

How SMBs Can Take Advantage of the SBA Paycheck Protection Program Loan

In light of the novel coronavirus (COVID-19) global pandemic, many small-to-medium sized businesses are struggling to manage revenue losses amid prolonged economic uncertainty.

To offset the pandemic's financial impacts, Congress has passed several stimulus bills, including the Families First Coronavirus Response Act and the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which includes provisions that can provide for increased cashflow as well as tax savings.

Businesses should quickly consider how these provisions could help their companies during this uncertain time to ensure they are maximizing available benefits. In particular, businesses should quickly evaluate the applicability of Paycheck Protection Program loans being offered through the Small Business Administration (SBA).

SBA Paycheck Protection Program

This \$350 billion forgivable loan program, included in the CARES Act, significantly expands which organizations are eligible for Small Business Administration (SBA) loans. For organizations facing financial strain as a result of COVID-19, these loans can help offset a variety of costs.

What can the loan be used for?

The loan can cover costs including payroll, continuation of health care benefits, employee compensation (excludes compensation in excess of \$100,000 on an annual basis), mortgage interest obligations, rent or lease payments, utilities, and interest on debt.

Who is eligible for the program?

Eligible businesses include:

- Small businesses in operation as of 2/15/2020
- Individuals operating a business as a sole proprietor, an independent contractor, or as self-employed
- 501(c)(3) nonprofits
- Other specialized organizations including 501(c)(19) veterans' organizations and Tribal business concerns described in section 31(b)(2)(C)

To be eligible, the business cannot have the greater of 500 eligible employees or, if applicable, the SBA's size standard (for employee count) for the business's applicable industry. Exceptions to the above include:

- Accommodation and food service businesses operating under [NAICS codes beginning with 72](#). Note: For accommodation and food service businesses that qualify under this exception, the 500 eligible employee rule is applied on a per physical location basis.

The CARES Act does not appear to have overridden the SBA's "affiliation" rules. Entities are considered "affiliates" when they are controlled by or under common control of another entity. This classification generally includes private equity owners. Business cannot exceed the size thresholds for either the primary industry of the business alone, or the industry of the business and its affiliates, whichever is greater. For groups of affiliates that operate in different industries—a typical case for private equity portfolio companies—industry code is based on the primary income producing entity. However, there is some ambiguity in the text of the CARES Act, so additional guidance may be forthcoming.

Exceptions to the above affiliation rules include:

- Businesses (with under 500 eligible employees) in an Accommodation and Food Service business [NAICS codes beginning with 72](#)
- Franchise businesses with [SBA franchisor identifier codes](#)
- Small businesses that receive financing from small business investment companies (SBIC) licenses by the SBA

How much can a business borrow?

The maximum amount for these loans is 2.5x the average total monthly payroll costs, or up to \$10 million.

Is there loan forgiveness?

Yes, provided your business meets certain conditions (including not having certain reductions in employees or greater than 25% reductions in salaries). Your business will be eligible to apply for loan forgiveness equal to the amount you spent during an eight-week period after the loan closing date on:

- Payroll costs (includes certain fringes)
- Interest on mortgages existing before 2/15/2020
- Payments of rent on leases existing before 2/15/2020
- Utility payments on arrangements existing before 2/15/2020

Principal payments of mortgage payments will not be eligible for forgiveness. Also, the Treasury has noted that “due to likely high subscription, it is anticipated that not more than 25% of the forgiven loan amount may be for non-payroll costs”.

When can you apply?

Starting April 3, 2020, small businesses and sole proprietorships can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.

Starting April 10, 2020, independent contractors and self-employed individuals can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.

Although the program is open until June 30, 2020, we encourage you to **apply as quickly as possible** because there is a funding cap and lenders need time to process your loan.

Where can you apply?

You can apply through any existing SBA 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. You should consult with your local lender as to whether it is participating. Visit the [SBA website](#) for a list of SBA lenders.

How do you apply?

Applications and underwriting are handled by SBA-approved banks. You will need to complete the [Paycheck Protection Program loan application](#) and submit the application with the required documentation to an approved lender that is available to process your application by June 30, 2020.

While documentation requirements may vary between institutions, we would expect them to include the following:

- Support for the payroll costs included in the 2.5x calculation
- Current personal financial statement
- Latest available personal tax return
- Latest available business tax return
- Latest available internal 2019 YE financials
- YTD internal 2020 financials
- Spreadsheet detailing the following:
 - o List of all full-time employees with eight weeks salary + payroll taxes
 - o Cost of two months of rent with copies of leases
 - o Cost of two months of mortgage interest with copy of loan payments
 - o Cost of two months of utility costs with copy of utility payments

What is required to be eligible?

Borrowers will need to include a Good-Faith Certification that:

- The uncertainty of the current economic conditions make necessary the loan request to support the ongoing operations.
- Funds will be used to retain workers and maintain payroll or make mortgage, lease and utility payments.
- The applicant does not have any other application pending under this program for the same purpose.
- From February 15, 2020, until December 31, 2020, the applicant has not received duplicative amounts under this program.
- You will provide to the lender documentation that verifies the number of full-time equivalent employees on payroll and the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight weeks after getting this loan.
- All the information you provided in your application and in all supporting documents and forms is true and accurate. Knowingly making a false statement to get a loan under this program is punishable by law.
- You acknowledge that the lender will calculate the eligible loan amount using the tax documents you submitted. You affirm that the tax documents are identical to those you submitted to the IRS. And you also understand, acknowledge, and agree that the lender can share the tax information with the 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.

How MFA Can Help

Small to medium-sized businesses have many potential avenues—including the SBA loan program, the Paycheck Protection Program—to help offset costs during this uncertain time. However, navigating the complex loan application process is a daunting task.

Those seeking SBA loans will need to move quickly to get their loans approved and funded. We can help you navigate the required paperwork and help organize the necessary information in an expedited manner—so you can boost your cashflow ASAP.

In addition to maximizing these available options, there are also beneficial income tax provisions to claim on income tax returns, including 2019 returns. MFA can assist companies in determining possible cash tax refunds through net operating loss (NOL) carrybacks and quick refunds of 2019 taxes already paid.



For more guidance on navigating the uncertainty of COVID-19, please visit [MFA's COVID-19 Resource Center](#).