

US Treasury issues guidance on the Paycheck Protection Program



Scott N. Opincar | Wednesday, April 1, 2020

On March 31, 2020, the U.S. Treasury Department issued guidance for the Paycheck Protection Program (PPP) enacted under Title 1 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) signed into law by President Trump on March 27, 2020. Under the PPP, the Small Business Administration (SBA) had 30 days after the date of the enactment of the CARES Act to provide guidance to SBA lenders on the PPP. Fortunately for financially distressed business concerns eligible for SBA 7(a) loans under the PPP, Administrator Jovita Carranza and Treasury Secretary Steven Mnuchin announced the expedited issuance of PPP guidance and a form of application for PPP loans. SBA lenders were waiting for the issuance of the guidance and the application form before beginning to accept and process PPP loans.

Below is a general summary of the guidance issued to SBA lenders (you can view the SBA's [PPP fact sheet here](#)):

The PPP authorizes up to \$349 billion in forgivable loans to small businesses to pay their employees during the COVID-19 crisis. All loan terms will be the same for everyone.

Generally, the loan amounts will be forgiven as long as:

- The loan proceeds are used to cover payroll costs, and most mortgage interest, rent, and utility costs over the 8-week period after the loan is made.
- Employee and compensation levels are maintained.

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Who can apply?

The PPP is for any small business with less than 500 employees (including nonprofits, veterans organizations, Tribal business concerns, sole proprietorships, self-employed individuals, and independent contractors) affected by the outbreak of the coronavirus/COVID-19. Businesses in certain industries can have more than 500 employees if they meet applicable [SBA employee-based size standards](#) using the NAICS code for that particular business.

Small businesses in the hospitality and food industry with more than one location could also be eligible at the store and location level if the store employs less than 500 workers. This means each store location could be eligible.

How to apply

Eligible business concerns 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.

When can my business apply?

Commencing on April 3, 2020, small businesses and sole proprietorships can apply for and receive loans to cover their payroll and certain other permitted expenses under the PPP through existing SBA lenders. In addition, commencing on April 10, 2020, independent contractors and self-employed individuals can apply for and receive loans to cover their payroll and certain other permitted expenses under the PPP through existing SBA lenders. [Click here to view the form of PPP application](#)

Businesses will need to complete the PPP loan application and submit the application with the required documentation to an approved SBA lender by June 30, 2020. The required documentation may include 2019 and 2020 year-to-date monthly profit and loss statements, 2019 and 2020 year-to-date payroll reports, state income tax, payroll, and unemployment insurance filings, tax identification/EIN, a summary of the complete ownership structure, corporate governance documents, and other documents.

Loan details and forgiveness

The PPP loan will be fully forgiven if the funds are used for payroll costs, interest on mortgages, rent, and utilities (due to likely high subscription, at least 75% of the forgiven amount must have been used for payroll). Generally, forgiveness is based on the employer maintaining or quickly rehiring employees and maintaining salary levels. Forgiveness will be reduced if full-time employee headcount declines, or by the amount of any reduction in the total salary or wages of any employee during the covered period that is in excess of 25% of the total salary or wages of the employee during the most recent full quarter during which the employee was employed before the covered period. According to the text of the CARES Act, an employee is any employee who did not receive, during any single pay period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000 (it is unclear how employees with salaries exceeding \$100,000 will be treated because the recent guidance differs from the actual text of the CARES Act). The business has until June 30, 2020 to restore an employee's full-time employment and salary levels for any changes made between February 15, 2020, and 30 days after the enactment of the CARES Act.

Loan repayment, interest, and other provisions

Eligible recipients may qualify for a loan up to \$10 million determined by 8 weeks of prior average payroll

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plus an additional 25% of that amount. If you are a seasonal or new business, you will use different applicable time periods for your calculation.

PPP loans have a maturity of two years. The annual interest rate on PPP loans is 0.5%. Loan payments will be deferred for six months. There are no prepayment penalties. No collateral or personal guarantees are required. Neither the government nor lenders will charge the small business borrower any fees.

[Click here for a summary of the PPP found at the SBA's website.](#)



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