

# The Coronavirus Aid, Relief, and Economic Security (CARES) Act

## *Information Binder*

*Note: Documents in this binder are current as of distribution,  
but are for informational purposes only, and are subject to change.*

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## The Small Business Owner's Guide to the CARES Act

The programs and initiatives in the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* that was just passed by Congress are intended to assist business owners with whatever needs they have right now. When implemented, there will be many new resources available for small businesses, as well as certain non-profits and other employers. This guide provides information about the major programs and initiatives that will soon be available from the Small Business Administration (SBA) to address these needs, as well as some additional tax provisions that are outside the scope of SBA.

To keep up to date on when these programs become available, please stay in contact with your local Small Business Administration (SBA) District Office, which you can locate [here](#).

**Struggling to get started?** The following questions might help point you in the right direction. Do you need:

- **Capital to cover the cost of retaining employees?** Then the [Paycheck Protection Program](#) might be right for you.
- **A quick infusion of a smaller amount of cash to cover you right now?** You might want to look into an [Emergency Economic Injury Grant](#).
- **To ease your fears about keeping up with payments on your current or potential SBA loan?** The [Small Business Debt Relief Program](#) could help.
- **Just some quality, free counseling to help you navigate this uncertain economic time?** The [resource partners](#) might be your best bet.

**Already know what resources you're looking for?** The table of contents can direct you to more information about the program or assistance product you need.

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## **Paycheck Protection Program (PPP) Loans**

The program would provide cash-flow assistance through 100 percent federally guaranteed loans to employers who maintain their payroll during this emergency. If employers maintain their payroll, the loans would be forgiven, which would help workers remain employed, as well as help affected small businesses and our economy snap-back quicker after the crisis. PPP has a host of attractive features, such as forgiveness of up to 8 weeks of payroll based on employee retention and salary levels, no SBA fees, and at least six months of deferral with maximum deferrals of up to a year. Small businesses and other eligible entities will be able to apply if they were harmed by COVID-19 between February 15, 2020 and June 30, 2020. This program would be retroactive to February 15, 2020, in order to help bring workers who may have already been laid off back onto payrolls. **Loans are available through June 30, 2020.**

### **FREQUENTLY ASKED QUESTIONS**

**QUESTION: What types of businesses and entities are eligible for a PPP loan?**

- Answer:
- Businesses and entities must have been in operation on February 15, 2020.
  - Small business concerns, as well as any business concern, a 501(c)(3) nonprofit organization, a 501(c)(19) veterans organization, or Tribal business concern described in section 31(b)(2)(C) that has fewer than 500 employees, or the applicable [size standard](#) in number of employees for the North American Industry Classification System (NAICS) industry as provided by SBA, if higher.
  - Individuals who operate a sole proprietorship or as an independent contractor and eligible self-employed individuals.
  - Any business concern that employs not more than 500 employees per physical location of the business concern and that is assigned a NAICS code beginning with 72, for which the affiliation rules are waived.
  - Affiliation rules are also waived for any business concern operating as a franchise that is assigned a franchise identifier code by the Administration, and company that receives funding through a Small Business Investment Company.

**QUESTION: What are affiliation rules?**

Answer: Affiliation rules become important when SBA is deciding whether a business's affiliations preclude them from being considered "small." Generally, affiliation exists when one business controls or has the power to control another or when a third party (or parties) controls or has the power to control both businesses. Please see [this resource](#) for more on these rules and how they can impact your business's eligibility.

**QUESTION: What types of non-profits are eligible?**

Answer: In general, 501(c)(3) and 501(c)(19) non-profits with 500 employees or fewer as most non-profit SBA size standards are based on employee count, not revenue. You can check [here](#).

**QUESTION: How is the loan size determined?**

Answer: Depending on your business's situation, the loan size will be calculated in different ways (see below). The maximum loan size is always **\$10 million**.

- **If you were in business February 15, 2019 – June 30, 2019:** Your max loan is equal to 250 percent of your average monthly payroll costs during that time period. If your business employs seasonal workers, you can opt to choose March 1, 2019 as your time period start date.
- **If you were not in business between February 15, 2019 – June 30, 2019:** Your max loan is equal to 250 percent of your average monthly payroll costs between January 1, 2020 and February 29, 2020.
- **If you took out an Economic Injury Disaster Loan (EIDL) between February 15, 2020 and June 30, 2020** and you want to refinance that loan into a PPP loan, you would add the outstanding loan amount to the payroll sum.

**QUESTION: What costs are eligible for payroll?**

- Answer:
- Compensation (salary, wage, commission, or similar compensation, payment of cash tip or equivalent)
  - Payment for vacation, parental, family, medical, or sick leave
  - Allowance for dismissal or separation
  - Payment required for the provisions of group health care benefits, including insurance premiums
  - Payment of any retirement benefit
  - Payment of State or local tax assessed on the compensation of employees

**QUESTION: What costs are not eligible for payroll?**

- Answer:
- Employee/owner compensation over \$100,000
  - Taxes imposed or withheld under chapters 21, 22, and 24 of the IRS code
  - Compensation of employees whose principal place of residence is outside of the U.S.
  - Qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the [\*Families First Coronavirus Response Act\*](#)

**QUESTION: What are allowable uses of loan proceeds?**

- Answer:
- Payroll costs (as noted above)
  - Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums
  - Employee salaries, commissions, or similar compensations (see exclusions above)
  - Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation)
  - Rent (including rent under a lease agreement)
  - Utilities
  - Interest on any other debt obligations that were incurred before the covered period

<p><b>QUESTION: What are the loan term, interest rate, and fees?</b></p> <p>Answer: For any amounts not forgiven, the maximum term is 10 years, the maximum interest rate is 4 percent, zero loan fees, zero prepayment fee (SBA will establish application fees caps for lenders that charge).</p>
<p><b>QUESTION: How is the forgiveness amount calculated?</b></p> <p>Answer: Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered 8 week period compared to the previous year or time period, proportionate to maintaining employees and wages (excluding compensation over \$100,000):</p> <ul style="list-style-type: none"> <li>• Payroll costs <b>plus</b> any payment of interest on any covered mortgage obligation (not including any prepayment or payment of principal on a covered mortgage obligation) <b>plus</b> any payment on any covered rent obligation <b>plus</b> and any covered utility payment.</li> </ul>
<p><b>QUESTION: How do I get forgiveness on my PPP loan?</b></p> <p>Answer: You must apply through your lender for forgiveness on your loan. In this application, you must include:</p> <ul style="list-style-type: none"> <li>• Documentation verifying the number of employees on payroll and pay rates, including IRS payroll tax filings and State income, payroll and unemployment insurance filings.</li> <li>• Documentation verifying payments on covered mortgage obligations, lease obligations, and utilities.</li> <li>• Certification from a representative of your business or organization that is authorized to certify that the documentation provided is true and that the amount that is being forgiven was used in accordance with the program’s guidelines for use.</li> </ul>
<p><b>QUESTION: What happens after the forgiveness period?</b></p> <p>Answer: Any loan amounts not forgiven are carried forward as an ongoing loan with max terms of 10 years, at a maximum interest rate of 4%. Principal and interest will continue to be deferred, for a total of 6 months to a year after disbursement of the loan. The clock does not start again.</p>
<p><b>QUESTION: Can I get more than one PPP loan?</b></p> <p>Answer: No, an entity is limited to one PPP loan. Each loan will be registered under a Taxpayer Identification Number at SBA to prevent multiple loans to the same entity.</p>
<p><b>QUESTION: Where should I go to get a PPP loan from?</b></p> <p>Answer: All current SBA 7(a) lenders (see more about <a href="#">7(a) here</a>) are eligible lenders for PPP. The Department of Treasury will also be in charge of authorizing new lenders, including non-bank lenders, to help meet the needs of small business owners.</p>

**QUESTION: How does the PPP loan coordinate with SBA's existing loans?**

Answer: Borrowers may apply for PPP loans and other SBA financial assistance, including Economic Injury Disaster Loans (EIDLs), 7(a) loans, 504 loans, and microloans, and also receive investment capital from [Small Business Investment Corporations](#) (SBICs). However, you cannot use your PPP loan for the same purpose as your other SBA loan(s). For example, if you use your PPP to cover payroll for the 8-week covered period, you cannot use a different SBA loan product for payroll for those same costs in that period, although you could use it for payroll not during that period or for different workers.

**QUESTION: How does the PPP loan work with the temporary Emergency Economic Injury Grants and the Small Business Debt Relief program?**

Answer: [Emergency Economic Injury Grant](#) and Economic Injury Disaster Loan (EIDL) recipients and those who receive loan payment relief through the [Small Business Debt Relief Program](#) may apply for and take out a PPP loan as long as there is no duplication in the uses of funds. Refer to those sections for more information.

## Small Business Debt Relief Program

This program will provide immediate relief to small businesses with non-disaster SBA loans, in particular 7(a), 504, and microloans. Under it, SBA will cover all loan payments on these SBA loans, including principal, interest, and fees, for six months. This relief will also be available to new borrowers who take out loans within six months of the President signing the bill into law.

FREQUENTLY ASKED QUESTIONS	
<b>QUESTION:</b>	<b>Which SBA loans are eligible for debt relief under this program?</b>
Answer:	7(a) loans not made under the Paycheck Protection Program (PPP), 504 loans, and microloans. Disaster loans are not eligible (see <a href="#">p. 7</a> for more information on these).
<b>QUESTION:</b>	<b>How does debt relief under this program work with a PPP loan?</b>
Answer:	Borrowers may separately apply for and take out a PPP loan, but debt relief under this program will not apply to a PPP loan.
<b>QUESTION:</b>	<b>How do I know if I'm eligible for a 7(a), 504, or microloan?</b>
Answer:	In general, businesses must meet <a href="#">size standards</a> , be based in the U.S., be able to repay, and have a sound business purpose. To check whether your business is considered small, you will need your business's 6-digit North American Industry Classification System (NAICS) code and 3-year average annual revenue. Each program has different requirements, see <a href="https://www.sba.gov/funding-programs/loans">https://www.sba.gov/funding-programs/loans</a> for more details.
<b>QUESTION:</b>	<b>What is a 7(a) loan and how do I apply?</b>
Answer:	7(a) loans are an affordable loan product of up to \$5 million for borrowers who lack credit elsewhere and need access to versatile financing, providing short-term or long-term working capital and to purchase an existing business, refinance current business debt, or purchase furniture, fixtures and supplies. In the program, banks share a portion of the risk of the loan with SBA. There are many different types of 7(a) loans, you can visit <a href="#">this site</a> to find the one that's best for you. You apply for a 7(a) loan with a bank or a mission-based lender. SBA has a free referral service tool called <a href="#">Lender Match</a> to help find a lender near you.
<b>QUESTION:</b>	<b>What is a 504 loan and how do I apply?</b>
Answer:	The <a href="#">504 Loan Program</a> provides loans of up to \$5.5 million to approved small businesses with long-term, fixed-rate financing used to acquire fixed assets for expansion or modernization. It is a good option if you need to purchase real estate, buildings, and machinery. You apply through a Certified Development Company, which is a nonprofit corporation that promotes economic development. SBA has a free referral service tool called <a href="#">Lender Match</a> to help find a lender near you.
<b>QUESTION:</b>	<b>What is a microloan and how do I apply?</b>
Answer:	The <a href="#">Microloan Program</a> provides loans up to \$50,000 to help small businesses and certain not-for-profit childcare centers to start up and expand. The average microloan is about \$13,000. These loans are delivered through mission-based lenders who are also able to provide business counseling. SBA has a free referral service tool called <a href="#">Lender Match</a> to help find a microlender near you.
<b>QUESTION:</b>	<b>I am unfamiliar with SBA loans, can anyone help me apply?</b>
Answer:	Yes, SBA resource partners are available to help guide you through the loan application process. You can find your nearest Small Business Development Center (SBDC) or Women's Business Center <a href="#">here</a> .

## Economic Injury Disaster Loans & Emergency Economic Injury Grants

These grants provide an emergency advance of up to \$10,000 to small businesses and private non-profits harmed by COVID-19 within three days of applying for an SBA Economic Injury Disaster Loan (EIDL). To access the advance, you first apply for an EIDL and then request the advance. **The advance does not need to be repaid under any circumstance**, and may be used to keep employees on payroll, to pay for sick leave, meet increased production costs due to supply chain disruptions, or pay business obligations, including debts, rent and mortgage payments.

FREQUENTLY ASKED QUESTIONS	
<b>QUESTION:</b>	<b>Are businesses and private non-profits in my state eligible for an EIDL related to COVID-19?</b>
Answer:	Yes, those suffering substantial economic injury in all 50 states, DC, and the territories may apply for an EIDL.
<b>QUESTION:</b>	<b>What is an EIDL and what is it used for?</b>
Answer:	EIDLs are lower interest loans of up to \$2 million, with principal and interest deferment at the Administrator’s discretion, that are available to pay for expenses that could have been met had the disaster not occurred, including payroll and other operating expenses.
<b>QUESTION:</b>	<b>Who is eligible for an EIDL?</b>
Answer:	Those eligible are the following with 500 or fewer employees: <ul style="list-style-type: none"> <li>• Sole proprietorships, with or without employees</li> <li>• Independent contractors</li> <li>• Cooperatives and employee owned businesses</li> <li>• Tribal small businesses</li> </ul> <p>Small business concerns and small agricultural cooperatives that meet the applicable size standard for SBA are also eligible, as well as most private non-profits of <b>any</b> size. See <a href="#">below</a> for more info on size standards.</p>
<b>QUESTION:</b>	<b>My private non-profit is not a 501(c)(3). Is it still eligible for an EIDL and a grant?</b>
Answer:	Yes, if you are a private non-profit with an effective ruling letter from the IRS, granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954, <u>or</u> if you can provide satisfactory evidence from the State that the non-revenue producing organization or entity is a non-profit one organized or doing business under State law. However, a recipient that is principally engaged in teaching, instructing, counseling, or indoctrinating religion or religious beliefs, whether in a religious or secular setting, or primarily engaged in political or lobbying activities is not eligible to receive an EIDL. If you are uncertain whether you qualify, please consult with legal counsel to determine whether your organization meets program criteria.
<b>QUESTION:</b>	<b>Who is eligible for an Emergency Economic Injury Grant?</b>
Answer	Those eligible for an EIDL and who have been in operation since <b>January 31, 2020</b> , when the public health crisis was announced.

<b>QUESTION:</b>	<b>How long are Emergency Economic Injury Grants available?</b>
Answer:	<b>January 31, 2020 – December 31, 2020.</b> The grants are backdated to January 31, 2020 to allow those who have already applied for EIDLs to be eligible to also receive a grant.
<b>QUESTION:</b>	<b>If I get an EIDL and/or an Emergency Economic Injury Grant, can I get a PPP loan?</b>
Answer:	Whether you've already received an EIDL unrelated to COVID-19 or you receive a COVID-19 related EIDL and/or Emergency Grant between January 31, 2020 and June 30, 2020, you may also apply for a PPP loan. If you ultimately receive a PPP loan or refinance an EIDL into a PPP loan, any advance amount received under the Emergency Economic Injury Grant Program would be subtracted from the amount forgiven in the PPP. However, you cannot use your EIDL for the same purpose as your PPP loan. For example, if you use your EIDL to cover payroll for certain workers in April, you cannot use PPP for payroll for those same workers in April, although you could use it for payroll in March or for different workers in April.
<b>QUESTION:</b>	<b>How do I know if my business is a small business?</b>
Answer:	Please visit <a href="https://www.sba.gov/size-standards/">https://www.sba.gov/size-standards/</a> to find out if your business meets SBA's small business size standards. You will need the 6-digit North American Industry Classification Code for your business and your business's 3-year average annual revenue.
<b>QUESTION:</b>	<b>How do I apply for an economic injury disaster loan?</b>
Answer:	To apply for an EIDL online, please visit <a href="https://disasterloan.sba.gov/ela/">https://disasterloan.sba.gov/ela/</a> . Your <a href="#">SBA District Office</a> is an important resource when applying for SBA assistance.
<b>QUESTION:</b>	<b>I am unfamiliar with the EIDL process, can anyone help me apply?</b>
Answer:	Yes, SBA resource partners are available to help guide you through the EIDL application process. You can find the nearest Small Business Development Center (SBDC), Women's Business Center, or SCORE mentorship chapter at <a href="https://www.sba.gov/local-assistance/find/">https://www.sba.gov/local-assistance/find/</a> .

## Counseling & Training

If you, like many small business owners, need a business counselor to help guide you through this uncertain time, you can turn to your local Small Business Development Center (SBDC), Women’s Business Center (WBC), or SCORE mentorship chapter. These resource partners, and the associations that represent them, will receive additional funds to expand their reach and better support small business owners with counseling and up-to-date information regarding COVID-19. There will soon be a joint platform that consolidates information and resources related to COVID-19 in order to provide consistent, timely information to small businesses. To find a local resource partner, visit <https://www.sba.gov/local-assistance/find/>.

In addition, the Minority Business Development Agency’s Business Centers (MBDCs), which cater to minority business enterprises of all sizes, will also receive funding to hire staff and provide programming to help their clients respond to COVID-19. Not every state has a MBDC. To find out if there is one that services your area, visit [this site](#).

### FREQUENTLY ASKED QUESTIONS

**QUESTION: Do I have to pay for counseling and training through SBDCs, WBCs, and MBDCs?**

Answer: Counseling is free and training is low-cost with these partners. The additional funds that Congress provided will help keep this possible. Mentorship through SCORE is always free.

**QUESTION: What is a SBDC?**

Answer: SBDCs are a national network of nearly 1,000 centers that are located at leading universities, colleges, state economic development agencies and private partners. They provide counseling and training to new and existing businesses. Each state has a lead center that coordinates services specifically for that state, which you can find by clicking the link above. To find out more about SBDCs, visit <https://americassbdc.org/about-us/>.

**QUESTION: What is a WBC; is it only for women?**

Answer: WBCs are a national network of more than 100 centers that offer one-on-one counseling, training, networking, workshops, technical assistance and mentoring to entrepreneurs on numerous business development topics. In addition to women, WBCs are mandated to serve the needs of underserved entrepreneurs, including low-income entrepreneurs. They often offer flexible hours to meet the needs of their diverse clientele. To find out more about WBCs, visit <https://www.awbc.org/>.

**QUESTION: What is SCORE?**

Answer: SCORE provides free, confidential business advice through our volunteer network of 10,000+ business experts. You can meet with a mentor online. Find out more [here](#).

**QUESTION: Who do MBDCs serve?**

Answer: MBDCs are a good option for minority-owned businesses (including those owned by Black, Hispanic, Asian American/Pacific Islander, and American Indian business owners), especially those seeking to penetrate new markets — domestic & global — and grow in size and scale.

## **Contracting**

If you are a government contractor, there are a number of ways that Congress has provided relief and protection for your business. Agencies will be able to modify terms and conditions of a contract and to reimburse contractors at a billing rate of up to 40 hours per week of any paid leave, including sick leave. The contractors eligible are those whose employees or subcontractors cannot perform work on site and cannot telework due to federal facilities closing because of COVID-19.

If you need additional assistance, please reach out to your [local](#) Small Business Development Center, Women's Business Center, SCORE chapter, or SBA District Office. You should also work with your agency's contracting officer, as well as the agency's Office of Small and Disadvantaged Business Utilization (OSDBU).

## **Small Business Tax Provisions**

### **Employee Retention Credit for Employers Subject to Closure or Experiencing Economic Hardship**

This provision would provide a refundable payroll tax credit for 50 percent of wages paid by eligible employers to certain employees during the COVID-19 crisis. The credit is available to employers, including non-profits, whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel or group meetings. The credit is also provided to employers who have experienced a greater than 50 percent reduction in quarterly receipts, measured on a year-over-year basis.

Wages of employees who are furloughed or face reduced hours as a result of their employer's closure or economic hardship are eligible for the credit. For employers with 100 or fewer full-time employees, all employee wages are eligible, regardless of whether an employee is furloughed. The credit is provided for wages and compensation, including health benefits, and is provided for the first \$10,000 in wages and compensation paid by the employer to an eligible employee. Wages do not include those taken into account for purposes of the payroll credits for required paid sick leave or required paid family leave, nor for wages taken into account for the employer credit for paid family and medical leave (IRC sec. 45S).

- **The credit is not available to employers receiving assistance through the [Paycheck Protection Program](#). The credit is provided through December 31, 2020.**

### **Delay of Payment of Employer Payroll Taxes**

This provision would allow taxpayers to defer paying the employer portion of certain payroll taxes through the end of 2020, with all 2020 deferred amounts due in two equal installments, one at the end of 2021, the other at the end of 2022. Payroll taxes that can be deferred include the employer portion of FICA taxes, the employer and employee representative portion of Railroad Retirement taxes (that are attributable to the employer FICA rate), and half of SECA tax liability.

- **Deferral is not provided to employers receiving assistance through the [Paycheck Protection Program](#).**

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## Coronavirus Aid Relief and Economic Security (CARES) Act - **Paycheck Protection Program**

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The Coronavirus Aid, Relief, and Economic Security (CARES) Act includes an important provision aimed at keeping workers employed and small businesses afloat. The “Paycheck Protection Program” expands on the Small Business Administration’s existing 7(a) program. But, it is different in two key ways:

- The loans are made by private, local banks and CDFIs, not the SBA – ensuring speed
- The loans, if used on payroll and other operating expenses, are forgivable

*Please note, the Paycheck Protection Program is different from the SBA Economic Injury Disaster Loan program, which is administered directly through the Small Business Administration.*

### **Who is eligible for the Paycheck Protection Program?**

Businesses, self-employed individuals, independent contractors, and 501(c)(3)s that were in operation on February 15, and were paying salaries and payroll taxes for their employees are eligible, as long as they have less than 500 employees (number may be higher for select industries where SBA definition of “small” is higher).

### **What is the maximum loan amount for the Paycheck Protection Program?**

For employers, the loan amount is calculated using the average total monthly payroll costs (e.g. salaries, wages, commission, tips; vacation/sick/medical leave; group health care benefits, including insurance premiums; retirement benefits; payment of state or local tax on employee compensation) over the last 12 months. That monthly average is multiplied by 2.5 to determine the maximum loan amount. (*Basically, the maximum is 2 ½ months gross payroll.*) Any compensation above \$100,000 paid to an employee is excluded.

For independent contractors, the self-employed, or sole proprietors, the payroll costs include wages, commission, income, and net earnings that do not exceed \$100,000.

If an employer was not in business in 2019, they are still eligible, but use payroll costs for January and February 2020.

The loan has a .5% interest rate and two-year term. The amount is capped at \$10 million per business.

### **What expenses can I pay for with the loan?**

Eligible expenses are payroll (incl. paid sick, medical/family leave, and group health care benefits); salaries/commissions; mortgage payments; rent; utilities; and any other debt obligations incurred before the loan was taken out.

### **What portion of the loan is forgivable?**

Forgiveness of the loan is allowed for the following expenses over an 8-week period: payroll and benefit costs, rent, utilities, and interest on existing debt. For salaries above \$100,000, expenses above that cap are not eligible for forgiveness.

**Could my loan forgiveness be affected by the number of employees I lay off or rehire?**

Yes, loan forgiveness is affected if you have fewer employees or a reduction of greater than 25% in wages paid to employees, versus before the loan. That is, if you have already laid-off workers, then the forgiveness will be proportionally reduced. However, workers that are rehired by June 30, 2020 can remediate this penalty. The formula to calculate the reduction is:

$$\frac{\text{Forgiveness Amount} \times \text{Avg. Number of Full-Time Employees per Month for 8 weeks after Loan Origination}}{\text{Avg. Full-Time Employees per Month from February 15, 2019 - June 30, 2019}}$$

For example: Company A had a monthly average of 20 employees in 2019 and monthly payroll costs averaging \$100,000. The company thus qualifies for a \$250,000 loan (\$100,000 x 2.5). In the 8 weeks following its loan, Company A has averaged only 12 monthly employees, and spent a total of \$150,000 on payroll, rent and utilities. If they had averaged 20 employees, Company A would be forgiven the full \$150,000 spent. But since they averaged 12 (60%), they will only be forgiven \$90,000.

$$\frac{\text{Max. Forgiveness Amount } (\$150,000) \times 12 \text{ employees}}{20} = \$90,000$$

Unforgiven Loan Amount: \$250,000 - \$90,000 = \$160,000 (still owed)

If Company A rehires its all of employees and its monthly average number of employees is back to 20 employees by June 30, the amount that's forgivable would not be reduced.

$$\frac{\text{Max. Forgiveness Amount } (\$150,000) \times 20 \text{ employees}}{20} = \$150,000$$

Unforgiven Loan Amount: \$250,000 - \$150,000 = \$100,000 (still owed)

*Note: The SBA is still determining how wage reduction will impact forgiveness.*

**Is a loan applicant required to provide collateral?**

Per the SBA, no collateral is required, nor is a personal guarantee. Further, the borrower will not have to prove that they were not able to obtain credit elsewhere. However, banks may add their own credit and underwriting criteria.

**What information do I need to get started and find a private lender for my loan?**

Beginning April 3, most banks and credit unions will be able to process these loans. Applicants will be asked to make a good faith certification that:

- The loan will be used to retain workers, or make mortgage, lease and utility payments
- A duplicate loan is not being used for the same purpose
- The uncertain economic conditions make the loan necessary

Independent contractors, the self-employed, and sole proprietors will also be asked to provide documentation such as payroll tax filings.

For more information or questions, see [gnoinc.org/coronavirus](http://gnoinc.org/coronavirus) or email VP Policy Ileana Ledet at [iledet@gnoinc.org](mailto:iledet@gnoinc.org).

# **The CARES Act: Paycheck Protection Program** *Overview*

April 1, 2020

# Introduction

## Who We Are

### **Greater New Orleans, Inc.**

- Michael Hecht, President & CEO
- Ileana Ledet, Vice President of Policy

### **Gulf Coast Bank & Trust**

- Guy Williams, President & CEO
- Nimi Natan, Small Business Lending

### **Jones Walker**

- Marshall Page, Partner
- Elisabeth LeBlanc, Corporate Practice Group

### **Butterworth Strategies**

- Zach Butterworth, Attorney

# Submit Questions

**EMAIL: Ileana Ledet - [iledet@gnoinc.org](mailto:iledet@gnoinc.org)**

# Greater New Orleans, Inc.

## Who We Are

- Regional economic development organization for ten parishes of southeast Louisiana
- Business development & business environment
- Advance policies at regional, state & federal levels

**GREATER NEW ORLEANS**  
INC  
REGIONAL ECONOMIC DEVELOPMENT

# CARES Act

## Key Elements

- \$500B Corporate Liquidity Fund
- \$150B State Stabilization Fund
- \$1,200+ Individual Financial Assistance
- Enhanced Unemployment Insurance
- And more...

# Paycheck Protection Program

## Why Is This Different?

- The loans are made by private, local banks and CDFIs, not the SBA – ensuring speed
- The loans, if used on payroll and other operating expenses, are forgivable

# Paycheck Protection Program

## Eligibility

- Businesses, 501(c)(3)s
- Self-employed, independent contractors, sole proprietors
- 501(c)(19) veterans organization
- Less than 500 employees (or meet SBA “small” definition)
- Food & accommodation sectors (NAICS 72) size standard applied per location

# Paycheck Protection Program

## Calculating Loan Amount

1. Average monthly payroll costs over last 12 months, including:
  - Salaries, wages, commissions, tips
  - Vacation, sick, medical leave paid
  - Group health care benefits, including insurance premiums
  - Retirement benefits
  - State or local tax on employee pay
2. Multiply by 2.5 (i.e. 2 ½ months gross payroll)
3. Capped at \$10M

# Paycheck Protection Program

## Calculating Loan Amount

You CANNOT include:

- Salary amount exceeding \$100,000
- Pay to employee living outside U.S.
- Qualified sick leave already being credited through Families First Act
- Payroll taxes, income taxes or railroad retirement

# Paycheck Protection Program

## Eligible Uses for the Loan

- Payroll and benefit costs
- Rent or interest on mortgage payments
- Utilities (electricity, water, internet, phone)
- Paid sick, medical, family leave (except duplication of benefits)
- Interest on existing debt

# Paycheck Protection Program

## Loan Forgiveness

- Forgiveness allowed for business expenses over 8-week period
- Includes: payroll & benefits, interest on existing mortgage debt, rent & utilities
- Amount of forgiveness reduced for employee reductions compared to prior year, or if salaries and wages decrease
- Borrowers that rehire workers previously laid off won't be penalized for having smaller payroll at beginning of period

# Paycheck Protection Program

## Application Process

- Most banks and credit unions
- 100% guaranteed by SBA
- No collateral required by SBA; may be by bank
- Borrower will not have to prove they could not obtain credit elsewhere
- Interest rate of .50%; 2-year term

# Paycheck Protection Program

## Application Process

- **April 3:** small businesses and sole proprietorships can begin applying
- **April 10:** independent contractors and self-employed can begin applying
- **June 30:** Last day for loans to be funded

# Paycheck Protection Program

## Loan Process - Documentation

- Completed application
- Articles of incorporation/Org.
- Bylaws/operating agreement
- Owners' driver's licenses
- Payroll expense verification
- Trailing 12-month profit and loss statement and balance sheet
- Detailed debt schedule
- Most recent tax filings, mortgage/rent statements, utility bills

# Paycheck Protection Program



## Paycheck Protection Program Application Form

OMB Control No.: 3245-  
Expiration Date: 06/30/2020

Non-Profit <input type="checkbox"/> Vet Org <input type="checkbox"/> Tribal <input type="checkbox"/> Ind. Cont. <input type="checkbox"/> Self Employed <input type="checkbox"/>		DBA or Tradename if applicable	
Business Legal Name			
Business Primary Address		Business TIN (EIN,SSN)	Business Phone ( ) -
		Primary Contact	Email Address

Average Monthly Payroll: \$ \_\_\_\_\_ X 2.5 equals Loan Amount: \$ \_\_\_\_\_ Number of Jobs: \_\_\_\_\_

Purpose of the loan  
(select more than one):  Payroll  Rent / Mortgage Interest  Utilities  Other (explain): \_\_\_\_\_

### Applicant Ownership

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

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

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

Question	Yes	No
1. Is the Business or any owner 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 Business, any of its owners, 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 Business or any owner an owner of any other business or have common management with any other business? If yes, attach a listing of all Affiliates and describe the relationship as addendum A.	<input type="checkbox"/>	<input type="checkbox"/>
4. Has the Business 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"/>

*Applicants who are individuals and all 20% or greater owners of the business must answer the following questions. If questions (5) or (6) are answered "Yes" or question (7) is answered "No," the loan will not be approved.*

Question	Yes	No
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? Initial here to confirm your response to question 5 → _____	<input type="checkbox"/>	<input type="checkbox"/>
6. Within the last 7 years, for any felony or misdemeanor for a crime against a minor, have you: 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. <input type="checkbox"/> I am a U.S. Citizen <u>OR</u> <input type="checkbox"/> I have Lawful Permanent Resident status <input type="checkbox"/> No Initial here to confirm your response to question 7 → _____		



## Paycheck Protection Program Application Form

OMB Control No.: 3245-  
Expiration Date: 06/30/2020

Non-Profit <input type="checkbox"/> Vet Org <input type="checkbox"/> Tribal <input type="checkbox"/> Ind. Cont. <input type="checkbox"/> Self Employed <input type="checkbox"/>		DBA or Tradename if applicable	
Business Legal Name			
Business Primary Address		Business TIN (EIN,SSN)	Business Phone ( ) -
		Primary Contact	Email Address

Average Monthly Payroll: \$ \_\_\_\_\_ X 2.5 equals Loan Amount: \$ \_\_\_\_\_ Number of Jobs: \_\_\_\_\_

Purpose of the loan  
(select more than one):  Payroll  Rent / Mortgage Interest  Utilities  Other (explain): \_\_\_\_\_

### Applicant Ownership

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

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

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

Question	Yes	No
1. Is the Business or any owner 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 Business, any of its owners, 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 Business or any owner an owner of any other business or have common management with any other business? If yes, attach a listing of all Affiliates and describe the relationship as addendum A.	<input type="checkbox"/>	<input type="checkbox"/>
4. Has the Business 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"/>

*Applicants who are individuals and all 20% or greater owners of the business must answer the following questions. If questions (5) or (6) are answered "Yes" or question (7) is answered "No," the loan will not be approved.*

Question	Yes	No
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? Initial here to confirm your response to question 5 → _____	<input type="checkbox"/>	<input type="checkbox"/>
6. Within the last 7 years, for any felony or misdemeanor for a crime against a minor, have you: 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. <input type="checkbox"/> I am a U.S. Citizen <u>OR</u> <input type="checkbox"/> I have Lawful Permanent Resident status <input type="checkbox"/> No Initial here to confirm your response to question 7 → _____		

# Paycheck Protection Program

## PPP vs Economic Injury Disaster Loan (EIDL)

Type of Loan Program	Administration	Terms of Payback	Maximum Loan Amount
<b>PPP</b>	Private Banks (SBA 100% guaranteed)	<ul style="list-style-type: none"><li>• 2 years</li><li>• .50% int.</li><li>• Portion forgivable</li></ul>	\$10M Max
<b>Standard SBA 7(a) Loan</b>	Private Banks (SBA 75% guaranteed for loans >\$150k)	<ul style="list-style-type: none"><li>• 5-10 years for working capital</li><li>• Int. can't &gt; SBA max</li><li>• Paid in full</li></ul>	\$5M Max
<b>EIDL</b>	SBA	<ul style="list-style-type: none"><li>• 30 years</li><li>• 3.75% int.</li><li>• Paid in full</li></ul>	\$2M Max

# Submit Questions

**EMAIL: Ileana Ledet - [iledet@gnoinc.org](mailto:iledet@gnoinc.org)**

# Paycheck Protection Program

## Frequently Asked Questions

- **I'm getting an SBA Economic Injury Disaster Loan - am I also eligible for this?**  
Yes, you can obtain and retain both EIDL and PPP loans if they are used for different purposes. You can also refinance an EIDL w/a PPP if they are used for same purpose.
- **If I get an EIDL and a PPP loan, can I still get another loan?**  
Only one PPP loan can be taken out; other SBA loans, and non-SBA loans are available

# Paycheck Protection Program

## Frequently Asked Questions

- **What type of documentation will I need to submit to have my loan forgiven?**  
Lenders want to see proof that workers were paid in the 8 weeks after loan origination.
- **If my loan is not forgiven, when do I need to start paying off my loan?**  
All payments are deferred 6 months; however interest will accrue over this period.

# Paycheck Protection Program

## Frequently Asked Questions

- **What if I want to pay the same employees, but reduce their number of hours?**

There's a formula that reduces loan forgiveness based on the wages reduced.

- **What types of employees can I include in my loan calculation – only full-time, or PT also? How about 1099 employees?**

You include all employees – FT and PT; include both W2 and 1099 workers

# Paycheck Protection Program

## Frequently Asked Questions

- **Am I eligible if my business began in 2020?**

Yes. Your Jan. & Feb. 2020 payroll costs will be used to calculate your loan amount.

- **Which 12 months of payroll should I use when calculating my loan amount?**

You should use the trailing 12 months of payroll (if you file an application in April, use payroll through March 2020)

# Paycheck Protection Program

## Frequently Asked Questions

- **How do the affiliation rules work in calculating number of employees?**

Affiliation rules are waived for businesses operating as a franchise with a NAICS 72 code (Hospitality). Typical SBA 7(a) affiliation tests for others.

- **How does a sole proprietor calculate payroll if I'm the only employee?**

You would use your own income or net earnings.

# Thank You!



**Additional Resources at  
[gnoinc.org/coronavirus](http://gnoinc.org/coronavirus)**

**GREATER NEW ORLEANS**  
INC  
REGIONAL ECONOMIC DEVELOPMENT

## **PAYCHECK PROTECTION PROGRAM (PPP) INFORMATION SHEET: BORROWERS**

The Paycheck Protection Program (“PPP”) authorizes up to \$349 billion in forgivable loans to small businesses to pay their employees during the COVID-19 crisis. *All loan terms will be the same for everyone.*

The loan amounts will be forgiven as long as:

- The loan proceeds are used to cover payroll costs, and most mortgage interest, rent, and utility costs over the 8 week period after the loan is made; and
- Employee and compensation levels are maintained.

Payroll costs are capped at \$100,000 on an annualized basis for each employee. Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.

Loan payments will be deferred for 6 months.

### **When can I apply?**

- Starting April 3, 2020, small businesses and sole proprietorships can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.
- Starting April 10, 2020, independent contractors and self-employed individuals can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.
- Other regulated lenders will be available to make these loans as soon as they are approved and enrolled in the program.

**Where can I apply?** You can apply through any existing SBA lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. Other regulated lenders will be available to make these loans once they are approved and enrolled in the program. You should consult with your local lender as to whether it is participating. Visit [www.sba.gov](http://www.sba.gov) for a list of SBA lenders.

**Who can apply?** All businesses – including nonprofits, veterans organizations, Tribal business concerns, sole proprietorships, self-employed individuals, and independent contractors – with 500 or fewer employees can apply. Businesses in certain industries can have more than 500 employees if they meet applicable SBA employee-based size standards for those industries (click [HERE](#) for additional detail).

For this program, the SBA’s affiliation standards are waived for small businesses (1) in the hotel and food services industries (click [HERE](#) for NAICS code 72 to confirm); or (2) that are franchises in the SBA’s Franchise Directory (click [HERE](#) to check); or (3) that receive financial assistance from small business investment companies licensed by the SBA. Additional guidance may be released as appropriate.

**What do I need to apply?** You will need to complete the Paycheck Protection Program loan application and submit the application with the required documentation to an approved lender that is available to process your application by June 30, 2020. Click [HERE](#) for the application.

**What other documents will I need to include in my application?** You will need to provide your lender with payroll documentation.

**Do I need to first look for other funds before applying to this program?** No. We are waiving the usual SBA requirement that you try to obtain some or all of the loan funds from other sources (i.e., we are waiving the Credit Elsewhere requirement).

**How long will this program last?** Although the program is open until June 30, 2020, we encourage you to apply as quickly as you can because there is a funding cap and lenders need time to process your loan.

**How many loans can I take out under this program?** Only one.

**What can I use these loans for?** You should use the proceeds from these loans on your:

- Payroll costs, including benefits;
- Interest on mortgage obligations, incurred before February 15, 2020;
- Rent, under lease agreements in force before February 15, 2020; and
- Utilities, for which service began before February 15, 2020.

**What counts as payroll costs?** Payroll costs include:

- Salary, wages, commissions, or tips (capped at \$100,000 on an annualized basis for each employee);
- Employee benefits including costs for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payments required for the provisions of group health care benefits including insurance premiums; and payment of any retirement benefit;
- State and local taxes assessed on compensation; and
- For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee.

**How large can my loan be?** Loans can be for up to two months of your average monthly payroll costs from the last year plus an additional 25% of that amount. That amount is subject to a \$10 million cap. If you are a seasonal or new business, you will use different applicable time periods for your calculation. Payroll costs will be capped at \$100,000 annualized for each employee.

**How much of my loan will be forgiven?** You will owe money when your loan is due if you use the loan amount for anything other than payroll costs, mortgage interest, rent, and utilities payments over the 8 weeks after getting the loan. Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.

You will also owe money if you do not maintain your staff and payroll.

- Number of Staff: Your loan forgiveness will be reduced if you decrease your full-time employee headcount.
- Level of Payroll: Your loan forgiveness will also be reduced if you decrease salaries and wages by more than 25% for any employee that made less than \$100,000 annualized in 2019.
- Re-Hiring: You have until June 30, 2020 to restore your full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020.

**How can I request loan forgiveness?** You can submit a request to the lender that is servicing the loan. The request will include documents that verify the number of full-time equivalent employees and pay rates, as well as the payments on eligible mortgage, lease, and utility obligations. You must certify that the documents are true and that you used the forgiveness amount to keep employees and make eligible mortgage interest, rent, and utility payments. The lender must make a decision on the forgiveness within 60 days.

**What is my interest rate?** 0.50% fixed rate.

**When do I need to start paying interest on my loan?** All payments are deferred for 6 months; however, interest will continue to accrue over this period.

**When is my loan due?** In 2 years.

**Can I pay my loan earlier than 2 years?** Yes. There are no prepayment penalties or fees.

**Do I need to pledge any collateral for these loans?** No. No collateral is required.

**Do I need to personally guarantee this loan?** No. There is no personal guarantee requirement. \*\*\*However, if the proceeds are used for fraudulent purposes, the U.S. government will pursue criminal charges against you.\*\*\*

**What do I need to certify?** As part of your application, you need to certify in good faith that:

- Current economic uncertainty makes the loan necessary to support your ongoing operations.
- The funds will be used to retain workers and maintain payroll or to make mortgage, lease, and utility payments.
- You have not and will not receive another loan under this program.
- You will provide to the lender documentation that verifies the number of full-time equivalent employees on payroll and the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight weeks after getting this loan.
- Loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities. Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.
- All the information you provided in your application and in all supporting documents and forms is true and accurate. Knowingly making a false statement to get a loan under this program is punishable by law.

- You acknowledge that the lender will calculate the eligible loan amount using the tax documents you submitted. You affirm that the tax documents are identical to those you submitted to the IRS. And you also understand, acknowledge, and agree that the lender can share the tax information with the 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.



## Paycheck Protection Program Application Form

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

Non-Profit <input type="checkbox"/> Vet Org <input type="checkbox"/> Tribal <input type="checkbox"/> Ind. Cont. <input type="checkbox"/> Self Employed <input type="checkbox"/>		<b>DBA or Tradename if applicable</b>	
<b>Business Legal Name</b>			
<b>Business Primary Address</b>		<b>Business TIN (EIN,SSN)</b>	<b>Business Phone</b>
			( ) -
		<b>Primary Contact</b>	<b>Email Address</b>

Average Monthly Payroll:	\$	X 2.5 equals Loan Amount:	\$	Number of Jobs:	
Purpose of the loan (select more than one):					
<input type="checkbox"/> Payroll <input type="checkbox"/> Rent / Mortgage Interest <input type="checkbox"/> Utilities <input type="checkbox"/> Other (explain):					

### Applicant Ownership

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

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

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

Question	Yes	No
1. Is the Business or any owner 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 Business, any of its owners, 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 Business or any owner an owner of any other business or have common management with any other business? If yes, attach a listing of all Affiliates and describe the relationship as addendum A.	<input type="checkbox"/>	<input type="checkbox"/>
4. Has the Business 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"/>

*Applicants who are individuals and all 20% or greater owners of the business must answer the following questions. If questions (5) or (6) are answered "Yes" or question (7) is answered "No", the loan will not be approved.*

Question	Yes	No
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?	<input type="checkbox"/>	<input type="checkbox"/>
Initial here to confirm your response to question 5 →	_____	
6. Within the last 7 years, for any felony or misdemeanor for a crime against a minor, have you: 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)?	<input type="checkbox"/>	<input type="checkbox"/>
Initial here to confirm your response to question 6 →	_____	
7. <input type="checkbox"/> I am a U.S. Citizen <u>OR</u> <input type="checkbox"/> I have Lawful Permanent Resident status <input type="checkbox"/> No		
Initial here to confirm your response to question 7 →	_____	



# Paycheck Protection Program Application Form

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

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

### REPRESENTATIONS AND AUTHORIZATIONS

I represent that:

- I have read the Statements Required by Law and Executive Order included in this form, and I understand them.
- 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.
- 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.

For Applicants who are individuals and all Associates: 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.

### CERTIFICATIONS

The Business and each 20% or greater owner must certify in good faith to all of the below by **initialing** next to each one:

- \_\_\_\_\_ 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 payments, lease payments, and utility payments; I understand that if the funds are used for unauthorized purposes, the federal government may pursue criminal fraud charges.
- \_\_\_\_\_ 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.
- \_\_\_\_\_ Loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities. Due to likely high subscription, it is anticipated that not more than twenty-five percent (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 this program.
- \_\_\_\_\_ I further certify that the information provided in this application and the information that I have provided in all supporting documents and forms is true and accurate. I realize that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable 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 calculate the eligible loan amount using tax documents I have submitted. I affirm that these tax documents are identical to those I submitted to the IRS. 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.

\_\_\_\_\_  
Signature of Authorized Representative of Business

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature of Owner of Applicant Business

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title



## Paycheck Protection Program Application Form

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

### **Purpose of this form:**

This form is to be completed by the Applicant and all individuals identified below and *submitted to your SBA Participating Lender*. Submission of the requested information is required to make a determination regarding eligibility for financial assistance. Failure to submit the information would affect that determination.

### **Instructions for completing this form:**

For purposes of calculating “Average Monthly Payroll”, most Applicants will use the average monthly payroll for 2019, excluding costs over \$100,000 on an annualized basis for each employee. For seasonal businesses, the Applicant may elect to instead use average monthly payroll for the time period between February 15, 2019 and June 30, 2019, excluding costs over \$100,000 on an annualized basis for each employee. For new businesses, average monthly payroll may be calculated using the time period from January 1, 2020 to February 29, 2020, excluding costs over \$100,000 on an annualized basis for each employee.

The first section and questions 1-4 request information about the Business. Questions 5-7 are to be completed, signed and dated by each applicant who is an Individual as well as each 20% or greater owner of an Applicant Business. All parties listed below are considered owners of the Applicant Business as defined in 13 CFR § 120.10, as well as “principals.”

- For a sole proprietorship, the sole proprietor;
- For a partnership, all general partners, and all limited partners owning 20% or more of the equity of the firm;
- For a corporation, all owners of 20% or more of the corporation;
- For limited liability companies, all members owning 20% or more of the company; and
- Any Trustor (if the Applicant is owned by a trust).

**Paperwork Reduction Act** – You are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. The estimated time for completing this application, including gathering data needed, is 8 minutes. Comments about this time or the information requested should be sent to : Small Business Administration, Director, Records Management Division, 409 3rd St., SW, Washington DC 20416., and/or SBA Desk Officer, Office of Management and Budget, New Executive Office Building, Washington DC 20503.

**Privacy Act (5 U.S.C. 552a)** – Under the provisions of the Privacy Act, you are not required to provide your social security number. Failure to provide your social security number may not affect any right, benefit or privilege to which you are entitled. (But see Debt Collection Notice regarding taxpayer identification number below). Disclosures of name and other personal identifiers are required to provide SBA with sufficient information to make a character determination. When evaluating character, SBA considers the person’s integrity, candor, and disposition toward criminal actions. Additionally, SBA is specifically authorized to verify your criminal history, or lack thereof, pursuant to section 7(a)(1)(B), 15 USC Section 636(a)(1)(B) of the Small Business Act (the Act).

**Disclosure of Information:** Requests for information about another party may be denied unless SBA has the written permission of the individual to release the information to the requestor or unless the information is subject to disclosure under the Freedom of Information Act. The Privacy Act authorizes SBA to make certain “routine uses” of information protected by that Act. One such routine use is the disclosure of information maintained in SBA’s system of records when this information indicates a violation or potential violation of law, whether civil, criminal, or administrative in nature. Specifically, SBA may refer the information to the appropriate agency, whether Federal, State, local or foreign, charged with responsibility for, or otherwise involved in investigation, prosecution, enforcement or prevention of such violations. Another routine use is disclosure to other Federal agencies conducting background checks but only to the extent the information is relevant to the requesting agencies’ function. See, 74 F.R. 14890 (2009), and as amended from time to time for additional background and other routine uses. In addition, the CARES Act, requires SBA to register every loan made under the Paycheck Protection Act using the Taxpayer Identification Number (TIN) assigned to the borrower.

**Debt Collection Act of 1982, Deficit Reduction Act of 1984 (31 U.S.C. 3701 et seq. and other titles)** – SBA must obtain your taxpayer identification number when you apply for a loan. If you receive a loan, and do not make payments as they come due, SBA may: (1) report the status of your loan(s) to credit bureaus, (2) hire a collection agency to collect your loan, (3) offset your income tax refund or other amounts due to you from the Federal Government, (4) suspend or debar you or your company from doing business with the Federal Government, (5) refer your loan to the Department of Justice, or (6) foreclose on collateral or take other action permitted in the loan instruments.

**Right to Financial Privacy Act of 1978 (12 U.S.C. 3401)** – The Right to Financial Privacy Act of 1978, grants SBA access rights to financial records held by financial institutions that are or have been doing business with you or your business including any financial institutions participating in a loan or loan guaranty. SBA is only required provide a certificate of its compliance with the Act to a financial institution in connection with its first request for access to your financial records. SBA’s access rights continue for the term of any approved loan guaranty agreement. SBA is also authorized to transfer to another Government authority any financial records concerning an approved loan or loan guarantee, as necessary to process, service or foreclose on a loan guaranty or collect on a defaulted loan guaranty.

**Freedom of Information Act (5 U.S.C. 552)** – Subject to certain exceptions, SBA must supply information reflected in agency files and



## Paycheck Protection Program

OMB Control No.: 3245-0407

Expiration Date: 09/30/2020

### Application Form

records to a person requesting it. Information about approved loans that will be automatically released includes, among other things, statistics on our loan programs (individual borrowers are not identified in the statistics) and other information such as the names of the borrowers (and their officers, directors, stockholders or partners), the collateral pledged to secure the loan, the amount of the loan, its purpose in general terms and the maturity. Proprietary data on a borrower would not routinely be made available to third parties. All requests under this Act are to be addressed to the nearest SBA office and be identified as a Freedom of Information request.

**Occupational Safety and Health Act (15 U.S.C. 651 et seq.)** – The Occupational Safety and Health Administration (OSHA) can require businesses to modify facilities and procedures to protect employees. Businesses that do not comply may be fined, forced to cease operations, or prevented from starting operations. Signing this form is certification that the applicant, to the best of its knowledge, is in compliance with the applicable OSHA requirements, and will remain in compliance during the life of the loan.

**Civil Rights(13 C.F.R. 112, 113, 117)** – All businesses receiving SBA financial assistance must agree not to discriminate in any business practice, including employment practices and services to the public on the basis of categories cited in 13 C.F.R., Parts 112, 113, and 117 of SBA Regulations. All borrowers must display the "Equal Employment Opportunity Poster" prescribed by SBA.

**Equal Credit Opportunity Act (15 U.S.C. 1691)** – Creditors are prohibited from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status or age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

**Debarment and Suspension Executive Order 12549; (2 CFR Part 180 and Part 2700)** – By submitting this loan application, you certify that neither you nor any Associates have within the past three years been: (a) debarred, suspended, declared ineligible or voluntarily excluded from participation in a transaction by any Federal Agency; (b) formally proposed for debarment, with a final determination still pending; (c) indicted, convicted, or had a civil judgment rendered against you for any of the offenses listed in the regulations or (d) delinquent on any amounts owed to the U.S. Government or its instrumentalities as of the date of execution of this certification.

# PAYCHECK PROTECTION PROGRAM (PPP) INFORMATION SHEET

## LENDERS

**Who is eligible to lend?** All existing SBA-certified lenders will be given delegated authority to speedily process PPP loans.

All federally insured depository institutions, federally insured credit unions, and Farm Credit System institutions are eligible to participate in this program.

A broad set of additional lenders can begin making loans as soon as they are approved and enrolled in the program. New lenders will need to submit their application to [DelegatedAuthority@sba.gov](mailto:DelegatedAuthority@sba.gov) to apply with the SBA.

**Are these loans guaranteed by the SBA?** Yes, the SBA guarantees 100% of the outstanding balance, and that guarantee is backed by the full faith and credit of the United States.

**Are there guarantee fees?** The SBA waives all SBA guaranty fees, including the upfront and annual servicing fees.

**What underwriting is required?** You will need to verify that a borrower was in operation on February 15, 2020. You will need to verify that a borrower had employees for whom the borrower paid salaries and payroll taxes. You will need to verify the dollar amount of average monthly payroll costs. You will need to follow applicable Bank Secrecy Act requirements.

**How will lenders be compensated?** Processing fees will be based on the balance of the financing outstanding at the time of final disbursement:

- Loans \$350,000 and under: 5.00%
- Loans greater than \$350,000 to \$2 million: 3.00%
- Loans greater than \$2 million: 1.00%

Lenders may not collect any fees from the applicant.

**Who can be an agent?** An agent is an authorized representative and can be:

- An attorney;
- An accountant;
- A consultant;
- Someone who prepares an applicant's application for financial assistance and is employed and compensated by the applicant;
- Someone who assists a lender with originating, disbursing, servicing, liquidating, or litigating SBA loans;
- A loan broker; or
- Any other individual or entity representing an applicant by conducting business with the SBA.

**How will agents be compensated?** Agent fees will be paid out of lender fees. The lender will pay the agent. Agents may not collect any fees from the applicant.

- Loans \$350,000 and under: 1.00%
- Loans greater than \$350,000 to \$2 million: 0.50%
- Loans greater than \$2 million: 0.25%

**Can these loans be sold in the secondary market?** PPP loans can be sold in the secondary market. The SBA will not collect any fee for any guarantee sold into the secondary market.



## United States Department of Labor FAQ's

As provided under the legislation, the U.S. Department of Labor will be issuing implementing regulations. Additionally, as warranted, the Department will continue to provide compliance assistance to employers and employees on their responsibilities and rights under the FFCRA.

## DEFINITIONS

“Paid sick leave” – means paid leave under the Emergency Paid Sick Leave Act.

“Expanded family and medical leave” – means paid leave under the Emergency Family and Medical Leave Expansion Act.

## QUESTIONS & ANSWERS

1. **What is the effective date of the Families First Coronavirus Response Act (FFCRA), which includes the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act?**

The FFCRA’s paid leave provisions are effective on April 1, 2020, and apply to leave taken between April 1, 2020, and December 31, 2020.

2. **As an employer, how do I know if my business is under the 500-employee threshold and therefore must provide paid sick leave or expanded family and medical leave?**

You have fewer than 500 employees if, at the time your employee’s leave is to be taken, you employ fewer than 500 full-time and part-time employees within the United States, which includes any State of the United States, the District of Columbia, or any Territory or possession of the United States. In making this determination, you should include employees on leave; temporary employees who are jointly employed by you and another employer (regardless of whether the [jointly-employed employees](#) are maintained on only your or another employer’s payroll); and day laborers supplied by a temporary agency (regardless of whether you are the temporary agency or the client firm if there is a continuing employment relationship). Workers who are independent contractors under the Fair Labor Standards Act (FLSA), rather than [employees](#), are not considered employees for purposes of the 500-employee threshold.

Typically, a corporation (including its separate establishments or divisions) is considered to be a single employer and its employees must each be counted towards the 500-employee threshold. Where a corporation has an ownership interest in another corporation, the two corporations are separate employers unless they are [joint employers under the FLSA](#) with respect to certain employees. If two entities are found to be joint employers, all of their common employees must be counted in determining whether paid sick leave must be provided under the Emergency Paid Sick Leave Act and expanded family and medical leave must be provided under the Emergency Family and Medical Leave Expansion Act.

In general, two or more entities are separate employers unless they meet the [integrated employer test](#) under the Family and Medical Leave Act of 1993 (FMLA). If two entities are an integrated employer under the FMLA, then employees of all entities making up the integrated employer will be counted in determining employer coverage for purposes of paid sick leave under the Emergency Paid Sick Leave Act and expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act.

**3. If I am a private sector employer and have 500 or more employees, do the Acts apply to me?**

No. Private sector employers are only required to comply with the Acts if they have fewer than 500 employees.[\[1\]](#)

**4. If providing child care-related paid sick leave and expanded family and medical leave at my business with fewer than 50 employees would jeopardize the viability of my business as a going concern, how do I take advantage of the small business exemption?**

To elect this small business exemption, you should document why your business with fewer than 50 employees meets the criteria set forth by the Department, which will be addressed in more detail in forthcoming regulations.

*You should not send any materials to the Department of Labor when seeking a small business exemption for paid sick leave and expanded family and medical leave.*

**5. How do I count hours worked by a part-time employee for purposes of paid sick leave or expanded family and medical leave?** A part-time employee is entitled to leave for his or her average number of work hours in a two-week period. Therefore, you calculate hours of leave based on the number of hours the employee is normally scheduled to work. If the normal hours scheduled are unknown, or if the part-time employee's schedule varies, you may use a six-month average to calculate the average daily hours. Such a part-time employee may take paid sick leave for this number of hours per day for up to a two-week period, and may take expanded family and medical leave for the same number of hours per day up to ten weeks after that.

If this calculation cannot be made because the employee has not been employed for at least six months, use the number of hours that you and your employee agreed that the employee would work upon hiring. And if there is no such agreement, you may calculate the appropriate number of hours of leave based on the average hours per day the employee was scheduled to work over the entire term of his or her employment.

**6. When calculating pay due to employees, must overtime hours be included?**

Yes. The Emergency Family and Medical Leave Expansion Act requires you to pay an employee for hours the employee would have been normally scheduled to work even if that is more than 40 hours in a week.

However, the Emergency Paid Sick Leave Act requires that paid sick leave be paid only up to 80 hours over a two-week period. For example, an employee who is scheduled to work 50 hours a week may take 50 hours of paid sick leave in the first week and 30 hours of paid sick leave in the second week. In any event, the total number of hours paid under the Emergency Paid Sick Leave Act is capped at 80.

If the employee's schedule varies from week to week, please see the answer to [Question 5](#), because the calculation of hours for a full-time employee with a varying schedule is the same as that for a part-time employee.

Please keep in mind the daily and aggregate caps placed on any pay for paid sick leave and expanded family and medical leave as described in the answer to Question 7.

Please note that pay does not need to include a premium for overtime hours under either the Emergency Paid Sick Leave Act or the Emergency Family and Medical Leave Expansion Act.

**7. As an employee, how much will I be paid while taking paid sick leave or expanded family and medical leave under the FFCRA?**

It depends on your normal schedule as well as why you are taking leave.

If you are taking paid sick leave because you are unable to work or telework due to a need for leave because you (1) are subject to a Federal, State, or local quarantine or isolation order related to COVID-19; (2) have been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or (3) are experiencing symptoms of COVID-19 and are seeking medical diagnosis, you will receive for each applicable hour the greater of:

- your [regular rate of pay](#),
- the federal minimum wage in effect under the FLSA, or
- the applicable State or local minimum wage.

In these circumstances, you are entitled to a maximum of \$511 per day, or \$5,110 total over the entire paid sick leave period.

If you are taking paid sick leave because you are: (1) caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or an individual who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; (2) caring for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons; or (3) experiencing any other substantially-similar condition that may arise, as specified by the Secretary of Health and Human Services, you are entitled to compensation at 2/3 of the greater of the amounts above.

Under these circumstances, you are subject to a maximum of \$200 per day, or \$2,000 over the entire two week period.

If you are taking expanded family and medical leave, you may take paid sick leave for the first ten days of that leave period, or you may substitute any accrued vacation leave, personal leave, or medical or sick leave you have under your employer's policy. For the following ten weeks, you will be paid for your leave at an amount no less than 2/3 of your regular rate of pay for the hours you would be normally scheduled to work. The regular rate of pay used to calculate this amount must be at or above the federal minimum wage, or the applicable state or local minimum wage. However, you will not receive more than \$200 per day or \$12,000 for the twelve weeks that include both paid sick leave and expanded family and medical leave when you are on leave to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

To calculate the number of hours for which you are entitled to paid leave, please see the answers to Questions 5-6 that are provided in this guidance.

**8. What is my regular rate of pay for purposes of the FFCRA?**

For purposes of the FFCRA, the regular rate of pay used to calculate your paid leave is the average of your regular rate over a period of up to six months prior to the date on which you take leave.<sup>[2]</sup> If you have not worked for your current employer for six months, the regular rate used to calculate your paid leave is the average of your regular rate of pay for each week you have worked for your current employer.

If you are paid with commissions, tips, or piece rates, these amounts will be incorporated into the above calculation to the same extent they are included in the calculation of the regular rate under the FLSA.

You can also compute this amount for each employee by adding all compensation that is part of the regular rate over the above period and divide that sum by all hours actually worked in the same period.

**9. May I take 80 hours of paid sick leave for my self-quarantine and then another amount of paid sick leave for another reason provided under the Emergency Paid Sick Leave Act?**

No. You may take up to two weeks—or ten days—(80 hours for a full-time employee, or for a part-time employee, the number of hours equal to the average number of hours that the employee works over a typical two-week period) of paid sick leave for any combination of qualifying reasons. However, the total number of hours for which you receive paid sick leave is capped at 80 hours under the Emergency Paid Sick Leave Act.

**10. If I am home with my child because his or her school or place of care is closed, or child care provider is unavailable, do I get paid sick leave, expanded family and medical leave, or both—how do they interact?**

You may be eligible for both types of leave, but only for a total of twelve weeks of paid leave. You may take both paid sick leave and expanded family and medical leave to care for your child

whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons. The Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave. This period thus covers the first ten workdays of expanded family and medical leave, which are otherwise unpaid under the Emergency and Family Medical Leave Expansion Act unless you elect to use existing vacation, personal, or medical or sick leave under your employer's policy. After the first ten workdays have elapsed, you will receive 2/3 of your regular rate of pay for the hours you would have been scheduled to work in the subsequent ten weeks under the Emergency and Family Medical Leave Expansion Act.

Please note that you can only receive the additional ten weeks of expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act for leave to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

**11. Can my employer deny me paid sick leave if my employer gave me paid leave for a reason identified in the Emergency Paid Sick Leave Act prior to the Act going into effect?**

No. The Emergency Paid Sick Leave Act imposes a new leave requirement on employers that is effective beginning on April 1, 2020.

**12. Is all leave under the FMLA now paid leave?**

No. The only type of family and medical leave that is paid leave is expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act when such leave exceeds ten days. This includes only leave taken because the employee must care for a child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

**13. Are the paid sick leave and expanded family and medical leave requirements retroactive?**

No.

**14. How do I know whether I have “been employed for at least 30 calendar days by the employer” for purposes of expanded family and medical leave?**

You are considered to have been employed by your employer for at least 30 calendar days if your employer had you on its payroll for the 30 calendar days immediately prior to the day your leave would begin. For example, if you want to take leave on April 1, 2020, you would need to have been on your employer's payroll as of March 2, 2020.

If you have been working for a company as a temporary employee, and the company subsequently hires you on a full-time basis, you may count any days you previously worked as a temporary employee toward this 30-day eligibility period.

**15. What records do I need to keep when my employee takes paid sick leave or expanded family and medical leave?**

Private sector employers that provide paid sick leave and expanded family and medical leave required by the FFCRA are eligible for reimbursement of the costs of that leave through refundable tax credits. If you intend to claim a tax credit under the FFCRA for your payment of

the sick leave or expanded family and medical leave wages, you should retain appropriate documentation in your records. You should consult Internal Revenue Service (IRS) applicable forms, instructions, and information for the procedures that must be followed to claim a tax credit, including any needed substantiation to be retained to support the credit. You are not required to provide leave if materials sufficient to support the applicable tax credit have not been provided.

If one of your employees takes expanded family and medical leave to care for his or her child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19, you may also require your employee to provide you with any additional documentation in support of such leave, to the extent permitted under the certification rules for conventional FMLA leave requests. For example, this could include a notice that has been posted on a government, school, or day care website, or published in a newspaper, or an email from an employee or official of the school, place of care, or child care provider.

**16. What documents do I need to give my employer to get paid sick leave or expanded family and medical leave?**

You must provide to your employer documentation in support of your paid sick leave as specified in applicable IRS forms, instructions, and information.

Your employer may also require you to provide additional in support of your expanded family and medical leave taken to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19-related reasons. For example, this may include a notice of closure or unavailability from your child's school, place of care, or child care provider, including a notice that may have been posted on a government, school, or day care website, published in a newspaper, or emailed to you from an employee or official of the school, place of care, or child care provider. Your employer must retain this notice or documentation in support of expanded family and medical leave, including while you may be taking unpaid leave that runs concurrently with paid sick leave if taken for the same reason.

Please also note that all existing certification requirements under the FMLA remain in effect if you are taking leave for one of the existing qualifying reasons under the FMLA. For example, if you are taking leave beyond the two weeks of emergency paid sick leave because your medical condition for COVID-19-related reasons rises to the level of a serious health condition, you must continue to [provide medical certifications](#) under the FMLA if required by your employer.

**17. When am I able to telework under the FFCRA?**

You may telework when your employer permits or allows you to perform work while you are at home or at a location other than your normal workplace. Telework is work for which normal wages must be paid and is not compensated under the paid leave provisions of the FFCRA.

**18. What does it mean to be unable to work, including telework for COVID-19 related reasons?**

You are unable to work if your employer has work for you and one of the COVID-19 qualifying reasons set forth in the FFCRA prevents you from being able to perform that work, either under normal circumstances at your normal worksite or by means of telework.

If you and your employer agree that you will work your normal number of hours, but outside of your normally scheduled hours (for instance early in the morning or late at night), then you are able to work and leave is not necessary unless a COVID-19 qualifying reason prevents you from working that schedule.

**19. If I am or become unable to telework, am I entitled to paid sick leave or expanded family and medical leave?**

If your employer permits teleworking—for example, allows you to perform certain tasks or work a certain number of hours from home or at a location other than your normal workplace—and you are unable to perform those tasks or work the required hours because of one of the qualifying reasons for paid sick leave, then you are entitled to take paid sick leave.

Similarly, if you are unable to perform those teleworking tasks or work the required teleworking hours because you need to care for your child whose school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, then you are entitled to take expanded family and medical leave. Of course, to the extent you are able to telework while caring for your child, paid sick leave and expanded family and medical leave is not available.

**20. May I take my paid sick leave or expanded family and medical leave intermittently while teleworking?**

Yes, if your employer allows it and if you are unable to telework your normal schedule of hours due to one of the qualifying reasons in the Emergency Paid Sick Leave Act. In that situation, you and your employer may agree that you may take paid sick leave intermittently while teleworking. Similarly, if you are prevented from teleworking your normal schedule of hours because you need to care for your child whose school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, you and your employer may agree that you can take expanded family medical leave intermittently while teleworking.

You may take intermittent leave in any increment, provided that you and your employer agree. For example, if you agree on a 90-minute increment, you could telework from 1:00 PM to 2:30 PM, take leave from 2:30 PM to 4:00 PM, and then return to teleworking.

The Department encourages employers and employees to collaborate to achieve flexibility and meet mutual needs, and the Department is supportive of such voluntary arrangements that combine telework and intermittent leave.

**21. May I take my paid sick leave intermittently while working at my usual worksite (as opposed to teleworking)?**

It depends on why you are taking paid sick leave and whether your employer agrees. Unless you are teleworking, paid sick leave for qualifying reasons related to COVID-19 must be taken in full-day increments. It cannot be taken intermittently if the leave is being taken because:

- You are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;

- You have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- You are experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- You are caring for an individual who either is subject to a quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or
- You are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

Unless you are teleworking, once you begin taking paid sick leave for one or more of these qualifying reasons, you must continue to take paid sick leave each day until you either (1) use the full amount of paid sick leave or (2) no longer have a qualifying reason for taking paid sick leave. This limit is imposed because if you are sick or possibly sick with COVID-19, or caring for an individual who is sick or possibly sick with COVID-19, the intent of FFCRA is to provide such paid sick leave as necessary to keep you from spreading the virus to others.

If you no longer have a qualifying reason for taking paid sick leave before you exhaust your paid sick leave, you may take any remaining paid sick leave at a later time, until December 31, 2020, if another qualifying reason occurs.

In contrast, if you and your employer agree, you may take paid sick leave intermittently if you are taking paid sick leave to care for your child whose school or place of care is closed, or whose child care provider is unavailable, because of COVID-19 related reasons. For example, if your child is at home because his or her school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, you may take paid sick leave on Mondays, Wednesdays, and Fridays to care for your child, but work at your normal worksite on Tuesdays and Thursdays.

The Department encourages employers and employees to collaborate to achieve maximum flexibility. Therefore, if employers and employees agree to intermittent leave on less than a full work day for employees taking paid sick leave to care for their child whose school or place of care is closed, or child care provider is unavailable, because of COVID-19-related reasons, the Department is supportive of such voluntary arrangements.

**22. May I take my expanded family and medical leave intermittently while my child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, if I am not teleworking?**

Yes, but only with your employer's permission. Intermittent expanded family and medical leave should be permitted only when you and your employer agree upon such a schedule. For example, if your employer and you agree, you may take expanded family and medical leave on Mondays, Wednesdays, and Fridays, but work Tuesdays and Thursdays, while your child is at home because your child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, for the duration of your leave.

The Department encourages employers and employees to collaborate to achieve flexibility. Therefore, if employers and employees agree to intermittent leave on a day-by-day basis, the Department supports such voluntary arrangements.

**23. If my employer closed my worksite before April 1, 2020 (the effective date of the FFCRA), can I still get paid sick leave or expanded family and medical leave?**

No. If, prior to the FFCRA's effective date, your employer sent you home and stops paying you because it does not have work for you to do, you will not get paid sick leave or expanded family and medical leave but you may be eligible for unemployment insurance benefits. This is true whether your employer closes your worksite for lack of business or because it is required to close pursuant to a Federal, State, or local directive. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.

It should be noted, however, that if your employer is paying you pursuant to a paid leave policy or State or local requirements, you are not eligible for unemployment insurance.

**24. If my employer closes my worksite on or after April 1, 2020 (the effective date of the FFCRA), but before I go out on leave, can I still get paid sick leave and/or expanded family and medical leave?**

No. If your employer closes after the FFCRA's effective date (even if you requested leave prior to the closure), you will not get paid sick leave or expanded family and medical leave but you may be eligible for unemployment insurance benefits. This is true whether your employer closes your worksite for lack of business or because it was required to close pursuant to a Federal, State or local directive. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.

**25. If my employer closes my worksite while I am on paid sick leave or expanded family and medical leave, what happens?**

If your employer closes while you are on paid sick leave or expanded family and medical leave, your employer must pay for any paid sick leave or expanded family and medical leave you used before the employer closed. As of the date your employer closes your worksite, you are no longer entitled to paid sick leave or expanded family and medical leave, but you may be eligible for unemployment insurance benefits. This is true whether your employer closes your worksite for lack of business or because the employer was required to close pursuant to a Federal, State or local directive. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.

**26. If my employer is open, but furloughs me on or after April 1, 2020 (the effective date of the FFCRA), can I receive paid sick leave or expanded family and medical leave?**

No. If your employer furloughs you because it does not have enough work or business for you, you are not entitled to then take paid sick leave or expanded family and medical leave.

However, you may be eligible for unemployment insurance benefits. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.

**27. If my employer closes my worksite on or after April 1, 2020 (the effective date of the FFCRA), but tells me that it will reopen at some time in the future, can I receive paid sick leave or expanded family and medical leave?**

No, not while your worksite is closed. If your employer closes your worksite, even for a short period of time, you are not entitled to take paid sick leave or expanded family and medical leave. However, you may be eligible for unemployment insurance benefits. This is true whether your employer closes your worksite for lack of business or because it was required to close pursuant to a Federal, State, or local directive. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>. If your employer reopens and you resume work, you would then be eligible for paid sick leave or expanded family and medical leave as warranted.

**28. If my employer reduces my scheduled work hours, can I use paid sick leave or expanded family and medical leave for the hours that I am no longer scheduled to work?**

No. If your employer reduces your work hours because it does not have work for you to perform, you may not use paid sick leave or expanded family and medical leave for the hours that you are no longer scheduled to work. This is because you are not prevented from working those hours due to a COVID-19 qualifying reason, even if your reduction in hours was somehow related to COVID-19.

You may, however, take paid sick leave or expanded family and medical leave if a COVID-19 qualifying reason prevents you from working your full schedule. If you do, the amount of leave to which you are entitled is computed based on your work schedule before it was reduced (see [Question 5](#)).

**29. May I collect unemployment insurance benefits for time in which I receive pay for paid sick leave and/or expanded family and medical leave?**

No. If your employer provides you paid sick leave or expanded family and medical leave, you are not eligible for unemployment insurance. However, each State has its own unique set of rules; and [DOL recently clarified additional flexibility to the States](#) (UIPL 20-10) to extend partial unemployment benefits to workers whose hours or pay have been reduced. Therefore, individuals should contact their State workforce agency or State unemployment insurance office for specific questions about eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.

**30. If I elect to take paid sick leave or expanded family and medical leave, must my employer continue my health coverage? If I remain on leave beyond the maximum period of expanded family and medical leave, do I have a right to keep my health coverage?**

If your employer provides group health coverage that you've elected, you are entitled to continued group health coverage during your expanded family and medical leave on the same terms as if you continued to work. If you are enrolled in family coverage, your employer must maintain coverage during your expanded family and medical leave. You generally must continue to make any normal contributions to the cost of your health coverage. See WHD Fact Sheet 28A: <https://www.dol.gov/agencies/whd/fact-sheets/28a-fmla-employee-protections>.

If you do not return to work at the end of your expanded family and medical leave, check with your employer to determine whether you are eligible to keep your health coverage on the same terms (including contribution rates). If you are no longer eligible, you may be able to continue your coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA). COBRA, which generally applies to employers with 20 or more employees, allows you and your family to continue the same group health coverage at group rates. Your share of that cost may be higher than what you were paying before but may be lower than what you would pay for private individual health insurance coverage. (If your employer has fewer than 20 employees, you may be eligible to continue your health insurance under State laws that are similar to COBRA. These laws are sometimes referred to as "mini COBRA" and vary from State to State.) Contact the Employee Benefits Security Administration at <https://www.dol.gov/agencies/ebsa/workers-and-families/changing-jobs-and-job-loss> to learn about health and retirement benefit protections for dislocated workers.

If you elect to take paid sick leave, your employer must continue your health coverage. Under the Health Insurance Portability and Accountability Act (HIPAA), an employer cannot establish a rule for eligibility or set any individual's premium or contribution rate based on whether an individual is actively at work (including whether an individual is continuously employed), unless absence from work due to any health factor (such as being absent from work on sick leave) is treated, for purposes of the plan or health insurance coverage, as being actively at work.

**31. As an employee, may I use my employer's preexisting leave entitlements and my FFCRA paid sick leave and expanded family and medical leave concurrently for the same hours?**

No. If you are eligible to take paid sick leave or expanded family and medical leave under the FFCRA, as well as paid leave that is already provided by your employer, unless your employer agrees you must choose one type of leave to take. You may not simultaneously take both, unless your employer agrees to allow you to supplement the amount you receive from paid sick leave or expanded family and medical leave under the FFCRA, up to your normal earnings, with preexisting leave. For example, if you are receiving 2/3 of your normal earnings from paid sick leave or expanded family and medical leave under the FFCRA and your employer permits, you may use your preexisting employer-provided paid leave to get the additional 1/3 of your normal earnings so that you receive your full normal earnings for each hour.

**32. If I am an employer, may I supplement or adjust the pay mandated under the FFCRA with paid leave that the employee may have under my paid leave policy?**

If your employee chooses to use existing leave you have provided, yes; otherwise, no. Paid sick leave and expanded family medical leave under the FFCRA is in addition to employees' preexisting leave entitlements, including Federal employees. Under the FFCRA, the employee

may choose to use existing paid vacation, personal, medical, or sick leave from your paid leave policy to supplement the amount your employee receives from paid sick leave or expanded family and medical leave, up to the employee's normal earnings. Note, however, that you are not entitled to a tax credit for any paid sick leave or expanded family and medical leave that is not required to be paid or exceeds the limits set forth under Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act.

However, you are not required to permit an employee to use existing paid leave to supplement the amount your employee receives from paid sick leave or expanded family and medical leave. Further, you may not claim, and will not receive tax credit, for such supplemental amounts.

**33. If I am an employer, may I require an employee to supplement or adjust the pay mandated under the FFCRA with paid leave that the employee may have under my paid leave policy?**

No. Under the FFCRA, only the employee may decide whether to use existing paid vacation, personal, medical, or sick leave from your paid leave policy to supplement the amount your employee receives from paid sick leave or expanded family and medical leave. The employee would have to agree to use existing paid leave under your paid leave policy to supplement or adjust the paid leave under the FFCRA.

**34. If I want to pay my employees more than they are entitled to receive for paid sick leave or expanded family and medical leave, can I do so and claim a tax credit for the entire amount paid to them?**

You may pay your employees in excess of FFCRA requirements. But you cannot claim, and will not receive tax credit for, those amounts in excess of the FFCRA's statutory limits.

**35. I am an employer that is part of a multiemployer collective bargaining agreement, may I satisfy my obligations under the Emergency Family and Medical Leave Expansion Act through contributions to a multiemployer fund, plan, or program?**

You may satisfy your obligations under the Emergency Family and Medical Leave Expansion Act by making contributions to a multiemployer fund, plan, or other program in accordance with your existing collective bargaining obligations. These contributions must be based on the amount of paid family and medical leave to which each of your employees is entitled under the Act based on each employee's work under the multiemployer collective bargaining agreement. Such a fund, plan, or other program must allow employees to secure or obtain their pay for the related leave they take under the Act. Alternatively, you may also choose to satisfy your obligations under the Act by other means, provided they are consistent with your bargaining obligations and collective bargaining agreement.

**36. I am an employer that is part of a multiemployer collective bargaining agreement, may I satisfy my obligations under the Emergency Paid Sick Leave Act through contributions to a multiemployer fund, plan, or program?**

You may satisfy your obligations under the Emergency Paid Sick Leave Act by making contributions to a multiemployer fund, plan, or other program in accordance with your existing collective bargaining obligations. These contributions must be based on the hours of paid sick

leave to which each of your employees is entitled under the Act based on each employee's work under the multiemployer collective bargaining agreement. Such a fund, plan, or other program must allow employees to secure or obtain their pay for the related leave they take under the Act. Alternatively, you may also choose to satisfy your obligations under the Act by other means, provided they are consistent with your bargaining obligations and collective bargaining agreement.

**37. Are contributions to a multiemployer fund, plan, or other program the only way an employer that is part of a multiemployer collective bargaining agreement may comply with the paid leave requirements of the FFCRA?**

No. Both the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act provide that, consistent with its bargaining obligations and collective bargaining agreement, an employer may satisfy its legal obligations under both Acts by making appropriate contributions to such a fund, plan, or other program based on the paid leave owed to each employee. However, the employer may satisfy its obligations under both Acts by other means, provided they are consistent with its bargaining obligations and collective bargaining agreement.

**38. Assuming I am a covered employer, which of my employees are eligible for paid sick leave and expanded family and medical leave?**

Both of these new provisions use the [employee definition](#) as provided by the Fair Labor Standards Act, thus all of your U.S. (including Territorial) employees who meet this definition are eligible including full-time and part-time employees, and "joint employees" working on your site temporarily and/or through a temp agency. However, if you employ a health care provider or an emergency responder you are not required to pay such employee paid sick leave or expanded family and medical leave on a case-by-case basis. And certain small businesses may exempt employees if the leave would jeopardize the company's viability as a going concern. See [Question 58](#) below.

There is one difference regarding an employee's eligibility for paid sick leave versus expanded family and medical leave. While your employee is eligible for paid sick leave regardless of length of employment, your employee must have been employed for 30 calendar days in order to qualify for expanded family and medical leave. For example, if your employee requests expanded family and medical leave on April 10, 2020, he or she must have been your employee since March 11, 2020.

**39. Who is a covered employer that must provide paid sick leave and expanded family and medical leave under the FFCRA?**

Generally, if you employ fewer than 500 employees you are a covered employer that must provide paid sick leave and expanded family and medical leave. For additional information on the 500 employee threshold, see [Question 2](#). Certain employers with fewer than 50 employees may be exempt from the Act's requirements to provide certain paid sick leave and expanded family and medical leave. For additional information regarding this small business exemption, see [Question 4](#) and [Questions 58 and 59](#) below.

Certain public employers are also covered under the Act and must provide paid sick leave and expanded family and medical leave. For additional information regarding coverage of public employers, see [Questions 52-54](#) below.

**40. Who is a son or daughter?**

Under the FFCRA, a “son or daughter” is your own child, which includes your biological, adopted, or foster child, your stepchild, a legal ward, or a child for whom you are standing in loco parentis—someone with day-to-day responsibilities to care for or financially support a child. For additional information about in loco parentis, see [Fact Sheet #28B](#): Family and Medical Leave Act (FMLA) leave for birth, placement, bonding or to care for a child with a serious health condition on the basis of an “in loco parentis” relationship.

In light of Congressional direction to interpret definitions consistently, WHD clarifies that under the FFCRA a “son or daughter” is also an adult son or daughter (i.e., one who is 18 years of age or older), who (1) has a mental or physical disability, and (2) is incapable of self-care because of that disability. For additional information on requirements relating to an adult son or daughter, see [Fact Sheet #28K](#) and/or call our toll free information and help line available 8 am–5 pm in your time zone, 1-866-4US-WAGE (1-866-487-9243).

**41. What do I do if my employer, who I believe to be covered, refuses to provide me paid sick leave?**

If you believe that your employer is covered and is improperly refusing you paid sick leave under the Emergency Paid Sick Leave Act, the Department encourages you to raise and try to resolve your concerns with your employer. Regardless of whether you discuss your concerns with your employer, if you believe your employer is improperly refusing you paid sick leave, you may call 1-866-4US-WAGE (1-866-487-9243). WHD is responsible for administering and enforcing these provisions. If you have questions or concerns, you can contact WHD by phone or visit [www.dol.gov/agencies/whd](http://www.dol.gov/agencies/whd). Your call will be directed to the [nearest WHD office](#) for assistance to have your questions answered or to file a complaint. In most cases, you can also file a lawsuit against your employer directly without contacting WHD. If you are a public sector employee, please see the answer to [Question 54](#).

**42. What do I do if my employer, who I believe to be covered, refuses to provide me expanded family and medical leave to care for my own son or daughter whose school or place of care has closed, or whose child care provider is unavailable, for COVID-19 related reasons?**

If you believe that your employer is covered and is improperly refusing you expanded family and medical leave or otherwise violating your rights under the Emergency Family and Medical Leave Expansion Act, the Department encourages you to raise and try to resolve your concerns with your employer. Regardless whether you discuss your concerns with your employer, if you believe your employer is improperly refusing you expanded family and medical leave, you may call WHD at 1-866-4US-WAGE (1-866-487-9243) or visit [www.dol.gov/agencies/whd](http://www.dol.gov/agencies/whd). Your call will be directed to the [nearest WHD office](#) for assistance to have your questions answered or to file a complaint. If your employer employs 50 or more employees, you also may file a lawsuit against your employer directly without contacting WHD. If you are a public sector employee, please see the answer to [Question 54](#).

**43. Do I have a right to return to work if I am taking paid sick leave or expanded family and medical leave under the Emergency Paid Sick Leave Act or the Emergency Family and Medical Leave Expansion Act?**

Generally, yes. In light of Congressional direction to interpret requirements among the Acts consistently, WHD clarifies that the Acts require employers to provide the same (or a nearly equivalent) job to an employee who returns to work following leave.

In most instances, you are entitled to be restored to the same or an equivalent position upon return from paid sick leave or expanded family and medical leave. Thus, your employer is prohibited from firing, disciplining, or otherwise discriminating against you because you take paid sick leave or expanded family and medical leave. Nor can your employer fire, discipline, or otherwise discriminate against you because you filed any type of complaint or proceeding relating to these Acts, or have or intend to testify in any such proceeding.

However, you are not protected from employment actions, such as layoffs, that would have affected you regardless of whether you took leave. This means your employer can lay you off for legitimate business reasons, such as the [closure of your worksite](#). Your employer must be able to demonstrate that you would have been laid off even if you had not taken leave.

Your employer may also refuse to return you to work in your same position if you are a highly compensated [“key” employee](#) as defined under the FMLA, or if your employer has fewer than 25 employees, and you took leave to care for your own son or daughter whose school or place of care was closed, or whose child care provider was unavailable, and all four of the following hardship conditions exist:

- your position no longer exists due to economic or operating conditions that affect employment and due to COVID-19 related reasons during the period of your leave;
- your employer made reasonable efforts to restore you to the same or an equivalent position;
- your employer makes reasonable efforts to contact you if an equivalent position becomes available; and
- your employer continues to make reasonable efforts to contact you for one year beginning either on the date the leave related to COVID-19 reasons concludes or the date 12 weeks after your leave began, whichever is earlier.

**44. Do I qualify for leave for a COVID-19 related reason even if I have already used some or all of my leave under the Family and Medical Leave Act (FMLA)?**

If you are an eligible employee, you are entitled to paid sick leave under the Emergency Paid Sick Leave Act regardless of how much leave you have taken under the FMLA.

However, if your employer was covered by the FMLA prior to April 1, 2020, your eligibility for expanded family and medical leave depends on how much leave you have already taken during the 12-month period that your employer uses for FMLA leave. You may take a total of 12 workweeks for FMLA or expanded family and medical leave reasons during a 12-month period. If you have taken some, but not all, 12 workweeks of your leave under FMLA during the current [12-month period determined by your employer](#), you may take the remaining portion of

leave available. If you have already taken 12 workweeks of [FMLA](#) leave during this 12-month period, you may not take additional expanded family and medical leave.

For example, assume you are eligible for preexisting FMLA leave and took two weeks of such leave in January 2020 to undergo and recover from a surgical procedure. You therefore have 10 weeks of FMLA leave remaining. Because expanded family and medical leave is a type of FMLA leave, you would be entitled to take up to 10 weeks of expanded family and medical leave, rather than 12 weeks. And any expanded family and medical leave you take would count against your entitlement to preexisting FMLA leave.

If your employer only becomes covered under the FMLA on April 1, 2020, this analysis does not apply.

**45. May I take leave under the Family and Medical Leave Act over the next 12 months if I used some or all of my expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act?**

It depends. You may take a total of 12 workweeks of leave during a 12-month period under the FMLA, including the Emergency Family and Medical Leave Expansion Act. If you take some, but not all 12, workweeks of your expanded family and medical leave by December 31, 2020, you may take the remaining portion of FMLA leave for a serious medical condition, as long as the total time taken does not exceed [12 workweeks in the 12-month period](#). Please note that expanded family and medical leave is available only until December 31, 2020; after that, you may only take FMLA leave.

For example, assume you take four weeks of Expanded Family and Medical Leave in April 2020 to care for your child whose school is closed due to a COVID-19 related reason. These four weeks count against your entitlement to 12 weeks of FMLA leave in a 12-month period. If you are eligible for preexisting FMLA leave and need to take such leave in August 2020 because you need surgery, you would be entitled to take up to eight weeks of FMLA leave.

However, you are entitled to paid sick leave under the Emergency Paid Sick Leave Act regardless of how much leave you have taken under the FMLA. Paid sick leave is not a form of FMLA leave and therefore does not count toward the 12 workweeks in the 12-month period cap. But please note that if you take paid sick leave concurrently with the first two weeks of expanded family and medical leave, which may otherwise be unpaid, then those two weeks do count towards the 12 workweeks in the 12-month period.

**46. If I take paid sick leave under the Emergency Paid Sick Leave Act, does that count against other types of paid sick leave to which I am entitled under State or local law, or my employer's policy?**

No. Paid sick leave under the Emergency Paid Sick Leave Act is in addition to other leave provided under Federal, State, or local law; an applicable collective bargaining agreement; or your employer's existing company policy.

**47. May I use paid sick leave and expanded family and medical leave together for any COVID-19 related reasons?**

No. The Emergency Family and Medical Leave Expansion Act applies only when you are on leave to care for your child whose school or place of care is closed, or whose child care provider is unavailable, due to COVID-19 related reasons. However, you can take paid sick leave under the Emergency Paid Sick Leave Act for numerous other reasons.

**48. What is a full-time employee under the Emergency Paid Sick Leave Act?**

For purposes of the Emergency Paid Sick Leave Act, a full-time employee is an employee who is normally scheduled to work 40 or more hours per week.

In contrast, the Emergency Family and Medical Leave Expansion Act does not distinguish between full- and part-time employees, but the number of hours an employee normally works each week will affect the amount of pay the employee is eligible to receive.

**49. What is a part-time employee under the Emergency Paid Sick Leave Act?**

For purposes of the Emergency Paid Sick Leave Act, a part-time employee is an employee who is normally scheduled to work fewer than 40 hours per week.

In contrast, the Emergency Family and Medical Leave Expansion Act does not distinguish between full- and part-time employees, but the number of hours an employee normally works each week affects the amount of pay the employee is eligible to receive.

**50. How does the “for each working day during each of the 20 or more calendar workweeks in the current or preceding calendar” language in the FMLA definition of “employer” work under the Emergency Family and Medical Leave Expansion Act?**

The language about counting employees over calendar workweeks is only in the FMLA’s definition for employer. This language does not apply to the Emergency Family and Medical Leave Expansion Act for purposes of expanded family and medical leave. Employers should use the number of employees on the day the employee’s leave would start to determine whether the employer has fewer than 500 employees for purposes of providing expanded family and medical leave and paid sick leave. See [Question 2](#) for more information.

**51. I’ve elected to take paid sick leave and I am currently in a waiting period for my employer’s health coverage. If I am absent from work on paid sick leave during the waiting period, will my health coverage still take effect after I complete the waiting period on the same day that the coverage would otherwise take effect?**

Yes. If you are on employer-provided group health coverage, you are entitled to group health coverage during your paid sick leave on the same terms as if you continued to work. Therefore, the requirements for eligibility, including any requirement to complete a waiting period, would apply in the same way as if you continued to work, including that the days you are on paid sick leave count towards completion of the waiting period. If, under the terms of the plan, an individual can elect coverage that becomes effective after completing the waiting period, the health coverage must take effect once the waiting period is complete.

**52. I am a public sector employee. May I take paid sick leave under the Emergency Paid Sick Leave Act?**

Generally, yes. You are entitled to paid sick leave if you work for a public agency or other unit of government, with the exceptions below. Therefore, you are probably entitled to paid sick leave if, for example, you work for the government of the United States, a State, the District of Columbia, a Territory or possession of the United States, a city, a municipality, a township, a county, a parish, or a similar government entity subject to the exceptions below. The Office of Management and Budget (OMB) has the authority to exclude some categories of U.S. Government Executive Branch employees from taking certain kinds of paid sick leave. If you are a Federal employee, the Department encourages you to seek guidance from your respective employers as to your eligibility to take paid sick leave.

Further, health care providers and emergency responders may be excluded by their employer from being able to take paid sick leave under the Act. See [Questions 56-57](#) below. These coverage limits also apply to public-sector health care providers and emergency responders.

**53. I am a public sector employee. May I take paid family and medical leave under the Emergency Family and Medical Leave Expansion Act?**

It depends. In general, you are entitled to expanded family and medical leave if you are an employee of a non-federal public agency. Therefore, you are probably entitled to paid sick leave if, for example, you work for the government of a State, the District of Columbia, a Territory or possession of the United States, a city, a municipality, a township, a county, a parish, or a similar entity.

But if you are a Federal employee, you likely are not entitled to expanded family and medical leave. The Act only amended Title I of the FMLA; most Federal employees are covered instead by Title II of the FMLA. As a result, only some Federal employees are covered, and the vast majority are not. In addition, the Office of Management and Budget (OMB) has the authority to exclude some categories of U.S. Government Executive Branch employees with respect to expanded and family medical leave. If you are a Federal employee, the Department encourages you to seek guidance from your respective employers as to your eligibility to take expanded family and medical leave.

Further, health care providers and emergency responders may be excluded by their employer from being able to take expanded family and medical leave under the Act. See [Questions 56-57](#) below. These coverage limits also apply to public-sector health care providers and emergency responders.

**54. What do I do if my public sector employer, who I believe to be covered, refuses to provide me paid sick leave or expanded family and medical leave?**

If you believe that your public sector employer is covered and is improperly refusing you paid sick leave under the Emergency Paid Sick Leave Act or expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act, the Department encourages you to raise your concerns with your employer in an attempt to resolve them. Regardless whether you discuss your concerns with your employer, if you believe your employer is

improperly refusing you paid sick leave or expanded family and medical leave, you may call WHD at 1-866-4US-WAGE (1-866-487-9243) or visit [www.dol.gov/agencies/whd](http://www.dol.gov/agencies/whd). Your call will be directed to the [nearest WHD office](#) for assistance to have your questions answered or to file a complaint.

In some cases, you may also be able to file a lawsuit against your employer directly without contacting WHD. Some State and local employees may not be able to pursue direct lawsuits because their employers are immune from such lawsuits. For additional information, see the WHD website at: <https://www.wagehour.dol.gov> and/or call WHD's toll free information and help line available 8am–5pm in your time zone, 1-866-4-US-WAGE (1-866-487-9243).

**55. Who is a “health care provider” for purposes of determining individuals whose advice to self-quarantine due to concerns related to COVID-19 can be relied on as a qualifying reason for paid sick leave?**

The term “health care provider,” as used to determine individuals whose advice to self-quarantine due to concerns related to COVID-19 can be relied on as a qualifying reason for paid sick leave, means a licensed doctor of medicine, nurse practitioner, or other health care provider permitted to issue a certification for purposes of the FMLA.

**56. Who is a “health care provider” who may be excluded by their employer from paid sick leave and/or expanded family and medical leave?**

For the purposes of employees who may be exempted from paid sick leave or expanded family and medical leave by their employer under the FFCRA, a health care provider is anyone employed at any doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity. This includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions.

This definition includes any individual employed by an entity that contracts with any of the above institutions, employers, or entities institutions to provide services or to maintain the operation of the facility. This also includes anyone employed by any entity that provides medical services, produces medical products, or is otherwise involved in the making of COVID-19 related medical equipment, tests, drugs, vaccines, diagnostic vehicles, or treatments. This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is a health care provider necessary for that state's or territory's or the District of Columbia's response to COVID-19.

To minimize the spread of the virus associated with COVID-19, the Department encourages employers to be judicious when using this definition to exempt health care providers from the provisions of the FFCRA.

**57. Who is an emergency responder?**

For the purposes of employees who may be excluded from paid sick leave or expanded family and medical leave by their employer under the FFCRA, an emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is an emergency responder necessary for that state's or territory's or the District of Columbia's response to COVID-19.

To minimize the spread of the virus associated with COVID-19, the Department encourages employers to be judicious when using this definition to exempt emergency responders from the provisions of the FFCRA.

**58. When does the small business exemption apply to exclude a small business from the provisions of the Emergency Paid Sick Leave Act and Emergency Family and Medical Leave Expansion Act?**

An employer, including a religious or nonprofit organization, with fewer than 50 employees (small business) is exempt from providing (a) paid sick leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons and (b) expanded family and medical leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons when doing so would jeopardize the viability of the small business as a going concern. A small business may claim this exemption if an authorized officer of the business has determined that:

1. The provision of paid sick leave or expanded family and medical leave would result in the small business's expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity;
2. The absence of the employee or employees requesting paid sick leave or expanded family and medical leave would entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities; or
3. There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee or employees requesting paid sick leave or expanded family and medical leave, and these labor or services are needed for the small business to operate at a minimal capacity.

**59. If I am a small business with fewer than 50 employees, am I exempt from the requirements to provide paid sick leave or expanded family and medical leave?**

A small business is exempt from certain paid sick leave and expanded family and medical leave requirements if providing an employee such leave would jeopardize the viability of the business as a going concern. This means a small business is exempt from mandated paid sick leave or expanded family and medical leave requirements only if the:

- employer employs fewer than 50 employees;
- leave is requested because the child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons; and
- an authorized officer of the business has determined that at least one of the three conditions described in Question 58 is satisfied.

The Department encourages employers and employees to collaborate to reach the best solution for maintaining the business and ensuring employee safety.

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[1] If you are a Federal employee, you are eligible to take paid sick leave under the Emergency Paid Sick Leave Act. But only some Federal employees are eligible to take expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act. Your eligibility will depend on whether you are covered under Title I or Title II of the Family Medical Leave Act. Federal employees should consult with their agency regarding their eligibility for expanded family and medical leave. The Office of Personnel and Management will provide information on federal employee coverage. Additional FAQs regarding public sector employers will be forthcoming.

[2] If you are a Federal employee, the State or local minimum wage would be used to calculate the wages owed to you only if the Federal agency that employs you has broad authority to set your compensation and has decided to use the State or local minimum wage.

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**Coronavirus Aid Relief and Economic Security (CARES) Act**  
**Corporate Liquidity Fund**  
Sec. 4003. Emergency Relief and Taxpayer Protections  
*DRAFT SUMMARY – SUBJECT TO REVISION*

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The Coronavirus Aid, Relief, and Economic Security (CARES) Act includes an important provision aimed at keeping workers employed and businesses and nonprofits with more than 500 employees afloat. States and municipalities are also eligible<sup>1</sup>.

**Provides \$500 billion in loans, loan guarantees, and other transactions divided into four categories:**

- 1) \$25 billion for passenger airlines;
- 2) \$4 billion for cargo air carriers;
- 3) \$17 billion for businesses critical to maintaining national security; and
- 4) \$454 billion for use in loan or loan guarantees established by the Federal Reserve for eligible businesses as well as states or municipalities. Lending facilities for states and municipalities, as well as the medium-sized business and non-profit lending program, are authorized but not required to be established by the Secretary.

**How will the mid-sized loans will work:**

- Treasury shall provide a facility which helps finance banks providing direct loans to eligible businesses including, to the extent practicable, nonprofit organizations, with between 500 and 10,000 employees, capped at 2% annual interest.
- Any eligible borrower applying for a direct loan under this program for small and medium sized businesses and non-profits shall make a good-faith certification that:
  - They are applying due to economic uncertainty and the need to funded ongoing operations,
  - Funds will be used to retain at least 90 percent of the recipient’s March 24, 2020 employment levels, at full compensation and benefits, until September 30, 2020,
  - Intends to restore not less than 90 percent of the workforce as of February 1, 2020, and to restore all compensation and benefits to the workers of the recipient no later than 4 months after the termination date of the March 13, 2020 Stafford Act emergency declaration,
  - Is created or organized in the U.S. or under the laws of the U.S. and has significant operations in and employees based in the United States; (5) it is not a debtor in a bankruptcy proceeding;

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<sup>1</sup> Separate rules for states and municipalities may be developed

- It will not provide senior executive bonuses or enhanced compensation during the term of the loan;
- Ban on dividends/other capital and stock buybacks, from a national exchange, during the life of the loan, barring preexisting stock repurchase contracts,
- It will not outsource or offshore jobs for the term of the loan and 2 years after completing repayment of the loan,
- It will not abrogate existing collective bargaining agreements for the term of the loan and 2 years after completing repayment of the loan; and
- it will remain neutral in any union organizing effort for the term of the loan.

**Who is eligible for this program?**

Businesses and nonprofit organizations with 500 - 10,000 employees.

**What portion of the loan is forgivable?**

No portion of the loan is forgivable.

**What information do I need to get started and find a private lender for my loan?**

In the next 10 days the Department of Treasury must issue guidance about how this program will operate.