Paycheck Protection Program (PPP)

• An integral piece of the CARES Act is the provision to provide $350 Billion to small businesses and other eligible recipients.
• 100% guaranteed by the U.S. Government.
• The program is called the Paycheck Protection Program, or PPP, and is an expansion of the SBA’s existing 7(a) Program.
  • The 7(a) program is the SBA’s most popular loan program. Loan proceeds may be used for working capital, refinancing of existing debt, acquiring a business, etc.
• Loans will be made by banks, credit unions and other lenders.
• PPP Loans may be available starting on Friday, April 3rd for small businesses and sole proprietors; Friday, April 10th for independent contractors and self-employed individuals.
Eligible Recipients of a PPP Loan

- You are eligible if during the Covered Period (Feb. 15, 2020 – Jun. 30, 2020) you are:
  - A small business with fewer than 500 employees
  - A small business that otherwise meets the SBA’s size standard
  - A 501(c)(3) with fewer than 500 employees
  - An individual who operates as a sole proprietor or independent contractor
  - An individual who is self-employed who regularly carries on any trade or business
  - A Tribal business concern that meets the SBA size standard
  - A 501(c)(19) Veterans Organization that meets the SBA size standard

- In addition, some special rules may make you eligible:
  - If you are in the accommodation and food services sector (NAICS 72), the 500-employee rule is applied on a per physical location basis
  - If you are operating as a franchise or receive financial assistance from an approved Small Business Investment Company the normal affiliation rules do not apply

- Part-time and temporary employees are counted the same as full time employees.
Special Exemptions

• SBA affiliation rules require businesses under common control or otherwise affiliated to aggregate their number of employees to determine employee headcount for PPP loans.

• SBA affiliation rules waived under CARES Act for:
  • Eligible borrowers in the food service and accommodation sectors with not more than 500 employees (NAICS code beginning with 72)
    • Note – 500 employee limit is applied to each physical location and not the entire company.
  • A franchisor that is assigned a franchise identifier code by the SBA.
  • Businesses that receive financial assistance from an approved Small Business Investment Company.

• Example: A restaurant business with 1,000 total employees and 10 locations would be eligible for a single PPP loan so long as no more than 500 employees are employed at any 1 of the 10 locations.
Creditworthiness of Borrower

• The CARES Act waives the collateral and guarantee requirements under typical SBA loans, as well as the requirement that the Borrower establish they are unable to obtain credit elsewhere.

• Typical SBA underwriting standards will be significantly relaxed.

• Must establish that the business was operational on February 15, 2020 and had employees for whom the business paid salaries and payroll taxes.

• Must make good faith certifications:
  1. the loan is necessary in light of the COVID-19 health crisis.
  2. acknowledge that the funds will be used to retain workers and maintain payroll or make mortgage, lease and/or utility payments.
     • There are no actual explicit guidelines available on how to establish this good faith certification yet.
  3. that the Borrower doesn’t have an application pending for a loan under another SBA program for the same use and has not received the loan.
  4. Documentation verifying # of employees, payroll costs etc. for the 8 week period following the loan will be provided to the lender.
  5. Loan forgiveness will be provided for documented specified expenses. No more than 25% of the forgiven amount may be for non-payroll costs.
Loan Amount

• The actual amount of any PPP Loan (subject to a $10M cap) will be determined by a formula based on the business’ average monthly payroll costs during the 12-month period before the loan is made (adjusted for seasonal employees) multiplied by 2.5, plus the amount of any EIDL Loan made after January 31, 2020 that is refinanced with the PPP Loan.

• Right now, Lenders expect it will take two weeks after an application is submitted to receive the PPP Loan.
  • Period to be reduced as lenders become more efficient at processing PPP Loans.
  • Treasury Secretary Steven Mnuchin hopes the PPP Loans could perhaps be processed the “same day” the application is received.
Key Loan Terms

The key economic terms of PPP Loans are:

- **Interest Rate**: 1.0% and there will be no prepayment fee.

- **Fees**: Borrower and lender fees in connection with participation in the PPP Loans will be waived. There will be a cap on fees to agents that assist borrowers in loan preparation.

- **Principal and Interest Payments**: Payment of principal, interest and fees will be deferred for 6 months.

  - **Repayment**: The maximum term of a PPP Loan will be 2 years from the date on which the borrower applied for the loan.
Use of Loan Proceeds

Allowable uses of the proceeds of a PPP Loan include:

• Payroll costs: compensation (salary, wage, commission, payment of cash tips or similar compensation); payment for vacation, parental, family, medical or sick leave; allowance for dismissal or separation; payment required for provisions of group health care benefits, including insurance premiums; payment of any retirement benefits; payment of state or local tax assessed on the compensation of employees

• Costs related to the continuation of group health care benefits

• Employee salaries ($100,000 limit)

• Rent and utilities

• Interest payments on existing mortgage obligations (excluding prepayments or payment of principal)

• Interest on any other debt obligations incurred prior to February 15, 2020 (which may not include any prepayment or payment of principal)
Loan Forgiveness and Repayment

- Borrower must apply to their lender for forgiveness of PPP Loans – not automatic. Lender required to make decision within 60 days of application.
- The amount that may be forgiven will be equal to the amount from the Loan used by the Borrower during the eight-week period after the loan is originated.
- Amount forgiven must not be more than the initial amount of the PPP Loan.
- Not more than 25% of the amount forgiven may be for non-payroll costs.
- This amount forgiven may be reduced depending on the extent a Borrower cuts salaries and wages, and may be adjusted if employees are rehired or salaries increase.
- The PPP Loan amount not forgiven will carry forward with principal and interest deferred for a total of 6 months after disbursement of the loan.
- **Important:** No adverse tax consequences as a result of forgiveness.
How to Obtain a PPP Loan?

• All current SBA 7(a) Lenders are eligible lenders for PPP Loans. Not all Lenders are approved SBA Lenders.

• Department of Treasury will be in charge of authorizing new Lenders, including non-bank lenders to help small business.

• Contact your current bank or credit union NOW.

• Once outstanding SBA guarantees hit $349 billion, any small business that has not been approved for a PPP Loan will not be able to obtain funding unless Congress expands the program.

• Some lenders are planning to give priority to existing customers.
What Other Options are Available?

**EIDLs**

- The SBA already offers emergency injury disaster loans ("EIDLs") which are not part of the CARES Act.
- EIDLs are made directly by the SBA.
- Small businesses, private nonprofit organizations of any size, small agricultural cooperatives, and small aquaculture enterprises that have been financially impacted as a direct result of the global COVID-19 pandemic since January 31, 2020 may qualify for EIDLs of up to $2 million to help meet financial obligations and operating expenses which could have been met had the disaster not occurred.
- The interest rate is 3.75% for small businesses and 2.75% for private nonprofit organizations. The SBA offers EIDLs with long-term repayments, up to a maximum of 30 years.
What Other Options are Available?

**Emergency Advance**

- Under The CARES Act a Borrower can obtain an emergency grant advance of up to $10,000 to eligible recipients applying for an EIDL.
- Funds can be used for:
  - payroll costs
  - increased materials costs
  - rent or mortgage payments
  - repaying obligations that cannot be met due to revenue losses
- These grants are available to eligible applicants during the period beginning January 31, 2020 and December 31, 2020 (the “covered period”) and funds will be made available within three days.
- The advance does **NOT** need to be repaid, and the applicant does not need to be approved for the underlying EIDL to receive and use the advance.
- However, to qualify for the $10,000 cash advance, businesses must have applied for an EIDL during the covered period.
EIDL and PPP Loan

- Limitation under CARES Act in receiving a PPP Loan and EIDL for the same purpose.
- The emergency grant advance of up to $10,000 would be subtracted from any amount otherwise forgiven under the PPP Loan.
- CARES Act does allow a Borrower who has an EIDL unrelated to the global COVID-19 pandemic to apply for a PPP Loan, with an option to refinance the EIDL Loan into the PPP loan.