Q&A

CARES Act

LOANS & TIMELINES

Funds & Availability

Realistically, will there be enough money in loans to help all small businesses?
It’s difficult to predict the future, but the federal government has stated that the funds for this program should not run out. We have heard the guidance, however, that suggests that you try to get your application submitted as quickly as possible.

There is a lot of talk about larger companies using their power and legal teams to access the application and funds before any of the small operations, any idea how we can get into the front of the line with this?
We have not heard of anything that would grant larger businesses access before everyone else, but one could imagine a scenario in which larger businesses with in-house legal counsel and payroll experts may be able to fill out their applications quickly. We suggest that you prepare yourself by looking back over your records to really understand your finances. Having all the appropriate documentation pulled and available to your lender will allow them to quickly and accurately process your application the first time rather than having to request further documentation. Remember, loan applications are processed on a “first come, first served” basis.

Access

To be clear, the PPP Loans will be distributed through your local lender/bank correct?
PPP is administered by SBA. To apply, you must submit your application to an SBA approved lender. Your funds will be distributed through that same lender.

Do we have any idea how quickly funds will be disbursed on the PPP loans once we apply?
The federal government understands that the need for these funds is urgent for many businesses. We have heard that many individuals have had difficulties submitting their applications, however, so the process is taking longer than the statute originally intended. To receive your funds as quickly as possible, you should submit your application as soon as you can.

Origination Date

If my bank is willing to approve me but push back the origination date – is that allowed as far as you know?
Lenders must make the first disbursement of the loan no later than ten calendar days from the date of loan approval, per Treasury guidance issued on April 8. Note that whether the loan is approved and funded now, or approved and funded later, the 8-week clock starts running on the date the funds are dispersed.

I've read that you can choose your 8-week period anytime between 2/15 and 6/30 rather than having it start the day the loan is approved. Is that incorrect?
The 8-week timeline begins the day you receive your funds. If you choose to wait to apply for funding to align the funds with a specific 8-week window, you can do so.

What is the beginning date of 8 weeks for forgiveness?
The day your funds are received.

Is it correct that the 8-week use window moves depending on the date of disruption? Should my seasonal business apply for this loan in June 2020?
The 8-week window begins the day that funds are received. When you decide to apply for business loans is a personal/business decision.

**Extensions**

The eight weeks of loan forgiveness, can the eight weeks extend beyond June 30? (In other words, do we not need to have the loan start 8 weeks before June 30?)

Assume a loan is obtained and funds are disbursed on May 10. The borrower has until July 10 (i.e., 8 weeks) to use those funds in order to qualify for loan forgiveness; however, in order to qualify for loan forgiveness, employee levels and wages must still be at previous levels by June 30.

**Miscellaneous Questions**

**Contact**

Can you please give the email address here?
If you have additional questions, you may reach CRA at firstcall@corestaurant.org. Your question will be directed to the correct party.

**Templates**

Would it be possible to get an example of a spreadsheet format that would be sufficient for the information required for payroll costs?
It is difficult to issue a universal template because business operations vary. Any official documentation for payroll costs will be appropriate, it does not have to be in a spreadsheet format. Many banks are also providing their own forms to assist in payroll calculations.
Unemployment

How does someone accepted on Unemployment and then paid on PPP get removed from Unemployment? Is there an obligation of the employer?

When you bring your employees back from unemployment, you will have them fill out new employee records. Once you have submitted those employee records to the state, the individual will be automatically removed from the unemployment roster.

If we are planning on receiving loan (grant) funds through the PPP to rehire our staff, do we need to fill out the unemployment paperwork that we are receiving?

Yes, as there is no guarantee that the employees applying for unemployment benefits will return to working for you. Please reach out to the state department of labor and employment to understand what is required of you.

Re-opening

When the 8 weeks is over will social distancing still be required or can we let all these people go immediately?

Following our discussion with Governor Polis, we are expecting a phased-in business reopening once the closures are over. This will likely include limits on capacity and efforts to maintain social distancing. The final details of re-opening protocols have not been announced yet.

Other Forms of Relief

How does the Employee Retention tax rebate work in actual dollars?

Official guidance on this program has not been issued yet, and unfortunately, we won’t know detailed logistics until we have had the chance to review that guidance. Our colleagues at the National Restaurant Association have given us an initial look into the program here:

The employee retention tax credit (ERTC) for employers subject to closure due to coronavirus. The provision provides a refundable payroll tax credit for 50% of wages paid by employers to employees during the crisis. The credit is available to employers whose 1) operations were fully or partially suspended, due to a coronavirus-related shut-down order, or 2) gross receipts declined by more than 50% when compared to the same quarter in the prior year. 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 coronavirus-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. The credit is provided for the first $10,000 of compensation, including health benefits, paid to an eligible employee. The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020.
How to Apply for Loans

Applying for Multiple Businesses/EIN

Will restaurant groups that have different ownership groups, and have a cumulative total number of employees over 500, be able to split up by ownership groups to qualify for the personal paycheck protection program?

Yes. Applications are on a per-entity basis, so if you have multiple LLCs with different EINs operating separately, they will be treated as different applicants. The best practice is to keep the loan funds separate (I imagine both entities have separate bank accounts) and ensure loan funds are used only for their intended purpose. For the restaurant industry, the CARES Act specifically waives the affiliation rules that would require borrowers to combine the number of employees for affiliated companies in determining whether a borrower has fewer than 500 employees.

If I own several restaurants will I apply as a group or each individual restaurant?

It depends on what you believe will work best for your businesses and how your business is structured. However, if you have more than 500 employees in your restaurant group you will need to apply for each individual restaurant, assuming they are all operated under separate LLCs or other entity form, as these loans are only approved for businesses with fewer than 500 employees.

Applications

We have already submitted a disaster relief loan application, how many more applications are needed to get help?

If you have already submitted the EIDL loan application, then you likely do not need anything further for that program unless the SBA approaches you and needs more information. If you wish to apply for the PPP program too, you can find the application [here](#) on the SBA website. Please note, you must submit the application through an SBA approved lender.

You may also want to look to see if any local grant programs are being offered. We are hearing of some cities that are offering grant assistance.

Is the EIDL program open for applications right now?

Yes. Applications for both EIDL and PPP are being accepted right now.

Payroll Cost Calculation

What info do you have on Tips for servers, bartenders, etc.... is that part of the calculation for reimbursement? What are the requirements for “forgiveness” on this, if I hire back 20 staff and previously I had 30 staff, what happens at that point?

If you have documentation proving the claimed server tips, that can be included in the PPP calculation. If servers have not been claiming their tips, you will need to find documentation that proves what those
tips were. SBA guidance is that in the absence of a record of tips, use a “reasonable, good-faith employer estimate of such tips.”

If you are not able to get back up to full FTE levels, your forgiveness amount will be proportionally reduced.

**Are Scheduled Bonuses allowed to be in the evaluation for Max Loan amount?**

If your internal policies count bonuses towards total salary, then yes, to the extent the bonuses were actually paid in the applicable period for calculating payroll costs. For businesses in operation in 2019, that is the average monthly payroll costs for the year prior to the loan date.

1.) 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.

Even if the max amount is 100k on that employee, would their healthcare benefits be part of payroll costs in full?
Yes. Employees earning more than $100k annually will be included in payroll costs, but capped at the pro-rata rate for the 2 months (ie. $8,133 per month). Their healthcare benefits and other costs can be included in the calculation as well.

**Wait so….what was the average payroll number again? Average of 12 months in 2019?**

How each lender calculates the payroll costs may vary based on their internal policies. SBA guidance states “aggregate payroll costs from the last twelve months”, but banks will likely have multiple ways of doing this.

We are suggesting that businesses have all 2019 payroll costs accounted for in order to be prepared, although some lenders may only consider payroll costs between February – June 2019 to calculate your loan amount. This will vary by lender.

**Is 'cash tips' all tips claimed?**

All server tips that the business has documentation for can be included in the calculation. Alternatively, in absence of documentation a borrower can use a “reasonable, good-faith employer estimate of such tips,” though it is recommended recommend applicants be fairly conservative in the absence of documentation

**Just to confirm: payroll taxes are excluded but state and local taxes are included?**

State and local taxes assessed on compensation can be included in the PPP calculation. No other tax payments may be included.
Is the annual payroll look back for all employees for the year or just current employees?
It is for all employees in 2019. Forgiveness is granted based on levels of FTE on June 30 compared to
2019. It does not have to be current employees.

Confirming: Need to calculate average FTE headcount over calendar 2019 per restaurant location in
addition to documentation for average monthly payroll + included items - excluded items.
Correct.

Please provide a complete list of payroll expenses and what’s excluded. Not just a verbal, a list.
Payroll costs include:
- Salary, wages, commissions, or tips (capped at $100,000 on an annualized basis for each
  employee), excluding any employees outside of the United States;
- 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 apply for their own loans: wages, commissions,
  income, or net earnings from self-employment, capped at $100,000 on an annualized basis for
  each employee.
  Owners salaries can be included, so long as it is a salary and not a draw (i.e. taxes are paid on
  the salary), then it is to be included.

Anything not listed here is excluded.

Since rent and utilities are approved items to use the funds for, will paying rent and utilities also be
used to calculate the amount to be forgiven?
You are allowed to use up to 25% of your loan amount towards rent and utilities. If you follow that
guidance and only use funds towards approved purposes, you may be eligible for 100% loan forgiveness.
Rent and utilities are not included in the payroll calculation to find your loan amount.

Need the exact way to gather employee’s info and know in black and white exactly what we need to
do, so we can tell our bookkeeper.
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 applying for their own loans: wages,
  commissions, income, or net earnings from self-employment, capped at $100,000 on an
  annualized basis for each employee.
Which of these items you choose to include in your payroll calculation is a personal/business decision. How you gather this information will be a business decision as well. Some members have anecdotally told us they are using their W-2 reports to calculate. Best practice will be to have documentation for all elements that you decide to use in your payroll calculation.

Please clarify – are payroll taxes included in payroll costs. But city and state taxes are included? State and local taxes assessed on employee compensation may be included in the payroll calculation. All other state and local taxes cannot be included in the calculation. Federal taxes may not.

Can we include our rent expense in the calculation or is it just 2.5x our payroll? Rent cannot be included in the payroll calculation, but up to 25% of the loan money can be used towards rent.

If your LLC is a disregarded entity i.e. file Schedule C on your individual 1040 or is taxed as a partnership, you can take a “member's draw”. Can this be included for the PPE payroll costs?

Yes, members’ draws as compensation to LLC members can be included.

Do "retirement benefits" include employer contributions to 401K accounts?

Yes, these should be included.

Can owners of an S-Corp be included in the payroll loan calculation?

Yes. Payment of salaries/wages to owners of an S-Corp can be included.

Are guaranteed payments made to LLC owners that are full time active in the business included in the calculation?

Yes, guaranteed payments as compensation to LLC members can be included.

If we need to exclude people whose primary residence is outside the US, does that mean J-1 Visa and H2-B visa applicants’ wages are excluded?

Yes, they will likely need to be excluded.

Do all employee payroll costs apply or only full time employees?

Payroll costs should include compensation paid to all employees.

Do work comp premiums count as benefit insurance cost?

No, only group health insurance benefits may be included.

Can you talk a bit more about full-time equivalent when figuring out how many employees one has?

Full-Time Employee: an employee who is employed on average at least 30 hours per week.
Full-Time-Equivalent (FTE) Employee: a combination of employees, each of whom individually is not a full-time employee because they are not employed on average at least 30 hours per week, but who, in combination, are counted as the equivalent of a full-time employee – For example, two employees, each of whom works 15 hours per week, are the equivalent of one full-time employee.

Are fees that are paid to a payroll processing company allowable costs?
Likely no. The current applications and bank portals we are seeing are basing the payroll costs solely on quarterly tax filings, nothing else.

Documents

Couldn’t we just use W-2 reports for 2019?
Yes, you can use W-2 reports to calculate the loan amount for PPP.

Are we collecting documentation for an entire year (2019) or just for Feb 15 - June 30 2019? I am hearing both.
How each lender will determine your amount will vary based on lenders. We suggest that year-round businesses gather payroll costs for all of 2019. If you are a seasonal business you may choose either February 15 – June 30, 2019 to calculate, or March 15 – June 30, 2019 to calculate. Businesses can decide which one works better for them.

What other financials will be required for these loans? Or is that up to the lender?
This will vary by lender. Best practice would be to look back at your records to really understand your finances. If you are applying to PPP, make sure that you have the proper documentation to back up any costs that you plan to include in the payroll calculation.

Employees

If I pay contract pay vs W-2 can I include them in this cost?
1099 Contractor Payments are NOT to be included in the Payroll Costs calculation (Discussions are on-going as the CARES Act does contemplate including payments to contractors in payroll costs – members should check with their bank at the time of application when calculating payroll costs absent additional guidance).

Applying for both PPP and EIDL

1.) If we take advantage of the SBA Economic Disaster $10K grant will that prevent us from getting PPP Loans forgiven?
No. You may apply for both programs, but you may not use funds from both programs for the same purpose. Example: You can use PPP funds towards payroll costs, and you can use EIDL loans towards rent. However, the amount of your EIDL advance will ultimately be deducted from your forgiveness amount.
2.) What definition of FTE are they using for the employee numbers in PPP?

Two part-time employees (20 HOURS/WEEK) (define this as in hours) are equivalent to a full-time employee for forgiveness purposes. For example, if you had 20 full-time employees in April 2019, the forgiveness of the debt will require that you have an average of 20 FTE employees (which could be 10 full-time employees and 20 part-time employees) in 2020 to receive loan forgiveness.

3.) Can we use declared tips in the size of the loan calculation of PPP (2 1/2 X ave month payroll)?

Yes.

Lenders

Do we apply only at our SBA approved bank or can we do this online and borrow through our bank?
EIDL loans can be processed online. PPP applications need to be submitted to an approved SBA lender (which may be your bank – check with them to make sure.)

Do you have to have a relationship with the bank or are you able to go apply with any qualified lender certified to administer these PPP loans?
Requirements will vary by lender. You may apply with an SBA approved lender that will process your application.

Who are the banks? Are there designated banks?
PPP applications must be submitted with an SBA approved lender. A list of SBA approved banks can be found [here](#).

What banks are telling you they will be prepared to take applications as soon as Friday? I have heard as far out as April 15?
Timelines may vary by the individual lender. SBA has announced that lenders are permitted to begin accepting applications on April 3.

Do you have to pay 100% of your payroll, or can you choose to apply for say 25% and pay 25% of what your payroll would be? Basically, can I bring back part of my staff vs 100% whole staff?
The loans under PPP cannot be partially issued. The forgiveness equations are not going to be prorated based on the fact a borrower took less than their maximum loan (at least at this point). Forgiveness is based upon 75% of the loan being used for salary and no employee going below 25% of what they earned in January/February 2020. The SBA stated it would provide further guidance on forgiveness, but has not yet done so.

Your forgiveness eligibility will be calculated based on your FTE on June 30 as compared to 2019, so you will not be able to re-hire 25% of your staff and be eligible for 100% forgiveness. The start of your 8-weeks period begins the day that you receive your loan, and then you have those 8-weeks to bring back at least 75% of your FTE.
If I defaulted on an SBA loan 20 years ago, will they still lend on this? This is important because SBA never forgives unpaid debt.
Any default greater than seven years ago will not render you ineligible. You are ineligible if you, or any business owned or controlled by you or any of your owners, has ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted within the last seven years and caused a loss to the government.

Seasonal

Any suggestions for seasonal locations?
Seasonal businesses may use the time between February 15-June 30, 2019 OR March 15-June 30, 2019 to calculate their payroll costs for the program.

For the FTE calculation of February 15, 2019, through June 30, 2019, how do we account for February? Take half of the payroll for that month? Is it employees working during those dates or payroll paid during those dates? (We pay on the 5th... so there is no pay between February 15 and February 29.)

The FTE calculation and payroll calculation are two different metrics. To calculate the number of FTE employees for purposes of loan forgiveness, seasonal employers can look at the average number of FTE employees per month from February 15, 2019, through June 30, 2019, as their comparison period.

In calculating the amount of payroll costs as a seasonal employer in order to determine your maximum loan size, you multiply your average total monthly payments for payroll costs for the 12-week period beginning February 15, 2019, OR March 1, 2019 (at your discretion), and ending June 30, 2019.

Potential Contradictions

Out of desperation, I've applied for Hello Alice for a grant & GoFundMe in addition to EIDL - does this disqualify me for anything?
No. We have been assured that these will not disqualify you from EIDL or PPP loans.

Using the Loans

Authorized Purposes

If I take out a PPP loan and use it for purposes other than the items that are specifically forgiven, i.e. rent, payroll, etc. – i.e. if I use it for other accounts payable items – is that legal or will I be breaking the law? Or, am I allowed to use it for other things, knowing that it will not be forgiven?

If you use PPP funds for unauthorized purposes, SBA will direct you to repay those amounts. If you knowingly use the funds for unauthorized purposes, you will be subject to additional liability such as
charges for fraud. If one of your shareholders, members, or partners uses PPP funds for unauthorized purposes, SBA will have recourse against the shareholder, member, or partner for the unauthorized use.

The only permitted use of PPP funds are (i) payroll costs, (ii) group health care benefits/insurance premiums, (iii) mortgage interest payments, (iv) rent, (v) utilities, (vi) other debt interest, (vii) refinancing an EIDL loan – these are the only purposes that PPP funds should be used for.

In regards to determining the amount forgiven, they are going to look at our FTE’s. In the Webinar, they said they would look at our FTE’s from 2019 for the SAME 8 week period that the Payment Protection program is covering. However, on other sites, it says they are going to look at our FTE’s from 2/15/19 - 6/30/19 and compare it to the 8 week period for the payment protection is covering. This is a drastically different number for us.

Can you clarify which look back period they will be comparing the FTEs?

The answer to your first question will vary by lender. Some may choose to look at a certain 8-week window, others may want an average over 2019. We are suggesting that members come fully prepared when they submit their applications and have information pulled for each month of 2019.

Also, I saw a note on the SBA website that 75% of the loan amount would need to be used towards PR costs. This was never mentioned in the Webinar either. Any comment on this?

You are correct that 75% of the loan amount needs to be used towards payroll costs to be eligible for forgiveness. That guidance was issued after our webinar.

Can the funds be used to make the suppliers whole as pre-existing debt?
P PPP loans may be used to pay the interest on the pre-existing debt, and allowances due to suppliers may qualify. SBA has not provided any guidance on their interpretation of what it means to be allowed to pay interest on “other debt obligations.”

The loan amount provides a calculation formula based on payroll but then allows the loan to be used for rent and utilities. Does that mean that a portion that has been earmarked for the payroll is to be used for these other expenses? Or are those other expenses in addition to the payroll loan amount? The loan is calculated using payroll costs. Once the funds are received, you may use up to 25% of your loan amount towards rent and utilities.

I have paid some accounts receivable (food vendors) out of my own savings account. Is it recommended I stop paying until I get my loan or can I reimburse myself for my personal contribution if I seek to get forgiveness?

Forgiveness is limited to payroll, interest on mortgage, rent and utilities. Repaying a debt to yourself would not qualify for forgiveness. However, remember that the balance that is not forgiven converts to a loan with 1% interest and a two year term – so it is relatively inexpensive money.

Can one use the PPP funds for advance rent payments past June? (i.e. can we prepay rent for the year?)
PPP funds can be used to make rent payments in accordance with the terms of your existing lease. Only 25% or less of your PPP funds can be used towards rent and utilities and be forgiven.

**Timelines**

The ‘forgivable amount’ must be spent within 8 weeks of the loan origination - is that correct?
Yes. If you have loan amounts remaining after 8-weeks, then that amount will transition into a regular SBA 7(a) loan with a 2-year term and 1% interest.

If the shutdown has ended (Example Denver is scheduled for 5/11), we will be open. Can we continue to use the borrowed funds?
If your 8-week loan period extends beyond May 11, you are still allowed to use your loan funds until your 8-week window has ended.

**Real Estate**

Do CAM costs count as rent costs?
Yes. Any costs outlined in your lease agreement would qualify.

Can it all be used for rent or does it require using the funds for payroll expenses first in order to get it forgiven?
To seek 100% loan forgiveness, 75% of the funds must be used towards payroll costs and the remaining 25% can be used towards rent and other approved expenses.

Is CAM on a Commercial Condo a qualified expense for PPP?
Any expense outlined in your lease agreement is an approved purpose for up to 25% of your PPP loan.

I house my - staff can I use this money to help with their housing?
We anticipate that, if this housing is a historical portion of employee compensation, then it should be included in the payroll cost calculation and may be forgiven.

**Employees**

What prevents an employer from using loan proceeds from the paycheck protection program to pay someone to "clock in" but actually stay home because the employer has no work?
As of today, nothing prevents an employer from doing this. Forgiveness eligibility under PPP is measured by your FTE levels by June 30, the employees do not have to be performing the same duties they were previously during this time.

Is there a priority on who you should hire back first? As in, do you bring back salaried employees first and then hourly, does it matter?
No – left to your discretion.

Can we rehire those furloughed employees and NOT be open for business?
Yes, there is nothing that currently prohibits this.
Why would I bring all my employees back if they are now getting more on unemployment than they would have gotten working for me due to the new $600 addition? Shouldn’t they just stay on unemployment?

Whether or not your employees agree to come back to your business/payroll as FTE is a personal decision. That being said, one of the requirements of unemployment benefits is that individuals make themselves readily available for all job opportunities. If they refuse a job offer from you because they are making more money on unemployment, they may risk their eligibility.

If we reopen say mid-June, would it make any sense to hire people back before we open using PPP loan funds...Wouldn’t it be less risky to just let the furloughed employee remain on unemployment until we actually reopen?

When you decide to apply for PPP loans is a personal/business decision. The purpose of the PPP is to help businesses retain their employees and keep them on payroll through the crisis, so it may prove beneficial to you to take advantage of the program before the closure orders are lifted.

If an employee has applied for unemployment, would we still pay them the amount they’d normally make in addition to their unemployment benefits?

If an employee is receiving unemployment benefits, they would be removed from those benefits once they are hired back under the PPP.

We have a door guy who works 1 day a week for 8 hours. Do we have to bring them back to qualify for 100% of the PPP loan? Since he has another FT job.

Not necessarily. You can if you want to, but your loan forgiveness will be determined based on your FTE by June 30. If you can’t hire that individual back, you may want to hire someone else to fill the slot. Loan forgiveness will be reduced if (i) staffing levels aren’t maintained (i.e., the number of FTE employees, NOT the specific individuals), and (ii) salary/wage levels are reduced by >25%.

Seasonal

While we are open all year, we do have huge seasonal changes in business, and thus employment. This is what the SBA PPP site says:

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.

Our full-time employment and salary levels change dramatically throughout the year. What period am I supposed to use to determine what I need to restore them to gain full forgiveness? June 30? The average historic level during the 8 weeks starting with our loan origination date? The average historic level from February 15 to April 26? Annual average?

The calculation of the loan amount for seasonal employers is 2.5 X the average monthly payments for payroll costs beginning February 15, 2019, OR March 1, 2019 (you choose) and ending June 30, 2019. That will be your “base period” that the level needs to be restored to.
**Wages**

Do you have to bring them back at the same salary or hourly rate?

If you do bring them back, best practice is to do so at at least 75% of their prior salary or hourly rate (that way you can “kill 2 birds” for loan forgiveness purposes by filling the slot and maintaining salary number).

If we decreased employee's payroll by 30 percent, will the PPP make up that 30 percent and bring them back up to regular pay?
You are allowed to use PPP to bring employees up to their full salary amount.

How do you pay tipped employees that are not going to be earning the level of tips they usually receive?
You are allowed to include claimed tips in with your payroll calculation, so the idea is that you would have loan money available to you to pay these tipped employees. If you need help understanding how to legally allocate PPP funds to your employees, we can refer you to an attorney in our legal resource center. Past tips must be documented.

How much can of the loan can you pay to each employee? Is it the average of what they made for the same 8 week period in 2019?
The applicable look-back period for wages is their most recent full quarter worked. Loan forgiveness will be reduced to the extent of any reduction in wages greater than 25% compared to their most recent full quarter. Borrowers have until June 30 to restore wages (regardless of when the 8-week period to use the loan funds and obtain forgiveness falls).

**Duties**

What prevents an employer from using loan proceeds from the paycheck protection program to pay someone to "clock in" but actually stay home because the employer has no work?

As of today, nothing prevents an employer from doing this. Forgiveness eligibility under PPP is measured by your FTE levels by June 30, the employees do not have to be performing the same duties they were previously during this time.

**LOAN ELIGIBILITY**

**Applying for PPP and EIDL**

Can you get both the PPE and SBA EIDL? Can you take the $10K SBA EIDL advance forgivable grant, even if you don’t take/get the full SBA EIDL?
You are allowed to get funds from both PPP and EIDL loan programs, you are just not allowed to use the funds for both for the same purpose. It is possible for an individual to qualify for the $10,000 grant from the EIDL program and not be approved for EIDL loans.
Can you pursue a PPP loan and an EIDL loan?
Yes, but you may not use funds from both loans for the same purpose.

Does it make sense to Apply for EIDL as well as PPP?
It’s difficult to weigh in without knowing all the details, but nothing prevents you from doing that. It may be helpful for you to frame PPP as a short-term solution (8-week program) and EIDL loans as a long-term solution as you consider your options.

Is this different from the SBA disaster loan also based on payroll as well as additional expenses? Can we get both?
SBA EIDL loans and the PPP are two different loan programs. You can apply to and participate in both if you are eligible.

We also own a separate LLC for the ownership of the building, so we, in essence, pay rent to ourselves, but they are running as separate companies. I'd like some feedback about the possibility of applying for the PPP under the restaurant EIN and separately applying for the EIDL grant under the holdings company EIN (with the funds being used to help cover the mortgage payments). Since they are separate EINs, is that considered separate 'applicants' even though the owners are the same? Your instinct is correct. Applications are on a per-entity basis, so if you have two LLCs with different EINs operating separately, they will be treated as two different applicants. The best practice is to keep the loan funds separate (I imagine both entities have separate bank accounts) and ensure loan funds are used only for their intended purpose.

Should we apply for both the Disaster and Paycheck Protection Loan? If approved for both, is ok to pick one?
We can’t necessarily advise you whether or not you should apply for both programs without knowing the specifics of your business. It is never a bad idea to keep your options open, however, and you are not required to accept a loan if you apply and are approved.

The national restaurant association did a webinar on Friday where they shared that the EIDL and the PPP could not be used together. This is different from what you just shared. Has the language changed to make this possible as you have stated?
PPP and EIDL can be used together, but you are not permitted to use the funds from both programs towards the same purpose. There was additional guidance issued that clarified that.

Eligible Businesses

Does this program pertain to 501 c (7) private clubs?
The loans are for small businesses and 501(c)(3) nonprofit organizations. 501(c)(7) organizations are not eligible. NOTE: Certain other nonprofit organizations are eligible (not just 501(c)(3)s), but 501(c)(7)s are not.
If my restaurant has a lease with me as the owner of the real estate, can the restaurant get loan forgiveness if they use it to pay me my rent?

In theory yes. If you have two separate businesses under two different EINs, then you could potentially use these funds to “pay rent” to yourself. You would need to apply for each EIN, and then it is advised that you keep the funds in separate bank accounts and use the funds towards different purposes to avoid any overlap. If you are participating in PPP, then only 25% of your loan amount may be used towards rent. Notwithstanding the foregoing, remember that the loan amount is based upon payroll costs, so in most cases the real estate entity has very little payroll costs so a loan amount may be minimal.

If you have money in your business account and can afford to pay your rent, employees, etc., can you still get approved for the loan?

Yes.

As a small business owner, my workforce is much less than 500.
My total number of workers including myself is 3.
Does this program include my small business that provides services to my community? I do have overhead experience (rent/utilities/goods and pay) just to name a few.
Without knowing all the details of your business, probably. Businesses can likely apply regardless of the goods/services they provide so long as they are eligible. We suggest you speak with your lender to better understand your eligibility.

Can we still apply for this loan even though we have laid off all our employees? We plan to rehire them when we re-open our doors.

Yes. But if you are looking for 100% loan forgiveness, you will need to have comparable FTE on your payroll by June 30 (or 8-weeks after your loan origination, whichever comes first) and hire employees back.

Our LLC was established in February 2019. Then we did construction etc. and didn’t actually start operating until February 27, 2020. Would we be eligible or no? ie does in business mean operating or just an established LLC?

If you were not in business on February 15, 2020, you will be entitled to utilize average monthly payroll costs for the period from January 1, 2020 to February 29, 2020. In this scenario, opening on 2/27/20, your payroll costs may be lower than anticipated given this business was ramping up.

Timelines

We have only been open since 12/19. Are we eligible for the PPP if we have only been open since December?
Establishments need to be in business on or before 2/15/2020 to qualify, so yes.
We started business 3/1/2019. Should we calculate the monthly payroll average on 10 months through 12/31, or on 3/1/19 thru 2/29/20?
The SBA has stated that businesses that were not operational in 2019 should look at payroll costs incurred in January and February of 2020.

**Duties**

**Do you need to be open for business and have workers on-premises to apply for PPP?**
PPP forgiveness will be determined by comparing your FTE levels on June 30 to your FTE levels in 2019. There is nothing in the statute currently that requires workers to be on-premise to determine forgiveness. You do not need to be open for business…just employing your staff.

**If we are partially open, i.e., our Drive-Thru is open, do we still qualify for the loan?**
Yes.

**Loan Forgiveness**

**FTE Forgiveness**

**Is there a minimum percentage of employees that need to be retained in order to qualify for the program?**
Employee retention does not impact loan eligibility. If you wish to seek 100% loan forgiveness, PPP will look to see that you are at the same FTE as you were in 2019. If you are unable to get back to full FTE by June 30 (or 8 weeks after you receive your loan – whichever comes first), then your forgiveness amount will be proportionally reduced.

**Do you need to retain/re-hire a certain percentage of your full-time employees to qualify?**
You need to retain/re-hire comparable FTE levels by June 30 to qualify for loan forgiveness (or 8 weeks after you receive your loan, whichever comes first).

**If most of our employees were terminated while we were closed, for how long during the 8-week PPP coverage of payroll/utilities/rent do they have to be re-employed for the business to qualify for 100% forgiveness?**
There is no requirement for FTE levels within your 8-week loan window. If you want to be eligible for 100% forgiveness you must have comparable FTE levels to 2019 by June 30 (or 8 weeks after you receive your loan, whichever comes first).

**Is the disaster relief loan also forgivable like the payroll?**
No, EIDL loans are not forgiven unless they are refinanced into PPP loans. The interest rate for an EIDL is 3.75% (for for-profit businesses) for terms of multiple years.

**Does the number of employees/ amount of wages have to be the same (or within 25% for wages) as the same 8-week period a year ago or the same as by June 30?**
We have seasonal swings, so April/May looks a lot different than late June.
With respect to the number of employees, SBA guidance says that the appropriate comparison period is February 15 – June 30, 2019, OR January 1 – February 29, 2020, at your election.
With respect to wages, SBA guidance says that the appropriate comparison period is the most recent full quarter the applicable employee worked.

If a loan closes May 1, and we have 8 weeks to rehire people, does that mean we have to get to the same average headcount we had on May 1, 2019 - June 30, 2019, to get loan forgiveness? SBA guidance says that the appropriate comparison period is February 15 – June 30, 2019, OR January 1 – February 29, 2020, at your election.

Is the 25% allowed reduction on the rate of pay or gross wages? Our sales will probably not be what last year was so hours will be less as well? The calculation of forgiveness will look to the total salary or wages of the applicable employee in the most recent full quarter as compared to the 8-week period following when the loan is obtained.

I run a college bar and none of my employees will meet a 30-hour average weekend. We’re not open/busy enough to even have FTE. Will we still be able to have our loan forgiven by paying part-time employees? Most average between 10-25 hours/week.
To obtain the number of FTE employees, multiple part-time employees can be added together to equal one FTE employee. For example, three employees each working 10 hours per week will equal 1 FTE employee for purposes of calculating this number.

Full-time equivalent for forgiveness - what does that mean? To qualify for full forgiveness, you must maintain the same number of “Full-time Equivalent” employees. A FTE employee is an employee working 30 or more hours per week, and multiple part time employees can be combined to equal one FTE employee. If you have 10 part-time employees working 15 hours per week, you have 5 FTE employees. That is the number that must be maintained.

If employees work the pay period of June 15-June 30 and are paid July 5th. Does that payroll qualify for forgiveness? The applicable time frame in which the loan funds need to be expended in order to be forgiven is 8 weeks from the date the loan is received. If a loan is obtained April 15, the funds must be used by June 15 in order to be forgiven. If a loan is obtained May 1, the funds must be used by July 1 in order to be forgiven, etc.

Employees

Do you have to hire back the same people that you let go, or is it just the same number of people?
You do not need to hire the same people back (though you can); it just needs to be the same average number of FTE.

If it HAS to be the same people, what do you do if they don’t want their job back?
It doesn’t have to be the same, you can hire anyone.
Are furloughed employees counted as "active" employees?
No. You must bring those employees back and have them fill out employment forms for them to be considered active again.

Will this work if you only retain some of the employees and furloughed the rest?
To seek loan forgiveness under PPP, you must have comparable levels of active FTE by June 30 as compared to levels in 2019 (or 8 weeks after you receive your loan – whichever comes first). Furloughed employees are not considered active.

Documents
Do the banks collect what you spent the money on? How do they identify if you spent the money on something else?
We are not sure yet how banks will verify loan expenses, as the forgiveness guidance has not been issued yet. Current discussions between the banks and the SBA indicate that they will first look to payroll expenditures made during the 8 week period then review other expenses to find the remaining 25%. Any documentation supporting the same should be utilized for this purpose.

Remaining Funds
What if we are not able to expense all the loan for payroll as the business still isn’t open within these 8 weeks?
Any amount of unused PPP funds left at the end of your 8-week period will be converted into a regular SBA loan. You should make sure that you use 75% of the funds towards payroll, and the other 25% of the funds towards other approved purposes (rent, utilities, mortgage interest). To avoid scrutiny and a potential reduction in forgiveness, you should make sure you spend all the funds on these approved expenditures.

IF I am unable to maintain 75% of my employees, will other costs still be forgiven? Rent? Utilities? Etc?
To seek full loan forgiveness, you must have comparable FTE levels by June 30 as compared to your levels in 2019 (or 8 weeks after your loan origination – whichever comes first). 75% of the loan amount must be used towards retaining those FTE. If you use the remaining 25% of funds towards approved purposes such as rent and utilities, those amounts should be forgiven too.

Can we just send back the remaining balance?
There is no prepayment penalty, so the balance after the 8 week period can be immediately repaid to the bank.

Will there be any early payback fees, if we don’t need all the funds?
There is no prepayment penalty per the cares act.
Whatever you apply for on disaster loan will be deducted from forgiveness on PPP? Clarification please.

To the extent you receive an advance in connection with an EIDL loan application, that advance amount will be deducted from your amount of PPP loan forgiveness.

What if you cannot reopen after 6/30? Will there be any liability to repay PPP if you go out of business?
Yes. If you carry a balance on your PPP loan following your applicable 8-week period, it will be converted into a standard SBA loan at 1% interest with a two year term.

If we got the PPP loan and some of it rolled over into a regular 4% loan, would there be a penalty for paying that loan off early?
Under the CARES Act, there is no prepayment penalty for these loans. Additionally, later SBA guidance has stated the interest rate will be 1%, not 4%.

Timelines

Must employees be employed by 4/1 to qualify? For instance, if a company laid off its employees. Will they be able to rehire after April 1 to qualify?
To seek full loan forgiveness, businesses must have comparable FTE levels by June 30, 2020, or 8 weeks after your loan origination date, whichever comes first.

Is the June 30th end date a hard set date? Could that change? That would make the latest possible 8-week window at the beginning of May before we’re allowed to reopen. And this is assuming the dine in closure doesn’t get extended.
As of right now, you must have comparable FTE by June 30 to be eligible for PPP forgiveness. The details of the PPP and EIDL loans could change, but we have not received any information that suggests that they will be extended or changed.