

A Summary of the Paycheck Protection Program Created in the CARES Act
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The stimulus package enacted on March 27 under the CARES Act allocated \$350 billion to relieve small businesses that have been devastated by the coronavirus pandemic. This relief comes in the form of the Paycheck Protection Program (the "Program"). Under this program small businesses of 500 employees or less can apply for SBA Section 7(a) loans which offer low interest rates, waive the requirement for personal guarantees, and have potential to be fully forgiven.

Differences from current Section 7(a) loans: The CARES Act increases Section 7(a) loans from \$5 million to \$10 million, the SBA guarantees the loans 100% rather than 85%, there is no requirement for personal guarantee or to seek credit elsewhere, and there is the opportunity for complete forgiveness until December 31, 2020.

Eligibility: Revenue thresholds for SBA 7(a) loans are waived. Businesses of 500 employees or less are eligible to apply for loans under this Program. The 500 employee threshold includes full-time, part-time, and any other status of employee. As a condition of the loan, borrowers must certify that:

1. The loan is necessary to continue operation due to the current uncertain circumstances,
2. The loan will be used to maintain payroll and retain workers, or make lease, utility, or mortgage payments,
3. Applicant does not have an application pending for a loan of duplicative purpose and amounts applied for, and
4. Applicant has not received a loan that is duplicative of the purpose and amounts applied for here between February 15, 2020 and December 31, 2020.

Allowable uses: The loans under this Program are allowed to be used for payroll costs, continuation of group healthcare benefits, interest on mortgage (excluding prepayment), rent, utilities, interest on debts incurred before February 15, 2020.

Payroll costs do not include sick or qualified family leave wages paid in accordance with the Families First Coronavirus Response Act, or salaries over \$100,000.

A use that is duplicative of a use under another loan received by the applicant is not allowable. For example, if a borrower applies for a loan under this Program to cover payroll costs, they could not also apply for and receive a loan to cover payroll costs under the EIDL loan program.

Loan amount: For a business that was in operation in 2019, the maximum amount they can receive is 2.5 times the average total monthly payroll costs incurred in the one-year period before the date the loan is made. For businesses not in operation in 2019, the maximum amount they can receive is 2.5 times the average month payroll costs incurred for January and February 2020. In any case, the loan will not exceed \$10 million. These loans are meant to provide 2.5 months of expenses for the business.

Forgiveness: Arguably the most significant aspect of this Program is the ability of borrowers to have their loans completely forgiven. The borrower is eligible for forgiveness equal to the amount spent in the 8-week period following the origination of the loan on the allowable uses described above.

The amounts forgiven are determined by the costs covering allowable uses less any reduction in employees retained compared to the prior year unless they are rehired by June 30, 2020 less the reduction

in employee salary above 25% per employee (if salary not exceeding \$100,000 per annum) if deficit not rectified by June 30, 2020. To summarize: If employees are rehired and wages are restored by June 30, 2020 this amount will not be deducted from the forgiveness.

Amounts that are not forgiven but are used for allowable costs will be repaid over a term of no more than 10 years at 4% interest per annum with the 100% loan guarantee by the SBA remaining intact. Payment can be deferred for 6 months or up to one year.

How to apply: The SBA must release its regulations on these loans within 15 days of the enactment of the law. Many expect these regulations to be available any day. In the meantime, businesses should get in touch with their current SBA lender or a lender already authorized to do SBA loans to discuss their options.

Other options in the CARES Act:

Emergency Economic Disaster Loans - \$10 billion was allocated to fund emergency EIDL grants. Small businesses can apply for up to \$10,000 to provide for emergency funds to cover immediate operating costs. As stated, this grant cannot be used for a duplicative purpose or amount as a Program loan. The amount awarded for an EIDL will be subtracted from the amount forgiven under a Program loan, if both are received. These loans are obtained directly with the SBA.

Relief for existing SBA loan - \$17 billion was allocated to cover six months of payments of principal and interest for small businesses already using SBA loans. The SBA will be paying 6 months of principal and interest on existing small business loans. Already having an SBA loan does not make one ineligible for a Program loan.

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