

SBA PAYCHECK PROTECTION PROGRAM

Congress has passed several rounds of financial assistance and relief in response to the COVID-19 pandemic, including most recently the *American Rescue Plan*. The *American Rescue Plan* includes additional relief for small businesses struggling as a result of the pandemic.

*** WHAT IS NEW IN THE AMERICAN RESCUE PLAN ***

The *American Rescue Plan* provides \$7.25 billion nationwide for additional first- and second-round Paycheck Protection Program (PPP) loans to small businesses and nonprofits until the program expires on March 31, 2021. [Details are below.](#)

Expanded eligibility for nonprofits and internet-only publishers:

- PPP eligibility is extended to additional nonprofits listed in Section 501(c) of the Internal Revenue Code, provided that: 1) the organization does not receive more than 15 percent of receipts from lobbying activities; 2) the lobbying activities do not comprise more than 15 percent of activities; 3) the cost of lobbying activities of the organization did not exceed \$1,000,000 during the most recent tax year that ended prior to February 15, 2020; and 4) the organization employs not more than 300 employees.
- Eligibility is also extended to internet-only news and periodical publishers, as long as the business has no more than 500 employees per physical location (or the applicable SBA size standard for that North American Industry Classification code). The organization must certify it is an internet-only news or periodical publisher and that the loan will support locally-focused or emergency information.

Interaction with Shuttered Venue Operators grants: The *American Rescue Plan* allows eligible entities (e.g., theaters, museums, live entertainment venues) to access both PPP and the SBA's Shuttered Venue Operators (SVO) grant program, which was previously prohibited. Entities are now eligible for SVO grants regardless of whether they received a second or first PPP loan after December 27, 2020. However, once an entity applies for an SVO grant, they can no longer apply for PPP. An entity's SVO grant amount will also be reduced by the amount of PPP loans received on or after December 27, 2020. More information on the SVO program can be found [here](#).

Previously announced revisions to PPP: On February 22, 2021, the Biden administration announced the following revisions to expand access to PPP loans:

- The SBA will revise the PPP loan formula for sole proprietors, independent contractors, and self-employed individuals so they can receive more financial support;
- The SBA will expand eligibility to include:
 - Small business owners with prior non-fraud felony convictions;
 - Small business owners who have fallen behind on student loan payments; and
 - Non-citizen small business owners who are lawful U.S. residents and have an Individual Taxpayer Identification Number (ITIN).

Overview of PPP

The *Coronavirus Aid, Relief, and Economic Security (CARES) Act* created the PPP as a new SBA loan program. It provides small businesses with zero-fee, forgivable loans to cover payroll

and other operating expenses. For any amount that is not forgiven, small businesses must repay the loan at 1 percent interest over five years. Payments on any outstanding loan amounts are deferred until the lender receives the amount of the loan that was forgiven, or for 10 months for small businesses that did not seek loan forgiveness. **PPP loans are available through March 31, 2021.**

Eligibility:

If this is a **first-draw** PPP loan (i.e., you have not yet received a PPP loan), you are eligible if:

- Your business or entity was in operation on February 15, 2020;
- You are a small business, nonprofit organization, 501(c)(19) veterans organization, or tribal business concern that has fewer than 500 employees, or the applicable [size standard](#) in number of employees for the North American Industry Classification System (NAICS) industry as provided by SBA, if higher;
- You are a sole proprietorship, an independent contractor, or self-employed;
- You are a business that employs not more than 500 employees per physical location and your business has an NAICS code beginning with 72 (accommodations and restaurants), for which the affiliation rules are waived.
- Affiliation rules are waived for any business operating as a franchise that is assigned a franchise identifier code by the SBA, and any company that receives funding through a Small Business Investment Company.
 - Affiliation rules are also waived for newspapers, TV and radio broadcasters, and public broadcasters, as long as the organization has no more than 500 employees per physical location or the applicable SBA size standard.

If you are applying for a **second-draw** PPP loan, you are eligible if:

- You have 300 or fewer employees;
- You sustained a 25 percent revenue loss in any quarter of 2020, relative to the same quarter in 2019; and
- You have used or will use the full amount of their first PPP loan.
- Other than those three additional criteria, the eligibility rules for second-draw PPP loans are the same as first-draw loans. Waiver of affiliation rules that applied during initial PPP loans apply to a second loan.

Loan Size:

For **first-draw** loans:

- Your maximum loan size is 2.5 times your average monthly payroll costs for the one-year period before the loan is made.
 - Seasonal employers may calculate their maximum loan amount based on a consecutive 12-week period of their choosing between February 15, 2019, and February 15, 2020.
- Businesses or organization that were not in operation on February 15, 2020, are not eligible for an initial PPP loan or a second-draw loan.
- The loan maximum in all cases for first-draw loans is \$10 million.

For **second-draw** loans:

- Your maximum loan size is 2.5 times your average monthly payroll costs for the one-year period before the loan is made, or calendar year 2019.

- Seasonal employers may calculate their maximum loan amount based on a consecutive 12-week period of their choosing between February 15, 2019, and February 15, 2020.
- Borrowers in industries assigned to NAICS code 72 (Accommodation and Food Services), such as eligible hotels and restaurants, **may receive loans of up to 3.5 times their average monthly payroll costs**. Note that this enhanced loan size only applies to second-draw loans.
- The loan maximum in all cases for second-draw loans is \$2 million.

Payroll costs for the purposes of determining your loan size include:

- Compensation (salary, wage, commission, or similar compensation, or payment of cash tip or an equivalent);
- Payment for vacation, parental, family, medical, or sick leave;
- Allowance for dismissal or separation;
- Payment required for employer-provided group insurance benefits, including group life, disability, vision, or dental insurance;
- Payment of any retirement benefit;
- Payment of state or local tax assessed on the compensation of employees;
- Paid administrative leave; and
- Any payment of compensation to, or income of, a sole proprietor or independent contractor, up to \$100,000 per year.

The following costs do not count towards your loan size: compensation over \$100,000; certain withheld taxes; compensation for employees outside the United States; required leave under Families First (for which a credit is allowed); and any bonus, raise in excess of inflation, or other form of additional employee compensation.

Use of Loan Funds:

You may use the funds for:

- Payroll costs (all costs included above);
- Costs related to group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums; and
- Employee salaries, commissions, or similar compensations (except as excluded above).

You may also use up to 40 percent of the funds for:

- Payments of interest on any mortgage (but not payment or prepayment of principal);
- Rent;
- Utilities;
- Supplier costs for goods that are essential to the borrower's operations;
- Worker protection expenditures—e.g., operating and capital expenditures on PPE, physical barriers to maintain sanitation and social distancing standards, etc;
- Payment for a business software or cloud computing service that facilitates business operations, product or service delivery, the processing, payment, or tracking of payroll expenses, human resources, sales and billing functions, or accounting or tracking of supplies, inventory, records and expenses;
- Interest on any other debt obligations that were incurred before February 15, 2020; and
- Costs related to property damage and vandalism tied to public disturbances during 2020, which were not covered by insurance or other compensation.

Loan Terms:

For any amounts not forgiven, the loan term is two years for loans approved by the SBA before June 5, 2020, and five years for loans approved by the SBA on or after June 5, 2020. The interest rate is set at 1 percent, and borrowers may not be charged loan fees or prepayment fees. The remaining loan balance continues to be guaranteed by the SBA.

Loan Forgiveness:

To qualify for forgiveness, you must use at least 60 percent of the loan amount on payroll costs; you may use the remaining 40 percent on eligible overhead costs. If you are unable to spend 60 percent of the loan amount on payroll costs, you will still be eligible for some loan forgiveness. You can apply to your lender to forgive your loan for the amount of payroll costs plus payments of mortgage interest, rent, and utilities. These costs must be incurred over a minimum of 8 weeks after the loan is originated, but over no more than 24 weeks. The amount that can be forgiven is proportionate to maintaining employees and wages. You must apply through your lender for forgiveness and provide:

- Documentation verifying the number of employees on payroll, their pay rate, IRS payroll and state income tax filings, and unemployment insurance filings;
- Documentation verifying payments of rent, mortgage interest, utilities, and other debt; and
- Certification from your business that the documentation provided is true and that amount of the loan that is being forgiven was used in line with the program's requirements.

The *CARES Act* created a safe harbor for small businesses that reduced the number of employees on their payroll or reduced salaries or wages after February 15, 2020, as long as they restored the number of employees and salaries/wages on or before December 31, 2020. The COVID relief law extended this safe harbor for loans made on or after December 27, 2020 (the date of enactment); for those loans, the safe harbor extends to the last day of the loan's covered period.

Any loan amounts not forgiven are carried forward as an ongoing loan for five years at an interest rate of 1 percent.

Can I use a Paycheck Protection Loan with other SBA loans?

Yes, you may apply for a paycheck protection loan and other SBA loans, including SBA economic injury disaster loans, 7(a) loans, 503 loans, and microloans. However, you may not use funds from each of these programs for the same purposes.

More Information

For more information about SBA loan programs, please visit the [Small Business Administration](#). More information about the Paycheck Protection Loan Program and other resources for small businesses can be found on the U.S. Senate Committee on Small Business and Entrepreneurship [website](#).

If you need additional assistance, please reach out to your local [Small Business Development Center](#), [Women's Business Center](#), [SCORE](#) chapter, or [SBA District Office](#).