

CLIENT ALERT

PAYCHECK PROTECTION PROGRAM LOAN FAQs

As part of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), Congress expanded Small Business Act (“SBA”) loans to create the Paycheck Protection Program (“PPP”), which allows certain businesses to receive forgivable, low-interest loans to preserve employment during the COVID-19 pandemic. If you have any questions about whether your business qualifies for a PPP loan, or how to ensure maximum forgiveness of loan amounts, contact John Bradley (jbradley@ck.law), Brad Strassberg (bstrassberg@ck.law), or Caitlin McKelvie (cmckelvie@ck.law).¹

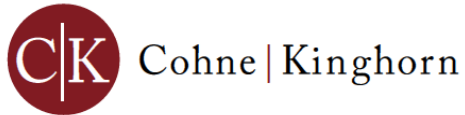
Who is Eligible for a PPP Loan?

An entity seeking a PPP loan must be able to make a good faith certification that “the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient.” An entity is eligible for a PPP Loan if the entity meets any of the following conditions:

1. The entity meets the SBA’s definition of small business concern; or
2. The entity is a business concern, a 501(c)(3) nonprofit organization, a veterans organization, or a Tribal business concern, and employs not more than the greater of
 - a. 500 employees, or
 - b. The size standard for number of employees established by the Small Business Administration for the industry in which the entity operates.

Eligible entities include sole proprietors, independent contractors, and certain self-employed individuals.

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When Are PPP Loans Available?

PPP Loan applications are available from April 3, 2020 through June 30, 2020. However, Congress allocated \$347,000,000,000 to fund PPP Loans and those funds are available on a first come, first served basis. Additionally, applicants can only qualify for one PPP Loan.

How Much Money Can I Borrow?

An entity can borrow up to 2.5 times its monthly payroll costs, plus the amount of an Economic Injury Disaster Loan taken out between January 31, 2020 through and April 3, 2020. An entity is limited to \$10,000,000.

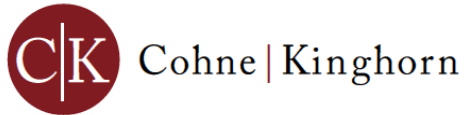
What Is Included in Monthly Payroll Costs?

Monthly payroll costs include the entity's costs for the following:

- Salary, wage, commission, or similar compensation;
- Vacation, parental, family, medical, or sick leave;
- Allowances for dismissal or separation;
- Payments required for group health care benefits, including insurance premiums;
- Retirement benefits; and
- State and local taxes imposed on employees' compensation.

Monthly payroll costs do not include the following:

- Compensation of an individual employee in excess of an annual salary of \$100,000 per year, as prorated over the covered period;
- Federal employment taxes imposed or withheld between February 15, 2020 and June 30, 2020, including the employee's and employer's share of
 - FICA,
 - Railroad Retirement Act taxes, and
 - Federal income taxes required to be withheld from employees;
- Compensation for individuals with a principal residence outside of the United States; and
- Qualified sick leave for which a tax credit is permitted under the Families First Coronavirus Response Act.



For a sole proprietor or independent contractor, monthly payroll costs are the wage, commission, income, or net earnings from self-employment, up to \$100,000 per year, as prorated over the covered period.

What Time Period do I Use to Determine My Monthly Payroll Costs?

For most entities, monthly payroll costs should be determined by the one-year period before the date on which the PPP loan is made.

For seasonal employers, monthly payroll costs should be determined based on

- The 12-week period beginning February 15, 2019, or
- March 1, 2019 through June 30, 2019.

If an entity was not in business from February 15, 2019 through June 30, 2019, the entity can elect to calculate monthly payroll costs based on the average costs for the period of January 1, 2020 through February 29, 2020.

What Are the Terms of the Loan?

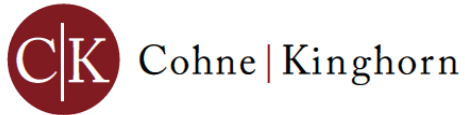
Loans under the PPP are provided under the following terms:

- **Loan Term:** 2 years
- **Interest Rate:** 1.0 %
- **Payment Deferral:** 6 months
- **Personal guaranty:** none required
- **Collateral:** none required

What Can I Use the Loan for?

PPP Loans can be used for the following expenses:

- Payroll costs (at least 75% of the loan must be used for these costs);
- Mortgage interest payments;
- Rent payments;
- Utility payments;



- Interest payments on any other debt obligations that were incurred before February 15, 2020;
- Refinancing an Economic Injury Disaster Loan; and
- All other permitted uses of SBA loans.

How Does Loan Forgiveness Work?

Up to 100% of loan principal will be forgiven when used for covered costs during the first 8-weeks after loan disbursement. Covered costs include:

- Payroll costs (at least 75% of the loan must be used for these costs);
- Interest payments on mortgages that were incurred before February 15, 2020;
- Rent payments under a leasing agreement that was in force before February 15, 2020; and
- Utility payments for electricity, gas, water, transportation, telephone, or internet access if service began before February 15, 2020.

The amount of loan forgiveness will be reduced by:

- The proportional decrease of the average number of full-time equivalent employees the entity experiences during the 8-week period, as compared to
 - February 15, 2019 through June 30, 2019, or
 - January 1, 2020 through February 29, 2020
- The reduction in salary of more than 25% from the previous full quarter, for any employee that did not make an annualized rate of pay exceeding \$100,000 in any pay period during 2019.

The amount of loan forgiveness will not be reduced if, by June 30, 2020, the entity rectifies a reduction in full-time equivalent employees or decrease in wages that occurred between February 15, 2020 and April 26, 2020, as compared to February 15, 2020.