

## Paycheck Protection Program (the “PPP”)

Under a new federal program, a small businesses may be eligible for a PPP loan to be used primarily to maintain payroll (and which will be forgiven if used for qualifying purposes).

### ELIGIBILITY AND KEY TERMS

- **Principal Amount:** One loan, lesser of \$10 million or 2.5x average monthly payroll (based on 2019 annual)
- **Interest Rate:** 1.00%
- **Term:** 5 years (for loans made after 6/5/20; lenders and borrowers may mutually agree to amend the term of loans made prior to 6/5/20 to reflect a 5 year term), with payments deferred until forgiveness is determined (or 10 months after the end of the covered period, if the borrower has not applied for forgiveness by that time)
- **Size:** Business must meet an industry-specific size limit (usually under 500 full time + part time employees), determined on a per location basis for hotels & restaurants
- **Employees:** Must have employees on payroll prior to 2/15/20. Sole proprietorships and self-employed can apply
- **Other Loans:** If borrower already has an Economic Injury Disaster Loan (“EIDL”) used for payroll expenses, PPP will be used to refinance that loan
- **Active:** Must have been operational on or before 2/15/20
- **Forgiveness:** Conversion of loan to grant through forgiveness of amounts used for payroll and other costs incurred or paid during the period from disbursement through the earlier of (i) 24-weeks after disbursement or (ii) 12/31/20
- **Use of Proceeds:** To be eligible for full forgiveness, at least 60% of proceeds must be used for payroll expenses; up to 40% may be used for business-related expenses (rent/mortgage, utilities, interest payments)

### LOAN AMOUNT AND FORGIVENESS

- **Step 1:** Add up payroll costs from the last 12 months for full time equivalent employees (“FTEs”) whose principal place of residence is the United States
- **Step 2:** Subtract any compensation paid to an employee in excess of an annual salary of \$100,000, or, if you are an independent contractor or sole proprietor, subtract net profits in excess of \$100,000 per year
- **Step 3:** Calculate average monthly payroll costs (divide the amount from Step 2 by 12)
- **Step 4:** Multiply the average monthly payroll costs from Step 3 by 2.5
- **Step 5:** Add the outstanding amount of any EIDL taken from 1/31/20 through 4/3/20, less the amount of any “advance” under an EIDL
- **Reduction of Employees:** If applicant reduces number of FTEs, amount forgiven will be reduced proportionally, subject to certain exceptions/safe harbors where:
  - an employee was **fired** for cause, voluntarily **resigned**, voluntarily requested and received a **reduction of hours**
  - applicant made a good-faith, written **offer to rehire** employee, which was declined, and notified the state unemployment insurance office; or
  - applicant is **unable to rehire** certain former employees or similarly qualified individuals or return to the **same level of business** due to COVID-19 restrictions
- **Reduction of Wages:** If applicant reduces wages by more than 25% per employee (unless employee makes over \$100K), amount forgiven will be reduced proportionally
- **Cure for Reductions:** If the applicant has either reduced wages or number of employees and either rehires or restores wages by 12/31/20, amount forgiven will not be reduced

### APPLYING FOR A PPP LOAN

Visit a participating lender’s website to apply. Participating lenders can be found using [this tool](#). Each lender has its own portal and form, but follows the guidelines of [this application](#). The deadline to apply is **June 30, 2020**.

Each bank might request different documents, but generally you might need:

- Payroll processor records
- Payroll tax filings
- Form 1099-MISC
- Income and expenses from a sole proprietorship
- Other supporting documentation, such as bank records, sufficient to demonstrate the qualifying payroll amount

For more information and a model application in English and Spanish: <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program>.

*This information is current as of June 11, 2020, and should not be considered comprehensive. This is not a substitute for, and should not be relied upon as, legal or professional advice; we recommend that you consult professional advisors for guidance on your individual circumstances. Nothing contained herein creates an attorney-client relationship with Cleary Gottlieb. This information should not be construed as an endorsement of any specific financial program.*