

Navigating the Paycheck Protection Program: A Guide for Non-Profit Organizations

Presented by:
Jodi Warren, Esq.
Joseph Milano, Esq.
Renato Matos, Esq.
William McManus, Esq.

**Capell Barnett
Matalon & Schoenfeld** LLP

Creative Attorneys | Effective Solutions

1385 Broadway, 12th Floor • New York, New York 10018 • Phone: (212) 661-1144 • Fax: (212) 643-1330
100 Jericho Quadrangle, Suite 233 • Jericho, New York 11753 • Phone: (516) 931-8100 • Fax: (516) 931-8101

www.cbmslaw.com

Paycheck Protection Program

- **Paycheck Protection Program (PPP)** expands the economic relief the Small Business Administration (SBA) can offer – it includes certain non-profit organizations and authorizes more favorable loan terms
- PPP commits \$349 billion for government-backed– potentially forgivable – loans to cover qualified expenses

Paycheck Protection Program: Purpose

- PPP incentivizes organizations to retain and continue to pay employees during these uncertain and stressful times resulting from the Covid-19 pandemic
- The loan will help keep organizations stay afloat by providing funds to cover payroll expenses, rent, utility fees and interest payment on mortgages during the eight-week period from origination of the loan

Paycheck Protection Program: Eligibility

Which non-profit organizations are eligible to apply?

1. Exempt from federal income taxes under either **Section 501(c)(3)** or 501(c)(19) under the Internal Revenue Code. **This includes many religious organizations**
2. **Fewer than 500 employees** (including full-time, part-time, or other basis)
3. **Existed and operated prior to February 15, 2020**

Paycheck Protection Program: Amount of Loan

What is the amount the loan?

- The loan amount is based on the organization's **payroll** and will be the *lesser* of **2.5 times the average monthly payroll costs** for [prior 12 month period/2019]* BUT cannot exceed \$10 million

**We are waiting on guidance from the SBA on whether payroll calculations are based on: (i) one-year period before the date on which the loan is made, or (ii) the 2019 calendar year. It is also possible that the number to use is being established by individual lenders.*

Paycheck Protection Program: Definition of Payroll

How is payroll defined?

- Payroll includes salaries (capped at \$100,000), wages, commission, payroll support (paid vacation, sick, medical and family leave), group healthcare benefits (including insurance premiums), retirement benefits and the payment of state or local taxes assessed on compensation
 - It is not clear yet whether housing allowances are considered payroll
 - As of now it seems that health and retirement benefits can be added on top of \$100,000 salary cap

Paycheck Protection Program: Definition of Payroll

What is NOT included in the definition of payroll?

- Portion of salaries for individual employees in excess of \$100,000 annually
- Payroll taxes and income taxes
- Compensation for employees with a foreign principal residence
- Qualified wages for which a credit is permissible under another federal program (sick or family leave programs)
- Federal insurance contributions (FICA)
- Fees paid to independent contractors

Paycheck Protection Program

Example:

- Organization A has 12 Employees and 1 Independent Contractor
- No employees are earning **more than \$100,000** annually
- Annual Payroll (2019 or last 12 months): **\$240,000**
- Average Monthly Payroll: **\$20,000**[240,000/12]
 - *The independent contractor's salary is not included*

(\$20,000) [**Average Monthly Payroll**] x (2.5) = \$50,000

Maximum loan amount is \$50,000

Paycheck Protection Program

Example:

- Organization B has 8 employees
- One employee earning \$120,000 and all other employees are making less than \$100,000 annually
- Annual Payroll (2019 or last 12 months): **\$480,000**
 - The \$120,000 salary is capped at (\$100,000)
- Average Monthly Payroll: **\$40,000** [$\$480,000/12$]

$(\$40,000) \text{ [Average Monthly Payroll]} \times (2.5) = \$100,000$

Maximum loan amount is \$100,000

Paycheck Protection Program: Use of Funds

What can the funds be used for?

1. **Payroll** costs
2. **Interest on mortgage** obligations (not including prepayment or the payment of principal) existing prior to February 15, 2020
3. **Rent** under an enforceable lease agreement executed prior to February 15, 2020
4. **Utility** payments for which services began prior to February 15, 2020

Paycheck Protection Program: Loan Terms

What are the terms of the loan?

- SBA will **guarantee 100%** of the loan
- Interest rate is **1%**
- Loan is due in **two (2) years**
- **No personal guarantee** is required
- **No collateral** is needed to be pledged to secure the loan
- **No administration fee** will be charged (although participating lenders may charge a fee)
- **No prepayment penalties**
- **Nonrecourse** (the lender has no claim against any member of a Non-profit Organization for non-payment), except if the proceeds are used for prohibited or illegal uses
- Repayment is deferred for **six (6) months** (interest will continue to accrue over this period)

Paycheck Protection Program: Loan Forgiveness

How is the loan forgiven?

- **FORGIVENESS IS NOT AUTOMATIC!**
- The organization will need to submit a loan forgiveness application to the servicing lender
- The lender must make a decision on the forgiveness of the loan within **sixty (60) days** from receipt of the forgiveness application
- The organization will need to submit evidence showing use of the funds (**it is crucial to keep track of the funds!**)

Paycheck Protection Program: Loan Forgiveness

How much of the loan is forgiven (canceled)?

- Up to the full principal amount of the loan and any accrued interest if the funds were used for the permitted uses (payroll, rent, utilities and interest on a mortgage)
- **75% of the forgiven indebtedness must be used for payroll over the eight-week period**

Paycheck Protection Program: Loan Forgiveness

Can the forgiven amount be reduced?

- The forgiven amount can be **reduced** if:
 - **Employment and/or compensation** (over 25% cut in compensation) **are reduced** during the eight-week period from receipt of the loan
 - Organization can restore the reduction in employees and/or compensation by **June 30, 2020**
 - **Adequate records** evidencing the use of the funds are not provided to the lender
 - Funds are **not used for the permitted purposes**

Paycheck Protection Program: Loan Forgiveness

Formula:

- Average number of *full-time* employees per month for the eight-week period from receipt of the loan
DIVIDED BY
- the average number of *full-time* employees per month from February 15, 2019 to June 30, 2019 or January 1, 2020 to February 29, 2020 (as such time period is elected by the Non-profit Organization)

Avg. FTE per month during 8-week period

Avg. FTE per month during 2/15/19-6/30/19 or 1/1/2020 to 2/29/2020

Paycheck Protection Program: Loan Forgiveness

Example:

Organization A:

- Received a loan in the amount of \$500,000 on 4/15/2020
- Employs 20 full time employees and 2 part-time employees from 2/15/19 to 6/30/19
- During the eight-week period 5 full-time employees and 1 part-time employee was fired, leaving 15 full-time and 1 part-time employee
- No employees were hired back by June 30, 2020

Paycheck Protection Program: Loan Forgiveness

Example:

Assuming Organization A has used the fund appropriately, how much of the loan will be forgiven?

15 FTE per month (8-week period)

_____ = 0.75 X (\$500,000) [loan amount]

20 Avg. FTE per month (2/15/19-6/30/19)

= **\$375,000** will be forgiven (\$125,000 will need to be paid back b/c the # of employees reduced by 25%)

Paycheck Protection Program: Application Process

When can I apply?

- Non-profit organizations can start applying as soon as banks starts accepting applications (some banks have started accepting applications)
- The program will continue until June 30, 2020, but the funds are **“first come, first served”** so you should apply *as soon as possible*

Paycheck Protection Program: Application Process

Where do I apply?

- An existing SBA lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution (loans do not come directly from the SBA)
- 100 Most Active SBA Lenders:
<https://www.sba.gov/article/2020/mar/02/100-most-active-sba-7a-lenders>

Paycheck Protection Program: Application Process

How do I prepare to submit an application?

- Corporate approval - *follow the guidelines for corporate approvals*
- Payroll records (payroll summary reports with bank statements and IRS Form 941)
- Determine the loan amount
- Twelve-month profit and loss statement (as of the date of the application)
- Corporate documents
- TIN/EIN for your organization
- Standard tax-exemption letter
- Recent mortgage or rent statement
- Recent utility bills
- Retirement statements documenting sum of all retirement plan funding paid by organization
- Health insurance statements documenting premiums paid by organization under a group plan

Paycheck Protection Program: Corporate Governance

- **Review Corporation Documents:**
 - Confirm organization's corporate documents, certificate of incorporation, bylaws, and/or constitution, are in possession and current.
 - Determine Voting Requirements:
- **Confirm which corporate bodies (members/board) are required to vote on financial transactions of the corporation.**
 - Determine voting requirements of member vote (i.e. congregational vote) and board of directors/trustees vote.
- **Determine Meeting Requirements:**
 - Confirm the process for calling a meeting.
 - Determine if the meeting can be conducted telephonically/electronically/remotely by reviewing the corporate documents.
 - Determine what constitutes a quorum (the number of people necessary to attend).
 - Determine how many votes are required to pass a resolution.

Paycheck Protection Program: Corporate Governance

- **Prepare Corporate Action:**
 - Supplementary Documentation
- **Consult with your Lender:**
 - Consult your lender if they require any other corporate documents and approvals including a formal certificate of Secretary. The attached language approves a subsequent certificate of Secretary, if required

Paycheck Protection Program: Application Process

- The Non-profit organization must certify to the following:
 - Eligible to receive the loan under the rules in effect at the time of the application
 - Employs *less than* 500 employees
 - Current economic uncertainty makes this loan request necessary to support the ongoing operations
 - Funds will be used for the permitted uses described in the PPP and at least 75% will be used for payroll expenses
 - Not engaged in illegal activity and will comply with civil rights

Paycheck Protection Program: Application Process

- Any SBA loan received between January 31 - April 3, 2020 was for a purpose other than paying payroll costs and other permitted uses loans under the PPP
- Organization has not and will not receive another loan through PPP (only one loan through PPP is permitted)

Paycheck Protection Program: Application Process



Paycheck Protection Program Borrower Application Form

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

Check One:	<input type="checkbox"/> Sole proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> C-Corp <input type="checkbox"/> S-Corp <input type="checkbox"/> LLC <input type="checkbox"/> Independent contractor <input type="checkbox"/> Eligible self-employed individual <input type="checkbox"/> 501(c)(3) nonprofit <input type="checkbox"/> 501(c)(19) veterans organization <input type="checkbox"/> Tribal business (sec. 31(b)(2)(C) of Small Business Act) <input type="checkbox"/> Other		DBA or Tradename if Applicable		
	Business Legal Name				
Business Address				Business TIN (EIN, SSN)	Business Phone
				() -	
				Primary Contact	Email Address

Average Monthly Payroll:	\$	x 2.5 + EIDL, Net of Advance (if Applicable) Equals Loan Request:	\$	Number of Employees:	
Purpose of the loan (select more than one):					
<input type="checkbox"/> Payroll <input type="checkbox"/> Lease / Mortgage Interest <input type="checkbox"/> Utilities <input type="checkbox"/> Other (explain): _____					

Applicant Ownership

List all owners of 20% or more of the equity of the Applicant. Attach a separate sheet if necessary.

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

Paycheck Protection Program: Application Process

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

Question	Yes	No
1. Is the Applicant or any owner of the Applicant 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 Applicant, any owner of the Applicant, 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 Applicant or any owner of the Applicant an owner of any other business, or have common management with, any other business? If yes, list all such businesses and describe the relationship on a separate sheet identified as addendum A.	<input type="checkbox"/>	<input type="checkbox"/>
4. Has the Applicant 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"/>

If questions (5) or (6) are answered "Yes," the loan will not be approved.

Question	Yes	No
5. Is the Applicant (if an individual) or any individual owning 20% or more of the equity of the Applicant subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction, or presently incarcerated, or on probation or parole? Initial here to confirm your response to question 5 → _____	<input type="checkbox"/>	<input type="checkbox"/>
6. Within the last 5 years, for any felony, has the Applicant (if an individual) or any owner of the Applicant 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)? Initial here to confirm your response to question 6 → _____	<input type="checkbox"/>	<input type="checkbox"/>
7. Is the United States the principal place of residence for all employees of the Applicant included in the Applicant's payroll calculation above?	<input type="checkbox"/>	<input type="checkbox"/>
8. Is the Applicant a franchise that is listed in the SBA's Franchise Directory?	<input type="checkbox"/>	<input type="checkbox"/>

Paycheck Protection Program: Application Process



Paycheck Protection Program Borrower Application Form

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

CERTIFICATIONS AND AUTHORIZATIONS

I certify that:

- I have read the statements included in this form, including the Statements Required by Law and Executive Orders, and I understand them.
- The Applicant is eligible to receive a loan under the rules in effect at the time this application is submitted that have been issued by the Small Business Administration (SBA) implementing the Paycheck Protection Program under Division A, Title I of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (the Paycheck Protection Program Rule).
- The Applicant (1) is an independent contractor, eligible self-employed individual, or sole proprietor or (2) employs no more than the greater of 500 or employees or, if applicable, the size standard in number of employees established by the SBA in 13 C.F.R. 121.201 for the Applicant's industry.
- 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 and consistent with the Paycheck Protection Program Rule.
- 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.
- Any loan received by the Applicant under Section 7(b)(2) of the Small Business Act between January 31, 2020 and April 3, 2020 was for a purpose other than paying payroll costs and other allowable uses loans under the Paycheck Protection Program Rule.

For Applicants who are individuals: 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.

Paycheck Protection Program: Application Process

CERTIFICATIONS

The authorized representative of the Applicant must certify in good faith to all of the below by **initialing** next to each one:

- _____ The Applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC.
- _____ 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 interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.
- _____ The Applicant will provide to the Lender documentation verifying the number of full-time equivalent employees on the Applicant's 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.
- _____ I understand that loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities, and not more than 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 the Paycheck Protection Program.
- _____ I further certify that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects. I understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including 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 confirm the eligible loan amount using required documents submitted. I understand, acknowledge and agree that the Lender can share any tax information that I have provided 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 Applicant

Date

Print Name

Title

Paycheck Protection Program

Additional Sources:

- Sample Application:
<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Application-3-30-2020-v3.pdf>
- SBA Fact Sheet:
<https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>
- Interim Final Rule:
https://www.sba.gov/sites/default/files/2020-04/PPP--IFRN%20FINAL_0.pdf

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Thank you!

Please feel free to contact us:

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