

## **FAQs About Paycheck Protection Program SBA 7(a) Loans for Nonprofits\***

### **1. Is there any assistance for nonprofits in the Coronavirus Aid Relief and Economic Security (CARES) Act approved by Congress?**

Yes, there are several provisions in the CARES Act but the most significant is the Small Business Administration (SBA) Paycheck Protection Program (PPP). Nonprofit 501(c)(3) organizations with no more than 500 employees are eligible to apply for PPP SBA 7(a) loans and a significant portion of the loan may be forgiven if requirements are satisfied.

Note: You can receive a PPP loan or an Economic Injury Disaster Loan (EIDL) for the purposes of Covid19-related expenses, but not for the same purpose. You might want to apply for the PPP loans first because they are forgivable if you meet certain requirements. [See FAQ 14.]

### **2. What is included in headcount to determine the size of the business or organization?**

In determining an entity's number of employees, SBA counts all individuals employed on a full-time, part-time, or other basis. This includes employees obtained from a temporary employee agency, professional employee organization (PEO) or leasing concern.

The calculation is based on the following principles:

- The average number of employees of an entity is used (including the employees of its domestic and foreign affiliates) based upon numbers of employees for each of the pay periods for the preceding completed 12 calendar months.
- Part-time and temporary employees are counted the same as full-time employees. It is a headcount.
- If an entity has not been in business for 12 months, the average number of employees is used for each of the pay periods during which it has been in business.
- The average number of employees of an entity with affiliates is calculated by adding the average number of employees of the entity with the average number of employees of each affiliate.

### **3. If I have more than 500 employees, can I still qualify for a PPP loan?**

Small business concerns can be eligible borrowers even if they have more than 500 employees, as long as they satisfy the existing SBA definitions of a "small business concern." A business can qualify if it meets the SBA employee-based or revenue-based size standard corresponding to its primary industry. Go to [www.sba.gov/size](http://www.sba.gov/size) for the industry size standards.

### **4. What does affiliation mean with respect to SBA loans?**

The SBA's affiliation analysis is intended to determine whether entities that might appear small are, in fact, tied to other entities and thus have additional employees in their headcount. As a general matter, entities

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are considered affiliates when one controls or has the power to control the other, regardless of whether an entity exercises that power.

SBA guidance confirms that the affiliation rules are waived for faith-based organizations, if the relationship is based on a religious teaching or belief, or otherwise constitutes a part of the exercise of religion. If, however, a faith-based organization is affiliated with other organizations solely for non-religious reasons, such as administrative convenience, then the faith-based organization would be subject to the affiliation rules. See here for the [SBA's April 14th guidance](#).

#### 5. How much is available for PPP loans from the SBA?

The total pool available as of May 17, 2020 has \$126.5 billion left

#### 6. Until when will these loans be available?

PPP loans will be distributed on a first-come, first-served basis. The loans were announced as available during the “covered period”, which ends June 30, 2020. Congress is currently debating possible changes to the program. As we do not know if the availability of funding will be extended, it is best to apply as soon as you can.

#### 7. What is the covered period of the loans?

Loans are intended to cover expenses incurred during the period from February 15, 2020 to June 30, 2020 (defined as the “covered period”). Note that the covered period for forgiveness is different and is 8 weeks (56 days) from the date the loan proceeds become available.

Note that this is one of the major issues under negotiation in Congress as there is significant pressure from some business sectors to extend the period during which funds can be used.

#### 8. How much can each organization apply for?

The maximum loan amount is 2.5 times the average total monthly Payroll Costs incurred in the calendar year 2019 or in the preceding 12 months, plus EIDL, net of advance (if applicable), or \$10 million, whichever is smaller. Businesses and nonprofits that were not in existence during the period from February 15, 2019 to June 30, 2019 can apply for 2.5 times the average total monthly payroll payments from January 1, 2020 to February 29, 2020 plus EIDL, net of advance (if applicable), or \$10 million, whichever is smaller.

A different calculation applies to seasonal businesses (average monthly payroll costs for the 12 weeks beginning February 15, 2019 or March 1, 2019 and ending June 30, 2019).

#### 9. What is included in Payroll Costs?

Payroll Costs includes compensation to employees such as salary, wages, paid vacation, parental, family, and medical or sick leave (not including leave covered by the Families First Coronavirus Response Act),

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severance payments; payment for group health benefits, including insurance premiums; retirement benefits; state and local taxes assessed on compensation of employees.

**NOTE: Independent contractors have the ability to apply for PPP loans on their own, so they do not count for purposes of a borrower's PPP loan calculation.**

#### 10. Is parsonage included in payroll calculations?

We interpret parsonage expenses as a form of compensation for employees that is in the same category of wages, commissions and tips. This is confirmed in SBA FAQ 32 which provides that housing stipends or allowances provided to an employee as part of compensation count toward payroll costs. Note that some organizations issue 1099's for some of these expenses, and because the latest SBA guidance specifically states that independent contractors are not included in payroll calculations, we encourage you to consult your professional advisors (accountant or lawyer) and your lender for further guidance.

#### 11. What is explicitly excluded from Payroll Costs?

Payroll Costs excludes the cash compensation of an individual employee in excess of an annual salary of \$100,000, prorated as necessary. However, the CARES Act does not exclude non-cash benefits (employer contributions to retirement plans; employer-paid group health care coverage) to individuals earning more than \$100,000 per year and the employer's state and local employment taxes.

All compensation to employees whose principal place of residence is outside of the U.S. is excluded. In addition, payroll costs do not include the employer's share of federal payroll tax.

#### 12. How can PPP loans be used?

The proceeds of PPP loans can be used for payroll costs; and nonpayroll costs consisting of interest payments on mortgage obligations on real or personal property incurred before February 15, 2020, rent or lease payments under lease agreements for real or personal property in force before February 15, 2020; and covered utility payments for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020.

**At least 75% of the loan amount must be used for payroll costs. No more than 25 percent of the loan proceeds can be used for nonpayroll costs.**

#### 13. What is the interest rate on the loans?

The interest rate on the loans is 1.0%.

#### 14. What are the eligibility requirements for a loan?

All businesses, including nonprofits, with 500 or fewer employees can apply, and some small business concerns with more than 500 employees may also apply. [See FAQ 3 above] Borrowers must fulfill

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certain requirements to qualify for a loan. As noted in the question below, borrowers must be able to certify the need for the loan to support operations during the COVID-19 emergency, and they must certify that they will use the funds to retain workers and maintain payroll, and for rent, mortgage interest, and utility payments. They must also certify that they are not receiving funds for this purpose from another SBA loan program.

On May 5, 2020, under the SBA's latest Interim Final Rule (IFR13), the employee count is based on total employees and is not limited to employees whose principal residence is in the U.S. (Residency Qualifier). Importantly, however, the SBA will treat businesses that used the Residency Qualifier to lower their employee headcount for PPP eligibility as still eligible if their loan applications were made before May 5. Stated differently, elimination of the Residency Qualifier only applies to businesses applying for a PPP loan on or after May 5.

Subsequent SBA guidance has added a liquidity standard to the certification process. See specifically SBA FAQs 31, 37, 46 and 47 for more information [here](#).

#### 15. What are the certification requirements?

As part of your application, you will need to certify in good faith that:

- Current economic uncertainty makes the loan necessary to support your ongoing operations.
- The funds will be used to retain workers and maintain payroll or to make mortgage interest, lease, and utility payments.
- You have not and will not receive another loan 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.

#### 16. When do the loans have to be repaid?

The loans must be repaid in two years from the loan origination date, i.e., the date that loan proceeds are made available. There will be an automatic deferment of payments for a period of 6 months from the loan

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origination date. However, interest will continue to accrue over this period. There are no prepayment penalties. Because of changes to the program now under discussion by Congress, including a possible extension of the “Covered Period” during which you can use loan funds, it may make sense to take some time before repaying loan funds, even if you find you were not able to use your entire approved loan. Additional flexibility in the use of funds may enable you to make greater use of the funds.

**17. How do I apply for the PPP loan? Do I apply directly to the Small Business Administration? Where can I find the application?**

The SBA is not handling the origination and processing of the PPP loans. The SBA sets guidelines for loans made by its partnering lenders, community development organizations, and micro-lending institutions.

The loan application can be found [here](#). However, check with your lender to confirm whether they are using this form or an online portal.

**18. Which banks can I approach for a loan under the Paycheck Protection Program?**

The list of banks, credit unions and other lenders can be [found here](#). It is very likely that the bank you do business with may have an SBA loan officer or will know about the program and other potential lenders. Federally insured depository institutions or federally-insured credit unions may also be participatory SBA lenders. In addition, other regulated lenders are expected apply to become qualified lenders under this program. If you need help finding a lender email [SBAloans@jfna.org](mailto:SBAloans@jfna.org) for assistance.

**19. What criteria will be used to determine my organization’s credit risk?**

Paycheck Protection Program loans are 100% government-backed loans, so banks will be able to lend money to most if not all organizations. Borrowers do not need to demonstrate that they could not achieve credit elsewhere (as required for general SBA 7(a) loans).

Instead of determining repayment ability, which is not possible during this crisis, lenders will determine whether a business was operational on February 15, 2020, and had employees for whom it paid salaries and payroll taxes. Furthermore, the loan will not require collateral or a personal guarantee.

**20. How long will it take to get the funds?**

Under the CARES Act, the loan process will be streamlined, and SBA participating lenders will be authorized to expedite loan processing.

**21. Does it cost anything for my organization to apply for a PPP loan?**

No, borrower origination fees will be waived for these loans.

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**22. Do I need to personally guarantee this loan or pledge any collateral?**

No, personal guarantees and collateral are not required.

**23. What will I need to present to the bank with my application to obtain a PPP loan?**

Borrowers must submit such documentation as is necessary to establish eligibility, such as payroll processor records, payroll tax filings. For borrowers that do not have any such documentation, the borrower must provide other supporting documentation such as bank records sufficient to demonstrate the qualifying payroll amount.

**NOTE: Please check with your lender to learn their specific documentation requirements.**

**24. What do I do if my own bank isn't participating in the PPP loan program?**

If your bank will not be participating, we suggest you contact your local Federation for help. Some have been able to leverage relationships with a local bank to help other organizations. Also, a member of your board or membership may be able to leverage banking relationships. We will continue to work to identify additional banking resources for those who need the help.

**25. How is loan forgiveness calculated?**

Borrowers will need to submit the PPP Loan Forgiveness Application ([SBA Form 3508 05/20](#)) to their lender after the conclusion of the 8-week covered period. Note that the 8-week period begins with the date the PPP loan proceeds are made available by the lender.

Borrowers must compute the total payroll costs paid or incurred during the 8-week loan Covered Period calculated as noted above in Question 9. Such costs are added to nonpayroll costs (mortgage interest payments, rent or lease payments, and utility payments. Note that lease agreements extend to real or personal property.

**Utility payments include:** electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020. An eligible nonpayroll cost must be paid during the Covered Period or incurred during the Covered Period and paid on or before the next regular billing date, even if the billing date is after the Covered Period.

Borrowers can use an Alternative Payroll Covered Period. For administrative convenience, Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56 day) period that begins on the first day of their first pay period following their PPP loan disbursement date.

Payroll costs incurred but not paid during the Borrower's last pay period of the Covered Period or the Alternative Payroll Covered Period are eligible for forgiveness if paid on or before the next regular payroll date.

Total payroll and nonpayroll costs must then be adjusted for any salary/hourly wage reductions (greater

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than 25 percent for those with compensation under \$100,000) and full-time equivalency reductions (diminution of FTEs during the 8-week loan period as compared to other defined periods).

The Alternative Payroll Covered Period may only be used for this payroll calculation. The forgiveness amount is the smallest of (1) payroll and nonpayroll costs less any adjustment for salary/hourly wage reductions and FTE equivalency; (2) the PPP loan amount; or (3) the payroll cost 75 percent requirement (payroll costs/.75)

A safe harbor exempts loan forgiveness reduction based on either the salary/hourly wage reduction or FTE equivalency reduction. If the Borrower restores the salary/hourly wage levels by June 30, 2020, that reduction is eliminated. If the Borrower reduced its FTE employee levels in the period beginning February 15, 2020 and ending April 26, 2020 and the Borrower then restored its FTE employee levels by no later than June 30, 2020 to its FTE employee levels in the Borrower's pay period that included February 15, 2020, there is no FTE equivalency reduction.

The FTE reduction exception applies and does not reduce loan forgiveness for any positions for which the borrower made a good faith, written offer to rehire which was rejected by the employee or for any employees who were fired for cause, voluntarily resigned or voluntarily requested, in writing, and received a reduction in their hours.

**Note:** There are alternative definitions of an FTE but a simplified method assigns 1.0 FTEs for employees who work 40 hours or more per week and 0.5 for employees who work fewer hours. Alternatively, the Borrower can use the average number of hours worked for each employee, divide by 40 and round the total to the nearest tenth with the maximum for each employee capped at 1.0

Borrower's eligibility for loan forgiveness will be evaluated in accordance with PPP regulations and guidance issued by the SBA through the date of the loan forgiveness application, and SBA may direct a lender to disapprove of the application if the SBA determines the borrower was ineligible for the loan.

The SBA review for loans in excess of \$2 million is based on the original principal amount disbursed. The SBA provides a safe harbor for those borrowers who received less than \$2 million in PPP funds. These borrowers will be treated as having made the required certification that the loan was necessary in good faith, and thus will not be subject to the same additional scrutiny from the SBA that borrowers of loan amounts in excess of \$2 million will face.

**Note:** JFNA has a loan forgiveness calculator to estimate the potential forgiveness amount on our website. Click [here](#) to access.

## 26. What documentation is needed for loan forgiveness?

Payroll documentation is necessary to verify both cash and non-cash compensation payments for the Covered Period (or Alternative Payroll Covered Period) including:

- Bank account statements or third-party payroll service provider reports documenting cash compensation paid to employees.
- Tax forms (or equivalent third-party payroll service provider reports).
- Payroll tax filings reported (or that will be reported) to IRS (Form 941).

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- State quarterly business and individual employee wage reporting and unemployment insurance filings reported (or that will be reported).
- Payment receipts, cancelled checks, or account statements documenting the amount of any employer contributions to employee health insurance and retirement plans included in forgiveness amount.
- Third-party payroll provider reports.

Required FTE documentation includes:

- Average number of FTEs on payroll per month employed between February 15, 2019 and June 30, 2019.
- FTE Reference Period, which is the average number of FTEs on payroll per month employed between January 1, 2020 and February 29, 2020; or
- For seasonal employers, the average number of FTEs on payroll per month employed between February 15, 2019 and June 30, 2019; between January 1, 2020 and February 29, 2020; or any consecutive twelve-week period between May 1, 2019 and September 15, 2019.
- Third-party payroll provider reports.

Required Non-payroll Documentation is necessary to verify obligations/services prior to February 15, 2020.

This includes eligible payments during the Covered Period and after the end of Covered Period:

- Mortgage interest payments - copy of lender amortization schedule and receipts or cancelled checks verifying interest amount.
- Rent or lease payments - copy of current lease agreements and receipts or cancelled checks verifying eligible payments.
- Utility payments - copies of invoices from February 2020 and those paid during Covered Period and receipts, cancelled checks or account statements verifying those eligible payments.

Note that the following information should be retained but need not be submitted:

- Documentation supporting each individual employee and any salary/wage reduction calculation if necessary.
- Documentation supporting each individual employee receiving 2019 compensation at annualized rate of more than \$100,000.
- Documentation of any employee job offers and refusals, firing for cause, voluntary resignations, and written requests by any employee for reductions in work schedule.
- Documentation supporting the "FTE Reduction Safe Harbor" if necessary. A safe harbor under applicable law and regulation exempts certain borrowers from the loan forgiveness reduction based on FTE employee levels. Specifically, the Borrower is exempt from the reduction in loan forgiveness based on FTE employees described above if both of the following conditions are met: (1) the Borrower reduced its FTE employee levels in the period beginning February 15, 2020, and ending April 26, 2020; and (2) the Borrower then restored its FTE employee levels by not later than June 30, 2020 to its FTE employee levels in the Borrower's pay period that included February 15, 2020.

## 27. How long do I need to retain the documentation for my loan?

The Borrower must retain all such documentation in its files for six years after the date the loan is forgiven or repaid in full, and permit authorized representatives of SBA, including representatives of its Office of Inspector General, to access such files upon request.





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For additional information, please refer to this SBA FAQ s available on the Treasury Department website, updated as of May 19, 2020 [here](#).

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