



Webinar Q&A

Relief Loans: Next Steps Under the PPP and Other Financial Assistance to Help You Stay in Business

We recently hosted a webinar called "Relief Loans: Next Steps Under the PPP and Other Financial Assistance to Help You Stay in Business." If you missed our webinar, the presentation [PDF is available HERE](#). The response was overwhelming, with numerous questions pouring in during the webinar. Because no final regulations for the CARES Act have been adopted, the answers are subject to change based upon those regulations and SBA agency advisories. This is a fluid situation, so the following answers are based on our best information as of the date of the webcast:

How do I avoid Loan Forgiveness Penalties under the PPP if I have already furloughed employees?

Congress recognized that many borrowers may have to furlough workers or reduce compensation until the PPP program is in full swing. Accordingly, for any reduction in employees or compensation during the period between February 15, 2020, and April 26, 2020, the Act includes a mechanism for borrowers to rehire workers or restore compensation to reach full forgiveness. So long as the borrower rehires the employees and restores the compensation by June 30, 2020, the borrower will be treated as if there has been no reduction in employees or compensation for purposes of forgiveness.

Does my business qualify for the PPP if it has not laid-off or furloughed employees?

You need not lay off or furlough employees to qualify. In light of the COVID-19 impact on the economy, Congress anticipated a reduction in work for the workforce, so the CARES Act is designed to keep employees employed during the slow down.

How long does a company need to have been in business to qualify for the PPP or EIDL? What if a business has not yet been incorporated and operating as a sole-proprietorship?

A company must have been in business as of February 15, 2020, to qualify for the PPP, and January 31, 2020, for the EIDL. Un-incorporated businesses can still be eligible for these loans and would file using its sole-proprietorship.

If PPP loan funds are not used in compliance with the program, is a business responsible for the entire loan, or just the amount not in compliance?

If PPP loan funds are not spent in compliance with the program, you will, at a minimum, be responsible for the non-compliant portion. **Note** that in a worst-case scenario, the Department of Justice could pursue a claim against a borrower for misusing the funds. For example, if you use the funds to pay for a trip.

What time period should borrowers use to determine PPP payroll calculations? What if wage reductions have already been applied?

Payroll calculations are for the 12 months before the date of the loan application. If you already took a decrease, and have not yet applied for the PPP, you will need to use the decreased pay as part of the monthly average annual payroll.

Does PPP treat Full-time and Part-time workers equally? What about independent contractors?

The Small Business Administration (SBA) counts all full-time, part-time, and temporary employees equally. However, a borrower's PPP loan calculation and payroll costs can not include money paid to independent contractors, since independent contractors can apply for a PPP loan on their own.

How will this work best for independent contractors?

Independent contractors, self-employed individuals, sole proprietorships, and gig-economy workers, just like a business entity, can apply for the PPP. Simply document the monies you made in the prior year.

If you are self-employed and you normally take a draw/distribution to pay yourself, would that count as a payroll expense?

Yes.

Can a business with multiple locations qualify for the PPP if it has less than 500 employees per location?

Some exceptions apply to the 500-employee rule. Specifically, Congress carved out an exception to the definition of an "affiliate" for the restaurant/hospitality business. As such, businesses in that category can qualify for multiple PPP loans if they have 500 or fewer employees per location.

What if you applied for the EIDL loan, and you get approved but decide not to employ it?

There is no obligation to accept the EIDL loan if approved. The EIDL loan application is open until December 31, 2020.

How can EIDL funds be used?

The EIDL loan can be used to pay fixed debts, payroll, accounts payable, and other bills.

Is there an 8-week limitation to spend EIDL loan funds?

No, there is no 8-week limitation within which to spend the loan proceeds of an EIDL loan. The 8-week limitation applies to the PPP.

When do repayments start on the EIDL loans?

Repayment of the EIDL loan begins 12 months after loan origination.

For additional information and questions, please email AlvaradoSmith business attorneys [Monisha Coelho](#) or 213.629.7024, [Tom Zeigler](#), or [Jerry Ruiz](#). You can also call AlvaradoSmith at 714.852.6800.

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