Navigating the CARES Act for nonprofit leaders: PPP loans

Brought to you by The Heckscher Foundation for Children
Overarching goals for today

- explain the Paycheck Protection Program portion of the CARES Act
- clarify the process and how to complete your application
- identify next steps and answer questions

Disclaimer: The information provided is not intended to replace expert legal or accounting advice. Please ensure you are engaging with your organization’s professional advisors. (as of April 3, 2020)
Our panel

Brian Joseph, President/CEO
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The CARES Act: Paycheck Protection Program

“The Coronavirus Aid, Relief, and Economic Security (CARES) Act allocated $350 [it’s actually only $349] billion to help small businesses keep workers employed amid the pandemic and economic downturn.

Known as the Paycheck Protection Program, the initiative provides 100% federally guaranteed loans to small businesses [including qualifying nonprofits].

Importantly, these loans may be forgiven if borrowers maintain their payrolls during the crisis or restore their payrolls afterward."

Source: U.S. Chamber of Commerce
“Coronavirus Emergency Loans Small Business Guide and Checklist”
April 1, 2020

(as of April 3, 2020)
The Paycheck Protection Program – what it is

Government-backed loans to help small businesses (including nonprofits) keep people employed during the current crisis.

<table>
<thead>
<tr>
<th>Question</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>How much?</td>
<td>2.5 times your average monthly payroll over 12 month-period (we don’t know how this is defined)</td>
</tr>
<tr>
<td>Loan terms?</td>
<td>1%, two years for unforgiven portion (no prepayment penalties; no participation fees; no collateral)</td>
</tr>
<tr>
<td>Loan Forgiveness?</td>
<td>Loan amounts will be forgiven if used for qualifying expenses over the 8-week period after loan is issued; if employee and compensation levels are maintained</td>
</tr>
</tbody>
</table>

Note: Eligibility does not guarantee you’ll receive the loan. The lines for these loans will be long.
The Paycheck Protection Program – quick facts

Who is eligible?
• 501(c)(3) organizations and 501(c)(19) veteran orgs; with 500 or fewer employees
• In operation on 2/15/2020 with paid employees

How much?
• 2.5 times your average monthly payroll (compensation capped at $100,000 per employee)

When?
• Applications can be submitted starting 4/3 (today! but wait… depending on the banks, there may be a delay) and are open through June 30, 2020. This will likely be “oversubscribed.” Talk to your bank today!

How can I use the money?
• Payroll costs (includes healthcare), interest on mortgage and other debts, rent, utilities (with some caveats)

Are these loans really forgiven?
• YES! 100%, if they're used on qualifying expenses; employee and compensation levels must be maintained. At least 75% should be used for payroll.

(As of April 3, 2020)
the application
Section one: basic organization info

- Standard info about your organization
- List cell phone and email for point of contact
- Make sure to use the organization’s legal name, not a d/b/a, or list both
Section two: payroll calculation

Average monthly payroll:
- Total of salaries, wages, commissions, or tips (capped at $100,000 annualized for each employee); employee benefits, and state and local taxes assessed on compensation divided by 12. SBA needs to clarify measuring period.

X 2.5 equals loan amount
- average monthly payroll (above) x 2.5

Number of employees:
- We don’t know what this means yet; SBA needs to clarify timing and F/T vs. P/T – important because forgiveness depends on this metric

Purpose of the loan:
- Loan can be used for payroll, rent/mortgage interest, utilities. Best estimate is 75% should be used for payroll for this to be forgiven.
• Independent contractors not counted for nonprofit applicants.

• Count U.S. residents only (principal residence must be U.S.)

• Other items not counted as “payroll costs”: Family First credits; comp over $100,000; federal employment taxes between February 15, 2020 and June 30, 2020.


• Rehiring helps with forgiveness.

• A lot of unknowns. E.g., EIDL/$10K Advance synching if no EIDL award yet, whether new hires count for forgiveness; whether there are exceptions for terminations for cause; audits and forgiveness procedures. More guidance coming from the SBA on forgiveness, hopefully on these points.
Section three: applicant ownership

- Nonprofits aren’t “owned,” so this can be confusing.

TIPS:
- Write “N/A” in this section under ownership %; add contact name and title (e.g., E.D., CEO, CFO, Treasurer).
- Have at the ready a board resolution (signed and certified by the Board Secretary) or a signed unanimous consent of the Board authorizing the point person to apply for the loan and approving the loan application. Check your internal financial policies and comply with them!
### Section four: questions

**Paycheck Protection Program Application Form**

**SBA Form 2483 (03/20)**

1. **Business Legal Name**
2. **Business Primary Address**
3. **Business TIN (EIN, SSN)**
4. **Business Phone**
5. **Email Address**

### Average Monthly Payroll:

\[ \$ \times 2.5 = \text{Loan Amount} \]

### Number of Jobs:

#### Purpose of the loan (select more than one):

- Payroll
- Rent / Mortgage
- Utilities
- Other (explain):

### Applicant Ownership

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

<table>
<thead>
<tr>
<th>Owner Name</th>
<th>Title</th>
<th>Ownership %</th>
<th>TIN (EIN, SSN)</th>
<th>Address</th>
</tr>
</thead>
</table>

### Questions

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

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>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?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>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?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>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.</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>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.</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

**If questions (3) or (4) are answered “Yes,” the loan will not be approved.**

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>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?</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

**Initial here to confirm your response to question 5—**

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. Within the last 7 years, for any felony, has the Applicant (an individual) or any owner of the Applicant 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)?</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

**Initial here to confirm your response to question 6—**

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>7. Is the United States the principal place of residence for all employees of the Applicant included in the Applicant’s payroll calculation above?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>8. Is the Applicant a franchise that is listed in the SBA’s Franchise Directory?</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

**Initial here to confirm your response to question 7—**

**Initial here to confirm your response to question 8—**

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How do we approach answering these questions?
Section five: certifications

CERTIFICATIONS

The authorized representative of the Applicant must certify in good faith to all of the below by initializing 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 13 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.

NOTE: This is a legally-binding loan agreement. Misrepresenting or lying is punishable. There are severe penalties for misuse of the funds, too.
Documentation

Ask your lender what documentation they want for verifying payroll.

Be prepared to submit:
- Payroll reports (ask accountant/bookkeeper to help you calculate payroll for the period).
- Documentation for how you calculated your request (employees included, at what level, etc.)

Be ready to provide:
- Quarterly payroll tax reports for calendar year 2019 and Q1 2020
- One to three years of tax returns, if applicable
- Board resolution certifying their support of application
- IRS determination letter

**TIP:**
Start with your lender and find out what it requires. Ask them for the most efficient way to handle; and offer up all documentation. If they have to ask for more, you may go to the back of the line.
Where do I start?

- Start with your existing banking relationship. Check if they are approved lenders with the small business association (SBA).

- Ask your lender what they will require in addition to the PPP application (applications will be online; paper is likely just for prep).

- Lenders are scrambling for clarity, just like the rest of us.

- Calculate your loan request amount.

- Connect with your board and pursue their approval/endorsement of the application.

- Remember, eligibility does not guarantee you will get the loan.
Loan forgiveness – things to know

• You request loan forgiveness from your lender after the 8-week period, they have 60 days to make a decision. Forgiveness is not automatic.

• You must maintain employment and compensation levels

• New mortgages or rent are not eligible expenses (agreements must have existed prior to February 15, 2020)

• If you don’t use all the money, you can pay it back with no prepayment penalties, or pay over time as 1% loan for remainder of the two-year term.
Other things to consider

• This is a fluid process, and new information is coming out every day, every hour.

• Do not assume this money is coming, continue your contingency planning

• If you have a CPA, bookkeeper, or banker, start with them

• Where to go with questions?
Q&A

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(as of April 3, 2020)
Thank you!

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