



**Division of Small Business  
& Technology Development**

# **The Paycheck Protection Program (PPP)**

**Empire State Development**

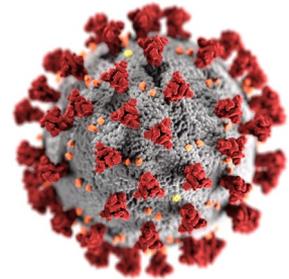
**A Division of Empire State Development**

6/5/2020

# As part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and subsequent amendments, the Paycheck Protection Program (PPP) provides \$659 billion of loan funds to support small businesses and other eligible entities impacted by the COVID-19 pandemic

Eligible expenses include funds to pay workers, interest on mortgage obligations, rent, insurance, paid sick or medical leave, utilities, and payroll related costs incurred from February 15, 2020 – December 31, 2020. Up to a maximum of \$10 million.

***Up to twenty-four weeks of eligible expenses during the covered period can be forgiven from the loan principal as long as the employer attempts to maintain previous payroll counts during this emergency.***



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# The Paycheck Protection Program - BASICS

- The Paycheck Protection Program (**PPP**) will provide small businesses with loans that may be **partially or fully forgiven** and are 100% federally guaranteed.
- The program **leverages the existing SBA 7(a) lenders and program**, while increasing the available amount of funds, improving loan terms, streamlining borrower requirements, and providing for the expansion of eligible lenders of SBA PPP Loans.
- There are **no collateral requirements or personal guarantees** for the loan.
- There are no fees for the borrower to apply for the loan.
- SBA **“credit elsewhere” test does not apply** to this loan.
- Lenders will be accepting **applications on Friday, April 3, 2020.**



# Paycheck Protection Program – Loan Terms

- Applicants can apply for a loan up to a **maximum of \$10 million**, from participating lenders. **Loan amounts are based on previous payroll** and covered cost amounts. (*2.5x average total monthly “payroll costs” up to \$10 million*)
- **Interest rate is 1%** per annum with term of 2 years for loans made prior to June 5, 2020.
- **Interest rate is 1%** per annum with term of at least 5 years and not more than 10 years for loans made after June 5, 2020 depending upon the lenders loan terms.
- There are **no fees for borrowers to apply**, and **no prepayment fees**.
- Loan **repayments will be deferred** until the forgiveness amount is calculated and remitted to lender by the Small Business Administration (or in the case of failure to request forgiveness, 10 months after the end of the borrowers covered period).



# Paycheck Protection Program – Loan Terms (continued)

- Entities **must have been operational by February 15, 2020**, had payroll and paid taxes.
- The **covered loan period** is from **February 15, 2020 to December 31, 2020**.
- If the business has already received an SBA Economic Injury Disaster Loan (EIDL) and chooses to refinance that loan with a PPP Loan, **the outstanding EIDL loan amount can be added to the loan amount**, subject to the \$10 million cap.
- Applicants are eligible to apply until June 30th, 2020 or until program funding is exhausted.

# Paycheck Protection Program – Uses

Borrowers will be **required to make a good faith certification** that the loan proceeds will be used 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 compensation.**
- **Business related mortgage interest** payments (not principal), **lease payments**, **utility payments.**
- **Interest on any other business debt obligations** that were incurred prior to February 15, 2020.



# Paycheck Protection Program – Eligible Businesses

- A **small business with fewer than 500 employees** (or a business in an industry that has an *employee*-based size standard through SBA that is higher than 500 employees).
- **501(c)(3) nonprofits** with fewer than 500 employees.
- **Tribal businesses** defined under section 31(b)(2)(C) with fewer than 500 employees.
- 501(c)(19) **veteran organizations** with fewer than 500 employees.
- A restaurant, hotel, or a business that falls within the North American Industry Classification System (**NAICS code 72, “Accommodation and Food Services,”** and each of your locations has fewer than 500 employees.
- Businesses in the hospitality and restaurant industries, can be franchises that are **approved on the SBA’s Franchise Directory.**
- Businesses that receive financial assistance from **the Small Business Investment Company (SBIC) program.**
- ***Sole proprietors, independent contractors, gig economy workers, and self-employed individuals are all eligible for the Paycheck Protection Program (Form 1040 Schedule C).***



# Paycheck Protection Program – Payroll Cost Calculations

- Payroll costs for businesses include **salaries, wages, cash tips, payments for vacation, parental, family, medical, or sick leave, and group health care benefits**, as well as certain other employment-related expenses.
- Payroll **costs for sole proprietors and independent contractors includes wages and net earnings** from self-employment (2019 Form 1040 Schedule C)
- Compensation for an individual employee, sole proprietor or independent contractor above \$100,000 annually (pro-rated for the period – not including retirement benefits and health care coverage) **is excluded from the calculation.**
- The **average payroll will be calculated over** (i) **12 months prior to the loan origination**, (ii) for seasonal employers, the period between February 15, 2019 through June 30, 2019 or, at the election of the borrower, March 1, 2019 through June 30, 2019, or (iii) the period between January 1, 2020 and February 29, 2020 for businesses not in operation during the period between February 15, 2019 and June 30, 2019. Form 1040 Schedule C Individuals use 2019 form line 31 'Net Profit' divided by 12 for monthly rate.



# Paycheck Protection Program – Loan Forgiveness

The Act establishes that the borrower is eligible for loan forgiveness equal to the amount spent on forgivable expenses by the borrower during a 24-week period after the origination date of the PPP loan or the period until December 31, 2020 whichever is shorter.

**To receive any forgiveness, 60% of the loan proceeds MUST be used for payroll related purposes**

What can be included in the PPP loan forgiveness amount?

- **Actual Payroll costs** (salary, wages, etc.. For 1040 Schedule C Firms – 8 weeks of 2019 Net Profit).
- **Covered benefits for employees** (but not owners), including health care expenses, retirement contributions, and state taxes imposed on employee payroll paid by the employer (such as unemployment insurance premiums).
- **Interest payment on a mortgage** that originated prior to February 15, 2020.
- **Interest payment on a debt** that originated prior to February 15, 2020.
- Payment of **rent** on lease that began prior to February 15, 2020.
- Payment on any **utility** for which service began before February 15, 2020.\*\*



***\*\*For Form 1040 Schedule C firms, utilities must have been claimable in in 2019 to qualify.***

***Amounts forgiven may not exceed the principal amount of the loan and accrued interest.***

***Loan proceeds used for any other purposes will NOT be forgiven.***

***No more than 40% of forgiven amount can be for non-payroll costs.***

***Any cancelled indebtedness will not be included in the borrower's taxable income.***

# Paycheck Protection Program – Loan Forgiveness (continued)

The purpose of the Paycheck Protection Program is to help you retain your employees, at their current base pay.

- If you keep all of your employees and use at least 60% of your loan proceeds on payroll and related expenses, the entirety of the actual forgivable costs will be forgiven.
- If you still lay off employees, the forgiveness *may be reduced* by the percent decrease in the number of employees (there are exemptions).
- If your total payroll expenses on workers making less than \$100,000 annually decreases by more than 25 percent, loan forgiveness *may be reduced* by the same amount.
- **If you have already laid off some employees, you can still be forgiven for the full amount of your payroll cost if you rehire your employees by December 31, 2020.**
- If the full principal of the PPP loan is forgiven, the borrower is not responsible for the interest accrued in the 24-week covered period. Any remainder of the loan that is not forgiven will convert into 2-year loan at 1% interest for loans made prior to June 5, 2020 or a 5 to 10-year loan at 1% interest for loans made after June 5, 2020 dependent upon the lender's terms.



# Paycheck Protection Program – Loan Forgiveness Exemptions

**The Paycheck Protection Flexibility Act added an exemption to the FTE Reduction calculation.**

**A borrower can request an exemption from the normal forgiveness reductions** due to reduced payroll for the period beginning February 15, 2020 and ending December 31, 2020, provided the borrower can document:

- An inability to rehire employees who were employed as of February 15, 2020, and
- An inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020, *or*
- An inability to return to the same level of business activity as such business was operating at before February 15, 2020, due to compliance with requirements and guidelines issued by Health and Human Services, CDC or OSHA during March 1, 2020 to December 31, 2020 related to certain protocols for responding to COVID-19.



# Paycheck Protection Program and SBA EIDL Loans

If I have applied for or received an Economic Injury Disaster Loan (EIDL) related to COVID-19 before the Paycheck Protection Program became available, you will be able to refinance into a PPP loan.

- If you received an EIDL loan related to COVID-19 between January 31, 2020 to April 3, 2020 **you would be able to refinance the EIDL into the PPP for loan forgiveness purposes.**
- You cannot take out EIDL and a PPP loans for the same purposes. **Remaining portions of the EIDL, for purposes other than those laid out in loan forgiveness terms for a PPP loan, would remain a loan.**
- **If you took advantage of an emergency EIDL grant award of up to \$10,000, that amount would be subtracted from the amount forgiven under the Paycheck Protection Program.**



## Start preparing – Collecting Data

Gather documents that provide proof of payment for allowable expenses under Paycheck Protection Program and be ready to make related certifications for the application:

### For Employers with employees on payroll:

**Your previous 12 months of payroll and related expenses. All eligible expenses to be accounted for:**

- Wages, Commissions, Cash tips or equivalent (Form 941- Payroll Tax Statements)
- Payroll provider statements (if applicable)
- Other forms of compensation (note what they are along with amounts)
- Health care benefits
- Insurance
- Payment for vacation, parental, family, medical, or sick leave
- Payment of any retirement benefit
- Payment of state or local tax assessed on the compensation of the employee

### For employers with tipped employees, additional wages paid to those employees:

- A full list of Employee Names and wages paid

### EXCLUDED Payroll Costs:

- Compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the period February 15, to June 30, 2020
- Payroll taxes, railroad retirement taxes, and income taxes
- 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– 5 127); or qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act



# Start preparing – Collecting Data (continued)

## For Sole Proprietors, Independent Contractors, and Self-Employed Individuals

### **Proof of payments of any compensation 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 one year, as prorated for the covered period.
- 2019 Form 1040 Schedule C, 2019 Form 1099-MISC
- Proof of operation on February 15<sup>th</sup>, 2020

### Other eligible expenses:

**Interest on the mortgage obligation incurred in the ordinary course of business.**

**Interest on other debt obligations incurred before Feb. 15, 2020.**

**Rent on a leasing agreement.**

- Copy of a current lease
- Proof of rent paid

**Payments on utilities: Include bills and payments made for:**

- Electricity
- Gas
- Water
- Transportation
- Telephone
- Internet



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## Start preparing – Collecting Data (continued)

Be ready to commit to a good faith certification upon application:

1. The uncertainty of current economic conditions makes the loan request necessary to support ongoing operations
2. The borrower will use the loan proceeds to retain workers and maintain payroll or make mortgage, lease, and utility payments
3. Borrower does not have an application pending for a loan duplicative of the purpose and amounts applied for here
4. From Feb. 15, 2020 to Dec. 31, 2020, the borrower has not received a loan duplicative of the purpose and amounts applied for here (Note: There is an opportunity to fold emergency loans made between Jan. 31, 2020 to April 3, 2020).



# Sample Application – subject to change

**Paycheck Protection Program  
Application Form**

OMB Control No. 3245-  
Expiration Date: 06/30/2020

<input type="checkbox"/> Non-Profit <input type="checkbox"/> Vet Org <input type="checkbox"/> Tribal <input type="checkbox"/> Ind. Cont. <input type="checkbox"/> Self Employed <input type="checkbox"/>		DBA or Trademark if applicable	
Business Legal Name			
Business Primary Address		Business TIN (EIN/SSN)	Business Phone
		Primary Contact	Email Address

Average Monthly Payroll: \$	X 2.5 equals Loan Amount: \$	Number of Jobs:
Purpose of the loan (select more than one): <input type="checkbox"/> Payroll <input type="checkbox"/> Rent / Mortgage Interest <input type="checkbox"/> Utilities <input type="checkbox"/> Other (explain):		

**Applicant Ownership**

List all owners of Applicant with greater than 20% ownership stakes. Attach a separate sheet if necessary.

Owner Name	Title	Ownership %	TIN (EIN/SSN)	Address

*If questions (1) or (2) below are answered "Yes," the loan will not be approved.*

Question	Yes	No
1. Is the Business or any owner presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or presently involved in any bankruptcy?	<input type="checkbox"/>	<input type="checkbox"/>
2. Has the Business, any of its owners, or any business owned or controlled by any of them, ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted in the last 7 years and caused a loss to the government?	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the Business or any owner an owner of any other business or have common management with any other business? If yes, attach a listing of all Affiliates and describe the relationship as addendum A.	<input type="checkbox"/>	<input type="checkbox"/>
4. Has the Business received an SBA Economic Injury Disaster Loan between January 31, 2020 and April 3, 2020? If yes, provide details on a separate sheet identified as addendum B.	<input type="checkbox"/>	<input type="checkbox"/>

*Applicants who are individuals and all 20% or greater owners of the business must answer the following questions. If questions (5) or (6) are answered "Yes" or question (7) is answered "No," the loan will not be approved.*

Question	Yes	No
5. Are you presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction, or presently incarcerated, on probation or parole? <small>Initial here to confirm your response to question 5 →</small>	<input type="checkbox"/>	<input type="checkbox"/>
6. Within the last 7 years, for any felony or misdemeanor for a crime against a minor, have you: 1) been convicted; 2) pleaded guilty; 3) pleaded nolo contendere; 4) been placed on pretrial diversion; or 5) been placed on any form of parole or probation (including probation before judgment)? <small>Initial here to confirm your response to question 6 →</small>	<input type="checkbox"/>	<input type="checkbox"/>
7. <input type="checkbox"/> I am a U.S. Citizen OR <input type="checkbox"/> I have Lawful Permanent Resident status <input type="checkbox"/> No <small>Initial here to confirm your response to question 7 →</small>		

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**Paycheck Protection Program  
Application Form**

OMB Control No. 3245-  
Expiration Date: 06/30/2020

**By Signing Below, You Make the Following Representations, Authorizations, and Certifications**

**REPRESENTATIONS AND AUTHORIZATIONS**

I represent that:

- I have read the Statements Required by Law and Executive Order included in this form, and I understand them.
- I will comply, whenever applicable, with the civil rights and other limitations in this form.
- All SBA loan proceeds will be used only for business-related purposes as specified in the loan application.
- To the extent feasible, I will purchase only American-made equipment and products.
- The Applicant is not engaged in any activity that is illegal under federal, state or local law.

For Applicants who are individuals and all Associates: I authorize the SBA to request criminal record information about me from criminal justice agencies for the purpose of determining my eligibility for programs authorized by the Small Business Act, as amended.

**CERTIFICATIONS**

The Business and each 20% or greater owner must certify in good faith to all of the below by initialing next to each one:

\_\_\_\_ 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 payments, lease payments, and utility payments. I understand that if the funds are used for unauthorized purposes, the federal government may pursue criminal fraud charges.

\_\_\_\_ 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 eight week period following this 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 utilities. Due to likely high subscription, it is anticipated that not more than twenty-five percent (25%) of the forgiven amount may be for non-payroll costs.

\_\_\_\_ During the period beginning on February 15, 2020 and ending on December 31, 2020, the Applicant has not and will not receive another loan under this program.

\_\_\_\_ I further certify that the information provided in this application and the information that I have provided in all supporting documents and forms is true and accurate. I realize that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under 18 USC 1001 and 2571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a Federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.

\_\_\_\_ I acknowledge that the lender will calculate the eligible loan amount using tax documents I have submitted. I affirm that these tax documents are identical to those I submitted to the IRS. I also understand, acknowledge and agree that the Lender can share the tax information with SBA's authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews.

Signature of Authorized Representative of Business	Date
Print Name	Title
Signature of Owner of Applicant Business	Date
Print Name	Title

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# Free Assistance for Preparing Applications

Free assistance with reconstructing financial records, preparing financial statements and submitting the loan application is available from :

SBA Small Business Development Centers (SBDC): <http://nysbdc.org/appointment.html>

Entrepreneurship Assistance Centers (EAC):

<https://esd.ny.gov/entrepreneurship-assistance-centers>

Community Development Financial Institutions (CDFI):

<https://esd.ny.gov/sites/default/files/CDFI%20List.pdf>

Business Mentor NY COVID-19 Volunteer Task Force: [www.businessmentor.ny.gov](http://www.businessmentor.ny.gov)

ESD Small Business Division: <https://esd.ny.gov/doing-business-ny/small-business-hub>

For the SBA nearest office, visit: <https://www.sba.gov/local-assistance>



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Together we will defeat the virus!  
Thank you for supporting Small Business in New York State

