



PAYCHECK PROTECTION PROGRAM QUESTION AND ANSWER

PROGRAM LOGISTICS

How do I participate in the program?

- Financial institutions are directly delegated the authority to process loan and forgiveness applications. Applicants for the Paycheck Protection Program apply directly through an existing SBA lender or any other federally insured depository institution, credit union, or Farm Credit System institution. Additional lenders are expected to be added.
- Applicants should also expect to submit tax documentation of payroll numbers confirming their eligibility to participate in the program and calculating their maximum loan amount. Additionally, the legislation explicitly requires contractors and sole proprietors to establish their eligibility with payroll tax filings, Form 1099-MISC, and documentation of income and expenses.

When will assistance be available?

- Eligible small businesses and sole proprietorships will be able apply for Paycheck Protection loans through existing SBA lenders effective immediately upon being signed into law.
- The expected application release is 24 days after enactment – before January 20th.
- You can find all the latest PPP Loan Forgiveness Application Forms [here](#).

When does the covered period begin for businesses, and how long does it last?

- The covered period begins on the date of origination. The borrower can choose to use the funds for any period between 8 weeks after the date of disbursement and 24 weeks after the date of disbursement.
- The last day to apply for and receive a PPP loan is March 31, 2021.

ELIGIBILITY

How do I determine if my business is eligible?

- For the second draw of PPP, a business now needs to employ only 300 workers or fewer, and the business gross receipts must have declined by at least 25 percent in any quarter in 2020 compared with that same quarter in 2019.
- Participation in the Paycheck Protection Program is open to businesses, 501(C)3 nonprofits, certain 501(C)(6) organizations, Destination Marketing Organizations (DMOs)

and veterans' organizations that have fewer than 300 employees or meet one of SBA's industry-specific small business thresholds – found [here](#). Sole proprietors, independent contractors, and some other self-employed individuals are also eligible.

- **Businesses that opened on or after February 15, 2020 are not eligible to receive an initial PPP loan or a second draw PPP loan.**

Can businesses apply for a PPP loan if they did not receive a loan from the previous round?

- Yes. This relief package includes money for first time borrowers.

How does this program interact with SBA's Economic Injury Disaster Loans (EIDL)?

- Borrowers who have received a COVID-19-related EIDL loan are allowed to apply for a Paycheck Protection loan or refinance their EIDL into a Paycheck Protection loan, and EIDL loan advances are no longer subject to deduction from PPP loan forgiveness amounts.

Can businesses apply for the Save Our Stages grants and PPP loans?

- No. Entities receiving the new Shuttered Venue Operator Grant and public companies are ineligible for PPP loans.

Do borrowers need to use 60% of their loan on payroll outside of the coverage period?

- No -- because the coverage period has expired, the borrower can use the money however they like. The borrower, however, will only earn partial forgiveness for their loan.

SECOND DRAW LOAN SPECIFICS

How are second draw PPP loan amounts calculated?

- To calculate the loan amount, businesses must find their average monthly payroll based on one year prior to filing the loan application, or from 2019. If your application date is January 30, 2021, you would use payroll numbers from January 30, 2020 through January 30, 2021 OR January 1, 2019 through December 31, 2019. Businesses with reduced staff in 2020 may find it advantageous to use the one-year-prior numbers to be able to adequately get to 60% usage of payroll.
- Food and accommodations businesses (any business with an [NACIS code](#) starting with 72) multiply that monthly average by 3.5 to find their loan amount. Other businesses multiply their monthly average by 2.5 to find their loan amount.
- The maximum loan amount is \$2 million.

Should businesses that accessed PPP in the first draw use the same lender for accessing a second draw PPP loan? Which businesses will receive priority?

- You do not need to use the same lender, but we recommend that you identify the bank with which you have the strongest ongoing relationship, check that they are participating in this round of PPP, and work with them to ensure you have the documentation necessary to receive a loan.
- For at least the first two days, when the program restarts, the SBA will only receive loans from community financial institutions. After that period, banking relationships will determine priority.

If a borrower does not use the complete funds from their First Draw loan during the coverage period, can they access a Second Draw loan?

- Borrowers that utilized First Draw PPP loans are eligible for Second Draw loans only if the borrower used or will use the full amount of the initial PPP loan for authorized purposes on or before the expected date of disbursement of the Second Draw PPP Loan. The borrower must also indicate that it spent (or intends to spend) the entirety of its First Draw Loan on eligible expenses under the PPP rules. If the borrower has unused funds, and their coverage period has expired, they will receive partial forgiveness for the funds spent on forgivable expenses -- as long as the borrower uses the remaining funds, they will qualify for a Second Draw loan.

How can a business owner demonstrate that they plan to use their First Draw loan so they can be eligible for a Second Draw loan?

- While a Second Draw loan applicant does not need to have submitted a forgiveness application for their First Draw loan, the borrower needs to show through payroll or allowable expenses that they are in the process of using their first loan by the time a Second Draw loan is disbursed. We are working to clarify from the SBA if returning unused funds from their first loan qualifies you to be eligible for the second loan.

Will Rules for Second Draw loans be retroactively applied to older loans from the CARES Act?

- A borrower who did not apply for a First Draw loan, who now applies for a loan, will be subject to First Draw loan rules but will be allowed to use the new definition of qualified expenses such as worker protections (PPE) and upgrading outside seating for restaurants.
- New loan calculation rules are not retroactive to older loans. For example, a restaurant applying for its first loan must adhere to the 2.5 payroll multiplier and can only utilize the 3.5 multiplier for a Second Draw loan. Flexibility Act amendments relating to PPP loan forgiveness and extension of the deferral period for PPP loans were effective as if included in the CARES Act, which meant that they were retroactive to March 27, 2020.

- For loans with a principal amount greater than \$150,000, the applicant must also submit documentation adequate to establish that the applicant experienced a revenue reduction of 25% or greater in 2020 relative to 2019.

MULTIPLE BUSINESS LOCATIONS

Can a previously issued loan be amended to include additional locations?

- No, the first round of loans cannot be amended. You can, however, apply for a second draw loan with additional locations.

PAYROLL EXPENSES

Do owners' salaries count as a payroll expense?

- Yes, up to the maximum amount - \$100,000 annual salary

Will the full-time equivalent (FTE) calculation for Second Draw loans utilize the same data from the First Draw loan application?

- Not necessarily, however borrowers are permitted to utilize the same data from their First Draw loan application because the coverage period can be the same for both maximum loan amount calculations.

Is Employment Practices Liability Insurance a forgivable payroll expense?

- No.
- Payroll costs include:
 - Compensation to employees 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 (e.g., group life, disability, vision, or dental insurance), and retirement.
 - Payment of state and local taxes assessed on compensation of employees.
 - Compensation for an independent contractor or sole proprietor, wage, commissions, income, or net earnings from self-employment or similar compensation.
- Payroll costs do not include:

- 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.
- Federal employment taxes imposed or withheld between February 15, 2020 and June 30, 2020, including the employee's and employer's share of FICA and Railroad Retirement Act taxes, and income taxes required to be withheld from employees.
- Qualified sick and family leave wages for which a credit is allowed under §§ 7001 and 7003 of the Families First Coronavirus Response Act.
- Reminder: independent contractors do not count as employees for purposes of PPP loan calculations, as they have the ability to apply for a PPP loan on their own.

FORGIVENESS

How do I apply for forgiveness?

- To achieve forgiveness, a borrower must submit to their lender documents including: (1) state or federal payroll documents; (2) documentation of mortgage interest, rent, or payroll expenses; (3) certification that the information is true; and (4) any other documentation that SBA determines is appropriate. The lender will then have 60 days to determine the appropriate level of forgiveness, at which point SBA would purchase and forgive the relevant amount of the initial loan.
- For loans under \$150,000, a streamlined, single page application has been implemented to simplify the process.
- Second Draw loans are forgivable but at least 60 percent must be spent on payroll costs.
- The new legislation provides that forgiven PPP loans will not be taxable to the small-business borrower. This applies to all existing PPP loans under the original CARES Act as well as the new second draw PPP loans.
- Once signed into law, the SBA and Treasury have been tasked with providing interpretive guidance and forms for the new forgiveness rule.

How must businesses spend their loan in order to receive forgiveness? Please note this is applicable to both first and second draw PPP loans.

- In order to receive forgiveness, businesses must use 60% of their loan on payroll, and 40% on other allowable expenses. The funds must be used between 8 and 24 weeks from the date of origination, which depends on the borrowers' preference. Loans can be forgiven if used on expenses that incur at any time; not only during the covered period. Allowable expenses include:

- **Covered operations expenditures.** Payment for any software, cloud computing, and other human resources and accounting needs. This includes software/hardware updates for new takeout and delivery programs started due to COVID-19 operational pivots.
- **Covered property damage costs.** Costs related to property damage due to public disturbances that occurred during 2020 that are not covered by insurance.
- **Covered supplier costs.** Expenditures to a supplier pursuant to a contract, purchase order, or order for goods in effect prior to taking out the loan that are essential to the recipient's operations at the time at which the expenditure was made. Supplier costs of perishable goods can be made before or during the life of the loan.
- **Covered worker protection expenditure.** Personal protective equipment and adaptive investments to help a loan recipient comply with federal health and safety guidelines or any equivalent State and local guidance related to COVID-19 during the period between March 1, 2020, and the end of the national emergency declaration.
- **Business mortgage interest payments.** Copy of lender amortization schedule and receipts, or lender account statements are needed to verify this expense.
- **Business rent or lease payments.** Copy of current lease agreement and receipts or cancelled checks are needed to verify eligible payments.
- **Business utility payments.** Copies of invoices and receipts, cancelled checks or account statements are needed to verify these payments.

When released, do simplified PPP forgiveness forms apply to both first round or second round loan draws?

- Yes. For loans under \$150,000, borrowers receive forgiveness if they submit a certification to their lender including a description of the number of employees they were able to retain due to the loan, the estimated total amount of the loan spent on payroll costs, and the total loan amount. The borrower must attest that they complied with PPP loan requirements.

Can businesses combine forgiveness applications for PPP round 1 and round 2 loans?

- No, however the SBA is releasing a simplified forgiveness application that will make the process easier.

Can closed businesses receive forgiveness for their existing PPP loan?

- If your business is closed but you spent your loan on allowable forgivable PPP expenses, you can apply for forgiveness from the lender from which you borrowed.

Can a business receive partial forgiveness for a loan?

- Yes. If a business does not completely comply with the requirements to receive forgiveness, they will receive partial forgiveness. The borrower will receive partial loan forgiveness based on the requirement that 60 percent of the forgiveness amount must be attributable to payroll costs.
- 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 non-payroll costs constituting 40 percent of the forgiveness amount). You can use a tool like [this one](#) to calculate your potential forgiveness.

Are expenses outlined in the Omnibus bill forgiven retroactively for First Draw loans?

- No. All expenses covered under Second Draw loans will be forgiven under the new rules only for the Second Draw.

How do restaurants that were mandated partially or fully closed calculate amended full-time equivalent (FTEs) and forgiveness using Safe Harbor Rules?

There are safe harbors for these issues, including:

- A borrower is exempt from the reduction of loan forgiveness based on FTE employees if:
 - There was a reduction in FTE employee levels during February 15, 2020 to April 26, 2020; and
 - The borrower restores its FTE employee levels by not later than December 31, 2020 to its FTE employee levels in the pay period that included February 15, 2020.
- A borrower is able to document that it was unable to operate between February 15, 2020 and the end of the 24-week period at same level of business activity as before February 15, 2020 due to compliance with COVID-19 requirements or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of Centers for Disease Control, or Occupational Safety and Health Administration. In practice, the SBA recognizes that guidance may also come from state and local regulators.
- A borrower is exempt from the reduction of loan forgiveness based on reductions in the annual salary or hourly wages of employees if the borrower restores annual salaries and/or hourly wages by December 31, 2020 to at least February 15, 2020 levels.
- Permanently closed businesses are ineligible for PPP loans, but a borrower that has temporarily closed or temporarily suspended its business but intends to reopen remains eligible for a PPP loan.