

PAYCHECK PROTECTION PROGRAM

DUKE LAW COMMUNITY ENTERPRISE CLINIC
APRIL 21, 2020

Background, tips on applying, and an
introduction to the forms required

What is the Paycheck Protection Program (PPP)?

- The PPP is a part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act in which the U.S. government initially allocated about \$350 billion to help nonprofits and small businesses (< 500 employees) through this crisis
- This week Congress is in the process of approving an additional \$321 billion for the program
- Of this new amount, \$60 billion is set aside for underbanked businesses
- The PPP is intended to help small businesses and nonprofits keep their workers employed throughout the pandemic

How does the PPP work?

- The PPP is a forgivable loan program and you apply through any SBA-certified lender
- If your bank or credit union is a participating lender, that may be the best place to apply
- The maximum loan you can get is equal to 2.5 times your average monthly payroll and the maximum loan amount is \$10 million
- In determining your average monthly payroll, you may not include the portion of any salaries above \$100,000
- In addition to submitting a simple, standard loan application, you will have to provide certain documentation to support your request. This documentation is mostly payroll and tax information, though some lenders may require more
- PPP funds will go quickly, so you should work with your lender to prepare your application in advance so that it can be quickly submitted once the SBA reopens the program

What are the primary terms for PPP loans?

- PPP loans have a 10 year term and the maximum interest rate is 1%
- Payments on PPP loans are deferred for six months
- The loan amount should be forgiven if you use at least 75% to retain or rehire employees and you don't use more than 25% to pay for rent, utilities or interest on a mortgage
- The loans are federally guaranteed, do not require collateral, personal guarantees, or other credit options
- Some details are still being developed, but it is expected that you will work with your lender to get your loan forgiven

Tips for the Application

Make sure you have the following documents ready to go:

- Payroll information for all full-time employees.
 - Quarterly Reports, ideally Form 941 for 2019
 - Payroll reports that include health insurance payments or other benefits contributions
 - The SSN and a color photocopy of the drivers license of the person signing the application.
- “Payroll” includes (1) salary; (2) health insurance payments; (3) benefits contributions; (4) and taxes associated with paying your employees
- If you work with a payroll service, ask them if they can help you determine your average monthly payroll – many are creating special reports to help with applying for the PPP
- Employees includes both full-time and part-time employees, but cannot include the amounts paid to contractors.
- If you have employees making over \$100,000, any amount over \$100,000 shouldn’t be included in calculating your average monthly payroll
- Each lender may have a few special requirements, so you should start working with your bank or credit union as soon as possible on your application

Timing and Amount to Expect

- We keep saying this, but we'll say it again: your application and supporting documentation (more on this on the next slide) should be ready as soon as possible. The actual forms specific to each financial institution vary, but you should be ready to compile your application as soon as they are released.
- Again, the maximum loan amount is 2.5 times the amount of your average monthly payroll (up to a maximum of \$10,000,000)
- **Remember:** to have the PPP loan forgiven, 75% of the loan amount must be spent to pay employees; not more than 25% can be spent on mortgage interest, rent, or utilities
- If you are approved, the loan should be distributed quickly, it varies from institution to institution but is usually in less than a week



**Paycheck Protection Program
Borrower Application Form**

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

Check One:		<input type="checkbox"/> Sole proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> C-Corp <input type="checkbox"/> S-Corp <input type="checkbox"/> LLC <input type="checkbox"/> Independent contractor <input type="checkbox"/> Eligible self-employed individual <input type="checkbox"/> 501(c)(3) nonprofit <input type="checkbox"/> 501(c)(19) veterans organization <input type="checkbox"/> Tribal business (sec. 31(b)(2)(C) of Small Business Act) <input type="checkbox"/> Other		DBA or Tradename if Applicable	
Business Legal Name					
Business Address		Business TIN (EIN, SSN)		Business Phone	
				() -	
		Primary Contact		Email Address	
Average Monthly Payroll:	\$ <input type="text"/>	x 2.5 + EIDL, Net of Advance (if Applicable)	\$ <input type="text"/>	Number of Employees: <input type="text"/>	
Purpose of the loan (select more than one): <input type="checkbox"/> Payroll <input type="checkbox"/> Lease / Mortgage Interest <input type="checkbox"/> Utilities <input type="checkbox"/> Other (explain): _____					

Applicant Ownership

List all owners of 20% or more of the equity of the Applicant. 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 Applicant or any owner of the Applicant presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or presently involved in any bankruptcy?	<input type="checkbox"/>	<input type="checkbox"/>
2. Has the Applicant, any owner of the Applicant, or any business owned or controlled by any of them, ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted in the last 7 years and caused a loss to the government?	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the Applicant or any owner of the Applicant an owner of any other business, or have common management with, any other business? If yes, list all such businesses and describe the relationship on a separate sheet identified as addendum A.	<input type="checkbox"/>	<input type="checkbox"/>
4. Has the Applicant received an SBA Economic Injury Disaster Loan between January 31, 2020 and April 3, 2020? If yes, provide details on a separate sheet identified as addendum B.	<input type="checkbox"/>	<input type="checkbox"/>

If questions (5) or (6) are answered "Yes," the loan will not be approved.

Question	Yes	No
5. Is the Applicant (if an individual) or any individual owning 20% or more of the equity of the Applicant subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction, or presently incarcerated, or on probation or parole?	<input type="checkbox"/>	<input type="checkbox"/>
Initial here to confirm your response to question 5 → <input type="text"/>		
6. Within the last 5 years, for any felony, has the Applicant (if an individual) or any owner of the Applicant 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 → <input type="text"/>		
7. Is the United States the principal place of residence for all employees of the Applicant included in the Applicant's payroll calculation above?	<input type="checkbox"/>	<input type="checkbox"/>
8. Is the Applicant a franchise that is listed in the SBA's Franchise Directory?	<input type="checkbox"/>	<input type="checkbox"/>



**SBA FORM
2483**

SBA Form 2483



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DBA or Tradename if Applicable					
Business Legal Name					
Business Address			Business TIN (EIN, SSN)	Business Phone	
			() -		
			Primary Contact	Email Address	
Average Monthly Payroll:	\$	x 2.5 + EIDL, Net of Advance (if Applicable) Equals Loan Request:	\$	Number of Employees:	
Purpose of the loan (select more than one):	<input type="checkbox"/> Payroll <input type="checkbox"/> Lease / Mortgage Interest <input type="checkbox"/> Utilities <input type="checkbox"/> Other (explain): _____				
Applicant Ownership					
List all owners of 20% or more of the equity of the Applicant. 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

- Make sure you complete the entire form!! An incomplete application cannot be processed
- Make sure the average monthly payroll amount shown here matches the documentation you provide your lender
- You should include all FTEs in the “Number of Employees” box – for part-time employees, calculate this based on a 40 hour work week (e.g. 20 hours = .5 FTE)

SBA Form 2483

Question	Yes	No
1. Is the Applicant or any owner of the Applicant presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or presently involved in any bankruptcy?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Has the Applicant, any owner of the Applicant, or any business owned or controlled by any of them, ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted in the last 7 years and caused a loss to the government?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Is the Applicant or any owner of the Applicant an owner of any other business, or have common management with, any other business? If yes, list all such businesses and describe the relationship on a separate sheet identified as addendum A.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Has the Applicant received an SBA Economic Injury Disaster Loan between January 31, 2020 and April 3, 2020? If yes, provide details on a separate sheet identified as addendum B.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- Even if the answers to all of these are “No,” make sure to check the boxes so that your application is complete
- If you answer “Yes” to (1) or (2) you are not eligible for the PPP.

SBA Form 2483

It is **very important** to make sure you answer “No” to (5) and (6) and they must be initialed. If they are not, you risk being denied.

Of course, your answers here should also be truthful, so read questions 5 and 6 carefully and answer appropriately

If questions (5) or (6) are answered “Yes,” the loan will not be approved.

Question	Yes	No
5. Is the Applicant (if an individual) or any individual owning 20% or more of the equity of the Applicant subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction, or presently incarcerated, or on probation or parole? <i>Initial here to confirm your response to question 5 →</i> _____	<input type="checkbox"/>	<input type="checkbox"/>
6. Within the last 5 years, for any felony, has the Applicant (if an individual) or any owner of the Applicant 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)? <i>Initial here to confirm your response to question 6 →</i> _____	<input type="checkbox"/>	<input type="checkbox"/>
7. Is the United States the principal place of residence for all employees of the Applicant included in the Applicant’s payroll calculation above?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Is the Applicant a franchise that is listed in the SBA’s Franchise Directory?	<input type="checkbox"/>	<input type="checkbox"/>

SBA Form 2483

 **Paycheck Protection Program
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By Signing Below, You Make the Following Representations, Authorizations, and Certifications:

CERTIFICATIONS AND AUTHORIZATIONS

I certify that:

- I have read the statements included in this form, including the Statements Required by Law and Executive Orders, and I understand them.
- The Applicant is eligible to receive a loan under the rules in effect at the time this application is submitted that have been issued by the Small Business Administration (SBA) implementing the Paycheck Protection Program under Division A, Title I of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (the Paycheck Protection Program Rule).
- The Applicant (1) is an independent contractor, eligible self-employed individual, or sole proprietor or (2) employs no more than the greater of 500 or employees or, if applicable, the size standard in number of employees established by the SBA in 13 C.F.R. 121.201 for the Applicant's industry.
- 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 and consistent with the Paycheck Protection Program Rule.
- 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.
- Any loan received by the Applicant under Section 7(b)(2) of the Small Business Act between January 31, 2020 and April 3, 2020 was for a purpose other than paying payroll costs and other allowable uses loans under the Paycheck Protection Program Rule.

For Applicants who are individuals: 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 authorized representative of the Applicant must certify in good faith to all of the below by initialing next to each one:

The Applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC.

Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.

The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.

The Applicant will provide to the Lender documentation verifying the number of full-time equivalent employees on the Applicant's payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight-week period following this loan.

I understand that loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities, and not more than 25% of the forgiven amount may be for non-payroll costs.

During the period beginning on February 15, 2020 and ending on December 31, 2020, the Applicant has not and will not receive another loan under the Paycheck Protection Program.

I further certify that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects. I understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 18 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.

I acknowledge that the Lender will confirm the eligible loan amount using required documents submitted. I understand, acknowledge and agree that the Lender can share any tax information that I have provided with SBA's authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews.

Print Name **Date**
Signature of Authorized Representative of Applicant
Title

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SBA Form 2483 (04/20)

- Make sure to initial all of these boxes and that all signature blocks are signed and dated
- Pages 3 – 4 include information about the program, your rights, and some instructions
- Good luck!!