



**Coronavirus Aid, Relief, and Economic Security Act
(CARES Act)**

Small Business Relief Provisions White Paper

April 1, 2020

COVID-19 has fundamentally changed how the world currently operates. On March 30, 2020, President Trump told America that he was recommending the nation follow the CDC guidelines for social distancing through April 30. This means that there will continue to be a significant disruption of business, affecting millions of businesses nationwide. Of those millions, approximately 30 million, or 99.9%, are classified as small businesses (less than 500 employees). To help these businesses attempt to weather the storm, Congress and the President signed into law the “Coronavirus Aid, Relief, and Economic Security Act,” or the “CARES Act.” It is nearly 1,000 pages long and full of provisions that affect small businesses. This paper is an attempt to help you, the small business owner, navigate these waters. It is important for you to know what is available to you and in what order you should be doing things. Let’s get started.

Overview of what is available

We’ll focus on the following provisions and opportunities available to businesses.

- Economic Injury Disaster (EID) Loans and Emergency Economic Injury (EEI) Grants
- Paycheck Protection Program (PPP) Loans
- The Ability to Defer Payroll Taxes
- The Employee Retention Credit (ERC)
- The Expansion of Net Operating Losses (NOL) and Temporary Repeal of Section 461(l)

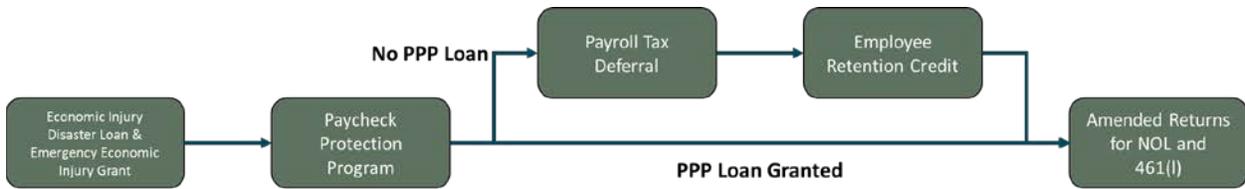
At their very fundamental base, what do these opportunities provide?

- EID Loans and EEI Grants - the fastest way to get an influx of cash into your business
- PPP Loans - the cheapest, maybe even free, way to get an influx of cash into your business
- Payroll Tax Deferral - doesn’t put cash in your business but lets you keep more of what you have
- ERC - doesn’t help with cash flow but helps with taxes owed
- NOL and 461(l) - has the ability to put cash in your business, through amended tax returns, if you had previous losses you couldn’t take

What is the order that you should think about tackling these different options?

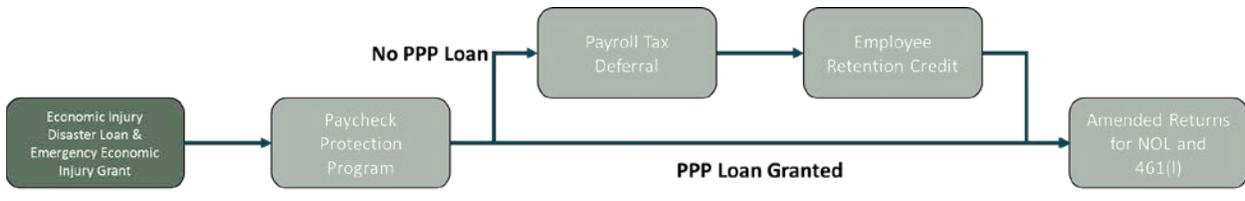
1. If your business is currently in dire financial straits and you need cash yesterday, start by looking at the Economic Injury Disaster Loans and Emergency Economic Injury Grants.
2. If your business is going to be in need of cash but an immediate small influx isn’t necessary, or if you have already applied for the EIDL and EEIG, the next program to look at is the Paycheck Protection Program Loans.
3. Where you should look next depends on the outcome of your PPPL application. If you were accepted, you are locked out of the next two options. If you did not receive or did not apply for a PPPL, you can claim the Employee Retention Credit on your 2020 tax return and also defer your payroll taxes.
4. Finally, something all business owners can do is see if the expansion of the Net Operating Loss and temporary repeal of Section 461(1) can help you deduct losses you were previously not allowed, thereby allowing you to file amended returns from previous years and receive a refund.

Business Owner Relief Opportunities Flow Chart



Now that we have a very general idea of what is available and the order in which we should be looking at the relief options, let's dive into the specifics of each opportunity further.

Economic Injury Disaster Loans & Emergency Economic Injury Grants



These grants provide an emergency advance of up to \$10,000 to small businesses and private non-profits harmed by COVID-19 **within three days** of applying for an SBA Economic Injury Disaster Loan. To access the advance, you must first apply for an EIDL and then request the advance. **The advance does not need to be repaid under any circumstances** and may be used to keep employees on payroll, to pay for sick leave, meet increased production costs due to supply chain disruptions, or pay business obligations, including debts, rent and mortgage payments.

EIDLs are lower interest loans of up to \$2 million, with principal and interest deferment available for up to four years, to pay for expenses that could have been met had the disaster not occurred, including payroll and other operating expenses. These loans are available to the following business types, as long as they have 500 or fewer employees:

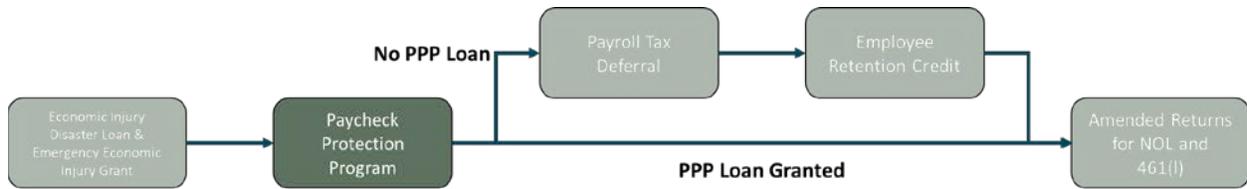
- Small businesses (including sole proprietorships, with or without employees)
- Independent contractors
- Cooperative and employee owned businesses
- Private non-profits
- Tribal small businesses

The EIDL was in existence prior to the CARES Act. However, the CARES Act impacted it by creating the Emergency Economic Injury Grant. This grant of up to **\$10,000** is to be advanced to the business within three days of applying for the EIDL, which is why this loan and grant are a great resource for businesses that need **immediate** cash flow to remain in operation. The only restriction on who may apply for the grant is businesses that meet the above requirements for an EIDL and have been in operation since January 31, 2020. These grants are available for businesses applying for Economic Injury Disaster Loans from January 31, 2020 through December 31, 2020. The grants were backdated to January 31, 2020 to allow those who have already applied for EIDLs to be eligible to also receive a grant.

You may be wondering, if I receive an Economic Injury Disaster Loan and an Emergency Economic Injury Grant, does that preclude my business from receiving a Paycheck Protection Program Loan? **Receiving an EIDL and EEIG does not prevent you from subsequently receiving a PPP Loan.** If you do ultimately receive a PPP loan, you will have the ability to refinance your existing EIDL into it, which is great because as we will discuss later, PPP loans have the potential to be completely forgiven. In either case, if your business does eventually receive a PPP loan, the amount of any Emergency Economic Injury Grant that you received (up to \$10,000) will be subtracted from the amount forgiven in the PPP loan.

The final point to make about Economic Injury Disaster Loans and the Emergency Economic Injury Grant is that you have the ability to apply for this loan and grant for your business from the safe social distance of your home. The application process is done online, directly through the SBA's website, at <https://disasterloan.sba.gov/ela/>

Paycheck Protection Program



The Paycheck Protection Program and the loans it provides are the largest relief option available to small businesses from the CARES Act - and the piece that everyone is talking about. It authorizes up to \$349 billion in forgivable loans to small businesses to pay their employees during the COVID-19 crisis. And what we just found out in the late evening of March 31, 2020, is that the **loan terms will be the same for every business that receives a loan.** We also have more details on when the actual loan application process is going to start and how that will work.

When can businesses begin applying for this loan?

- **April 3, 2020** – small businesses and sole proprietorships can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.
- **April 10, 2020** – independent contractors and self-employed individuals can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.
- Other regulated lenders will be available to make these loans as soon as they are approved and enrolled in the program.

Where can businesses apply?

Businesses can apply through any existing SBA lender or through any federally insured deposit institution, federally insured credit union, and Farm Credit System institution that is participating. Other regulated lenders will be available to make these loans once they are approved and enrolled in the program. If you have an existing relationship with a lending institution that meets this criteria, they are going to be your first best bet. However, if you sense that they are not prepared to handle the upcoming influx of applications, it may be worth speaking to another provider. Treasury points you to www.sba.gov for a list of SBA lenders that you can contact. It has been our experience that it is easier to do a Google search for “(your state) SBA Lenders.” The top hit is typically your local state SBA page that has a list of approved vendors within your state. As a convenience for our clients, we have included in the appendix the approved vendor lists for Arizona, Illinois, Maryland, New Mexico, Virginia, Washington D.C., and Wisconsin.

What businesses can apply?

All businesses, including nonprofits, veterans organizations, Tribal business concerns, sole proprietorships, self-employed individuals, and independent contractors with 500 or fewer employees may apply. Businesses in certain industries can have more than 500 employees if they meet applicable SBA employee-based size standards for those industries. If your business is larger than 500 employees and you want to see if this applies to you, search the NAICS Employee Small Business Size Standard. It is also worth mentioning that the SBA’s affiliation

standards are waived for small businesses in the hotel and food services industries (meaning that these companies can apply as long as no one physical location has more than 500 employees).

What documents does a business need to apply?

You will need to complete the Paycheck Protection Program loan application and submit it along with the required documentation to an approved lender that is available to process your application by **June 30, 2020**. As a convenience for our clients, we have attached the sample application form in the appendix for your review. You will find that it is very simple. The hardest part should be calculating the business's "Average Monthly Payroll." **For the purposes of calculating "Average Monthly Payroll":**

Most applicants will use the average monthly payroll for 2019, excluding costs over \$100,000 on an annualized basis for each employee. For seasonal businesses, the applicant may elect to instead use average monthly payroll for the time period between February 15, 2019 and June 30, 2019, excluding costs over \$100,000 on an annualized basis for each employee. For new businesses, average monthly payroll may be calculated using the time period from January 1, 2020 to February 29, 2020, excluding costs over \$100,000 on an annualized basis for each employee.

You will also need to provide your lender with payroll documentation to substantiate your calculation of average monthly payroll.

How long does this program last?

The program is open until **June 30, 2020**. However, remember that there is a cap of \$349 billion and approximately 30 million small businesses in the United States.

How many of these loans can a business take out?

Only one.

How large can the business loan be?

The loan can be for up to two months of your average monthly payroll costs from the last year plus an additional 25% of that amount (this adds up to the **2.5 times average monthly payroll** everyone is talking about). However, for larger businesses, this amount is **capped at \$10 million**. Seasonal and new businesses will have a different applicable time period for the calculation. In addition, payroll costs are capped at \$100,000 annualized for each employee.

What is the interest rate everyone is going to receive?

0.50% fixed rate

For how long are payments deferred?

All payments are deferred for six months; however, interest will continue to accrue over this period.

When is the loan due?

The loan is due in two years **(the CARES Act set a maximum loan term of 10 years but it appears that all loans will be due in two).**

Does collateral need to be pledged or does the business owner need to personally guarantee the loan?

There is no collateral pledge required and the owner does not need to make a personal guarantee. **However, the business and each 20% or greater owner must certify that:**

- Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant **(you really need it)**
- The funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments **(you must use it this way)**
- Documentation verifying the number of full-time equivalent employees on payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight-week period following this loan will be provided to the lender **(you will provide documentation to the lender on how you spent on the money)**
- Loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities. Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs **(the terms of loan forgiveness)**
- During the period beginning on Feb. 15, 2020 and ending on Dec. 31, 2020, the applicant has not and will not receive another loan under this program **(you will only apply for one loan, which also reads like a business owner who has two separate businesses that both qualify would only be able to apply for one loan)**

What can the business use the loan for?

- Payroll costs, including benefits;
 - Salary, wages, commissions, or tips (capped at \$100,000 on an annualized basis for each employee);
 - Employee benefits including costs for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payments required for the provisions of group health care benefits including insurance premiums; and payment of any retirement benefit;
 - State and local taxes assessed on compensation; and
 - For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee **(this was a big question prior to guidance being released)**
- Interest on mortgage obligations incurred before Feb. 15, 2020;
- Rent, under lease agreements in force before Feb. 15, 2020; and
- Utilities, for which service began before Feb. 15, 2020.

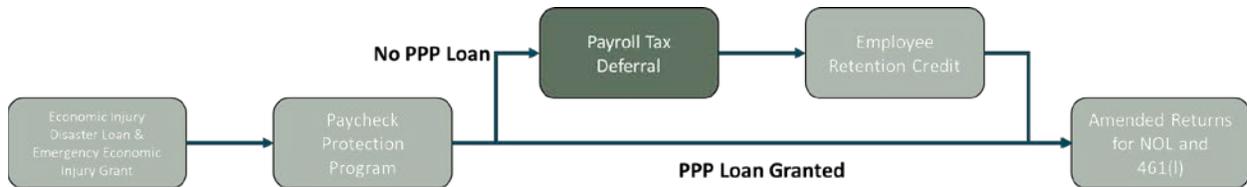
How much of the loan can be forgiven?

You will owe money when your loan is due if you use the loan amount for anything other than payroll costs, mortgage interest, rent and utilities payments over the eight weeks after getting the loan. **Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.** This last sentence is brand new information. It now appears that the Treasury is telling business owners to not expect full loan forgiveness if at least 75% of the loan was not spent on payroll.

You will also owe money when your loan is due if you do not maintain your staff and payroll. This means:

- **Staff Reduction** – your loan forgiveness will be reduced if you decrease your full-time employee headcount
- **Level of Payroll** – your loan forgiveness will also be reduced if you decrease salaries and wages by more than 25% for any employee who made less than \$100,000 annualized in 2019
- **Re-Hiring** – you have until June 30, 2020 to restore your full-time employment and salary levels for any changes made between Feb. 15, 2020 and April 26, 2020 **(this provision is also new, allowing businesses who make layoffs or decrease payrolls during that period the chance to make up for it by June 30)**

Payroll Tax Deferral



If you are considering deferring payroll taxes, you have either had the good fortune to not need a Paycheck Protection Program Loan or the bad fortune to have applied for one and been denied. In either case, it bears repeating: **you cannot delay payment of Employer Payroll Taxes if you received a loan through the PPP.**

However, if you do qualify, this provision of the 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:

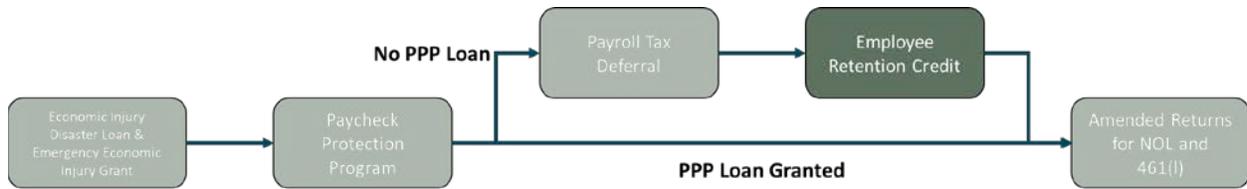
- 50% due on 12/31/2021; and
- 50% due on 12/31/2022

Payroll taxes that can be deferred include the employer portion of FICA taxes, the employer and employee representative portion of Railroad Retirement taxes (that are attributable to the employer FICA rate), and half of SECA tax liability.

It is worth pointing out that self-employed individuals have the ability to defer the employer portion of the self-employment taxes - meaning 25% of 2020 self-employment taxes will be due on Dec. 31, 2021, and 25% due on Dec. 31, 2022.

While this is not as good as the government giving you a forgivable loan, it does allow you to free up a bit of cash flow that you would otherwise be paying out on a regular basis, even though these amounts come due later.

Employee Retention Credit



Like the Payroll Tax Deferment above, if you are considering qualifying for the Employee Retention Credit, you have either had the good fortune to not need to apply for a Paycheck Protection Program Loan or the bad fortune to have applied for one and been denied. In either case, it bears repeating: **you cannot qualify for the Employee Retention Credit if you received a loan through the PPP.**

This provision of the CARES Act provides a refundable payroll tax credit for 50% of wages paid by eligible employers to certain employees during the COVID-19 crisis. The credit is available to employers, including non-profits:

- Whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel or group meetings; or
- Who have experienced a greater than 50% reduction in quarterly receipts, measured on a year-over-year basis (**compare 2Q 2020 to 2Q 2019**)

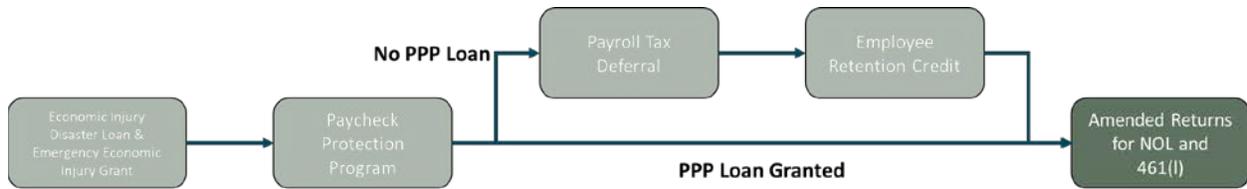
This credit ends at the earlier of:

- Dec. 31, 2020; or
- If qualified by suspension, a quarter without government required suspension; or
- If qualified by revenue, a quarter with gross revenue greater than 80% of prior year

Note that throughout all of this, the metric is “revenue” not “profit.” This means that a low margin business that is now seeing negative profit (losses) may not qualify because its revenue has not dropped enough, while a high profit business may see revenue drop 50%, qualify for the credit, and still be profitable, just not as much as before.

Only wages of employees who are furloughed or face reduced hours as a result of their employer’s closure or economic hardship are eligible for the credit. However, businesses with 100 or fewer employees are treated more favorably than larger businesses in the calculation of the credit. These smaller businesses are able to count all employee wages, regardless of whether the employee is furloughed. For any size business, the credit is provided for wages and compensation, including health benefits, and is provided for the first \$10,000 in wages and compensation paid by the employer to an eligible employee. Wages do not include those taken into account for purposes of the payroll credit for required paid sick leave or required paid family leave, nor for wages taken into account for the employer credit for paid family and medical leave.

Amended Returns for NOL and 461(l)



We have finally reached the ability to file amended returns due to changes that were made regarding the deductibility of business losses. We are also back to a scenario similar to the EIDL and EEIG, where both businesses that received a Paycheck Protection Program loan and those that did not can take advantage of this opportunity. This includes both corporate filers and non-corporate filers.

Corporations (excluding REITs) can now take Net Operating Losses from tax years 2018, 2019, and 2020 and carry these losses back five years. In addition, the offset amount has been increased from 80% to 100% of taxable income for those tax years.

Non-corporate filers have had Section 461(l) temporarily repealed for tax years 2018, 2019, and 2020. This code section capped claimed losses attributable to businesses at \$250,000 for single filers and \$500,000 for joint filers.

Every business should investigate whether these changes warrant filing amended returns for prior years to seek a refund.

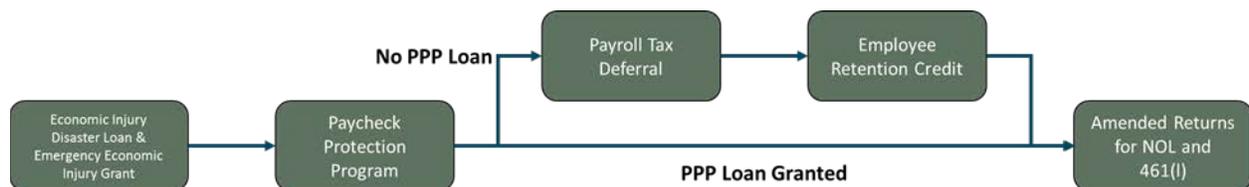
Concluding Thoughts

There are lots of options out there right now for business owners to pursue to hopefully provide some relief from the economic conditions in which we currently find ourselves. Hopefully, the social distancing requirements work to stymie the spread of the virus and can be loosened at the end of April so we can get our personal and business lives up and running again. But for now, let's concentrate on what is immediately in front of us.

These are the options to help weather the storm:

1. If your business is currently in dire financial straits and you need cash yesterday, start by looking at the Economic Injury Disaster Loans and Emergency Economic Injury Grants.
2. If your business is going to need cash but an immediate small influx isn't necessary, and for the businesses that already applied for the EIDL and EEIG, the next program to look at is the Paycheck Protection Program Loans.
3. Where you should look next depends on the outcome of your PPPL application. If you were accepted, you are locked out of the next two options. If you did not receive or did not apply for a PPPL, you can claim the Employee Retention Credit on your 2020 tax return and also defer your payroll taxes.
4. Finally, something all business owners can do is see if the expansion of the Net Operating Loss and temporary repeal of Section 461(1) can help you deduct losses you were previously not allowed, thereby allowing you to file amended returns from previous years and receive a refund.

Business Owner Relief Opportunities Flow Chart



We are grateful for the continued trust you have placed in us. Should you have any questions or concerns, feel free to reach out to your advisor. Together, we will all get through this.

This is intended for informational purposes only and should not be construed as personalized financial or tax advice. Please consult your financial and tax professional(s) regarding your unique situation. Some of the information given in this presentation has been produced by unaffiliated third parties and, while it is deemed reliable, the Advisor does not guarantee its timeliness, sequence, accuracy, adequacy, or completeness.

Appendix

PPP Application SAMPLE



Paycheck Protection Program Application Form

OMB Control No.: 3245-0407
Expiration Date: 09/30/2020

Non-Profit <input type="checkbox"/> Vet Org <input type="checkbox"/> Tribal <input type="checkbox"/> Ind. Cont. <input type="checkbox"/> Self Employed <input type="checkbox"/>		DBA or Tradename if applicable	
Business Legal Name			
Business Primary Address		Business TIN (EIN,SSN)	Business Phone () -
		Primary Contact	Email Address

Average Monthly Payroll: \$	X 2.5 equals Loan Amount: \$	Number of Jobs:
Purpose of the loan (select more than one):		
<input type="checkbox"/> Payroll <input type="checkbox"/> Rent / Mortgage Interest <input type="checkbox"/> Utilities <input type="checkbox"/> Other (explain):		

Applicant Ownership

List all owners of Applicant with greater than 20% ownership stakes. Attach a separate sheet if necessary.

Owner Name	Title	Ownership %	TIN (EIN,SSN)	Address

If questions (1) or (2) below are answered "Yes," the loan will not be approved.

Question	Yes	No
1. Is the Business or any owner presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or presently involved in any bankruptcy?	<input type="checkbox"/>	<input type="checkbox"/>
2. Has the Business, any of its owners, or any business owned or controlled by any of them, ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted in the last 7 years and caused a loss to the government?	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the Business or any owner an owner of any other business or have common management with any other business? If yes, attach a listing of all Affiliates and describe the relationship as addendum A.	<input type="checkbox"/>	<input type="checkbox"/>
4. Has the Business received an SBA Economic Injury Disaster Loan between January 31, 2020 and April 3, 2020? If yes, provide details on a separate sheet identified as addendum B.	<input type="checkbox"/>	<input type="checkbox"/>

Applicants who are individuals and all 20% or greater owners of the business must answer the following questions. If questions (5) or (6) are answered "Yes" or question (7) is answered "No", the loan will not be approved.

Question	Yes	No
5. Are you presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction, or presently incarcerated, on probation or parole?	<input type="checkbox"/>	<input type="checkbox"/>
Initial here to confirm your response to question 5 → _____		
6. Within the last 7 years, for any felony or misdemeanor for a crime against a minor, have you: 1) been convicted; 2) pleaded guilty; 3) pleaded nolo contendere; 4) been placed on pretrial diversion; or 5) been placed on any form of parole or probation (including probation before judgment)?	<input type="checkbox"/>	<input type="checkbox"/>
Initial here to confirm your response to question 6 → _____		
7. <input type="checkbox"/> I am a U.S. Citizen <u>OR</u> <input type="checkbox"/> I have Lawful Permanent Resident status <input type="checkbox"/> No		
Initial here to confirm your response to question 7 → _____		



Paycheck Protection Program Application Form

OMB Control No.: 3245-0407
Expiration Date: 09/30/2020

By Signing Below, You Make the Following Representations, Authorizations, and Certifications

REPRESENTATIONS AND AUTHORIZATIONS

I represent that:

- I have read the Statements Required by Law and Executive Order included in this form, and I understand them.
- I will comply, whenever applicable, with the civil rights and other limitations in this form.
- All SBA loan proceeds will be used only for business related purposes as specified in the loan application.
- To the extent feasible, I will purchase only American-made equipment and products.
- The Applicant is not engaged in any activity that is illegal under federal, state or local law.

For Applicants who are individuals and all Associates: I authorize the SBA to request criminal record information about me from criminal justice agencies for the purpose of determining my eligibility for programs authorized by the Small Business Act, as amended.

CERTIFICATIONS

The Business and each 20% or greater owner must certify in good faith to all of the below by **initialing** next to each one:

- _____ Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.
- _____ The funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments; I understand that if the funds are used for unauthorized purposes, the federal government may pursue criminal fraud charges.
- _____ Documentation verifying the number of full-time equivalent employees on payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight week period following this loan will be provided to the lender.
- _____ Loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities. Due to likely high subscription, it is anticipated that not more than twenty-five percent (25%) of the forgiven amount may be for non-payroll costs.
- _____ During the period beginning on February 15, 2020 and ending on December 31, 2020, the Applicant has not and will not receive another loan under this program.
- _____ I further certify that the information provided in this application and the information that I have provided in all supporting documents and forms is true and accurate. I realize that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a Federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.
- _____ I acknowledge that the lender will calculate the eligible loan amount using tax documents I have submitted. I affirm that these tax documents are identical to those I submitted to the IRS. I also understand, acknowledge and agree that the Lender can share the tax information with 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.

Signature of Authorized Representative of Business

Date

Print Name

Title

Signature of Owner of Applicant Business

Date

Print Name

Title



Paycheck Protection Program Application Form

OMB Control No.: 3245-0407
Expiration Date: 09/30/2020

Purpose of this form:

This form is to be completed by the Applicant and all individuals identified below and **submitted to your SBA Participating Lender**. Submission of the requested information is required to make a determination regarding eligibility for financial assistance. Failure to submit the information would affect that determination.

Instructions for completing this form:

For purposes of calculating "Average Monthly Payroll", most Applicants will use the average monthly payroll for 2019, excluding costs over \$100,000 on an annualized basis for each employee. For seasonal businesses, the Applicant may elect to instead use average monthly payroll for the time period between February 15, 2019 and June 30, 2019, excluding costs over \$100,000 on an annualized basis for each employee. For new businesses, average monthly payroll may be calculated using the time period from January 1, 2020 to February 29, 2020, excluding costs over \$100,000 on an annualized basis for each employee.

The first section and questions 1-4 request information about the Business. Questions 5-7 are to be completed, signed and dated by each applicant who is an Individual as well as each 20% or greater owner of an Applicant Business. All parties listed below are considered owners of the Applicant Business as defined in 13 CFR § 120.10, as well as "principals."

- For a sole proprietorship, the sole proprietor;
- For a partnership, all general partners, and all limited partners owning 20% or more of the equity of the firm;
- For a corporation, all owners of 20% or more of the corporation;
- For limited liability companies, all members owning 20% or more of the company; and
- Any Trustor (if the Applicant is owned by a trust).

Paperwork Reduction Act – You are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. The estimated time for completing this application, including gathering data needed, is 8 minutes. Comments about this time or the information requested should be sent to : Small Business Administration, Director, Records Management Division, 409 3rd St., SW, Washington DC 20416., and/or SBA Desk Officer, Office of Management and Budget, New Executive Office Building, Washington DC 20503.

Privacy Act (5 U.S.C. 552a) – Under the provisions of the Privacy Act, you are not required to provide your social security number. Failure to provide your social security number may not affect any right, benefit or privilege to which you are entitled. (But see Debt Collection Notice regarding taxpayer identification number below). Disclosures of name and other personal identifiers are required to provide SBA with sufficient information to make a character determination. When evaluating character, SBA considers the person's integrity, candor, and disposition toward criminal actions. Additionally, SBA is specifically authorized to verify your criminal history, or lack thereof, pursuant to section 7(a)(1)(B), 15 USC Section 636(a)(1)(B) of the Small Business Act (the Act).

Disclosure of Information: Requests for information about another party may be denied unless SBA has the written permission of the individual to release the information to the requestor or unless the information is subject to disclosure under the Freedom of Information Act. The Privacy Act authorizes SBA to make certain "routine uses" of information protected by that Act. One such routine use is the disclosure of information maintained in SBA's system of records when this information indicates a violation or potential violation of law, whether civil, criminal, or administrative in nature. Specifically, SBA may refer the information to the appropriate agency, whether Federal, State, local or foreign, charged with responsibility for, or otherwise involved in investigation, prosecution, enforcement or prevention of such violations. Another routine use is disclosure to other Federal agencies conducting background checks but only to the extent the information is relevant to the requesting agencies' function. See, 74 F.R. 14890 (2009), and as amended from time to time for additional background and other routine uses. In addition, the CARES Act, requires SBA to register every loan made under the Paycheck Protection Act using the Taxpayer Identification Number (TIN) assigned to the borrower.

Debt Collection Act of 1982, Deficit Reduction Act of 1984 (31 U.S.C. 3701 et seq. and other titles) – SBA must obtain your taxpayer identification number when you apply for a loan. If you receive a loan, and do not make payments as they come due, SBA may: (1) report the status of your loan(s) to credit bureaus, (2) hire a collection agency to collect your loan, (3) offset your income tax refund or other amounts due to you from the Federal Government, (4) suspend or debar you or your company from doing business with the Federal Government, (5) refer your loan to the Department of Justice, or (6) foreclose on collateral or take other action permitted in the loan instruments.

Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) – The Right to Financial Privacy Act of 1978, grants SBA access rights to financial records held by financial institutions that are or have been doing business with you or your business including any financial institutions participating in a loan or loan guaranty. SBA is only required provide a certificate of its compliance with the Act to a financial institution in connection with its first request for access to your financial records. SBA's access rights continue for the term of any approved loan guaranty agreement. SBA is also authorized to transfer to another Government authority any financial records concerning an approved loan or loan guarantee, as necessary to process, service or foreclose on a loan guaranty or collect on a defaulted loan guaranty.

Freedom of Information Act (5 U.S.C. 552) – Subject to certain exceptions, SBA must supply information reflected in agency files and



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records to a person requesting it. Information about approved loans that will be automatically released includes, among other things, statistics on our loan programs (individual borrowers are not identified in the statistics) and other information such as the names of the borrowers (and their officers, directors, stockholders or partners), the collateral pledged to secure the loan, the amount of the loan, its purpose in general terms and the maturity. Proprietary data on a borrower would not routinely be made available to third parties. All requests under this Act are to be addressed to the nearest SBA office and be identified as a Freedom of Information request.

Occupational Safety and Health Act (15 U.S.C. 651 et seq.) – The Occupational Safety and Health Administration (OSHA) can require businesses to modify facilities and procedures to protect employees. Businesses that do not comply may be fined, forced to cease operations, or prevented from starting operations. Signing this form is certification that the applicant, to the best of its knowledge, is in compliance with the applicable OSHA requirements, and will remain in compliance during the life of the loan.

Civil Rights(13 C.F.R. 112, 113, 117) – All businesses receiving SBA financial assistance must agree not to discriminate in any business practice, including employment practices and services to the public on the basis of categories cited in 13 C.F.R., Parts 112, 113, and 117 of SBA Regulations. All borrowers must display the "Equal Employment Opportunity Poster" prescribed by SBA.

Equal Credit Opportunity Act (15 U.S.C. 1691) – Creditors are prohibited from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status or age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

Debarment and Suspension Executive Order 12549; (2 CFR Part 180 and Part 2700) – By submitting this loan application, you certify that neither you nor any Associates have within the past three years been: (a) debarred, suspended, declared ineligible or voluntarily excluded from participation in a transaction by any Federal Agency; (b) formally proposed for debarment, with a final determination still pending; (c) indicted, convicted, or had a civil judgment rendered against you for any of the offenses listed in the regulations or (d) delinquent on any amounts owed to the U.S. Government or its instrumentalities as of the date of execution of this certification.

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