

Paycheck Protection Program: A Summary for Business Owners

Topic (and Source)	Text from the Act	Summary
<p>Definitions (Sec. 1101 & 1102 (a))</p>	<p>The term “small business concern” has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632, which states "a small-business concern... shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation.")</p> <p>The term “covered period” means the period beginning on February 15, 2020 and ending on June 30, 2020.</p> <p>The term "payroll costs" means the sum of payments of any compensation with respect to employees that is a salary, wage, commission, or similar compensation; payment of cash tip or equivalent; payment for vacation, parental, family, medical, or sick leave; allowance for dismissal or separation; payment required for the provisions of group health care benefits, including insurance premiums; payment of any retirement benefit; or payment of State or local tax assessed on the compensation of employees; and the sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation and that is in an amount that is not more than \$100,000 in 1 year, as prorated for the covered period.</p>	<p>You can use the loan to cover all payroll costs, except those excluded below.</p>

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	<p>The term "payroll costs" shall not include the compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the covered period; taxes imposed or withheld under chapters 21, 22, or 24 of the Internal Revenue Code of 1986 during the covered period; any compensation of an employee whose principal place of residence is outside of the United States; qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act (Public Law 116–127); or qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act (Public Law 116–127)</p> <p>The term "employee" includes individuals employed on a full-time, part-time, or other basis.</p>	<p>You cannot use the loan to cover payroll for employees whose salary is in excess of \$100,000. This wording is unclear whether or not you're allowed to use the loan to cover any portion of employees salaries that exceed \$100,000, and we're hoping the SBA will release additional clarification.</p> <p>Note: If the business' owner(s) are on payroll, the owner(s) salaries are included in the program.</p>
<p>Eligibility (Sec. 1102(a)(2)(D))</p>	<p>During the covered period, in addition to small business concerns, any business concern, nonprofit organization, veterans organization, or Tribal business concern described in section 31(b)(2)(C) shall be eligible to receive a covered loan if the business concern, nonprofit organization, veterans organization, or Tribal business concern employs not more than the greater of 500 employees; or if applicable, the size standard in number of employees established by the Administration for the industry in which the business concern, nonprofit organization, veterans organization, or Tribal business concern operates.</p>	<p>Businesses and nonprofits who employ 500 or fewer employees are eligible (with a few exceptions already defined by the SBA).</p>

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	<p>During the covered period, individuals who operate under a sole proprietorship or as an independent contractor and eligible self-employed individuals shall be eligible to receive a covered loan.</p> <p>Documentation: An eligible self-employed individual, independent contractor, or sole proprietorship seeking a covered loan shall submit such documentation as is necessary to establish such individual as eligible, including payroll tax filings reported to the Internal Revenue Service, Forms 1099–MISC, and income and expenses from the sole proprietorship, as determined by the Administrator and the Secretary.</p> <p>During the covered period, any business concern that employs not more than 500 employees per physical location of the business concern and that is assigned a North American Industry Classification System code beginning with 72 at the time of disbursement shall be eligible to receive a covered loan.</p> <p>During the covered period, the provisions applicable to affiliations under section 121.103 of title 13, Code of Federal Regulations, or any successor regulation, are waived with respect to eligibility for a covered loan for any business concern with not more than 500 employees that, as of the date on which the covered loan is disbursed, is assigned a North American Industry Classification System code beginning with 72; any business concern operating as a franchise that is assigned a franchise identifier code by the Administration; and any business concern that receives financial assistance from a company licensed under section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 681).</p>	<p>Sole proprietors, independent contractors, and self-employed individuals are also eligible. You prove eligibility by submitting payroll tax filings, your 1099-MISC form, and income and expense reports. Further information on this should be forthcoming from the SBA.</p> <p>Businesses with more than 1 location are eligible as long as they employ 500 or fewer employees per location.</p> <p>Under normal circumstances, the SBA requires a franchisee's parent company to apply for the loan. For this program, the SBA appears to be waiving that requirement and allowing franchisees to apply for their own individual loans. The SBA will also likely need to release more clarification on this process for franchises.</p>

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Maximum Loan Amount (Sec. 1102 (a)(2)(E))	<p>During the covered period, with respect to a covered loan, the maximum loan amount shall be the lesser of the sum of the product obtained by multiplying the average total monthly payments by the applicant for payroll costs incurred during the 1-year period before the date on which the loan is made, except that, in the case of an applicant that is seasonal employer, as determined by the Administrator, the average total monthly payments for payroll shall be for the 12-week period beginning February 15, 2019, or at the election of the eligible recipient, March 1, 2019, and ending June 30, 2019; by 2.5;</p> <p>and the outstanding amount of a loan under subsection (b)(2) that was made during the period beginning on January 31, 2020 and ending on the date on which covered loans are made available to be refinanced under the covered loan;...</p> <p>or \$10,000,000.</p>	<p>The maximum loan amount is determined by taking the average of your monthly payroll costs over the last 12 months and multiplying it by 2.5 (or 250%). If you run a seasonal business, you take the average monthly payroll for either a 12-week period starting February 15, 2019 OR the monthly average between March 1, 2019 and June 30, 2019.</p> <p>You may also use this program to effectively refinance an SBA Disaster Loan you have previously received. The outstanding amount left on that loan is added to the total you could receive from this program.</p> <p>The total loan amount may not exceed \$10 million.</p>

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	<p>If requested by an otherwise eligible recipient that was not in business during the period beginning on February 15, 2019 and ending on June 30, 2019, the sum of the product obtained by multiplying the average total monthly payments by the applicant for payroll costs incurred during the period beginning on January 1, 2020 and ending on February 29, 2020; by 2.5;</p> <p>and the outstanding amount of a loan under subsection (b)(2) that was made during the period beginning on January 31, 2020 and ending on the date on which covered loans are made available to be refinanced under the covered loan;</p> <p>or \$10,000,000.</p>	<p>If your business was not open between February 15, 2019 and June 30, 2019 but you're otherwise eligible, you can determine your average monthly payroll from the period between January 1, 2020 and February 29, 2020.</p>
<p>How You Can Use the Loan (Sec. 1102 (a)(2)(F))</p>	<p>During the covered period, an eligible recipient may, in addition to the allowable uses of a loan made under this subsection, use the proceeds of the covered loan for payroll costs; costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums; employee salaries, commissions, or similar compensations; payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation); rent (including rent under a lease agreement); utilities; and interest on any other debt obligations that were incurred before the covered period.</p> <p>A loan made under subsection (b)(2) during the period beginning on January 31, 2020 and ending on the date on which covered loans are made available may be refinanced as part of a covered loan.</p>	<p>You can use the loans for many expenses besides payroll. You can use to cover health care benefits, employee commissions (and similar compensations), interest payments on mortgages (NOT payments on the principal), rent payments, utilities, and interest on any other debt obligations that you incurred before February 15, 2020.</p> <p>You can use this loan to refinance an existing SBA Disaster Loan.</p>

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	<p>During the covered period, with respect to a covered loan in lieu of the fee otherwise applicable under paragraph (23)(A), the Administrator shall collect no fee; and in lieu of the fee otherwise applicable under paragraph (18)(A), the Administrator shall collect no fee.</p> <p>During the covered period, the requirement that a small business concern is unable to obtain credit elsewhere, as defined in section 3(h), shall not apply to a covered loan.</p>	<p>The SBA will not collect a fee for the loan.</p> <p>Normally, the SBA requires businesses to first seek credit opportunities elsewhere before applying to a 7(a) loan. They have waived this requirement for this program.</p>
<p>Borrower Requirements (Sec. 1102 (a)(2)(G))</p>	<p>An eligible recipient applying for a covered loan shall make a good faith certification</p> <p>that the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient;</p> <p>acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;</p> <p>that the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan; and</p> <p>during the period beginning on February 15, 2020 and ending on December 31, 2020, that the eligible recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan.</p>	<p>You need to make a good faith certification acknowledging that, because of economic uncertainty, 1. you are requesting the loan to support ongoing operations, 2. you will use the loan to retain workers and/or make mortgage/lease and utility payments, 3. that you aren't applying for two loans under this program, and 4. you haven't received loans from this program before.</p>

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Loan Terms (Sec. 1102 (a)(2)(K), (L), (M) & (R))	<p>With respect to a covered loan that has a remaining balance after reduction based on the loan forgiveness amount under section 1106 of the CARES Act, the remaining balance shall continue to be guaranteed by the Administration under this subsection; and the covered loan shall have a maximum maturity of 10 years from the date on which the borrower applies for loan forgiveness under that section.</p> <p>A covered loan shall bear an interest rate not to exceed 4 percent.</p> <p>During the covered period, the Administrator shall consider each eligible recipient that applies for a covered loan to be an impacted borrower; and require lenders under this subsection to provide complete payment deferral relief for impacted borrowers with covered loans for a period of not less than 6 months, including payment of principal, interest, and fees, and not more than 1 year.</p> <p>Notwithstanding any other provision of law, there shall be no prepayment penalty for any payment made on a covered loan.</p>	<p>Any loan amount that doesn't qualify for forgiveness will continue to be guaranteed by the SBA and will have a term of up to 10 years.</p> <p>Your interest rate will not exceed 4%.</p> <p>You can defer all loan payments (principal, interest, and fees) for at least 6 months (and a maximum of 1 year).</p> <p>No penalty if you want to prepay the loan.</p>
Loan Forgiveness (Sec. 1106)	<p>An eligible recipient shall be eligible for forgiveness of indebtedness on a covered loan in an amount equal to the sum of the following costs incurred and payments made during the covered period: (1) Payroll costs. (2) 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). (3) Any payment on any covered rent obligation. (4) Any covered utility payment.</p> <p>The amount of loan forgiveness under this section shall not exceed the principal amount of the financing made available under the applicable covered loan.</p>	<p>You can receive loan forgiveness if you only use the loan for payroll, mortgage interest payments (NOT principal payments), rent payments, and utility payments.</p> <p>Only the principal will be forgiven, meaning you will still need to pay interest.</p>

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	<p>The amount of loan forgiveness under this section shall be reduced, but not increased, by multiplying the amount described in subsection (b) by the quotient obtained by dividing—</p> <p>the average number of full-time equivalent employees per month employed by the eligible recipient during the covered period; by</p> <p>at the election of the borrower, either</p> <p>the average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on February 15, 2019 and ending on June 30, 2019; or</p> <p>the average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on January 1, 2020 and ending on February 29, 2020; or</p> <p>in the case of an eligible recipient that is seasonal employer, as determined by the Administrator, the average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on February 15, 2019 and ending on June 30, 2019.</p>	<p>If you do not cut back your employees' pay, the entire loan amount will be forgiven. If you do cut back on the number of employees, the amount that the lender will forgive will be proportionally reduced.</p>

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	<p>In a circumstance described in subparagraph (B), the amount of loan forgiveness under this section shall be determined without regard to a reduction in the number of full-time equivalent employees of an eligible recipient or a reduction in the salary of 1 or more employees of the eligible recipient, as applicable, during the period beginning on February 15, 2020 and ending on the date that is 30 days after the date of enactment of this Act. A circumstance described in this subparagraph is a circumstance in which during the period beginning on February 15, 2020 and ending on the date that is 30 days after the date of enactment of this Act, there is a reduction, as compared to February 15, 2020, in the number of full-time equivalent employees of an eligible recipient; and not later than June 30, 2020, the eligible employer has eliminated the reduction in the number of full-time equivalent employees; in which during the period beginning on February 15, 2020 and ending on the date that is 30 days after the date of enactment of this Act, there is a reduction, as compared to February 15, 2020, in the salary or wages of 1 or more employees of the eligible recipient; and not later than June 30, 2020, the eligible employer has eliminated the reduction in the salary or wages of such employees...</p>	<p>If you have re-hired previously terminated employees (that you terminated since February 15, 2020) or re-instated pay that you previously reduced, you can apply those efforts to maximize your loan forgiveness.</p>

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	<p>An eligible recipient seeking loan forgiveness under this section shall submit to the lender that is servicing the covered loan an application, which shall include documentation verifying the number of full-time equivalent employees on payroll and pay rates for the periods described in subsection (d), including payroll tax filings reported to the Internal Revenue Service; and State income, payroll, and unemployment insurance filings; documentation, including cancelled checks, payment receipts, transcripts of accounts, or other documents verifying payments on covered mortgage obligations, payments on covered lease obligations, and covered utility payments; a certification from a representative of the eligible recipient authorized to make such certifications that the documentation presented is true and correct; and the amount for which forgiveness is requested was used to retain employees, make interest payments on a covered mortgage obligation, make payments on a covered rent obligation, or make covered utility payments; and any other documentation the Administrator determines necessary.</p> <p>For purposes of the Internal Revenue Code of 1986, any amount which (but for this subsection) would be includible in gross income of the eligible recipient by reason of forgiveness described in subsection (b) shall be excluded from gross income.</p>	<p>When you apply for loan forgiveness, you need to provide documentation verifying the number of full-time (or full-time equivalent) employees on payroll and their pay rates (i.e., payroll tax filings to the IRS and the State, payroll reports, and unemployment insurance filings), documentation recording mortgage/rent/utility payments (i.e., cancelled checks, payment receipts, account transcripts, etc.), certification that the documents are correct and that the loan was used properly, and any other documentation the SBA determines necessary.</p> <p>For tax purposes, loan forgiveness is not included in your gross income.</p>