



Frequently asked questions

On March 27, 2020, the US President enacted the CARES Act (earlier passed by Congress), the third federal legislation passed in response to COVID-19. AIA has shared a detailed memo and hosted a webinar on the provisions impacting firms. Here are some frequently asked questions from AIA members to help you continue to navigate these new policies.

Paycheck Protection Program (PPP, aka SBA 7(a))

On April 16, 2020, the PPP ran out of funds. Congress is expected to pass another round of funding later this week (April 23).

What should my firm do if we applied but didn't receive a loan the first time?

Check with your lender. If you applied and received SBA approval but no funding, contact them to confirm your status. The lender has 10 days to fund an approved SBA loan.

If you applied but did not receive approval, check with your lender to make sure they have all the necessary paperwork now. You will need to submit again when they resume accepting applications. The money is expected to move quickly again, so use this time to your advantage.

Can my firm apply this time if we didn't apply last time?

Yes! Act quickly to gather the documents, talk with your bank, and consider evaluating multiple potential qualified lenders.

Eligibility

What types of organizations are eligible for a PPP?

Provided that you employ fewer than 500 people, the following entities are eligible: Any business concern; any small business concern; 501(c)(3) non-profit; 501(c)(19) veterans organization; tribal business concern; sole proprietor, independent contractor; eligible self-employed individual.

Is a 501(c)(6) organization eligible for a PPP?

No.

Are S corporations eligible for a PPP?

Yes.

Are sole proprietors eligible for a PPP?

Yes.

For firms with more than 500 employees, but spread across multiple locations, do they qualify for PPP?

No, the law makes an exemption for the hospitality and food service industry as well as franchises.

Do part-time employees count toward the 500 employee limit or only full-time employees?

All employees, including part-time employees, are included in the total.

What documents should we have prepared to apply for the PPP along with the application? (for payroll calculations, etc.)

Businesses will need to submit their application with their approved lender by June 30, 2020. Documentation requirements may vary by lender, but at a minimum, businesses should include documentation proving the business start date, bank account and routing number, 2019 IRS Form 941 (for quarterly salary, wages, commissions, and tips), 2019 IRS Form 944 (same as 941, but annualized), 2019 IRS Form W-3, 2019 IRS Form 940 (for any unemployment costs), 2019 IRS Form 1099-MISC (for any independent contractors paid, not to exceed \$100,000 for the year), 2019 IRS Form 1040-C (if your business is a sole-proprietorship), monthly payroll statements that will provide salary, wages, commissions, or tips, costs for vacation, parental, family, medical or sick leave, costs for separate or dismissal of employees, and state and local taxes assessed on employee compensation.

Is there a monetary cap on the PPP?

The maximum loan granted from the PPP will be equal to 2.5 times the average monthly payroll costs for the previous calendar year, up to \$10 million.

Payroll expenses

What counts toward payroll expenses?

Eligible payroll costs include: salary, wages, commissions, and tips capped at \$100,000 per year for each employee, costs of benefits including vacation, parent, family, medical and sick leave, allowance for separation or dismissal of employees, payments for healthcare benefits, payments for retirement benefits, and state and local taxes on compensation.

If an employee is taking leave under the new Family Medical Leave Act guidelines and covered under that order, will that person's payroll be excluded from the PPP forgivable expenses?

There is no provision for reducing the forgivable amount because a person who was used to calculate the payroll costs is on leave. As long as those loan proceeds are used for allowable expenses, they will be forgiven.

Does E&O, workers comp, and disability insurance count toward payroll costs?
Can Schedule SE earnings count?

No, only those items listed in the payroll costs are eligible to be counted toward the loan amount. Schedule SE (self-employment income) is used to calculate loan amount for a self-employed individual.

Can you provide more clarity on what is included in the \$100,000 salary cap?
Does that include health benefits, PTO, etc.?

SBA guidance clarified that payroll costs exclude employee compensation in excess of an annual salary of \$100,000. This exclusion applies only to “cash compensation” not to non-cash benefits like retirement and healthcare insurance premiums which may be included.

For the PPP, are employees who made greater than \$100,000 completely ineligible or is it just capped at \$100,000 (so they would still receive some benefit)?

For employees that make over \$100,000 salary, as used in the loan calculation for their employer, is prorated to be capped at \$100,000 over the covered period. The loan goes to the employers to be used as they see fit on allowable expenses. It does not go to a specific employee.

Is the \$100,000 salary cap for the firm or the individual?

Individual.

Loan forgiveness

If the PPP loan is forgiven, is that taxable income later on?

No, PPP does not count against your tax liability for this year.

What number does the SBA use as the base number of employees on the PPP loan when considering loan forgiveness? Average of 2019 employees or employees at January 31, 2020 (prior to the disaster)?

The ratio of the average number of employees from February 15–June 30, 2020 will be compared to previous employment levels. The borrower can choose to either compare to the average number of employees from February 15–June 30, 2019 or January 1–February 29, 2020.

For a PPP loan, you note that a 25% reduction in salaries will not impact your loan repayment (forgiveness). Is this calculated based on total cost, i.e., if you reduce staff but are still within the 25% buffer, will loan forgiveness be reduced?

If staff counts are reduced or salaries for employees who earn less than \$100,000 annually are reduced by more than 25%, then the forgiveness is reduced. Businesses have until June 30, 2020 to restore full-time employment and salary levels that were changed from February 15–April 26, 2020.

If the reduction in salaries is less than 25%, then there is no reduction in loan forgiveness.

What if our 2019 salary expenses are greater than our current salary expenses regarding forgiveness calculation? Basically, what if we're awarded more money than our current payroll and applicable expenses equal? Will we only be forgiven the amount of money spent?

When applying for the loan, a business must certify that the amount requested is based on need and the amount for which forgiveness is requested was used to retain employees, make interest payments on a covered mortgage obligation, make payments on a covered rent obligation, or make covered utility payments. You will only be forgiven for the actual amount spent on allowable expenses and there will be a cap on what percentage of the loan can be spent on non-payroll expenses. That amount will apparently be determined by the Treasury Department based on enrollment numbers in the PPP. The number that was given at PPP launch was that no more than 25% of the forgivable amount could be spent on non-payroll expenses.

For firms who needed to reduce staff between February 15 and April 23, 2020, does a replacement of those employees count or is rehire of the employee a requirement?

Replacement of the total number of employees is the primary concern of this law. Rehired employees are not required to be the same individuals who were hired prior to their termination.

Will the interest on the PPP also be forgiven?

Yes. The full PPP loan and the loan's interest is eligible to be forgiven, as long as the borrower maintains loan forgiveness eligibility.

Economic Injury Disaster Loan & loan advance

(EIDL, aka SBA 7(b)(2))

Can you take both a PPP loan and an EIDL?

If you take a PPP loan, you are no longer eligible for an EIDL for the same purpose (no double-dipping). However, you could obtain an EIDL for other costs that were not covered by the PPP loan. You would also not be eligible for the Employee Retention Credit if you get a PPP loan.

Are all firms eligible for an EIDL?

No, the business must employ fewer than 500 employees and be in a declared disaster area. They must demonstrate economic harm from that disaster. If those conditions are met, then any of the following business types are eligible: any small business concern; private nonprofit organization (including 501(c)(3) and 501(c)(6)); small agricultural cooperative; sole proprietor; independent contractor; cooperative; employee stock ownership plan; and tribal business concern.

Is the EIDL forgivable?

No. The loan must be repaid subject to the terms of the loan.

What is the maximum amount of funding available through the EIDL?

The maximum is \$2 million. The loan may also include a \$10,000 emergency advance within three days of application. Current news reporting is indicating that many potential borrowers are being told by the SBA that loan amounts under this program will be limited to \$15,000, however, this information is unverified.

Does the \$10,000 advance on the EIDL need to be repaid?

If you received a \$10,000 advance on the EIDL and then do not receive a loan, you do not have to repay the \$10,000. If you do receive the loan, then the \$10,000 advance counts towards the full loan and must be repaid subject to the terms of that loan.

If you apply for the EIDL and the PPP at the same time and receive both, do you have to repay the \$10,000 advance?

The statute provides that businesses can refinance an EIDL into the PPP if the EIDL was generated between January 31, 2020 and the day the PPP loans became available (April 3, 2020). Additionally, if a business received the \$10,000 EIDL advance, but also obtains a PPP loan, the \$10,000 EIDL advance is deducted from any amount that gets forgiven in the PPP.

Can you use the EIDL to cover commercial office rent?

Yes, eligible uses of EIDL funds are to meet its obligations as they mature; to pay its ordinary and necessary operating expenses; or to market, produce, or provide a product or service ordinarily marketed, produced, or provided by the business concern. Rent would fall under operating expenses.

Employee Retention Credit

Are sole proprietor's eligible?

Yes.

Explain the distinction between the credit amount for businesses with more/less than 100 employees?

For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID19-related circumstances described above.

For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order.

Other questions

Will AIA be advocating for 501(c)(6) organizations as they are currently left out of the CARES Act?

Yes, AIA is working closely with ASAE to advocate on behalf of 501(c)(6) organizations in future stimulus legislation. 501(c)(6) organizations are not entirely left out of the CARES Act, however. They are eligible for the EIDL and the Employer Retention Credit.

Explain why AIA hopes 501(c)(3)s may be added to the PPP?

501(c)(3) organizations are already eligible for the PPP.

Where can you find a list of SBA approved vendors?

SBA's website has [information](#) on their most active lenders.

You can also talk with your lender to see if they are approved.