



COVID-19 Help for the Moving Industry and its Workers

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Topics for Discussion

- FMCSA/DOT/CDC Links for Operations;
- Availability and procedures for accessing SBA loans (“Paycheck Protection Program”);
- Sick leave and expanded FMLA requirements and tax credits; and
- Expanded unemployment benefits for employees and independent contractors.

Useful Links

- **[fmcsa.dot.gov/COVID-19](https://www.fmcsa.dot.gov/COVID-19)** includes links to information on:
 - FMCSA waiver of driver hours of service and other relief for emergency response by carriers
 - Guidance on drug and alcohol testing
 - Exemption for expired CDL and medical certificates
 - Info on state and local shelter in place orders
 - CDC guidance on truck drivers operating in New York City area

SBA Loan Program

- SBA released interim final rule on Friday, April 3 on the Paycheck Protection Program:
 1. The SBA will provide loans to small businesses (fewer than 500 employees and meet SBA definition of small business). Loans may be equal to 2 ½ months of your average payroll up to \$10 million. The guidelines provide a few examples of how this will be calculated.
 2. If you maintain at least 75% of your employees and pay them at least 75% of what they were making before the Coronavirus, that portion of the loan will become a grant.
 3. No more than 25% of the loan forgiveness amount may be attributable to non payroll costs including mortgage interest, rent and utilities.
 4. Form 1099 independent contractors must apply for the PPP on their own. They are not counted towards the amount you can borrow as an employer nor are they counted towards the loan forgiveness.

SBA Loans

5. Sole Proprietors are also eligible for this loan even if they do not have payroll.
6. No eligible borrower can receive more than one PPP loan.
7. Interest on this loan is 1% or less depending on loan amount. It has a 2-year term. Payments are deferred for the first 6 months, but interest will accrue.
8. The loan forgiveness/grant can be for up to the full principal amount of the loan plus any accrued interest.

Additional SBA Loan Info

- This PPP loan will be provided by local banks and backed by the SBA. Applications may be submitted through June 30, 2020 or until the funds (\$349 B) are exhausted.
- You will need to show how many employees your firm had working as of 1/31/20 and you will need to show how much your average monthly payroll was in 2019. If your business was not open for all of 2019, or if you have seasonal employees, the banks will require additional information.
- The PPP loan will be based upon your average monthly payroll times 2.5 months. For example, if your average payroll was \$10,000/month, your loan would be \$25,000.
- After the loan originates, if you qualify for it to become a grant, you will need to show that you are employing at least 75% of your employees and paying them at least 75% of what they were earning.

More Loan Info

- In addition to payroll expenses such as rent, interest on your mortgage, and other interest that you incurred may qualify as a grant for the PPP.
- The salaries of employees to the extent they make over \$100,000/year must be excluded.
- Use average monthly payroll for 2019; 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.
- SBA will allow lenders to rely on certifications of the borrower in order to determine eligibility of the borrower and use of loan proceeds and to rely on specified documents provided by the borrower to determine qualifying loan amount and eligibility for loan forgiveness.
- If you accept this PPP loan, then you **cannot** also take advantage of the deferred Social Security Payments that the government will make available.

What Forms to Submit for Loan

- Applicant must submit SBA Form 2483 (Paycheck Protection Program Application Form) and payroll documentation.
- The lender must submit SBA Form 2484 (Paycheck Protection Program Lender's Application for 7(a) Loan Guaranty) electronically in accordance with program requirements and maintain the forms and supporting documentation in its files.

How Can PPP Loans be Used?

- payroll costs (as defined in the Act and in the IFR);
- costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
- mortgage interest payments (but not mortgage prepayments or principal payments);
- rent payments;
- utility payments;
- interest payments on any other debt obligations that were incurred before February 15, 2020; and/or
- refinancing an SBA Economic Injury Disaster Loan made between January 31, 2020 and April 3, 2020.

Additional Loan Terms

- The loan guarantee is 100 percent.
- No collateral or personal guarantees will be required.
- The interest rate will be 100 basis points or one percent.
- All loans will be processed by all lenders under delegated authority and lenders will be permitted to rely on certifications of the borrower in order to determine eligibility of the borrower and the use of loan proceeds.
- There will be no up-front guarantee fee payable to SBA by the Borrower or lender's annual service fee ("on-going guaranty fee") payable to SBA.

Economic Injury Disaster Loan

- Can borrow up to \$2 million
- Interest rates for small businesses are 3.75 %
- Terms up to 30 years; may not be turned into grant
- Eligibility based on the size, type of business and financial resources (ability to pay back loan)
- Loan funds may be used for fixed debts (rent, etc.), payroll, accounts payable, some bills that could have been paid had the disaster not occurred.

Families First Coronavirus Response Act Requirements

- In effect April 1 through December 31, 2020
- Applies to companies with fewer than 500 employees
- Must display poster to notify employees of available sick leave and expanded FMLA leave:
https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf
- Send poster by email to all employees working at home
- Act grants employees up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage

FFCRA Leave Rules

- Paid sick leave allowance--employer may not require an employee to use other paid leave provided by the employer before the employee uses the paid sick leave available under the Act
- Who is eligible? An employee:
 1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 (should not apply to companies deemed “Essential Businesses”);
 2. has been advised by a health care provider to self-quarantine related to COVID-19;
 3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
 4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
 5. is caring for his or her child whose school or place of care is closed (or child-care provider is unavailable) due to COVID-19 related reasons; or
 6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

Partial Hardship Exemption

- Businesses may claim an exemption if the new leave requirements “jeopardize the viability of the small business as a going concern.” According to DOL, this means the entity:
- Employs less than 50 individuals;
- Has been asked for leave because a child’s school or place of care is closed, or child-care provider is unavailable, due to COVID-19 related reasons (#5 eligibility reason); and
- An authorized officer of the business has determined that at least one of the following three conditions has been satisfied:
 - The provision of paid sick leave or expanded family and medical leave would cause the small business’s expenses and financial obligations to exceed available revenues and cause the small business to cease operating at a minimal capacity;
 - The absence of the employee(s) requesting the 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
 - 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(s) requesting the leave, and these labor or services are needed for the small business to operate at a minimal capacity.

FFCRA Rate of Pay for Leave

- *Two weeks (up to 80 hours) of **paid sick leave** at the employee's regular rate of pay* where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
- *Two weeks (up to 80 hours) of **paid sick leave** at two-thirds the employee's regular rate of pay* because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19
- **For employees that it has employed for at least 30 days**, an employer must provide *up to an additional 10 weeks of **paid expanded family and medical leave** at two-thirds the employee's regular rate of pay* where an employee is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

FFCRA Limits on Leave Pay; Tax Credits

- Limits for qualifying reasons 1-3, up to \$511 daily and \$5,110 total;
- For qualifying reasons #4 and 6, up to \$200 daily and \$2,000 total; and
- For qualifying reason #5, up to \$200 daily and \$12,000 total
- Dollar for dollar tax credits available for these payments
- See IRS Guidance and FAQs at:

<https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs>

Unemployment Insurance

- DOL guidance provides States may offer unemployment benefits where:
- (1) An employer temporarily ceases operations due to COVID-19, preventing employees from coming to work; (2) An individual is quarantined with the expectation of returning to work after the quarantine is over; and (3) An individual leaves employment due to a risk of exposure or infection or to care for a family member.
- Federal law does not require an employee to quit in order to receive benefits due to the impact of COVID-19 (reduction in hours may also qualify for benefits).

CARES Act Unemployment

- Dept. of Labor guidance April 2—CARES Act builds on state administered UI programs
- Extended eligibility for benefits (up to 39 weeks);
- 100% federal reimbursement to states that waive “first week” eligibility requirements; and
- An additional \$600 added to an employee’s benefit under the Federal Pandemic Unemployment Compensation (FPUC) program for weeks of unemployment through July 31, 2020.
- CARES Act also extends benefits to certain workers traditionally ineligible for UI, such as independent contractors, self-employed individuals, and those with limited work history.

Expanded Benefits

- Act provides an additional 13 weeks of unemployment compensation, through December 31, 2020, to all individuals who would be otherwise ineligible for unemployment compensation because they have exhausted all rights to regular unemployment compensation under state or federal law with respect to this benefit year.
- Benefit is the amount of unemployment compensation the individual would otherwise be entitled to under applicable federal or state law, plus the \$600 federal benefit.

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