments of interest (not including any prepayment or payment of principal) on any business mortgage obligation on real or personal property incurred before February 15, 2020;
- Covered rent obligations: business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020; and
- Covered utility payments: business payments for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before February 15,.

An eligible nonpayroll cost must be paid during the Covered Period or incurred during the Covered Period and paid on or before the next regular billing date, even if the billing date is after the Covered Period. Count nonpayroll costs that were both paid and incurred only once.

PPP Flexibility Act

Effective June 5th, 2020

Purpose: To provide businesses with more time and flexibility to keep their employees on the payroll and ensure their continued operations as we safely reopen our country

Key changes to PPP:

- Lower requirements for use of proceeds on payroll costs from 75% to 60%
- Provide a safe harbor from workforce reductions due to compliance with requirements OSHA, CDC, and HHS.
- Provide a safe harbor from reductions in forgiveness due to rehiring and hiring difficulties.
- Increase loan term maturity to 5 years
- Extend deferral period for P&I and fee payments
- Confirmation of June 30, 2020 as the last date for approval of PPP loans

Threshold for full forgiveness

The Cliff Hanger

- 60% of loan proceeds must be for payroll costs to achieve total loan forgiveness.
- Less than 60% will reduce the amount of forgiveness but not eliminate forgiveness.

For example, if a borrower receives a $100,000 PPP loan, and during the covered period the borrower spends $54,000 (or 54 percent) of its loan on payroll costs, then because the borrower used less than 60 percent of its loan on payroll costs, the maximum amount of loan forgiveness the borrower may receive is $90,000 (with $54,000 in payroll costs constituting 60 percent of the forgiveness amount and $36,000 in nonpayroll costs constituting 40 percent of the forgiveness amount).

Can I change my 2-year PPP to a 5-year PPP?

It depends:

- For loans receiving an SBA Loan number on June 5th or later = 5-year term
- For loans receiving an SBA Loan number before June 5th
  - Loans would have been approved with 2-year term
  - Borrowers and lenders may mutually agree to extend the maturity of such loans to five years.

How to determine when SBA assigned a loan # to your PPP loan?

- Check with your lender
- SBA E-Tran Origination system will show a funding date for your loan
- Potential timing issues:
  - Lenders gather and approve applications internally before submission to the SBA
  - PPP loans are approved nearly instantaneously by SBA Etran or PPP Lender Portal

Bottom line: If your loan was approved by your lender around June 5th you may already have a 5-year term loan. If not, you need to work with your lender to mutually agree to change it.

When will I have to begin paying principal and interest on my PPP loan?

- If you submit to your lender a loan forgiveness application within 10 months after the end of your loan forgiveness covered period, you will not have to make any payments of P&I on your loan before the date on which SBA remits the loan forgiveness amount on your loan to your lender (or notifies your lender that no loan forgiveness is allowed).
- Your "loan forgiveness covered period" is the 24-week period beginning on the date your PPP loan is disbursed;
  - If your PPP loan was made before June 5, 2020, you may elect to have your loan forgiveness covered period be the eight week period beginning on the date your PPP loan was disbursed.
- Your lender must notify you of remittance by SBA of the loan forgiveness amount (or notify you that SBA determined that no loan forgiveness is allowed) and the date your first payment is due.
  - Interest continues to accrue during the deferment period.
- If you do not submit to your lender a loan forgiveness application within 10 months after the covered period, you must begin paying principal and interest after that period.

For example, if a borrower's PPP loan is disbursed on June 25, 2020, the 24-week period ends on December 10, 2020. If the borrower does not submit a loan forgiveness application to its lender by October 10, 2021, the borrower must begin making payments on or after October 10, 2021.

When will I have to begin paying principal and interest on my PPP loan?

For example:

If a borrower's PPP loan is disbursed on June 25, 2020, the 24-week period ends on December 10, 2020. If the borrower does not submit a loan forgiveness application to its lender by October 10, 2021, the borrower must begin making payments on or after October 10, 2021.

If a borrower's PPP loan is disbursed on June 25, 2020, the 8-week period ends on August 20, 2020. If the borrower does not submit a loan forgiveness application to its lender by June 20, 2021, the borrower must begin making payments on or after June 20, 2021.

Implications of the Covered Period

Covered Period Defined:

- The first day is the same day your PPP loan was disbursed.
- For loans approved on or after June 5th:
  - The last day of the covered period is 24 weeks later
- For loans approved before June 5th:
  - The last day of the covered period is either 8 weeks or 24 weeks later

Alternative Payroll Covered Period**:

- For administrative convenience, Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56-day) period that begins on the first day of their first pay period following their PPP Loan Disbursement Date (the "Alternative Payroll Covered Period").
- For example, if the Borrower received its PPP loan proceeds on Monday, April 20, and the first day of its first pay period following its PPP loan disbursement is Sunday, April 26, the first day of the Alternative Payroll Covered Period is April 26 and the last day of the Alternative Payroll Covered Period is Saturday, June 20.

**It is unclear if an Alternative Payroll Covered Period will be applicable to 24 weeks under the PPPFA

Choosing a Covered Period (8 or 24)

- Prepare a PPP loan forgiveness application based on an eight-week covered period. If this results in full PPP loan forgiveness, submit the application and be done. Otherwise,
  - Prepare a PPP loan forgiveness application based on the 24-week covered period.
  - Submit the PPP loan forgiveness application with the greater forgiveness, electing out of the extended covered period, if necessary.
  - Remember reductions in salary and compensation greater than 25% will impact your forgiveness amount and must be considered over the full covered period. (e.g. $100 per week below 75% would be considered for all 8 weeks or all 24 weeks ($800 or $2400 reduction in forgiveness amount))

Loan Forgiveness Process

- Borrower completes and submits Loan Forgiveness Application
  - SBA Form 3508 or
  - SBA Form 3508EZ
- Lender of record reviews the Loan Forgiveness Application
  - Confirm receipt of borrower certifications on forgiveness application
  - Confirm receipt of documentation verifying payroll and nonpayroll costs
  - Confirm the borrower's calculations
  - Must be completed not later than 60 days from receipt
  - Should work with borrower to remedy any documentation/calculation issues
- Lender then issues a decision to SBA along with required documents
  - Approval (in whole or in part)
  - Denial
  - Denial with prejudice (due to pending SBA loan review)

Loan Forgiveness Process

- Lender must notify borrower of decision submitted to SBA
- Borrower has 30 days to request SBA review of lender's decision
- Lender must notify SBA with in 5 days of receipt
- SBA will notify lender if SBA declines a request to review
- If SBA accepts a borrower's request for review SBA will notify borrower and lender of review results

Examples of Forgiveness Issues

Reduced Compensation

If borrower reduced salary by more than 25%, borrower must account for the reduction for the full covered period

- **For example**: Assume a borrower has a 24-week covered period, and they are ready to submit their forgiveness application at the end of week 10. The borrower reduced an employee's pay by more than 25% of their salary by $100 per week. The borrower would have to report a total reduction in that employee's pay of $2,400 dollars ($100 per week for 24 weeks), even though they are filing their forgiveness application at the end of week 10.

Who can use SBA Form 3508EZ

Must be at least one condition below

1) Self-employed borrower with no employees that did not include any salaries in the calculation of their average monthly payroll (when determining their eligible loan amount); or
2) Borrower didn't reduce wages by more than 25% ***and*** didn't reduce number of employees or average paid hours of employees (or wasn't able to rehire/hire similarly qualified employees); or
3) Borrower didn't reduce wages by more than 25% ***and*** was unable to operate at the same level of activity due to government restrictions

Documentation Requirements

Generally – (See Forms 3508/3508EZ for specific details)

- **Payroll**: Proof of payment - Documentation verifying the eligible cash compensation and non-cash benefit payments (bank account statements, tax forms, payment receipts, cancelled checks, account statements); and
- **Nonpayroll**: Proof of obligation and proof of payment - Documentation verifying existence of the obligations/services prior to Feb. 15, 2020 and payments (copy of lender amortization schedule, lease, utility invoices; copies of cancelled checks); and
- **For 3508 only**: PPP Loan Forgiveness Calculation Form; PPP Schedule A; Documentation showing average number of FTE employees on payroll during referenced time periods

SBA Loan Forgiveness Platform

- For Lenders Only
- Planned launch August 10th
- Facilitates resolution with lender of submitted applications



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