



FREQUENTLY ASKED QUESTIONS

RE: SBA Programs Under the CARES Act

Updated 4/3/2020

General Questions

1. Question – What can Paycheck Protection Program (PPP) Loans be used for?

Answer – PPP loans may be used for payroll costs, costs for the continuation of group health care benefits, paid sick, medical, or family leave, retirement benefits, and insurance premiums. Funds may be used for employee salaries, commission. Funds can also be used for mortgage interest, rent, utilities, and interest on other debt obligations so long as agreements for these were entered into before February 15, 2020, and the refinancing on an Small Business Administration (SBA) Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020.

Payroll costs cannot include any compensation paid to an individual employee that receives an annual salary of more than \$100,000.

2. Question – What if you use PPP Loans for costs other than listed above?

Answer – PPP loans that are used for purposes other than what is listed above will have to be repaid by the borrower. In addition, if loan funds are knowingly used for purposes other than listed above the borrower will be subject to additional liability (i.e. fraud).

3. Question – What are the terms of PPP Loans?

Answer – Loan terms are same for every borrower.

- Amount: the lesser of \$10 million or the sum of 2.5x the average total monthly payroll costs for the prior year.
- Interest Rate: 1.00% fixed.
- No fees (SBA or Lender).
- 100% guaranteed by the SBA.
- Loan Maturity: 2 years, with no pre-payment penalties.
- All loan payments will be deferred for 6 months, with interest accruing over this period.

4. Question – Who is eligible to apply for PPP Loan?

Answer – Eligible recipients of a PPP loan include:

- Businesses: In operation on February 15, 2020 and with less than 500 employees.
 - Small Business Concern as defined in section 3 of the Small Business Act and subject to SBA’s affiliation rules;
- Tax Exempt Non-profits: In operation on February 15, 2020 and with less than 500 employees.
 - If designated as a 501(c)(3) or 501(c)(19) veterans organization;
- Tribal Business Concern as defined in section 31(b)(2)(C);
- Independent contractors/sole proprietors/self-employed: If in operation on February 15, 2020.

See Question 10 for an explanation on why a credit union cannot be a borrower under the PPP.

5. Question – Who can be an eligible lender under the PPP?

Answer – The SBA and Treasury have determined that the following lenders have been determined to meet the criteria and are eligible to make loans (the lender must not be designated as in Troubled Condition by their primary regulator, or subject to an enforcement action based on unsafe or unsound lending practices):

- Any federally insured depository institution or any federally insured credit union (FICU);
- Any farm credit system institution;
- Depository and non-depository financing providers that originate, maintain, and service business loans or other commercial financial receivables and participation interests to be an SBA lender. The entity would need to have a formalized compliance program; apply the requirements of the *Bank Secrecy Act* (BSA); been in operation since February 15, 2019; and has originated, maintained, and serviced more than \$50 million in business loans or other commercial financial receivables during a consecutive 12 month period in the past 36 months; or
- Service provider to any insured depository that has a contract to support lending activities in accordance with 12. U.S.C. 1867(c) (See Question 12 for CUSO information).

6. Question – What loans are forgiven under the CARES Act?

Answer – Loans under the PPP are eligible for loan forgiveness. The forgiveness program is not automatic; borrowers must apply and submit documentation to their lender. Lenders must make a decision within 60 days.

Borrowers are eligible for loan forgiveness in an amount equal to the sum of payroll costs, mortgage interest payments, rent payments, and utilities during a “covered period.” The covered period is defined in the CARES Act as an 8-week period beginning on the date of loan origination. There are limitations on the amount that may be forgiven, and the forgiveness will be reduced if the borrower reduces the number of employees or reduces total salary or wages by more than 25%. Borrowers have until June 30, 2020 to restore employment and salary levels for changes made during February 15, 2020 and April 26, 2020.

Any amount of funds that is used for something other than payroll costs, mortgage interest, rent, and utilities during the covered period will not be forgiven.

SBA’s [interim final rule](#) states that at least 75% of the forgiven amount shall be for payroll costs.

7. Question – If our credit union offers other emergency loans to members, does this disqualify them from receiving a loan under the CARES Act?

Answer – No. If a credit union offers an emergency COVID-19 loan or other type of loan to a member, this does not disqualify the member from receiving a PPP loan. Typically, SBA 7(a) loan programs require that a small business applicant not have “credit elsewhere,” meaning the applicant could not find credit available elsewhere on reasonable terms from non-Federal sources. However, the PPP waives this requirement. A member may still apply for a PPP loan so long as they meet the other program requirements.

8. Question – Where should I go if I have additional questions?

Answer – SBA’s guidance states that questions should be directed to the Lender Relations Specialist in the local SBA Field Office. Your local SBA Field Office can be found [here](#).

9. Question – Where can I find a list of participating lenders?

Answer – SBA’s PPP webpage has a list of [participating lenders](#).

Lender Questions

10. Question – Are we required to participation in the PPP?

Answer – No, participation in the PPP is not mandatory. The decision to offer the PPP is up to the credit union.

See Question 11 for who can offer PPP loans.

11. Question – Can our credit union offer PPP Loans?

Answer – All existing SBA 7(a) lenders are automatically approved to make these loans based on their delegated authority. Lenders must utilize the SBA’s existing lender platform and submit applications through E-Tran. Credit unions must have an account set up with E-Tran through Capital Access Financial Systems (CAFS) and can set up a [new account through CAFS](#). More instructions on how to use CAFS can be found [here](#). Information on updating your profile and setting up roles can be found [here](#). For assistance, credit unions can contact cls@sba.gov. Lenders who need assistance accessing SBA's E-Tran system to process loan guarantee requests may call SBA’s Lender Customer Service Line at 1-833-572-0502

All [FICUs are eligible](#) to become SBA lenders under the program, so long as they are not currently designated in Troubled Condition by the NCUA or subject to a formal enforcement action due to unsafe or unsound lending practices. The SBA has deemed that all FICUs have met the criteria for eligibility. FICUs that wish to apply to become a lender must submit [SBA Form 3506](#) (CARES Act Section 1102 Lender Agreement) to DelegatedAuthority@sba.gov. Upon transmission of the form, the FICU will have automatic delegated authority to offer PPP loans. Delegated authority means the lender can process, close, service and liquidate guaranteed loans without SBA’s prior review.

12. Question – Can credit unions apply for a PPP Loan?

Answer – No. Credit unions cannot be a borrower under the PPP. Eligible recipients of the loans are limited to small business concerns as defined in section 3 of the *Small Business Act* and non-profit organizations that are designated as 501(c)(3) organizations. The SBA’s regulations for all ineligible businesses under standard 7(a) loans applies ([see 13 C.F.R. 120.110](#)), which excludes financial businesses primarily engaged in the business of lending from receiving a loan.

All credit unions are eligible to apply for EIDLs. In order to be apply for an EIDL loan, the SBA has to make a disaster declaration for applicant states. Currently, the SBA has declared a disaster in all U.S. states and Washington D.C. EIDL loans are available to all non-profits designated under 501(c), (d), or (e). The SBA has an updated and [streamlined](#)

[application process](#) for EIDL. As part of the CARES Act, an [“emergency grant”](#) can be provided while an EIDL application is pending. An advance can be up to \$10,000.

13. Question – Can our CUSO apply to be a lender under the PPP?

Answer – The SBA’s guidance lists lenders who have been determined by the SBA and Treasury to be eligible lenders. The list also includes any service provider to any insured depository institution that has a contract to support such institution’s lending activities in accordance with 12 U.S.C. 1867(c) and is in good standing with the appropriate Federal banking agency. The SBA’s guidance references the *Bank Service Company Act*, which does not include the NCUA as a Federal banking agency.

However, a CUSO may not be entirely excluded from the list of eligible lenders if they can meet the requirements listed in 3. a. iii. III. of the SBA’s interim final rule. This category allows depository and non-depository financing providers that originate, maintain, and service business loans or other commercial financial receivables and participation interests to be an SBA lender. However, the entity would need to have a formalized compliance program; apply the requirements of the *Bank Secrecy Act* (BSA); been in operation since February 15, 2019; and has originated, maintained, and serviced more than \$50 million in business loans or other commercial financial receivables during a consecutive 12-month period in the past 36 months. If a CUSO meets this definition, the eligibility is not automatic upon transmission of [SBA Form 3506](#) (CARES Act Section 1102 Lender Agreement). The SBA may need additional time to approve a service provider, such as a CUSO for the PPP.

14. Question – Can other credit unions act as Agents under the PPP?

Answer – Treasury’s guidance provides that an agent can include someone who assists a lender with originating, disbursing, servicing, liquidating, or litigating SBA loans. Credit unions that assist a lender with any of these stated activities could qualify as an agent.

Any agent that assists a borrower will be paid by the lender from the SBA’s reimbursement of processing fees. Agents cannot collect any fees from borrowers directly. The amount an agent may receive cannot exceed:

- 1% for loans of \$350,000 or less;
- 0.5% for loans greater than \$350,000 and less than \$2 million; and
- 0.25% for loans of \$2,000,000 million or greater.

15. Question – What are the underwriting requirements for PPP Loan?

Answer – The PPP is a streamlined lending product. Lenders must:

- Confirm receipt of the borrower’s certifications contained in their application;
- Confirm receipt of information demonstrating that a borrower had employees that they paid a salary and payroll taxes on or around February 15, 2020;
- Confirm the dollar amount of average monthly payroll costs for the preceding calendar year by reviewing the payroll documentation that was submitted by the borrower; and
- Follow existing *Bank Secrecy Act* requirements.

Lender’s underwriting obligations are limited to the above items and reviewing *SBA Form 2483* (Paycheck Protection Application Form). In addition, Lenders are permitted to rely on the borrower’s certifications to determine eligibility and use of loan funds.

SBA Form 2484 asks lenders to certify that they have complied with paragraphs 3. b(i)-(iii) of the interim final rule, have obtained and reviewed the required borrower application (*SBA Form 2483*) and supporting documents, and will retain the documents on file.

The SBA’s interim guidance paragraphs 3. b(i)-(iii) requires the lender to confirm receipt of the borrower certifications in the application, confirm receipt of information demonstrating that a borrower had employees (that were paid and the employer paid payroll taxes) on or around February 15, 2020, and confirm the dollar amount of the average monthly payroll costs by reviewing the payroll document that the borrower submitted. Lenders can rely on the documents provided by the borrower and do not need to verification if the documents support the borrower’s request.

Lenders are held harmless if they rely on the borrower’s documents and attestation.

16. Question – What documents do lenders send to the SBA for applicants?

Answer – Approved lenders have delegated authority, so loans may be processed without prior SBA approval. However, lenders are required to submit [SBA Form 2484 \(Paycheck Protection Program Lender’s Application for 7\(a\) Loan Guaranty\)](#) electronically and maintain the forms and supporting borrower documentation on file. No paper applications are required. The SBA’s interim final rule does not provide any further details on how to electronically submit applications but notes that an SBA Program Guide or further guidance may be provided.

17. Question – How do I determine if a member is an eligible small business?

Answer – The SBA’s guidance states that lenders may rely on the borrower’s certification for eligibility. Eligible businesses are deemed “small businesses” according to the [SBA’s published size standards](#). Size standards are established by North American Industry Classification System (NAICS) codes. This includes all “affiliates” of the small business. The CARES Act waived the affiliate rules for small businesses with a NAICS code 72 and franchises. An affiliate is one who controls or has the power to control the other regardless if the power is exercised. When looking at eligibility, a borrower plus any affiliates, must meet the size standards. The SBA intends to issue guidance regarding applicability of affiliation rules for the PPP.

Lenders must also be aware of the SBA’s list of ineligible businesses ([see 13 CFR 120.110](#)).

18. Question – What documentation do lenders need for loan forgiveness requests?

Answer – Lenders can rely on the documentation the borrower submits for forgiveness. Lenders do not need to conduct any verification if the borrower submits documents that support the request for loan forgiveness and the borrower attests that they have accurately verified the payments for eligible costs. *SBA Form 2484* asks lenders to certify that they have complied with paragraphs 3. b(i)-(iii) of the interim final rule, have obtained and reviewed the required borrower application (*SBA Form 2483*) and supporting documents, and will retain the documents on file.

Lenders are held harmless for relying on borrower documents and attestation. The SBA’s guidance states that the agency will not take enforcement action or impose penalties against a lender if the lender receives the borrower’s attestation.

19. Question – Do I owe any lender fees to the SBA?

Answer – No. There are no up-front guarantee fees, annual service fees, subsidy recoupment fees, or fees for any guarantee sold into the secondary market.

20. Question – Are PPP Loans removed from the MBL cap?

Answer – Yes. The guaranteed portion of SBA loans is removed from the MBL cap. Because PPP loans are 100 percent guaranteed, the PPP loan is effectively removed the MBL cap. In the event a PPP loan has a remaining balance after receiving SBA’s loan forgiveness, the loan remains guaranteed until maturity. The CARES Act provides that the SBA’s guarantee continues on remaining balances.

Borrower Questions

21. Question – Can members who are non-profits apply for PPP Loans?

Answer – The CARES Act defines eligible recipients under the PPP to include non-profit organizations that are designated as 501(c)(3) organizations. If a credit union member is a 501(c)(3) organization, then that member is eligible for a loan under the PPP if they have less than 500 employees. All other non-profits are excluded from receiving a PPP loan.

22. Question – Can a borrower apply for a PPP Loan and an EIDL Loan?

Answer – If a borrower received an EIDL loan before January 31, 2020, then the borrower may also receive a PPP loan for purposes other than those purposes of the EIDL loan. For example, you cannot apply for both loans to cover payroll costs.

23. Question – When can members start applying for the PPP?

Answer – Members can start applying for PPP loans beginning April 3, 2020, if they are a small business and April 10, 2020, if they are an independent contractor, self-employed, or a sole proprietor. Members must apply through SBA-approved lenders.

The last day to apply for PPP loan is June 30, 2020.

24. Question – What do borrowers need to provide to a lender in order to obtain a PPP Loan?

Answer – Borrowers must submit the required borrower application form, [SBA Form 2483 \(Paycheck Protection Program Borrower Application Form\)](#) and sufficient documentation to show expenses and payroll costs. Documentation required may vary by lender. Documentation to show payroll costs could include payroll processor records, payroll tax filings, *IRS Form 1099-MISC*, income and expenses from sole proprietors, and bank records of payroll amounts. Documents to show other costs could include rental agreements, utility statements, mortgage interest statements (*IRS Form 1098*).