

## Questions and Answer – 4/2/2020

Regarding the EIDL Loans:

1. How will we know if we are among the companies that should be reapplying?

While some of the application received very early on are being processed, it is best to call the customer service center to check on your individual application. The number for customer service is 1-800-659-2955.

2. When should we be hearing back regarding these loans?

The first go around on the EIDL was estimated to be approximately 21 days possibly sooner, an applicant would hear from the loan analyst

3. I received a case number, but no confirming email; When and what will I hear next from the SBA? Can you get PPP loan and EIDL loan?

Not sure if the new system is sending confirmation emails, I did not receive one for the application I submitted. It's my understanding the message with the loan number at the end is the confirmation. We were told it would be at least three weeks. Yes, you can apply for both EIDL and PPP.

4. On the EIDL loan, what qualifies as collateral?

**On the INITIAL EIDL for \$2M What are the collateral requirements?**

Economic Injury Disaster Loans over \$25,000 require collateral. SBA takes real estate as collateral when it is available. SBA will not decline a loan for lack of collateral but requires borrowers to pledge what is available. Your loan agent will discuss assist.

5. I applied for the EIDL online this week and got a confirmation, but I don't believe I asked for the 10K advance. Is there any way to still request the advance?

Call the customer service center at 1-800-659-2955

6. Can you get PPP loan and EIDL loan?

If your EIDL loan was not used for payroll costs, it does not affect your eligibility for a PPP loan. If your EIDL loan was used for payroll costs, your PPP loan must be used to refinance your EIDL loan. Proceeds from any advance up to \$10,000 on the EIDL loan will be deducted from the loan forgiveness amount on the PPP loan.

For the PPP Loans:

1. Is PPP loans first come first serve?

Yes.

2. For PPP, Do we calculate average payroll by trailing 12 months payroll or average 2019 payroll?

The following methodology, which is one of the methodologies contained in the Act, will be most useful for many applicants.

i. Step 1: Aggregate payroll costs (defined in detail below in f.) from the last twelve months for employees whose principal place of residence is the United States.

ii. Step 2: Subtract any compensation paid to an employee in excess of an annual salary of \$100,000 and/or any amounts paid to an independent contractor or sole proprietor in excess of \$100,000 per year.

iii. Step 3: Calculate average monthly payroll costs (divide the amount from Step 2 by 12).

iv. Step 4: Multiply the average monthly payroll costs from Step 3 by 2.5.

v. Step 5: Add the outstanding amount of an Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020, less the amount of any "advance" under an EIDL COVID-19 loan (because it does not have to be repaid).

The examples below illustrate this methodology.

i. Example 1 – No employees make more than \$100,000

Annual payroll: \$120,000

Average monthly payroll: \$10,000

Multiply by 2.5 = \$25,000

Maximum loan amount is \$25,000

ii. Example 2 – Some employees make more than \$100,000

Annual payroll: \$1,500,000

Subtract compensation amounts in excess of an annual salary of \$100,000: \$1,200,000

Average monthly qualifying payroll: \$100,000

Multiply by 2.5 = \$250,000

iv. Example 4 – Some employees make more than \$100,000, outstanding EIDL loan of \$10,000

Annual payroll: \$1,500,000

Subtract compensation amounts in excess of an annual salary of \$100,000: \$1,200,000

Average monthly qualifying payroll: \$100,000

Multiply by 2.5 = \$250,000

Add EIDL loan of \$10,000 = \$260,000

Maximum loan amount is \$260,000

Maximum loan amount is \$250,000

iii. Example 3 – No employees make more than \$100,000, outstanding EIDL loan of \$10,000.

Annual payroll: \$120,000

Average monthly payroll: \$10,000

Multiply by 2.5 = \$25,000

Add EIDL loan of \$10,000 = \$35,000

Maximum loan amount is \$35,000

3. What if we reduce the pay of an employee and hours, will that change ability to earn this?

You must keep employees at the same salary/hours to get the PPP.

4. Can PPP be used for Subcontractors?

No, independent contractors have the ability to apply for a PPP loan on their own so they do not count for purposes of a borrower's PPP loan calculation.

5. There is conflicting info as to whether JUST payroll is used to determine P3 loan size or if rent and other operating expenses can be included?

No conflict, it is only 2.5 times the average monthly payroll. Payroll costs are defined in the next question

6. What about founders who are paid with k1? Does their pay count towards payroll?

Yes, up to \$100,000

Payroll costs consist of compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips); payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wage, commissions, income, or net earnings from self-employment or similar compensation.

7. Can I hire additional offsite contractors with the money?

There is no verbiage CARES Act that I could find that indicates that they can hire additional workers. But keep in mind, you must use 75% of the amount to retain current employees, the other 25% can be used for monthly expenses

8. Can workers staying on the job being given bonuses and can that be included with Paycheck loan application?

See the answer for Question 6 for the definition of payroll costs.

9. Is there a salary cap of 100K annually? What happens if an employee earns more than 100K?
- You can only count up to \$100k of payroll costs for each employee
- CARES ACT page 8
- How do I calculate the maximum amount I can borrow?*
- The following methodology, which is one of the methodologies contained in the Act, will be most useful for many applicants.
- Step 2: Subtract any compensation paid to an employee in excess of an annual salary of \$100,000 and/or any amounts paid to an independent contractor or sole proprietor in excess of \$100,000 per year.
10. What if you have had employees that were on a project that ended at the beginning of March and are now on unemployment. Will this hurt us since they are on unemployment records?
- If they were on payroll the end of February, you can count their payroll costs. You would need to immediately hire them back and put them on payroll or your loan forgiven amount may be reduced.
11. Calculating Max loan, do you need to back out Federal withholdings of gross pay?
- You cannot claim federal withhold tax as part of payroll expenses.
- CARES Act page 10
- What qualifies as "payroll costs?"
- Payroll costs consist of compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips); payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wage, commissions, income, or net earnings from self-employment or similar compensation.
12. How will I show that specific money was used for payroll?
- You will need to show documentation proving the funds were used for payroll.
- CARES Act pages 17, 18, 19

*What certifications need to be made?*

iii. The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments; 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. As explained above, not more than 25 percent of loan proceeds may be used for non-payroll costs. iv. 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.

v. Loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities. As explained above, not more than 25 percent of the forgiven amount may be for non-payroll costs.

vi. 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.

vii. 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.

viii. I acknowledge that the lender will confirm the eligible loan amount using tax documents I have submitted. I affirm that these tax documents are identical to those submitted to the Internal Revenue Service. 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.

13. Does PPP cover owners who work in an LLC?

CARES Act page 6 & 7

ii. You were in operation on February 15, 2020 and either had employees for whom you paid salaries and payroll taxes or paid independent contractors, as reported on a Form 1099-MISC.

You are also eligible for a PPP loan if you are an individual who operates under a sole proprietorship or as an independent contractor or eligible self-employed individual, you were in operation on February 15, 2020.

You must also submit such documentation as is necessary to establish eligibility such as payroll processor records, payroll tax filings, or Form 1099-MISC, or income and expenses from a sole proprietorship. 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. **SBA intends to promptly issue additional guidance with regard to the applicability of affiliation rules at 13 CFR §§ 121.103 and 121.301 to PPP loans.**

14. I hired 2 of our 5 employees halfway through last year. If I use the average payroll for the last 12 months, it doesn't come out to our full current payroll. Will the SBA or banks consider that?  
The SOP doesn't provide guidance on this, please call customer service at 1-800-659-2955
15. Does the Salary cap of \$100,000 include benefits and taxes or is that strictly pay?  
See answer for Question #11 for definition of payroll costs
16. We had a staff reduction at the end of FY 19 (July) but have maintained staff since. Do we need to meet FY 19 #'s for forgiveness?  
It is figured on you staff at the end of February 2020.
17. PPP payroll calculation is based on payroll as of what date or what period?  
See answer for Question #2
18. What is the interest rate difference between the PPE and EIDL loans?  
PPP- 1% EIDL 3.75%
19. Do employees have to be working or just getting paid?  
Getting paid at the same level as before the coronavirus impact.
20. How is it expected to maintain payroll for all employees when salary over \$100,000 is not included in the loan?  
It's not. The cap is \$100,000 so that is the amount you would need to account for. If employees aren't working, \$100,000 salary is a lot more than they will receive on UC.

21. Does the Furlough status considered as “keeping in payroll”?  
For the PPP loan to be forgiven, 75% of the funds must be used to keep employees paid.
22. Can we use payments to ourselves as the base case? (For Corporations; not for partnership or sole-proprietor situations)  
If you took a salary.
23. Do 501 (c) 6 organizations qualify for PPP? We are being told that we do not.  
At this time, just 501(c)(3) organizations.
24. A sole proprietor can't apply until April 10th - is that right?  
Yes
25. For the EIDL grant to be forgiven, is it 75% of the grant amount needs used for payroll expenses or 75% of the full loan amount?  
For Paycheck Protection Program (not EIDL), 75% of the loan amount must be used for payroll expense. An EIDL Advance does not need to be repaid, no stipulations.
26. With regard to the SBA7a program, what are requirements for lenders to participate? What if some companies have foreign owners, does this disqualify them?  
There is nothing in the SOP that states the businesses must be American-owned, but it does state that the majority of employees must be based in the US. Check with your lender.
27. Can the PPP be used for rent, as well?  
25% of the PPP loan amount can be used for monthly fixed expenses.

28. Do the funds need to be used in 8-weeks?  
For the PPP loan, in order to have the loan forgiven, 75% of the loan amount must be used for payroll expenses in the eight weeks following the loan closing.
29. What kind of payroll documentation will be requested from employers using PEOs with aggregated Forms 941?  
Check with your lender. Lenders are required to verify payroll documentation, different lenders may require different documentation.
30. Are bank approving the loans or the SBA?  
For PPP: Banks make the loans and the SBA guarantees 100% of the loan. For EIDL: SBA approves.
31. Which loan is 30 year terms?  
The terms for an EIDL is up to 30 years.
32. Which 12 months of payroll will the SBA accept on their application – the year 2019 as the SBA preliminary application states OR many banks are stating that the trailing twelve months of payroll should be submitted (4-1/19 - 3/31/20)?  
See the answer for Question #2
33. How do you include Rent and utilities on this application?  
For PPP Loan: You do not include rent or utilities, just 2.5 times the average payroll costs. For EIDL: you do not request any amount. Fill out the application and SBA will determine the loan amount.
34. For the P3, K1 owners count?  
See answer for Question #11. If owner receives salary or compensation, it can be counted.
35. Many service industry companies have already furloughed or terminated staff. Is there any opportunity to apply these funds to recalling that staff?  
That is the point of the PPP loan, to keep employees on payroll. You would need to immediately hire back your staff or you may reduce the amount of your loan to be forgiven.



36. Our bank advised us that they still don't know what forms and document requirements are needed (as of this morning), but that they will not be accepting the short-form PPP form. Does each individual bank determine its own application and documentation requirements for PPP or is there a prescribed guidance that we could refer to?

The banks must follow SBA guidelines.

37. Can you hire your 1099 people?

You cannot use individuals you 1099 in your payroll calculation. I'm not sure what this question means concerning hiring 1099 people. Independent contractors can apply for EIDL and PPP on their own.

Commented [KH1]:

38. Does this apply for self employed?

Self-employed can apply for EIDL and PPP.

39. How do you bring back all employees if several employees make more than \$100,000?

The SOP doesn't address this topic, by I would assume paying them \$100,000 is more than UC.

40. What is the current thought process of the interplay of bringing them back immediately but state law does not allow for that. Will they consider extending when the 8 week forgiveness period would be calculated?

You have to add them back to payroll, not necessarily bring them back to work.

41. If you are paying employees but they are not working does this count?

That is the point of this program, business owners are retaining their workers by paying them.

42. What if the individuals that have applied for unemployment were working part-time and their project ended not because of COVID19 and have filed for unemployment, how do we handle this. Do we have to bring them back?

To have the loan forgiven, you must put them back on payroll.

43. Does receiving a loan preclude you from receiving other stimulus funds?

Borrowers can apply for both an SBA Economic Injury Disaster Loan and the Paycheck Protection Program loan. However, the Paycheck Protection Program loan funds and the Economic Injury Disaster Loan funds cannot be used for the same purpose. The Paycheck Protection Program loan must be used for payroll (minimum of 75% of the funds received) for it to be eligible for a forgivable loan and the remaining is used for different purposes. Borrowers who accept both loan funds should document the uses of the funds appropriately.

44. Are draws and guaranteed payment to partner covered as part of monthly salary calculations?

The definition for monthly payroll in in Question #6.

45. Will the P3 application be on the site tomorrow or only through a bank?

Most banks have made the application available online. Please check with you bank.