

## SMALL BUSINESS AND NONPROFIT FREQUENTLY ASKED QUESTIONS (FAQs)

**Q: What changes were made to the PPP program through the *Paycheck Protection Flexibility Act* (P.L.116-142)?**

**A:** The *Paycheck Protection Flexibility Act* (P.L.116-142) provides small businesses with more flexibility to use their PPP loan funds. This new law allows businesses to spend 40 percent of their loan funds on non-payroll expenses, lengthens the time period for using the funds from 8 weeks to 24 weeks, and extends the entire program through December 31, 2020.

Additionally, this legislation gives small businesses with PPP loans the option to defer their payroll taxes and allows them up to 5 years to repay any unforgiven portion of the loan. Lastly, it provides more loan forgiveness flexibility to small businesses that have not been able to rehire employees. For more information on the changes made to the program, please visit my website [here](#).

**Q: Is it true that SBA has temporarily stopped accepting new applications for the PPP and EIDL loan programs?**

**A:** SBA did previously announce that they were unable to accept new applications because the funding for these programs had been exhausted. However, on April 23, 2020, Congress passed an additional \$310 billion for the PPP program, \$50 billion for EIDL loans, and \$10 billion for EIDL emergency advances. The SBA has resumed accepting applications for PPP loans as of Monday, April 27. The SBA is not yet accepting new applications for EIDL loans or advances because it is still working through the backlog of applications from the first round of funding. For more information on the availability of SBA funds, please visit their website [here](#).

**Q: How are you making sure that the SBA loans are primarily going to actual small businesses and not large corporations?**

**A:** Unfortunately, some of the first round of SBA funds went to large, publicly traded corporations. In response, the SBA and the Department of Treasury released guidance on April 23, 2020 that prohibits large, well-funded companies from taking advantage of the PPP program. To apply for PPP loans, companies must make a good faith certification that a PPP loan is necessary, taking into account their business activity and access to other sources of funding. The guidance provides that companies with large market values and access to capital markets will not be able to meet the good faith certification requirements. The guidance will be applied retroactively, and therefore large companies were required to return their PPP funds by May 7, 2020.

In addition, the SBA and Treasury announced that no corporate entity could receive more than \$20 million in PPP loans, and any company that received a loan over \$2 million would be subject to an audit and could face charges of fraud if they misrepresented their need for PPP funds when they applied for the loan. To view the latest guidance, please visit the Department of Treasury's website [here](#) and the SBA's website [here](#).

**Q: Are the relief options the same for all 501(c) organizations?**

**A:** No. 501(c)(3) organizations are eligible for the Small Business Administration (SBA) Payment Protection Program (PPP) and the SBA Economic Injury Disaster Loan (EIDL). All other 501(c) organizations are *not* eligible for the PPP, but can still apply for the EIDL, including the emergency advance of up to \$10,000. All organizations are eligible for the employee retention tax credits and payroll tax deferral, provided that they are not using PPP loan funds for the same payroll costs. Information on the Employee Retention Tax Credit and Payroll Tax Delay can be found [here](#) and [here](#).

**Q: Which local Hawaii financial institutions are accepting applications for the Small Business Administration Payment Protection Program (PPP)?**

**A:** As funding permits, you can apply for a PPP loan from any of these [SBA-certified lenders](#), including Bank of Hawaii, First Hawaiian Bank, American Savings Bank, Central Pacific Bank, Hawaii National Bank, Ohana Pacific Bank, and the HawaiiUSA Federal Credit Union, among others. Customers on neighbor islands may be able to apply at their local bank branch or online. Please note that banks may start with accepting applications from small businesses that are already customers of the bank. You may also want to check with your credit union, if you are a member of one, because credit unions are allowed to offer PPP loans to small businesses. Lastly, the SBA has approved certain online financial companies to offer PPP loans as well. Please follow up with our office if you continue to have trouble finding a bank that offers PPP loans.

**Q: As a small business owner, should I lay off my employees or apply for an SBA Paycheck Protection Program loan?**

**A:** The best course of action will depend on your specific situation. The *Coronavirus Aid, Relief, and Economic Security (CARES) Act* (P.L. 116-136) expanded unemployment benefits to people who are still employed, but whose work hours have been cut or reduced to zero. You do not need to lay off your employees to have them file for unemployment benefits--they can also do so if they are furloughed or have had their hours reduced.

If you apply for an SBA PPP loan, the amount of potential loan forgiveness is reduced based on two factors:

- (1) the reduction of the average number of full-time equivalent (FTE) employees per month during the 24-week period after the loan was originated, compared to either (a) the average number of FTE employees per month between February 15, 2019 and June 30, 2019, or (b) the average number of FTE employees per month between January 1, 2020 and February 29, 2020. The small businesses chooses (a) or (b); and
- (2) the amount that salaries or wages are reduced, if they decrease more than 25 percent.

There are some exceptions for small businesses that had to lay off workers or reduce wages because of the crisis. In the following situations, the amount of your forgiveness will not be reduced if:

- 1) Your business is able to rehire your workers or restore their wages on or before December 31, 2020;
- 2) You can demonstrate that you were unable to rehire your workers or hire new workers by the time you apply for forgiveness; or
- 3) You can demonstrate that you were unable to return to the same level of business activity that the business was operating at before February 15, 2020, due to compliance with

requirements or guidance issued by the Secretary of Health and Human Services, the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration between March 1 and December 31, 2020, related to sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19.

**Q: What options are available to cover rent for small businesses during the pandemic?**

**A:** As funding permits, the Small Business Administration (SBA) Payment Protection Program (PPP) and the SBA Economic Injury Disaster Loan (EIDL) provide funds that can cover rent for small businesses. For a PPP loan, up to 40 percent of the loan can be used for rent, mortgage interest payments, and utilities. For the EIDL, there is no cap on how much of the loan can cover these types of overhead costs. For further relief from your rent obligations, you may want to contact your landlord to see what deferment options may be available. Many landlords and lenders are working with their customers to accommodate them during this difficult time.

**Q: For businesses that are allowed to reopen under Governor Ige's phased reopening strategy, how can we ensure we are conducting business in a safe and responsible manner?**

**A:** To determine if your business is eligible to reopen, and for information about restrictions and best practices, please find the latest information from the Governor's proclamations [here](#), and also check for additional information provided by your county government. As you reopen your business, I encourage you follow guidance issued by the [CDC](#) and [state and local health officials](#) to ensure your business is protecting its workers and customers from contracting the virus. I also encourage you to review guidance issues by the [Occupational Safety and Health Administration](#).

**Q: Are small business owners able to defer paying the employer portion of payroll tax?**

**A:** The *Coronavirus Aid, Relief, and Economic Security (CARES) Act* allows taxpayers to defer paying the employer portion of certain payroll taxes through the end of 2020, with all 2020 deferred amounts due in two equal installments, one at the end of 2021, the other at the end of 2022. Payroll taxes that can be deferred include the employer portion of FICA taxes, the employer and employee representative portion of Railroad Retirement taxes, and half of SECA tax liability. The *Paycheck Protection Program Flexibility Act (P.L. 116-142)* now allows small businesses that receive a Paycheck Protection Program loan to defer payroll taxes. More information on this tax relief option can be found on my website [here](#).

**Q: How should one calculate payroll costs for self-employed individuals or independent contractors for the PPP program application?**

**A:** For PPP, the SBA provides guidance on calculating payroll for all applicants, including self-employed individuals and independent contractors. To view the SBA guidance, please visit the SBA website [here](#). Generally speaking, payroll costs for self-employed individuals or an independent contractor include wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis. To help applicants, the Hawaii Department of Commerce and Consumer Affairs put together a list of documents you may need to apply, including documents specific to independent contractors and the self-employed, which you can access [here](#).

**Q: Where can I find information and resources on the Hawaii economic recovery plan?**

**A:** On April 8, the Governor established a Hawaii Economic & Community Navigator to coordinate, direct, and implement a statewide economic and community recovery and resiliency plan. For more information, visit [here](#).

**Q: Will there be sufficient oversight of the CARES Act funding and programs?**

**A:** The CARES Act established numerous oversight mechanisms to ensure taxpayers dollars are used efficiently, such as the Special Inspector General for Pandemic Recovery (SIGPR) and the Pandemic Response Accountability Committee (PRAC). The SIGPR is tasked with overseeing the Department of Treasury loan program for large businesses and monitoring the program for fraud, waste, and abuse. The PRAC is a panel comprised of inspectors general across nine federal agencies and will oversee the disbursement of the coronavirus relief funds. It is critical to hold this administration accountable and get relief to the hardworking families in our state and across the country.